Following on from their review of the standard form Oilseed and Soyabean contracts at the end of last year, the Federation of Oils, Seeds and Fats Association (“FOSFA”) has published revised Arbitration Rules (the “2018 Rules”). The 2018 Rules will apply to disputes arising out of contracts incorporating FOSFA arbitration entered into from 1 April 2018 onwards. The current Arbitration Rules published in 2012 (the “2012 Rules”), will continue to apply to contracts entered into prior to 1 April 2018.

Some of the key changes to be aware of are as follows:

**Time Limits**

In the 2018 Rules, the time limits within which a party must commence arbitration have been updated as follows:

**Quality and/or condition**

For disputes arising out of the quality and/or condition of goods, the time limit within which to commence arbitration in the 2018 Rules has been extended to not later than 90 consecutive days from:

- completion of discharge of the goods in CIF, CIFFO, C&F and similar contracts
These time limits are significantly longer than those contained in the 2012 Rules and there is no longer any
distinction in the 2018 Rules between those claims supported or not supported by certificates of contractual
analysis. In the 2012 Rules, the time limit within which to commence arbitration was just 21 consecutive days
from completion of delivery (in CIF or similar contracts) or discharge (in FOB or similar contracts) of the goods
where the claim was not to be supported by certificates of contractual analysis and 14 consecutive days from the
date of the final analysis certificate where the claim was to be supported by certificates of contractual analysis.

**Monies due claims and claims other than quality and/or condition**

Under the 2012 Rules, arbitration in respect of monies due had to be commenced not later than 60 consecutive
days after the dispute had arisen. Under the 2018 Rules, however FOSFA no longer treats monies due claims as a
separate category of dispute, and the same time limits apply to monies due claims as to all other non-quality
and/or condition claims (which are unchanged from the 2012 Rules).

Under the 2018 Rules, for all disputes other than quality and/or condition of goods, the time limit within which
to commence arbitration is not later than 120 consecutive days from:

- the expiry of the contract period of shipment or of the date of completion of final discharge of the
goods (whichever later) in CIF, CIFFO, C&F and similar contracts.
- the expiry of the contract period of delivery or delivery of the goods (whichever later) in FOB, Ex-
tank, Ex-mill, and Ex-store contracts.
- the last day of the contractual delivery period on any other contract terms.

FOSFA hopes that by standardising the time bars for monies due claims and non-quality and/or condition
disputes, this will overcome continuing arguments in the trade distinguishing between these types of claims.

**Procedural Deadlines**

The deadlines for parties to file their submissions i.e. their written arguments in quality and condition disputes
have also been extended:

When bringing a claim under the 2018 Rules, the deadline to file submissions has been increased from within 10
consecutive days under the 2012 Rules (from the date of the notice of arbitration, the document which formally
commences proceedings) to within 30 consecutive days under the 2018 Rules (from the date that the responding
party appoints their arbitrator).

When responding to a claim under the 2018 Rules, the deadline to file submissions has also been increased to
within 30 consecutive days (from the date when the party bringing the claim's submissions are received), which
is an increase from being within 14 consecutive days under the 2012 Rules.

Submissions from both parties in all other types of disputes continue to be required to be served "without delay".

**Arbitrators and the "two tier" system**

FOSFA will continue to operate a "two tier" arbitration system. The first decision is made by the "first tier"
tribunal, and this decision can be appealed to a "board of appeal".

Under the 2018 Rules, a three arbitrator tribunal will be standard in the first tier. Whereas, under the 2012 Rules
(and unless otherwise agreed), tribunals consisted of two arbitrators with an umpire only being appointed in
circumstances that the two arbitrators disagreed.
Under the 2018 Rules, the parties will appoint one arbitrator each, with FOSFA selecting the third arbitrator. This arbitrator will have the responsibility to progress the case diligently and in a timely manner. The parties will remain able to agree to appoint a single arbitrator (instead of a panel of three) under the 2018 Rules.

**Deposit**

FOSFA have also introduced a £5,000 deposit (£2,500 for small claims) as standard, to be paid within 30 days of the appointment of the third arbitrator or the sole arbitrator as applicable, by the party bringing the claim. If, once the arbitration is complete, any sum remains once costs have been paid, the remainder of the deposit will be returned to the party that paid it.

If you would like more information on the changes in the 2018 Rules and how they affect your business, please do not hesitate to get in touch with us.