

Alternative Dispute Resolution and Nonjudicial Settlement Agreements

Alternative Dispute Resolution.

Unique to the CUTC is a provision addressing a settlor's decision to designate in a trust instrument a method of alternative dispute resolution. These clauses will be valid and enforceable, unless they can be held invalid on the same grounds as a trust would be deemed invalid (for example, lack of capacity or undue influence). Whether or not a settlor includes an ADR provision in a trust agreement, the court may order parties to a trust proceeding to participate in some form of ADR, so long as the court's order is consistent with any ADR provision in the trust agreement.

Nonjudicial Settlement Agreements.

Similar to existing statute C.R.S. §15-12-912 (Private agreements among successors to decedent binding on personal representative), the CUTC allows certain persons impacted by an issue involving trusts to reach an enforceable agreement without court approval. C.R.S. §15-5-111.

Persons who must be included in the nonjudicial settlement agreement are those persons "whose interests in the trust would be materially affected by its provisions were the settlement to be approved by the court at the time it was entered into by the parties."

Nonjudicial settlement agreements will not be valid if they would violate a material purpose of the trust, or if it includes terms and conditions that could not be properly approved by a court. The nonjudicial settlement agreement can be submitted to the Court for approval.

Nonjudicial Dispute Settlement In International Financial Transactions

Minjie Lin



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