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Checklist for Handling Financial Lending Arbitration Cases

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The author has handled a large number of financial lending arbitration cases in recent years. Such cases feature two prominent traits: first, **batch processing**. Disputes arise in bulk from identical products, standard-form contracts and identical security structures adopted by the same financial institution. Second, the review criteria are highly standardized. No matter which arbitral tribunal hears the case, it examines the same set of issues: conditions and timing for early maturity of loans, principal and interest calculation, guarantee period and scope, mortgage registration and priority order, coordination with bankruptcy proceedings, and recovery of legal costs.

Given the standardized review criteria, representation work should also be organized into a checklist. Instead of sorting out issues anew for every case, we may codify all examination points into a due diligence checklist for item-by-item verification throughout the whole process: case filing, evidence production, oral hearing and drafting written submissions. The following checklist is categorized by contentious legal issues for the reference of fellow practitioners.

I. Procedure and Jurisdiction

1. **Scope of the arbitration clause**: Verify whether the main contract, credit facility contract, mortgage contract and guarantee contract all contain arbitration clauses or incorporate the arbitration provision in the main contract; confirm whether disputes arising after loan acceleration fall within the scope of the clause.

2. **Procedural time limits**: The CIETAC Financial Disputes Arbitration Rules shorten the time limits for responding and adducing evidence, with faster case scheduling. Evidence preparation must be completed in advance. Matters not covered by the Financial Rules shall be governed by the general Arbitration Rules.

3. **Property preservation**: Confirm judicial coordination for preservation applications,

security arrangements, and retention of fee invoices (do not claim unreceipted costs).

4. **Risk of default judgment**: Even if the respondent fails to appear, the claimant must submit full evidence. A default award does not relieve the arbitral tribunal of its fact-finding obligation, nor does it exempt the claimant from the burden of proof.

II. Early Maturity of Loans

1. **Evidence of breach**: Records showing the borrower's failure to repay principal and interest when due (repayment bank statements, account statements).

2. **Maturity date**: Three alternative benchmarks for determining the early maturity date: (i) the date when the early maturity notice is served on the borrower; (ii) the date when the duplicate of the arbitration application is served; (iii) the date of the arbitral award. Counsel for the creditor must preserve the written early maturity notice and service proof, as the timing directly determines the commencement date for penalty interest. Counsel for the borrower shall focus on challenging whether the breach condition is satisfied and whether the notice was duly served.

3. **Formulation of claims**: Clearly state the start date for segmented calculation of interest and penalty interest in the arbitration claims to avoid ambiguity in the award operative part.

4. **Credit facility structure**: A master credit agreement and individual loan contracts form a **master-subordinate relationship**. Upon breach, the creditor may elect to claim early maturity under a specific loan contract, or claim full maturity of all outstanding debts within the credit limit under the master credit agreement. The election affects the claim amount and scope of evidence, and must be finalized at the filing stage.

III. Interest, Penalty Interest and Compound Interest

1. **Calculation statement**: Prepare this document as the first piece of evidence for the claimant, setting out outstanding principal, interest rates, interest accrual periods, overdue days, the base for compound interest, breakdown of repayments applied to the debt, and the calculation formula. For floating-rate loans, specify the effective date of each LPR adjustment.

2. **Cease accrual after maturity**: Stop accruing contractual interest once the loan matures naturally or is accelerated; only penalty interest may accrue thereafter. Double-check against duplicate interest and penalty interest accruing before and after the maturity date.

3. **Base for compound interest**: Confirm that compound interest is not calculated on penalty interest (which constitutes an unlawful practice).

4. **Adjustment for interim repayments**: Deduct any repayments made by the borrower during the arbitration proceedings.

5. **Order of imputation of payments**: Follow the contractual agreement if any; in the absence of a contract term, apply the rules for imputation of payments under the *Civil Code of the People's Republic of China*.

6. **Interest rate cap**: Service fees, consulting fees, advisory fees and other disguised charges that push the total consideration beyond the reasonable upper limit may be subject to adjustment by reference to the regulatory reasoning set forth in the *Minutes of the National Courts' Civil and Commercial Trial Work* (the *Nine-Party Minutes*)澎湃新闻.

7. **Verification tool**: Cross-check every item with spreadsheets or calculation software. List four critical dates separately for verification: interest rate adjustment date, early maturity date, bankruptcy acceptance date, and date of repayment imputation. Miscalculations in batch cases mostly stem from inconsistent timing of these key nodes.

IV. Guarantees

1. **Guarantee period**: The period commences on the maturity date of each individual primary obligation; for accelerated loans, the start date is the early maturity date. Verify whether the creditor initiated arbitration or asserted its claim against the guarantor within the period. Expiry of the guarantee period constitutes a complete defence.

2. **Scope and limit of liability**: A "maximum principal liability cap" does not automatically exclude interest, penalty interest and debt recovery costs. The scope shall be strictly construed according to the contract wording.

3. **Mixed security**: Where the contract expressly entitles the creditor to claim directly against the guarantor, the rule of "real security first, personal security second" does not apply. Where multiple guarantors exist, the creditor may claim full indemnity from any single guarantor.

4. **Corporate external guarantee**: Verify the authenticity of shareholders' or board resolutions, voting authority and restrictions under the company's articles of association. Counsel for the creditor shall produce such resolutions as routine evidence.

V. Mortgages

1. **Comparison with land registry records**: Obtain the real estate register at the earliest stage and cross-check register entries against contractual terms. Most security disputes turn on inconsistencies between the registry and the contract.

2. **Maximum mortgage**: The scope of priority repayment is capped at the maximum secured amount recorded in the registry; higher contractual limits cannot prevail over registered information. If three figures diverge — the "maximum credit limit" in the contract, the "maximum secured claim amount" on the registry, and the "maximum principal amount" in internal resolutions — the registered value shall prevail against third parties.

3. **Priority of repayment**: Multiple mortgages on the same property rank in chronological order of registration (Article 414 of the *Civil Code*).

4. **Joint marital property**: For real estate registered under only one spouse's name, produce the spouse's written mortgage consent or co-owner signature. If the spouse had no knowledge and the financial institution failed to conduct proper due diligence, the mortgage right may be partially unenforceable.

VI. Coordination with Bankruptcy Proceedings

1. **Continuance of arbitration proceedings**: If the bankruptcy administrator invokes Article 21 of the *Enterprise Bankruptcy Law* to move for dismissal of the arbitration, follow the mainstream judicial position: Article 21 governs centralized jurisdiction for civil litigation and does not invalidate valid arbitration agreements. Arbitration shall proceed unless the arbitration clause is statutorily void.

2. **Cease interest accrual**: Interest-bearing claims stop accruing interest on the date the bankruptcy application is accepted; interest shall only be calculated up to the day before acceptance, and the claim amount shall be adjusted accordingly.

3. **Alignment with creditor's claim schedule**: Draft the award amount to align with the standard for confirming bankruptcy claims. Anticipate challenges from the administrator regarding large contingent legal fees and arbitration costs corresponding to interest claims.

VII. Special Parties and Recoverable Costs

1. **Death of mortgagor or guarantor**: Heirs shall be liable only up to the value of the inherited estate. If the scope of the estate is unclear, do not seek a direct joint liability ruling against heirs. The mortgage right survives the death of the mortgagor; the claimant may first confirm the priority right over the collateral, and pursue the residual shortfall via inheritance proceedings.

2. **Three prerequisites for recovery of attorney's fees**: (i) a contractual basis; (ii) costs actually incurred or certain to be incurred; (iii) reasonable quantum. Even where contingent fees have not yet been paid, courts may exercise discretion to award future contingent fees if the billing method is clearly stipulated and the amount falls within a reasonable range.

3. **Allocation of arbitration costs**: Costs are apportioned pro rata to the proportion of claims upheld, and are not always borne entirely by the losing party. Estimate cost allocation alongside the projected success rate.

4. **Evidence for costs**: Only claim arbitration fees and preservation costs supported by formal invoices. Do not include announcement fees, travel expenses or other costs without supporting evidence, as this will undermine the overall credibility of the claim.

VIII. Arbitration Claims and Written Instruments

1. **Full particulars in claims**: Set out complete details including the form of guarantee, guarantee period, security scope, liability cap, and enforcement priority. For mortgages, specify the property address, title registration information, secured debt scope, repayment priority and the scope of priority repayment. List each co-guarantor

separately. The operative part of the award cannot exceed the scope of the arbitration claims; the level of detail in the award is entirely determined by the completeness of the claims and oral submissions.

2. **Tracking procedural milestones**: Proactively track and promptly report key milestones such as bankruptcy acceptance, preservation coordination, stay and resumption of proceedings. "Violation of statutory procedure" remains the most frequently invoked ground for setting aside arbitral awards. Procedural compliance is the first safeguard for the enforceability of the award.

IX. Special Defensive Checklist for the Respondent

1. **Procedural challenges**: Raise objections to the validity and scope of the arbitration clause and the clarity of the designated arbitral institution at the earliest opportunity.

2. **Early maturity challenge**: Dispute whether the breach condition was satisfied and whether the early maturity notice was effectively served, so as to curtail the period for penalty interest.

3. **Audit of debt calculation**: Demand the claimant produce a formal debt calculation statement and verify it line by line. Focus on four core errors: duplicate interest accrual, compound interest calculated on penalty interest, failure to deduct interim repayments, and incorrect interest cut-off dates.

4. **Security defences**: Check whether the guarantee period has expired, whether corporate guarantee resolutions contain defects, whether mortgage registration conflicts with contractual terms, and whether the parties confused "maximum principal cap" with "maximum total claim cap".

5. **Standard-form contract defences**: Invoke Article 496 and Article 497 of the *Civil Code* to argue for contra proferentem interpretation or invalidity of clauses that exempt the financial institution from liability, aggravate the borrower's obligations or exclude the borrower's core rights. Note, however, that clauses filed with financial regulators and drafted with clear wording have low chances of being held invalid; this shall only be used as a supplementary defence.

6. **Cost defences**: Challenge whether attorney's fees were actually incurred and whether

the quantum matches the claim size and workload. Argue that the discretionary award for "future contingent fees" lacks sufficient factual support. Link the apportionment of arbitration costs strictly to the success ratio of the claims.

X. Conclusion

The best way to handle bulk arbitration cases is to counter standardized judicial review with standardized case management. This checklist cannot replace case-specific analysis, but it ensures no critical issue is overlooked: whether documentary proof exists for the early maturity date, whether the principal and interest calculation withstands line-by-line scrutiny, and whether all security elements are fully set out in the claims and award operative part. Getting these three matters right lays a solid foundation for high-quality representation in financial lending arbitrations.

Keep this checklist on hand and tick off each item step by step: review jurisdiction and claims at the filing stage; verify debt calculations and security arrangements before evidence submission; prepare defences and cost arguments ahead of the hearing; and cross-check omissions when drafting written submissions.

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