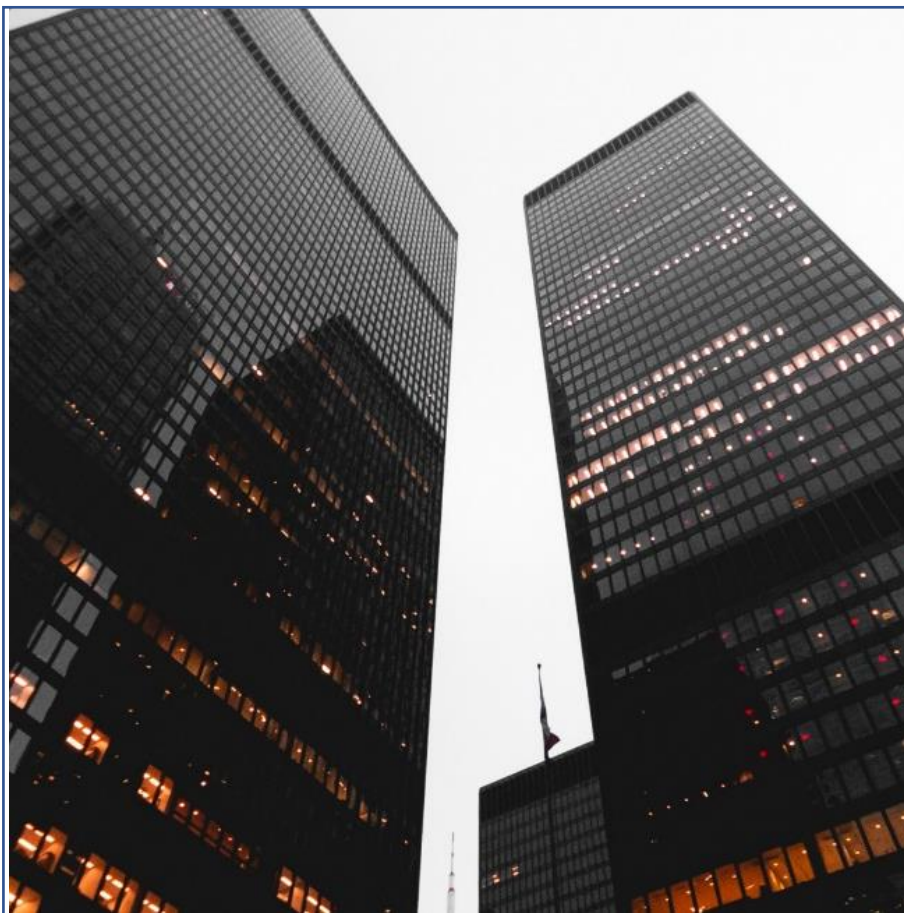


# Newsletter

Issue No. 05 | December 2022



## In this issue

The SEC released Memorandum Circular No. 8, Series of 2022, Guidelines on Arbitration of Intra-Corporate Disputes for Corporations, implementing Section 181 of Republic Act No. 11232 or the Revised Corporation Code of the Philippines (RCC) which states that an arbitration agreement may be provided in the articles of incorporation or bylaws of a corporation.

## GUIDELINES ON ARBITRATION OF INTRA-CORPORATE DISPUTES FOR CORPORATIONS

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### To: All Concerned Corporations

The Commission has issued Memorandum Circular (MC) No. 8, Series of 2022 which provides guidelines for the implementation of Section 181 of Republic Act No. 11232, or the Revised Corporation Code of the Philippines (RCC) which states that an **arbitration agreement** may be provided in the articles of incorporation or bylaws of a corporation.

An arbitration agreement is an agreement by the parties to submit to arbitration all or certain disputes, which may be in a form of a separate contract or a clause incorporated in the articles of incorporation or by-laws of a corporation.

When an arbitration agreement is in place, intra-corporate dispute shall be referred to arbitration after compliance with any agreed pre-arbitration alternative forms of dispute resolution, such as negotiation or mediation, under the Arbitration Agreement.

### Applicability of Arbitration:

✓ Disputes between the corporation, its stockholders; or members, which arise from:

- the implementation of the articles of incorporation or by-laws, or
- from intra-corporate relations.

X Dispute involving criminal offenses and interests of third parties.

For an arbitration agreement to be enforceable, it should indicate the following:

- the number of arbitrators;
- the designated independent third party who will appoint the arbitrator/s;
- the procedure for the appointment of the arbitrator/s; and
- the period within which the arbitrator/s should be appointed by the designated independent third party.

Exhaustively provided also in the guidelines are the:

- procedure for appointment of the arbitrator/s who shall form part of the arbitral tribunal;
- composition of the arbitral tribunal;
- powers of the arbitral tribunal; and
- other matters related to the arbitrator.

For the full text of MC No. 8, series of 2022, refer to the link below.

SEC MC No. 08, s. 2022: <https://www.sec.gov.ph/mc-2022/mc-no-08-s-of-2022/>

**Our View:** *This guideline will be beneficial to corporations, stockholders and members as this will provide the specifics of the content of an arbitration agreement, specific requirements for each section and will give a clear view regarding the importance of providing an arbitration agreement. This will be beneficial to corporations, stockholders and members as this will assist them in case an intra-corporate dispute happens. Also, having an arbitration agreement written in the corporation's articles of incorporation, bylaws, or in a separate agreement will prevent the parties from court proceedings. This provision of SEC guidelines should be incorporated and adopted by corporations and should in place an arbitration committee to patch-up the problems of intra-corporate disputes.*

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Comments and suggestions are welcome.

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