

## **Invitation to Attend Online Public Consultation Sessions of the Mixed Mode Taskforce (13-15 September 2021)**

The Mixed Mode Taskforce is a combined effort by the College of Commercial Arbitrators (CCA), the International Mediation Institute (IMI) and the Straus Institute for Dispute Resolution, Pepperdine School of Law (the “Task Force”). The Task Force was created almost five years ago and is in the process of finalizing its work product. The Taskforce is now seeking input from the dispute resolution community through a public consultation process.

The use of tailored, user-driven dispute resolution mechanisms employing different forms of dispute resolution processes either concurrently (in a parallel or integrated manner) or consecutively, has received significant recent attention (e.g., adjudicative processes, such as litigation and arbitration, combined with non-adjudicative processes, such as mediation). With tailored processes becoming increasingly common, the Taskforce was created with the goal of developing practical suggestions for users and providers of dispute resolution services about how dispute resolution processes can be designed and combined to optimize the resolution of commercial disputes between businesses (whether domestically or internationally), and what constraints should be considered.

The Taskforce is organized into 7 working groups, as follows:

1. Working Group 1: Upstream conflict management processes (e.g., dispute resolution clauses including tiered/stepped processes) (Co-Chairs: K. Paisley (US/BE), J. Player (GB) & T. Stipanowich (US))
2. Working Group 2: Neutrals facilitating tailored process design (evaluative and non-evaluative) (Co-Chairs: L. Kaster (US) & J. Lack (CH))
3. Working Group 3: Mediators using non-binding evaluations and proposals (Co-Chairs: K. Fan (HK) & V. Fraser (CA))
4. Working Group 4: Arbitrator techniques and their (direct or potential) effect on settlement (Co-Chairs: E. Sussman (US) & K.P. Berger (DE))
5. Working Group 5: Neutrals switching hats (Co-Chairs: M. Mironi (IL) & T. Stipanowich (US))
6. Working Group 6: Finality and enforceability of facilitated and arbitrated mixed mode outcomes (Co-Chairs: K. Paisley (US/BE) & J. Player (GB))
7. Working Group 7: Future directions: Interactions between mediators and arbitrators (Co-Chairs: D. Masucci (US) & D. Nigmatullina (RU/BE)).

Each Working Group has prepared practical guidelines or best practices addressing their subject matter in light of the project as a whole. Before finalizing the full working group reports and distributing them to a broader audience, the Taskforce seeks the input of experts in the dispute resolution community during a series of online interactive public consultation sessions that will take place on September 13-15, 2021 via ZOOM, that are designed to generate feedback and critical thinking on the topics addressed by each of the Working Groups.

A series of short articles summarizing each working group’s work was recently published in 14 *New York Dispute Resolution Lawyer* 2 (2021), published by the New York State Bar Association. You can find an overview and a description of each working group’s efforts to date by clicking on the weblink [New York Dispute Resolution Lawyer - Vol 14 No 1 - New York State Bar Association \(nysba.org\)](https://www.nysba.org/publications/new-york-dispute-resolution-lawyer-vol-14-no-1)

A few survey questions will also be sent to participants prior to each consultation session so that the discussions during each session can focus on any key issues identified by respondents as being particularly important or controversial.

These working sessions will provide an opportunity for participants from all over the world to consider these mixed mode issues in a highly interactive format, providing inputs directly to the Taskforce's leadership. To try to accommodate as many time zones as possible, we have scheduled two separate groups of sessions for each topic. The first group of sessions will be held over 2 half days on September 13 and 14 at 11am-3pm EDT (5pm-9pm CEST). To accommodate time zones, the second group of sessions will be held on September 15 at 3pm-9pm SGT (9am-3pm CEST). You are welcome to attend them all, or to pick those of most interest to you.

Please register through this link <https://www.eventbrite.nl/e/mixed-mode-dispute-resolution-consultation-sessions-tickets-166139179759>. After you register, we will send you a more detailed program with timings of the sessions and description of the working sessions and Zoom details, as well as the preparatory consultation questions for each session. We hope you will be able to join us for at least one of these sessions, as we would greatly value your input.