THE CONUNDRUM OF THIRD PARTY FUNDING IN INTERNATIONAL ARBITRATION: CONFIDENTIALITY AND DISCLOSURE

Arohi Kashyap[*] and Ramanpreet Sidhu[**]

Abstract

With the ever-increasing popularity of international arbitrations, several companies saw an opportunity of easy investment with the promise of grand returns. Third party funding, although not a new phenomenon, has been quickly gaining popularity in the world of international arbitration, which has been facilitated by the lax to non-existent regulations governing them. The ability of the funders to strategically invest in certain disputes while being able to hide behind the curtain of confidentiality clauses makes it an extremely attractive and lucrative field of investment. This paper aims to study the challenges associated with the involvement of third-party funders in international arbitration, specifically focusing on the confidentiality issues and disclosure requirements. The main challenge associated with this branch of funding pertains to the substantial increase in the risk of a conflict of interest with the arbitrators, the funding party and the parties. The paper systematically deals with the confidentiality of both the parties as well as the funder and moves onto to the debate on disclosure requirements in arbitration. This paper aims to understand the requirement of regulations and if the present status quo should be maintained.

Keywords: Third party funding, international arbitration, confidentiality agreement, arbitration award, funding party

PREFERRED CITATION

- Arohi Kashyap and Ramanpreet Sidhu, The conundrum of third party funding in international arbitration: confidentiality and disclosure, *The Lex-Warrier: Online Law Journal* (2018) 6, pp. 281 – 292, ISSN (O): 2319-8338

[*] Final Year Law Student at The Northcap University, Gurugram
[**] Associate at Kashyap & Kashyap Law Firm, Gurugram.

INTRODUCTION

The rapid advancement of the corporate world has led to the development of a plethora of legal claims arising from the corporate relations and contractual obligations. Seeing the growth in this field, several "support companies" found a profit-making opportunity and initiated something known as "third party funding". As the name entails, it is a third party to a suit, which has only one purpose, to fund the claim of one of the parties in the hope of obtaining considerable profit upon settlement. The funder usually has no direct interest in the substantive issues of the proceedings. The general scheme is to invest in the proceedings (as a financial support to one of the parties) and in return, the party agrees to give a percentage of the total compensation it would receive, to the funder.

Mainly, third party funding was present in investment disputes between persons and state due to the persons not being able to support their claim against a state. But, the scenario has changed now as the investment firms acting as third-party funder realized that profits from this market can be of high amounts compared to the little they have to invest. Even though it is a high-risk market, it is also a high-gain market. Recently, this practice has been expanded from litigation only, to arbitrations. This can be attributed primarily to the increasing importance of arbitration as it allows the parties to choose their own rules and provide confidentiality. Funders usually apply a specific algorithm to determine if a particular claim is worth the risk of funding. Going by the common trend it seems that funding cases that involve damages is thought of as a *"no go zone"*. But, for one-off cases the funders are inclined to fund if the likely compensation is close to £10 million. This aside, there are a number of factors that a third-party funder must consider before funding a claim.

The paper shall dwell into the deep foundation of third party funding in the field of arbitration and explore the issues related to disclosure and confidentiality over its usage.

PATH OF DEVELOPMENT

As seen throughout history, the participation of third parties in domestic litigations through means of investment was not welcomed, merely because it was thought that this practice might corrupt the third party's main motive i.e profit - earning. This is why the prohibition on maintenance and champerty was imposed. In all common law countries like UK, Australia, etc. third-party funding was considered to be an act at par

with the tortious acts of maintenance and champerty.[1]

The concept of 'dispute funding' first came up in Australia where insolvency practitioners began using third-party funding for lawsuits under their statutory powers of sale. This allowed persons, who were otherwise incapable of pursuing a suit due to the lack of financial strength, to pursue their cases against wrong-doers.[2] One of the possible explanations to the need of third party funders could be that contingency fee arrangements are prohibited in Australia, due to which the need for third party funding arose.[3] This practice later on extended towards non-insolvency lawsuits and then just kept on growing.[4] In fact, the practice escalated to such an extent that TPF is now an established part of the civil justice system. Prior to this, litigation funding itself was barred as it was seen to be a mockery of the justice system, as funders would encourage litigations in order to fund them for profits. [5] It is also suggested that the rapid expansion and acceptance of dispute funding mechanism was because of the economic downturn in 2008.[6]

The perspective of the judicial systems of numerous countries was strict when it came to regulation and control of third party funding. Even though, through the development of the Third-Party Funding Industry resulted in the legislations being amended and/or created to regulate the industry instead of just removing it, there was still no prohibition or instructions of the same upon the arbitration regime. Arbitration, which also became a fast-growing method of dispute resolution, attracted the attention of many third-party funders in litigation. Slowly, the practice began in arbitration as well. It rapidly grew popularity and prominence in arbitration. The lack of control and laws on third party funding combined with the principle of party autonomy that regulates the procedure of arbitration, resulted in third party funding in arbitrations becoming a prominent industry in and of itself. The lack of legislations and procedural control over third party funding has required Courts to place precedents in order to determine the flow of funding in arbitrations. Nevertheless, the industry and practice remained uncontrolled.

[1] Lisa Bench Nieuwveld and Victoria Shannon; *Third-Party Funding in International Arbitration* (Kluwer Law International) at Pg. 40.
[2] Geisker, Jason and Tallis, Jenny; The Third-Party Litigation Funding Law Review – Edition 1.
[3] US Chamber Institute for Legal Reform, *Selling Lawsuits, Buying Trouble: Third-Party Litigation Funding in the United States,* October 2009.
[4] Standing Committee of Attorney Generals, Litigation Funding, Discussion Paper, May 2006, Available at http:// www. justice. nsw. gov. au/ justicepolicy/Documents/litigationfundingdiscussion papermay06.pdf (Last checked on 4th June 2018)
[5] Ben Bigby and Angela Bilbow "Storm Clouds Rising" 11 Dec 2014 Commercial Dispute Resolution.
[6] Report of the ICCA-Queen Mary Task Force on Third Party Funding in International Arbitration, Report No. 4, April 2018.

The judicial intervention in this field has many downsides. The courts could potentially invalidate several arbitration agreements on the grounds of public policy, non-disclosure of the funder, lack of equality, etc. This opens up possibilities of the funded party escaping the liability to the funder, by getting the funding agreement invalidated in the courts of law in order.[7] It is doubtful whether the same principles for TPF in litigation can be applied over international arbitrations as they are not bound by one domestic jurisdiction.[8] The Singapore Court of Appeal in *Otech Pakistan v. Clough Engineering* case, stated, "*it would be artificial to differentiate between litigation and arbitration proceedings and say that champerty applies to the one because it is conducted in a public forum and not the other because it is conducted in private."*[9]

CONFIDENTIALITY AND CONFLICT OF INTEREST

The possibility of a conflict of interest in third party funding between the parties and the arbitrators is a considerably new take on the funding arrangements. This conflict is seen to depend heavily on the nature of the funding arrangements. Some have argued that the main reason for conflict of interest between parties could be that confidentiality of the parties might be breached. In order to decide the funding arrangements and value of the claim, the third party would need to assess the risks attached with the same. To do this, the third party requires certain information pertaining to the claim, the events that transpired, the agreements between the parties, the arguments that could be put up by both parties to the arbitration, etc. This information, a lot of which is privileged and/or confidential as per the contract between the original parties, may be disclosed to the third-party funder either voluntarily or involuntarily. Now on one hand, most of the arbitration agreements do not contain a clause specifically allowing for third party funding, but substantive agreement on the other hand, in most scenarios specifically provide for a confidentiality clause. This clause mandates the confidentiality of the contract and its disputes to be maintained. The possible disclosure of the privileged information would render a devastating effect over the fate of third party funding as the funder is not chosen with the consent of both parties; the other party might raise a secondary dispute over confidentiality dragging out the process and adding additional expenses on both the parties.

[7] B. Cremade and A. Dimolitsa, *Dossier X: Third Party Funding in International Arbitration*. Paris, ICC Publishing S.A., 2013, 155.

[8] C. Rogers, *"Gamblers, Loan Sharks & Third-Party Funders"*, Ethics in International Arbitration, Oxford University Press, June 2014.

[9] *Otech Pakistan Pvt. Ltd. V. Clough Engineering Ltd.,* [2006] SGCA 46.

But, arguments have been there that the financing of the dispute is done regardless of the merits of the dispute, and consequently there is no reason to debate over this particular issue as it is considerably similar to a mere corporate loan taken to pursue a claim.[10]

Even if one discards the information disclosed in the pre-arbitration phase, the third-party funder would like to be kept in loop with the progress of the arbitration and perhaps even insist over hiring a different lawyer to pursue the claims in order to take away the profits from the same. This, though not a regular practice, might occur. There is another issue of confidentiality that can cause a massive upheaval of the already disturbed contractual relationship between the original parties, that is the third-party funder using the information of the opponent in order to ensure that the funded party wins, they may even use the information for future cases that they wish to finance, since they already have a background of the opponent, it can be used as a means to profit while being detrimental to the latter.

It is abundantly clear to each party that arbitration as a means to dispute resolution is used because of two major reasons, that is party autonomy over process and the other is confidentiality. So, what is the affect of disclosure of the information to third parties who are not bound by the confidentiality between the original parties? Perhaps the principle of attorney client privilege can be extended to the same, but that would only be decided over the facts of the case and the type of contractual relationship between each party or group of parties.[11] There is a perspective that only some information which is necessary for the processing of the claims or which were prepared in the context of the arbitration can be used.[12]

So, the issue again arises that whether it is ethically correct to even disclose the information to the third-party funder and if it is not, then what is the way around it to ensure that third party funding as a method of finance is not discarded? One can assume that regulation might improve this condition, and litigation funding is the prime evidence for the same.

Some funders extend control over the proceedings and the lawyers and this can even raise conflict of interest between the third-party funder and the attorney-client relationship[13], and the third-party funder may even use the information over the

[10] M. Maniruzzaman, "Third-Party Funding in international Arbitration – A Menace or Panacea?", Kluwer Arbitration Blog (29 December 2012).
[11] Winterthur Swiss Insurance Company & Another v AG (Manchester) Ltd & Others, Rev 1 [2006] EWHC 839 (Comm) (12 April 2006)
[12] Miller UK Ltd v Caterpillar Inc., 2013 WL 4494683 (N.D.Ill. 2013)
[13] M. Steinitz, "Whose Claim is this Anyway? Third-Party Litigation Funding", 95 Minn. L. Rev. 2011.

competence over that lawyer to pursue further claims as they do with the information of the opposite party. Confidentiality again plays an important role here as, limited information to the third-party funder on one had would restrict the unethical usage of the same but could also restrict the assessment of risk that is done by the funder. No matter what perspective is taken, this issue poses outcomes which are considered as double-edged swords and are hence, difficult to resolve.

Some are of the view that perhaps disclosure can assist in removing such issues but, the only plausible method that can be used is that both the parties mutually agree, and the third-party funders are put under a joint agreement with all respective parties to maintain confidentiality and minimize the conflict of interests. But then again, this method would also unleash a whole new set of issues as certain third-party funders do not wish to disclose their identity, neither do they wish to be bound by the decision of the tribunal and bringing them under an agreement with the opposing party might risk the same. It is one of the most basic rules of arbitration that a third party cannot be bound by the decisions of an arbitral tribunal. If third party funders have specifically mentioned their requirement in the funding agreement, that their identity must remain confidential throughout the proceedings, any arbitral tribunal requiring the disclosure of the funder would violate the terms of the funding agreement and make the third-party funder subject to the arbitrate tribunal's decision.

In one case, however, the Court had stated that the influence of a third-party funder over the proceedings themselves does not constitute an abuse of the process and that it is not surprising that the funder would wish to have certain amount of control over the proceedings.[14] Therefore, this certainly shows the perspective courts have over the third-party funding activities but the opinions of the parties negatively affected through the same, should hold some value too. Therefore, whether the third-party funder should be subjected to confidentiality agreement between original parties to curtail potential conflict of interests is something that should necessarily be taken on a case-to-case basis. This is where the requirement for disclosure comes in.

DISCLOSURE OF THIRD PARTY FUNDERS IN INTERNATIONAL ARBITRATION

A significant problem and subject of debate in international arbitration, is the disclosure of third party funders. There are two significant questions that arise; firstly, whether there is a requirement to disclose

[14] Campbels Cash and Carry Pty Ltd v Fostif Pty Ltd. [2006] HCA 41.

third party funders in international arbitration and secondly, whether there should be a mandate to disclose third party funders in international arbitration. The existence and disclosure of a third-party funder can prove to be both an asset and a liability for the funded party. While portraying validation and support behind their claim, the third-party funder creates an opening for the other party to cast doubt on the independence and impartiality of the arbitration. This leads to long and drawn out challenge proceedings that eventually makes the "fast track" aspect of arbitration, moot. Ahead, we shall discuss the two imminent questions of disclosure and the conflict of interest that arises from the existence, disclosure and non-disclosure of third party funders.

Requirement for Disclosure of Third – Party Funders

There are no rules or laws regulating international investment arbitration or international commercial arbitration that requires the disclosure of third party funding as a mandate for general evidentiary disclosure.[15]

Case-to-Case Basis

The arbitrator(s), in compliance to the arbitration clause, are responsible for looking at the circumstances surrounding each case and deciding the necessity of disclosure. There are several cases, with varying circumstances where the tribunal ordered the disclosure of the third-party funders and their funding arrangement due to the possibility of a conflict and bias.[16] However, the tribunal only orders the disclosure of facts to the extent required. The funding arrangements have been held immaterial in several arbitrations and were not revealed in the proceedings.[17] In several cases the tribunal has declared neither the name of the funder, nor the information of the funding terms to be of any relevance when determining the recovery of the Claimant's costs[18] or for the arbitral proceedings[19]; while in an extremely rare set of circumstances, where the matter sent to litigation concerned the termination of proceeding due to non-payment by the funder, such terms were deemed relevant and necessary to disclose.

Arbitral awards and cases dealing with disclosure of third party funders provide

[15] Ibid., Victoria Shannon Sahani, Judging Third Party Funding, UCLA Law Review Volume 63, 63 UCLA Rev. 388 (2016) pg. 420 - 421

[16] *Muhammet Çap & Sehil Insaat Endustri ve Ticaret Ltd. Sti. v. Turkmenistan* (ICSID Case No. ARB/12/6) – the tribunal ordered the Claimant to disclose the source of funding and identity of funder. The tribunal also ordered the disclosure of the funding arrangement.

[17] EuroGas Inc. and Belmont Resources Inc. v. Slovak Republic (ICSID Case No. ARB/14/14); *RSM v. Saint Lucia* (ICSID Case No. ARB/12/10).

[18] Ioannis Kardassopoulos & Ron Fuchs v. Georgia (ICSID Case No. ARB/05/18); RMS v. Grenada (ICSID Case No. ARB/05/14); ATA v. Jordan (ICSID Case No. ARB/08/2)

[19] South American Silver v. Bolivia (PCA Case No. 2013-15)

insight as to the requirement of disclosure in two parts. Firstly, it shows circumstances that have been used to both accept and reject the disclosure of third – party funders, their funding arrangement and funding agreement. Secondly, although, there is no force behind the applicability of the arbitral awards passed by tribunals and they are not considered as precedent, the evolving concept of *lex mercatoria* allows for their use as a source for the applicable rules. Lex mercatoria has grown acceptance and popularity in international arbitration with one of the key sources for lex mercatoria being arbitral awards[20]. The conflicting decisions of several tribunals, globally, shows that there is no existing mandate for the disclosure of third party funders in international arbitration and must be seen on a case – to – case basis. However, the mandate comes when the parties apply the IBA Guidelines in the arbitration.

IBA Guidelines on Conflict of Interest

With the development and growing popularity of third party funding in international arbitrations, the International Bar Association included third party funders as "any person or entity that is contributing funds, or other material support, to the prosecution or defence of the case and has a direct economic interest in, or a duty to indemnify a party for, the award to be rendered in arbitration"[21] Therefore, if the parties choose to be governed by the IBA Rules, the funded party is required to disclose the identity of the third-party funder.[22] In the same case, arbitrators would be required to disclose any conflict of interest that may arise due to the participation of the funder. No other set of rules or guidelines require the disclose of third party funders in international arbitration.[23]

Mandatory Disclosure for Non – Arbitration Related Reasons

Though, the arbitration proceedings are the not only reason for disclosure of the funder's identity. There are two widely accepted reasons, not related to the arbitration proceedings, where there is a requirement for the disclosure of third party funder i.e (1) Dispute between the Funded Party and Funder and (2) Public Disclosure Requirements. [24] In the first situation, state courts often require the funder to be

[20] Berthold Goldman, La lex mercatoria dans les contrats et l'arbitrage internationaux: réalité et perspectives, Journal du Droit International, Vol. 106, 1979, p. 477-478, 487, 498-501

[21] IBA Guidelines on Conflict of Interest, Explanation of General Standard 6

[22] A direct economic interest comes under the non-waivable red list of the IBA Guidelines of Conflict of Interest

[23] Victoria Shannon Sahani, Judging Third Party Funding, UCLA Law Review Volume 63, 63 UCLA Rev. 388 (2016) pg. 420 - 421

[24] 'Chapter 4: Disclosure of Third-Party Funding in International Arbitration Proceedings', in Jonas von Goeler , Third-Party Funding in International Arbitration and its Impact on Procedure, International Arbitration Law Library, Volume 35 (© Kluwer Law International; Kluwer Law International 2016) pg. 125 -162

disclosed in cases where there is a dispute that arises between the funded party, the law firm or the funder. These disputes mostly arise either following the termination of the funding agreement[25] or a dispute about the funders right to the proceeds of the award and the amount that is due to the parties after the settlement/award.[26] Both these situations results in the disclosure of the third – party funder. In public disclosure requirements, public listed companies often have to disclose the information pertaining to the funding under the company laws, securities laws and the stick exchange rules the parties are subjected to. This information often is included in circumstances relevant for investors. [27]

Should Disclosure of Third – Party Funders Become A Mandate?

Now that it has been established that there is no procedural mandate requiring the disclosure of third party funders in international arbitration, the question that arises is, whether there should be a mandate. There are several conflicting views on the disclosure and non – disclosure of third party funders. On one hand you have the risks that can potentially arise from non – disclosure of the funder and on the other hand, you have the confidentiality of the funded party and relevance in the arbitration.

Arguments in Favour of Disclosure

There are several situations that may require the disclosure of the funder which includes "impartiality and independence of arbitrators in the context of third-party finding, security for costs applications against funded parties; jurisdictional issues raised by the third-party funding (in particular in investment arbitration); awarding of costs in the presence of third-party funders; confidentiality in international arbitration proceedings and third-party funding; and production of documents exchanged between funded parties and funders". The most controversial of these reasons is the independence and impartiality of arbitrators w.r.t third party funders. The IBA Guidelines specifically focus on the conflict of interests of the arbitrator(s). Any bias of the arbitrator(s) would taint the entire arbitration and arbitral award. Even in litigation proceedings, a biased judge is ordered to recuse himself if there is an existence of an appearance of bias. The same principle applies to arbitration.[28] The potential of conflict increases with the

[25] *Se& T Oil Equipment and Machinery Ltd. v. Romania*, ICSID Case No. ARB/07/13. – dispute regarding material misrepresentation of the prospects of success.
[26] *Siag and Vecchi v. The Arab Republic of Egypt*, ICSID Case No. ARB/05/15, Award of 1 June 2009
[27] 'Chapter 4: Disclosure of Third-Party Funding in International Arbitration Proceedings', in Jonas von Goeler , Third-Party Funding in International Arbitration and its Impact on Procedure, International Arbitration Law Library, Volume 35 (© Kluwer Law International; Kluwer Law International 2016) pg. 125 -162
[28] Rule Against Bias or Nemo in propria causea judex, esse debet

presence of a third-party funder due to a possible relationship between the funder and arbitrator. The primary argument for a mandatory disclosure of the identity of the funders is limit the costs and disruption of the parties caused by a challenge brought in the middle of the arbitration proceedings. If there is any possible conflict of interest in the proceedings, it should be addressed before the arbitration begins at the time of acceptance of the arbitrator appointed. A challenge of the arbitrator would cause unnecessary disruption at the least and at most cause a possible nonrecognition and annulment of the award.[29] Hence, it seen that the disclosure of the existence, identity and arrangements with the third-party funder would allow for minimal disruptions and expenses in the arbitration.

Arguments against Disclosure

Although there are situations that require the disclosure of the funder's identity, a procedural mandate and regulation on third party funders in international arbitration would cause a probability of over-regulation of the funding agreements and funding arrangements that would effectively, unnecessarily restrict the use of third party funding in arbitrations. Another problem that can arise if third party funding is regulated would be the dynamic nature of funding arrangements and arbitrations. Regulations can be made for a subject with a limited set of circumstances and combinations. As seen above, every disclosure is seen on a case-to-case basis since the circumstances and requirements drastically change in international arbitration. It is not possible to address and solve all the issues relating to funding in international arbitration with a single set of rules.[30] For instance, it is a common practise in funding agreements to institute a confidentiality clause, mandating the funder's confidentiality to be maintained.[31] In such situations, the tribunal or regulation requiring the disclosure of the funder's identity would go directly against the agreement and also unnecessarily regulate most funding arrangements which would ordinarily not be disclosed in the arbitration.

Yet another significant problem associated with regulation of third party funding would be opening the gate to forum shopping in international arbitration. The regulation and requirements for third party funding would vary from one jurisdiction to another, allowing the parties to choose the jurisdiction with the most favourable regulation. This

[29] Victoria Shannon Sahani, Judging Third Party Funding, UCLA Law Review Volume 63, 63 UCLA Rev. 388 (2016) pg. 429

[30] Marc Krestin & Rebecca Mulder, Third-Party Funding In International Arbitration: To Regulate Or Not To Regulate?, Kluwer Arbitration Blog, 12th December, 2017 Available at http:// arbitrationblog. kluwerarbitration. com/ 2017/12/12/ third -party-funding - international- arbitration- regulate- not-regulate/ (Last checked on 4th June 2018)

[31] Supra. look at note 15

would make the issue of regulation unresolved as the parties could avoid unfavourable regulations. [32]

Above, there is an unexhaustive set of circumstances that would create a problem if the current trend continued and there were more regulations on third party funders. The IBA Guidelines was the first step into a series of possible regulations of third party funders in international arbitration.

CONCLUSION

Earlier on in the paper, we discussed the evolution of third party funding and its place in the world of arbitration. The recently developed regulations and procedural requirement of third party funding in certain jurisdictions has minimal sway in the funding of international arbitrations as they are not bound by one jurisdiction. The risk of a conflict of interest in the arbitration proceeding brings in the question of the requirement for regulating the funding arrangements. Confidentiality in the proceedings for both the parties is an integral part of the process as it is the most prominent attraction to arbitration. Parties choose this route of dispute resolution to ensure that there is no public record or access to the privileged communication taking place between the parties, something that is bound to happen in the court of law. This is the main reason that the involvement and disclosure of third party funders is questioned. The breach of confidentiality of both the funder and the parties is a likely scenario which can lead to a severely negative outcome for all parties involved. This is where the debate begins. On one hand the disclosure of third party funders can aid the protection of the privileged communication of the parties. If either party has an objection the funder, believing that there is a conflict or that there is a possibility of misuse of their confidential information, the challenge may be brought forth before the proceedings being avoiding unnecessary interruptions in the arbitration. However, on the other hand, as explained above, funding agreements commonly contain confidentiality clauses for the funder's identity. The disclosure of the third-party funder could result in the violation of one of the basic rules of arbitration i.e. no third party can be bound by the orders of the arbitral tribunal.

Disclosure procedure must strike a balance between the concerns for confidentiality, equal treatment, efficiency and relevance on one hand, and mitigating the risks of undisclosed third - party funders on the

[32] Marc Krestin & Rebecca Mulder, Third-Party Funding In International Arbitration: To Regulate Or Not To Regulate?, Kluwer Arbitration Blog, 12th December, 2017 Available at http:// arbitrationblog . kluwerarbitration. com/2017/12/12/third-party-funding -international-arbitration- regulate-not-regulate/ ((Last checked on 4th June 2018)

other.[33] This can be done most effectively by leaving the decision of disclosure on the arbitration tribunal in which the circumstances and issues surrounding each case is taken into consideration before requiring the disclosure of the funding party. Disclosure regulation would lead to unresolved issues, over-regulation and forum shopping. Maintaining the status quo and allowing tribunals to isolate and decide on the necessity and extent of disclosure is the most appropriate method to maintain equality and fairness in the arbitration proceedings.

Through this we see that, the yet unexplored field of third party funding in international arbitration is extraordinarily dynamic and ever-changing. Although, there is a requirement for a code of ethics for third party funders, confidentially and disclosure requirements have to be taken on a case to case basis, with certain guidelines laid out to give a broad perspective of the acceptable standards of non-disclosure and confidentiality.

[33] 'Chapter 4: Disclosure of Third-Party Funding in International Arbitration Proceedings', in Jonas von Goeler , Third-Party Funding in International Arbitration and its Impact on Procedure, International Arbitration Law Library, Volume 35 (© Kluwer Law International; Kluwer Law International 2016) pg. 125 -162