

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

Regulatory Approaches to ADR



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# Regulator Approaches to ADR/Use of Experts

- **Germany**

- Conciliation boards can be used for disputes between consumers/investors and financial institutions
- Conciliation boards are operated by BaFin and other regulatory bodies
- Section 342 of the Investment Code (in German) sets out procedures
- No similar process exists in connection with disputes between regulator and regulated entities



# Regulator Approaches to ADR/Use of Experts

- **France**

- AMF has an institutional mediator who resolves 80-90% of investor claims relating to financial instruments
- Banking claims are outside AMF's jurisdiction
- Current mediator is a senior Supreme Court judge who was until recently a member of AMF Enforcement Committee
- Banking agencies also have an ombudsman process



# Regulator Approaches to ADR/Use of Experts

- **Hong Kong**

- No ADR scheme exists for disputes between regulator and regulated entities
- Financial Dispute Resolution Centre  
(<http://www.fdrc.org.hk/index.php?lang=en>)  
provides a service for monetary disputes between customer and financial institutions



# Regulator Approaches to ADR/Use of Experts

- **Australia**

- No formal requirement exists to utilize ADR in disputes
- Limited use in
  - Freedom of information act requests
  - Resolution of tax audits
  - Case conferencing
  - Resolution of disputes prior to commencing proceedings
- Recent ASIC disclosure agreement



# Regulator Approaches to ADR/Use of Experts

- **United Kingdom**

- Rules of Civil Procedure of England & Wales
  - Since 1998, powerful encouragement for mediation
- Enforcement Rules of the Financial Services Regulators
  - Support for mediation in suitable enforcement matters
  - Settlement and mediation portion of website ([www.fca.org.uk](http://www.fca.org.uk))
    - *“Mediation can work within regulation to supplement the informal settlement discussions which can be part of the regulatory process and to provide a way of progressing a case where settlement discussions are unlikely to lead to an agreed settlement.”*
- Experience with mediation process



# Regulator Approaches to ADR/Use of Experts

- **United States**

- Interagency ADR Working Group ([www.adr.gov](http://www.adr.gov))
  - Established pursuant to Administrative Dispute Resolution Act of 1996
    - Act authorized use of ADR process to resolve disputes with the federal government
  - Led by U.S. Department of Justice
  - Many agencies contribute, including CFTC and SEC
- Working Group focuses on following areas:
  - Workplace disputes
  - Contracts and procurement disputes
  - Regulatory enforcement disputes
  - Claims against the government

