

AAA Issues Amended Commercial Arbitration Rules

WRITTEN BY

Virginia Bell Flynn | Chad R. Fuller | Michael E. Lacy | Tina Safi Felahi | Sarah E. Siu | Amanda L. Genovese

Effective September 1, the American Arbitration Association (AAA) has finally updated its [Commercial Rules and Mediation Procedures](#), concluding a two-year internal review. The amendments provide greater procedural discretion to arbitrators, further streamline expedited arbitrations, change the amount-in-controversy requirements for certain arbitration paths, and provide express confidentiality protections, [among other things](#).

First, the amended rules give arbitrators more latitude in shaping the course of an arbitration. Under new Rule R-8, parties may now file requests to consolidate arbitrations or join additional parties. Absent agreement of all parties, the decision to allow consolidation or joinder is left to the discretion of the initial arbitrator or a special consolidation arbitrator, who must consider whether the arbitrations raise common issues of law or fact, whether the agreements to arbitrate are compatible, and whether consolidation would further “justice and efficiency.” Arbitrators also have flexibility to limit dispositive motion practice and to award fees and costs related to dispositive motion decisions. The rules also clarify optional remedies for non-payment of arbitration fees and costs an arbitrator may order.

Second, the amended rules make several changes to streamline expedited arbitrations. Under the amendments, no motion practice is permitted absent showing good cause and arbitrator permission, and no emergency relief is available. Discovery other than a basic exchange of exhibits also is prohibited.

Third, the amendments adjust the amount-in-controversy requirements for several types of arbitrations. Claims of up to \$100,000 may now qualify for expedited arbitration, up from \$75,000. On the other hand, the amount-in-controversy requirement for the large, complex case track has doubled, to \$1 million. For a large, complex case to qualify for a panel of three arbitrators, claims and counterclaims must equal or exceed \$3 million, triple the previous threshold.

Fourth, the amendments add a confidentiality provision, which codifies the arbitrators’ and AAA’s obligations to keep all matters related to an arbitration confidential. It also authorizes arbitrators to issue confidentiality orders as needed.

Finally, the amended rules expressly allow arbitrators to conduct hearings remotely by electronic means, codifying pandemic-era interpretations of the prior rules.

We will continue to monitor and report on similar developments affecting arbitration practice before AAA.

RELATED INDUSTRIES + PRACTICES

- [Consumer Financial Services](#)