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### Updates to the IBA Guidelines on Conflicts of Interest in International Arbitration

The IBA has recently released its [2024 iteration of its Guidelines on Conflicts of Interest in International Arbitration](#) (“**Revised Guidelines**”).<sup>1</sup>

The Revised Guidelines maintain the structure of their 2014 predecessor, comprising a two-part framework stipulating the general principles to be applied and a list of circumstances for the practical application of these principles. The well-recognised red, orange, and green lists, a concept well-known within the arbitration community, remain an essential feature of the Revised Guidelines.

### Notable Updates in the Revised Guidelines

Highlighted within the Revised Guidelines are several noteworthy updates:

- Modernisation of the Revised Guidelines to be in line with the evolved structure of international legal practices and various employment

<sup>1</sup> Albeit a form of soft law instrument, the IBA Guidelines has been widely accepted by the international arbitration community.

capacities an arbitrator may have, or have had in the past, which may warrant disclosure to parties.<sup>2</sup> Examples include an arbitrator's previous engagement as an expert and the rendering of assistance in mock-trials or hearing preparations.<sup>3</sup>

- The advocacy of an arbitrator's position on the case or the subject matter of the arbitration on social media, including professional networking platforms, is now classified under the Orange List. An arbitrator may now be required to disclose the potential conflict of interest to parties.<sup>4</sup>
- If an arbitrator is obligated to disclose but is constrained by professional secrecy rules or other rules of practice or professional conduct, and is prevented from making the required disclosure, the arbitrator should not accept the appointment, or should resign (if already appointed).<sup>5</sup>
- A positive obligation is now imposed on appointing parties to conduct a reasonable inquiry on the potential arbitrator to ascertain any facts or circumstances that could constitute a potential conflict of interest. A failure to raise a timely challenge may result in a waiver.<sup>6</sup>
- Failure to disclose does not automatically give rise to a conflict of interest or disqualification of the arbitrator.<sup>7</sup>

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<sup>2</sup> General Standard 6(a).

<sup>3</sup> Items 3.2.9 and 3.2.10 of the Orange List.

<sup>4</sup> Item 3.4.2 of the Orange List.

<sup>5</sup> General Standard 3(e).

<sup>6</sup> General Standard 4(a).

<sup>7</sup> General Standard 3(g).

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## Conclusion

The updates in the Revised Guidelines aptly reflect the ongoing developments in the global arbitration landscape, offering clearer guidance on potential conflicts of interest for arbitrators. The Revised Guidelines are expected to remain a reliable source of soft law, providing valuable guidance for increasing efficiency in arbitration proceedings.

The IBA has also published a comparative document visualising amendments across the 2014 and 2024 versions of the Guidelines. This may be viewed [here](#).

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