



香港國際仲裁中心
Hong Kong International
Arbitration Centre

13 March 2017

Chairman of the Bills Committee on Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016
The Legislative Council
Central
Hong Kong
By hand and by fax: 2543 9197

Dear Sirs or Mesdames,

Re: Arbitration and Mediation Legislation (Third Party Funding) (Amendment Bill) 2016 (the "Bill")

We write to express the Hong Kong International Arbitration Centre ("HKIAC")'s support for the Bill, which was introduced into the Legislative Council on 11 January 2017.

Hong Kong is a global arbitration centre and has been voted the most preferred seat of arbitration outside of Europe. Parties favour Hong Kong for many reasons, including its modern legislation that has been regularly updated to incorporate international best practice.

Third party funding ("TPF") for arbitration and associated proceedings has emerged as an effective tool to provide parties with access to justice and to allow them to strategically manage the financial risks associated with arbitration and related proceedings. The availability of TPF is well-entrenched in many other common law jurisdictions. In January 2017, Singapore became the first Asian jurisdiction to introduce a legal framework for TPF in international arbitration, although Singapore started the consultation process later than Hong Kong. The world is now looking at Hong Kong's legislative process to complete the city's arbitration offering by permitting funding in arbitration.

The Bill proposes provisions to regulate a broad range of issues that may arise out of a TPF arrangement in arbitration and related proceedings in Hong Kong. It expressly excludes the provision of funding by lawyers and persons providing legal services, to avoid any conflict of interest that might arise if those who provide legal services also directly or indirectly engage in third party funding (see section 98G(2)). The Law Reform Commission of Hong Kong ("HKLRC")'s Report on Third Party Funding for Arbitration also recommends, among other things, that the professional conduct rules applicable to Hong Kong lawyers be amended to set out the terms and conditions upon which such lawyers may represent parties in funded cases (see paragraph 3.48(6)).

In our view, the above provisions adequately regulate the role of lawyers in funded cases. The promulgation of clear professional conduct rules and enforcement mechanisms (as recommended by HKLRC) will ensure that any abuse is prevented.

We hope that this letter will address any concerns you have regarding the participation of Hong Kong lawyers in funded arbitrations and that the Bill will be passed as is.

If we could be of further assistance, please do not hesitate to contact us.



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Yours sincerely,

Sarah Grimmer
Secretary General
Hong Kong International Arbitration Centre