

Note to Parties, Arbitrators, and Mediators on Sanctions

This note provides parties, arbitrators, and mediators with information on administrative measures taken during proceedings administered under the Swiss Rules of International Arbitration and Swiss Rules of Mediation (the “Swiss Rules”) by the Swiss Arbitration Centre (the “Centre”).

1. Applicable Sanctions Regimes

The Centre is committed to fully complying with applicable Swiss laws, rules, and regulations, including related to the Swiss sanctions regime.

As arbitration and mediation cases are often of an international nature, the Centre will consider not only the Swiss sanctions regime (“CH”), but also other sanctions regimes, such as those of the United States issued by the Office of Foreign Assets Control (“OFAC”), the European Union (“EU”), and the United Kingdom (“UK”). Information and research on these sanctions regimes can be found, *inter alia*, on the following official websites:

- CH: <https://seco.admin.ch/sanctions>
- OFAC: <https://sanctionssearch.ofac.treas.gov/>
- EU: <https://sanctionsmap.eu/#/main>
- UK: <https://sanctionssearchapp.ofsi.hmtreasury.gov.uk/>

To ensure compliance with the above-mentioned sanctions regimes, the Centre will, *inter alia*, specifically consider certain key aspects of a case, including whether:

- a sanctioned party is involved;
- a related entity is involved, with “related entity” being defined as (i) an entity or individual directly or indirectly owning and/or controlling a party to the proceedings; (ii) an entity or individual directly or indirectly owned and/or controlled by a party to the proceedings; or (iii) an entity or individual affiliated with a party to the proceedings;
- one of the parties or related entities is a national of a country subject to a sanctions regime;
- the dispute(s) relate(s) to a restricted or prohibited transaction (such as trade with dual-use goods, nuclear, energy (oil & gas), petrochemical, transport, technology, and military-related contracts);
- there is any reference to transfers of funds to or from a country subject to a sanctions regime; and/or
- any arbitrator, mediator, expert, or secretary to the arbitral tribunal is a national of a country subject to a sanctions regime.

2. Consequences of Sanctions for Arbitration and Mediation Proceedings

The application of Swiss and/or other sanctions regimes does not *per se* preclude parties from referring disputes to arbitration or mediation under the Swiss Rules.

The Centre will take the necessary steps to ensure compliance with all applicable sanctions regimes at all stages of the case administration (including at the filing of the Notice of Arbitration / Request for Mediation; filing of the Answer to the Notice of Arbitration / Request for Mediation; filing of counterclaims or cross-claims, or when a party asserts a claim against an additional party (joinder); the constitution of the arbitral tribunal / appointment of a mediator; the stage of the award / settlement or withdrawal of the case; and whenever payments are to be made to or from the Centre). The parties should note that the compliance checks may result in delays at the relevant stages in the case administration.

The Centre may, at any stage of the proceedings, request information from the parties, including as to their nationality, identity, shareholders, and/or ultimate beneficial owners, related entities etc.; and from the arbitrators or mediators (whether prospective, confirmed or appointed), including as to whether the party and/or the arbitrator or mediator:

- is a resident or is physically located in a sanctioned country;
- provides services in a sanctioned country; and/or
- provides services to parties or related entities situated in a sanctioned country.

If the administration of cases (including payments) requires authorisation(s) from, or notification(s) to, Swiss authorities, the Centre's bank(s) or any governmental authority under a sanctions regime, the Centre may request such authorisation(s) or provide such notification(s).

If, upon the notification, recognition or enforcement of any award rendered in accordance with the Swiss Rules, the Swiss authorities request information in relation to the award and/or its content, the Centre may provide such information without the parties' agreement or consultation.

3. Financial Aspects

The Centre is a legal entity established and incorporated under Swiss law. Payments requested or made by the Centre may be affected by Swiss and other sanctions regimes. For example, the Centre may require advance authorisation(s) from the relevant authorities prior to receiving or making certain payments.

In addition, the Centre's bank(s) may also require certain authorisation(s) from the relevant authorities prior to guaranteeing or processing payments into or out of the Centre's account(s).

Therefore, compliance by the Centre and its bank(s) with Swiss and other sanctions regimes may prevent or delay payments to or from parties, arbitrators, and mediators.

The Centre invites any sanctioned parties intending to submit a case to the Centre to contact the Secretariat before making any payments to the Centre. When making payments, parties shall strictly comply with the banking instructions provided by the Secretariat.

For compliance reasons, any payments made to the Centre must be made from an account held in the name of the party to the proceedings making the payment. In case of payment by counsel on record for the party concerned, a written statement will be requested confirming compliance with all applicable regulations, including Swiss anti-money laundering and sanctions regulations.

When completing their banking instructions, arbitrators and mediators should ensure that their bank is able to receive payments from the Centre's bank(s), taking into consideration national and international banking legislation and practices.

4. Contact

If additional information on sanction-related matters is required, parties, arbitrators, and mediators in pending or potential future arbitration or mediation proceedings are invited to contact the Centre by e-mail:

centre@swissarbitration.org.

5. Disclaimer

This note is provided for reference purposes and will be amended from time to time. Moreover, sanctions regimes may have changed since this note was last reviewed and compliance with this note does not itself ensure compliance with all potentially applicable sanctions regimes. The Centre notes that it is the parties', arbitrators', and mediators' continued responsibility to adequately inform themselves about the applicability and scope of any relevant sanctions regimes and to ensure their own compliance with such regimes. Neither the members of the board of directors of the Centre, nor the members of the Court and Secretariat shall be liable for any failure of a party, arbitrator, or mediator to comply with their responsibilities in connection with applicable sanctions regimes regardless of whether they have complied with the present note.