

P.R.I.M.E. Finance
Panel of Recognized International Market Experts in Finance

Time. Urgency. Costs
Expedited Procedures and Early Dismissal



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1. Arbitration In Financial Disputes: An Exception

Some of the reasons:

- Protracted proceedings
- Expensive dispute-resolution mechanism
- No appeal stage
- Summary judgment is not common

=> Arbitral institutions take steps to boost arbitration in financial disputes

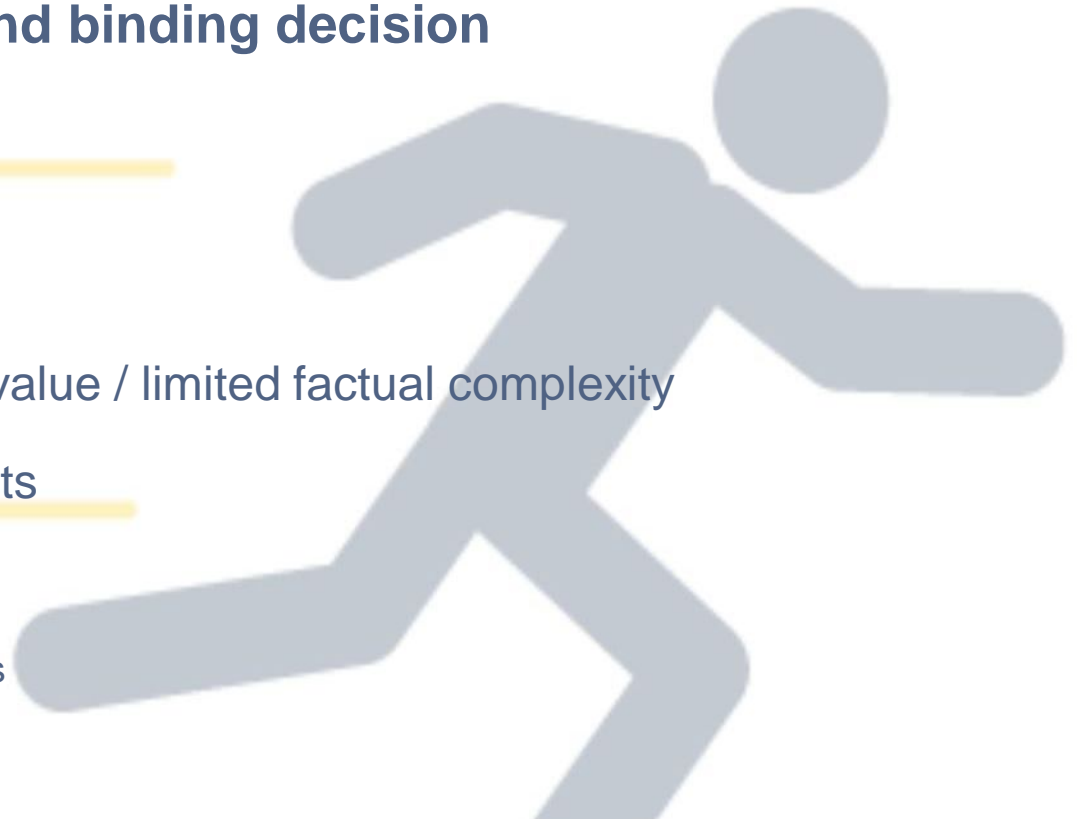


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2. Expedited Procedures

Simplified procedures that impose short time-limits in which the tribunal must render a final and binding decision

- Simplified procedure
 - Sole arbitrator
 - Less rounds of submissions
- Suitable for disputes of smaller value / limited factual complexity
- Lead to notable decrease of costs
- Specific arbitration rules:
 - SCC Rules for Expedited Arbitrations
 - ICC Arbitration Rules: Appendix VI
 - CIETAC Financial Disputes Arbitration Rules



3. Early Dismissal

Expeditious determination of one or more claims or defenses, on grounds that they are manifestly devoid of merit or fall manifestly outside the tribunal's jurisdiction

- Compared to:
 - Expedited procedure
 - Summary proceedings
 - Bifurcation of the proceedings
- ICC Practice Note



3. Early Dismissal, continued

Implied powers of tribunals

- Under an obligation to “*make every effort to conduct the arbitration in an expeditious and cost-effective manner.*” (ICC Arbitration Rules, Article 22)
- Tribunals are under a “*duty to adopt procedures suitable to the circumstances,... avoiding unnecessary delay and expense...*” (LCIA Rules, Article 14)
- General power to “*conduct the arbitration in such manner as it considers appropriate*”, provided that due process is preserved. (UNCITRAL Model Law, Article 19)

Express provisions:

- SIAC
- SCC



4. Unsettled Issues

- More frequently used in common law jurisdictions, and less in continental Europe
- Cultural differences between the jurisdictions
- Available alternatives



4. Unsettled Issues, continued

Due process considerations

- Full opportunity of both parties to present their cases
- Equal treatment

None of the institutional rules offer any further details as to:

- What type of disputes is “early dismissal” suitable for
- Level of assessment of the facts and evidence
- Manner of conducting the early dismissal



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Thank you for your attention!



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