

# Arbitration Rules of Xiamen Arbitration Commission on Financial Disputes

Revised and adopted at the Fifth Meeting of the Sixth Session of Xiamen Arbitration Commission on October 22, 2020. Effective as of March 1, 2021.

**Article 1 Purpose** By taking into the characteristics of financial disputes, the Arbitration Rules of Xiamen Arbitration Commission on Financial Disputes (the "Rules") are formulated for the purposes of impartial and prompt resolution of financial disputes between the parties and protection of the legitimate rights and interests of the parties.

**Article 2 Organization** Xiamen Arbitration Commission International Financial Arbitration Centre is a specialized branch established by Xiamen Arbitration Commission ("XMAC") to resolve financial disputes.

**Article 3 Application of Rules** The term "financial disputes" referred to in the Rules shall mean disputes arising from or in connection with financial transactions or financial services between financial enterprises *inter se* (including platforms established by financial enterprises for the purpose of investment or financing) or between financial enterprises and other legal persons, natural persons or unincorporated organisations. Such financial transactions or financial services concerning areas not limited to: (a) loans; (b) transfer and recovery of non-performing financial assets; (c) credit cards; (d) guarantee; (e) interbank businesses; (f) pawn; (g) financial leasing; (h) securities; (i) futures trading; (j) insurance; (k) negotiable instruments; (l) letter of credit; (m) trust; (n) factoring; (o) financial derivatives; (p) asset management products; (q) asset securitisation products; and (r) others.

Unless otherwise agreed by the parties, the Rules shall apply to the aforesaid financial disputes accepted by XMAC.

XMAC or the arbitral tribunal shall make a decision on objections with regard to whether the Rules shall apply to the disputes between the parties.

**Article 4 Relationship between Rules** Where there is any inconsistency between the provisions of the Rules and the Arbitration Rules of XMAC, the Rules shall prevail. Matters not covered in the Rules shall be governed by the Arbitration Rules of XMAC.

**Article 5 Arbitration Fees** For financial disputes falling within the scope described in items (a) to (d) under the first paragraph of Article 3 hereof, the parties shall make a prepayment of arbitration fees pursuant to the provisions of Annex 1 hereto.

For financial disputes falling within the scope described in items (e) to (r) under the first paragraph of Article 3 hereof, the parties shall make a prepayment of arbitration fees pursuant to the provisions of Annex 2 hereto.

**Article 6 Application of Procedures** Unless otherwise agreed by the parties, the expedited procedure shall apply to financial disputes falling within the scope described in items (a) to (d) under the first paragraph of Article 3 hereof, financial disputes falling within the scope described in items (e) to (r) under the first paragraph of Article 3 of the Rules, and those of which the amount in dispute does not exceed 5,000,000 yuan (i.e. RMB, the same below); the ordinary procedure shall apply to financial disputes falling within the scope described in items (e) to (r) under the first paragraph of Article 3 hereof and those of which the amount in dispute exceeds 5,000,000 yuan.

For financial disputes falling within the scope described in items (e) to (r) under the first paragraph of Article 3 hereof, where the amendment to an arbitration claim or the filing of a counterclaim cause the amount of dispute exceeding 5,000,000 yuan, the expedited procedure shall still apply. Where a party or the arbitral tribunal deems that it is no longer appropriate to apply the expedited procedure, it may apply to the chairperson of XMAC ("Chairperson") for the change of procedures, such change shall be decided by the Chairperson.

For a financial disputes falling within the scope described in items (e) to (r) under the first paragraph of Article 3 hereof, unless otherwise agreed by the parties, where the amendment of arbitration claim does not cause the amount in dispute exceeding 5,000,000 yuan, the expedited procedure shall apply to the dispute before the composition of the arbitral tribunal; there shall be no further change of procedures after the composition of the arbitral tribunal.

**Article 7 Defence and Counterclaim** Where the expedited procedure apply, a Respondent shall, within ten (10) days [twenty (20) days for a Respondent having no domicile in Chinese Mainland] upon receipt of the notice of arbitration, submit its Statement of Defence and documents certifying its identity to XMAC, and confirm its address for service to XMAC. In case of any Counterclaim, the Respondent shall submit its application thereof and documents certifying its identity within the said time limit.

Where the ordinary procedure apply, the time limit for the Respondent to submit the Statement of Defence, documents certifying its identity and the application for counterclaim shall be fifteen (15) days [thirty (30) days for a Respondent having no domicile in Chinese Mainland].

**Article 8 Preservation** Where a party applies for preservation pursuant to Laws of Chinese Mainland , XMAC shall forward the application to the people's court in accordance with the law within two (2) days after receipt of complete application materials submitted by the party.

**Article 9 Arbitrators** The Panel of Arbitrators for Financial Disputes of XMAC shall be the recommended Panel of Arbitrators for financial disputes, and such list of arbitrators shall be included in the Panel of Arbitrators of XMAC. Arbitrators for financial disputes may be appointed from the Panel of Arbitrators for Financial Disputes of XMAC, or from the Panel of Arbitrators of XMAC.

**Article 10 Composition of Arbitral tribunal** Where the expedited procedure apply, the arbitral tribunal shall be composed of a sole arbitrator. The parties shall jointly nominate a sole arbitrator or authorise the Chairperson to appoint a sole arbitrator within five (5) days [ten (10) days if either party has no domicile in Chinese Mainland] upon receipt of the notices of arbitration.

Where the ordinary procedure apply, the arbitral tribunal shall be composed of three arbitrators. The claimant and the respondent shall, within ten (10) days [twenty (20) days for a party having no domicile in Chinese Mainland] upon receipt of the notices of arbitration, respectively nominate or authorise the Chairperson to appoint an arbitrator and jointly nominate or authorise the Chairperson to appoint a presiding arbitrator.

When appointing arbitrators, the Chairperson shall take into account the type of disputes in accordance with the Rules and the Arbitration Rules of XMAC, and based on the big data of arbitrators as statistically analysed and stored in XMAC's online service platform. The Chairperson shall appoint arbitrators within seven (7) days from the expiry of the period for the parties to appoint arbitrators.

**Article 11 Notice of Hearing** XMAC shall serve the notice of hearing on each party three (3) days [ten (10) days for a party having no domicile in Chinese Mainland] prior to the day of hearing.

**Article 12 Forms of Hearing Cases** Where the seat of arbitration is in Chinese Mainland, The Arbitral Tribunal shall hear a case in the form of a hearing. If all parties agree not to hold a hearing, or if the Arbitral Tribunal deems that a hearing is unnecessary and all parties so agree, the Arbitral Tribunal may conduct a documents-only arbitration on the basis of the Request for Arbitration, the Statement of Defence and other materials submitted by the parties to render an award.

Where the seat of arbitration is outside Chinese Mainland, the arbitral tribunal may determine the forms of hearing cases in accordance with the applicable laws of the seat of arbitration.

**Article 13 Unsynchronized Hearing** Where the parties jointly make an application or a party makes an application for unsynchronized hearing without objection from the other party, the arbitral tribunal may decide to hear a case based on the specific circumstances and technical conditions of the case. The arbitral tribunal, the claimant, the respondent, and other arbitration participants shall log in to XMAC's online service platform within the provided time limit to complete arbitration activities in an unsynchronized manner. The initiation of each stage in the process of the unsynchronized hearing shall be served on the parties electronically.

**Article 14 Award** Where the expedited procedure apply, the award shall be rendered within two (2) months [three (3) months for a case involving a party having no domicile in Chinese Mainland] as from the day on which the arbitral tribunal is constituted; where the ordinary procedure apply, the award shall be rendered within four (4) months [six (6) months for a case involving a party having no domicile in Chinese Mainland] as from the day on which the arbitral tribunal is constituted.

The arbitral tribunal may render an award by referring to international practices, industry norms, transaction rules, and financial market autonomy rules in connection with financial transactions, but such award shall not violate the mandatory provisions of the law or harm the public interest.

The arbitral tribunal may, based on the specific circumstances of the case, prepare an award in the form of writ, essential factors, table, etc.

**Article 15 Time Limit for Issuing Mediation Statement** Where the parties reach a settlement or settlement agreement and request the arbitral tribunal to make a statement of mediation, the arbitral tribunal shall issue the statement within three (3) days from the date of submission of the settlement agreement.

**Article 16 Way of Service** According to the specific circumstances of the case, XMAC or the arbitral tribunal may decide to serve the arbitral documents on the parties by mail, electronic service, or any other appropriate means.

## **Article 17 Electronic Service**

### **(1) Address for Electronic Service**

(a) The parties shall provide one or more contact information such as mobile phone number, email address, instant messaging account or fax number in the arbitration agreement or contract, etc.;

(b) The parties shall confirm its electronic address for service to XMAC when applying for arbitration or defending;

(c) If the parties neither agree on nor confirm with XMAC the address for electronic service, XMAC may use the mobile phone numbers, email addresses, IM account numbers, and facsimile numbers, etc. which are available to be confirmed as the active address of such party in the past three months as its electronic service addresses.

### **(2) Completion of Electronic Service**

Where XMAC sends arbitral documents to the parties at the electronic address mentioned in items (a) and (b) of Paragraph (1) of this Article, the arbitral documents shall be deemed served under any of the following circumstances: 1. the arbitral documents are sent to the electronic address for service as agreed or confirmed by the parties; 2. a notice is sent to the parties for viewing or downloading the documents on XMAC's online service platform; 3. the recipient of service replies that it has received the served documents or has conducted corresponding arbitration acts based on the served contents; and 4. the media system of the recipient of service gives feedback that the recipient has read and acknowledged the documents, or there is other evidence proving that the recipient has read and acknowledged the documents.

Where XMAC sends arbitral documents to the parties at the electronic address mentioned in item (c) of Paragraph (1) of this Article, the arbitral documents shall be deemed served under any of the following circumstances: 1. the recipient of the service replies that it has received the documents served or has conducted the corresponding arbitration acts based on the served contents; and 2. the media system of the recipient of the service gives feedback that it has been read by the recipient of service or there is other evidence proving that the recipient of service has received the documents.

### (3) Time of Electronic Service

The date of successful service as shown on XMAC's online service platform shall be the date of service. Where the recipient of service proves the inconsistency between the date of successful service shown on the online service platform of XMAC and the date as shown on its specific platform, the date of successful service shown on such specific system as proved by the recipient of service shall prevail.

**Article 18 Online Arbitration** Unless otherwise agreed by the parties, the XMAC or the arbitral tribunal may decide to conduct online arbitration for financial disputes under the Rules.

Online arbitration means arbitration activities such as the application, acceptance, appointment of arbitrators, defence, hearing, and service of a case are conducted on XMAC's online service platform.

Upon application by the parties or the needs of hearing a case, XMAC or the arbitral tribunal may complete part of the arbitration activities offline; provided, however, that the relevant records shall be submitted to XMAC's online service platform.

**Article 19 Interpretation** The Rules shall be interpreted by XMAC.

**Article 20 Implementation** The Rules shall be implemented as of March 1, 2021.

## Determination of Arbitration Fees of Financial Disputes

### Annex I:

Amount in Dispute (RMB)	Rate	Arbitration Fees (RMB)	Capped at
Up to 10,000 yuan	1350 yuan/c ase	1,350 yuan	1,350 yuan
10,001 yuan – 100,000 yuan	2.5%	1,350 yuan + 2.5% of the amount in dispute over 10,000 yuan	2,300 yuan
100,001 yuan – 200,000 yuan	2%	2,300 yuan + 2% of the amount in dispute over 100,000 yuan	4,300 yuan
200,001 yuan – 500,000 yuan	1.5%	4,300 yuan + 1.5% of the amount in dispute over 200,000 yuan	8,800 yuan
500,001 yuan – 1,000,000 yuan	1%	8,800 yuan + 1% of the amount in dispute over 500,000 yuan	13,800 yuan
1,000,001 yuan – 2,000,000 yuan	0.9%	13,800 yuan + 0.9% of the amount in dispute over 1,000,000 yuan	22,800 yuan
2,000,001 yuan – 5,000,000 yuan	0.8%	22,800 yuan + 0.8% of the amount in dispute over 2,000,000 yuan	46,800 yuan
5,000,001 yuan – 10,000,000 yuan	0.7%	46,800 yuan + 0.7% of the amount in dispute over 5,000,000 yuan	81,800 yuan
10,000,001 yuan – 20,000,000 yuan	0.6%	81,800 yuan + 0.6% of the amount in dispute over 10,000,000 yuan	141,800 yuan
Over 20,000,000 yuan	0.5%	141,800 yuan + 0.5% of the amount in dispute over 20,000,000 yuan	
If the amount in dispute is more than 1,500,000,000 yuan, the arbitration fees will be capped at 7,541,800 yuan.			

## Annex II:

### Calculation Standard of Acceptance Fee (Schedule 1)

Amount in Dispute (RMB)	Rate	Case Acceptance Fee (RMB)	Capped at
Up to 1,000 yuan		100 yuan	100 yuan
1,001 yuan – 50,000 yuan	5%	100 yuan + 5% of the amount in dispute over RMB1,000	2,550 yuan
50,001 yuan – 100,000 yuan	4%	2,550 yuan + 4% of the amount in dispute over 50,000 yuan	4,550 yuan
100,001 yuan – 200,000 yuan	3%	4,550 yuan + 3% of the amount in dispute over 100,000 yuan	7,550 yuan
200,001 yuan – 500,000 yuan	2%	7,550 yuan + 2% of the amount in dispute over 200,000 yuan	13,550 yuan
500,001 yuan – 1,000,000 yuan	1%	13,550 yuan + 1% of the amount in dispute over 500,000 yuan	18,550 yuan
Over 1,000,000 yuan	0.5%	18,550 yuan + 0.5% of the amount in dispute over 1,000,000 yuan	

If the amount in dispute is more than 1,500,000,000 yuan, the acceptance fee will be capped at 7,513,550 yuan.

### Calculation Standard of Handling Fee (Schedule 2)

Amount in Dispute (RMB)	Rate	Case Handling Fee (RMB)	Capped at
Up to 200,000 yuan		Not less than 1,250 yuan	1,250 yuan
200,001 yuan – 500,000 yuan	1%	1,250 yuan + 1% of the amount in dispute over 200,000 yuan	4,250 yuan
500,001 yuan – 1,000,000 yuan	0.5%	4,250 yuan + 0.5% of the amount in dispute over 500,000 yuan	6,750 yuan
1,000,001 yuan –	0.25%	6,750 yuan + 0.25% of the amount in dispute over	29,250

10,000,000 yuan		1,000,000 yuan	yuan
Over 10,000,000 yuan	0.15%	29,250 yuan + 0.15% of the amount in dispute over 10,000,000 yuan	
If the amount in dispute is more than 1,500,000,000 yuan, the handling fee will be capped at 2,264,250 yuan.			

1. The rate as shown in Annex I applies to financial disputes falling within the scope described in items (a) to (d) of the first paragraph of Article 3 of the Rules; the rate as shown in Annex II applies to the cases under ordinary procedure as agreed by the parties or heard by the arbitral tribunal composed of three arbitrators; for cases under ordinary procedure as agreed by the parties or heard by the arbitral tribunal composed of three arbitrators of which the amount in dispute is less than 2,000,000 yuan, the amount in dispute shall be deemed as 2,000,000 yuan and the arbitration fees shall be determined accordingly.

2. The rate as shown in Annex II shall apply to financial disputes falling within the scope described under items (e) to (r) of the first paragraph of Article 3 of the Rules; for the cases under ordinary procedure as agreed by the parties or heard by the arbitral tribunal composed of three arbitrators of which the amount in dispute does not exceed 2,000,000 yuan, the amount in dispute shall be deemed as 2,000,000 yuan and the arbitration fees shall be determined accordingly.

3. The amount in dispute shall be the amount requested by the parties; where there is no amount in dispute or the amount in dispute is unclear, the arbitration fees to be pre-paid shall be determined by XMAC.

4. XMAC may, according to the specific circumstances of a case, charge a certain proportion of arbitration fees in addition to the aforesaid rate. Such circumstances shall include but not limited to: there are two or more claimants or respondents in the case; the arbitration is based on multiple contracts; the language agreed by the parties is bilingual or multi-lingual; any other special circumstances.

5. Based on the specific circumstances of a case, XMAC shall have the right to adjust the arbitration fees prepaid by a party.