



# SHANGHAI ARBITRATION COMMISSION

## Summary Proposals to the UNCITRAL Working Group I for MSMEs Access to Credit

### *[Introduction]*

Shanghai Arbitration Commission (SHAC) is a permanent arbitral institution established in accordance with the Arbitration Law of the People's Republic of China in 1995. As a not-for-profit organization, SHAC resolves the disputes arising from contracts and other property rights between equal parties, for both domestic and international individuals, legal entities, and other organizations through independent, impartial, professional and efficient arbitration services.

In the area of Micro-, Small and Medium-sized Enterprises (MSMEs), SHAC has already dealt with thousands of cases involving MSMEs. SHAC do recognize the importance of MSMEs to the economy, for instance, over 98% of enterprises in China are MSMEs and which contribute around 60% of China's GDP and 50% of China's taxation. To improve the access to credit for MSMEs is crucial to the development of MSMEs.

Thus, as the observer of UNCITRAL Working Group I (WGI), SHAC hereby provides some proposals on the future text to be prepared by WGI for MSMEs Access to Credit (the "future text").

The summary of the proposals are as follows:

### **1. Industry-oriented Policy on Credit Support**

As enterprises from different industries have different credit needs. Adopting a unified credit standard is not conducive to the development of particular industries such as those with strong competitiveness. The future text should take into account that different industries in different countries vary in industry life cycles, development stages, resource availability and external environments.

Accordingly, SHAC would propose to include industry-specific credit support for competitive, fast-growing and green industries and evaluation of financial credit products to guide financial institutions to develop financial products adapted to the development of enterprises in different industries through the future text.

### **2. Adjusting Tolerance to Risk Regulatory Indicators for Commercial Banks**

Compared with large enterprises, MSMEs involve higher lending risks with higher non-performing loan (NPL) ratios. Due to strict requirements of financial regulators on commercial banks' NPL ratio, distressed assets ratio and other risk regulatory indicators, MSMEs are hindered from obtaining credit from commercial banks.



Accordingly, SHAC would propose to appropriately relax the tolerance requirements of commercial banks' NPL ratio, distressed assets ratio and other risk regulatory indicators of credit through the future text to enhancing the incentives for commercial banks to extend credit to MSMEs, reducing the risk of non-compliance by banks, and lowering transaction costs for MSMEs to obtain credit while complying with the principle of efficiency and convenience.

### **3. Credit Support by Policy Financial Institutions**

Globally, the access of MSMEs to credit lacks institutional support, in particular, sustainable financial support from commercial banks (policies and executive orders are not in line with the market mechanism). In addition, as MSMEs feature high risks, instability and vulnerability, it is impossible to achieve financial inclusion by simply relying on the market mechanism. In other words, it is important for central and local governments to establish non-commercial financial institutions to provide credit support for MSMEs.

Accordingly, SHAC would propose to establishment of national policy banks to introduce targeted supportive policies / financial products for MSMEs from different industries and sectors. In addition, since it is generally difficult for MSMEs to provide the collateral for loans, it is suggested that the government to establish a policy-based and multi-level financing guarantee system supported by national and subordinate administrative agencies and strengthen the cooperation between policy-based guarantee institutions and financial institutions.

### **4. Universality and Diversity**

When the main business entities of MSMEs are low-income groups, persons with disabilities, the elderly, ethnic minorities, women or other special groups (the “Special Groups”), inclusive financial service becomes an important source. The management model, business model, products, services, and technical capabilities for inclusive finance are weaker than for traditional financial services. MSMEs’ access to financial resources is affected by the flaws in the financial system and laws and regulations, the lagging development of the direct financing market and policy-based financial institutions, and the need to enhance the financial infrastructure.

Accordingly, SHAC would propose to include special provisions are to be made to assure the access to credit of the “Special Groups and expend the coverage of basic financial services for special groups without discrimination through the future text.

### **5. Credit Support Institutions**

The establishment of credit support institutions for MSMEs has been proved to be a common and effective measure to assist the MSMEs to obtain credit from financial institutions. However, the development of credit support institutions mainly depends on the policy regulations of various countries or regions. The corresponding legislation is absent and has two direct consequences: Firstly, The credit support institutions face the risk of



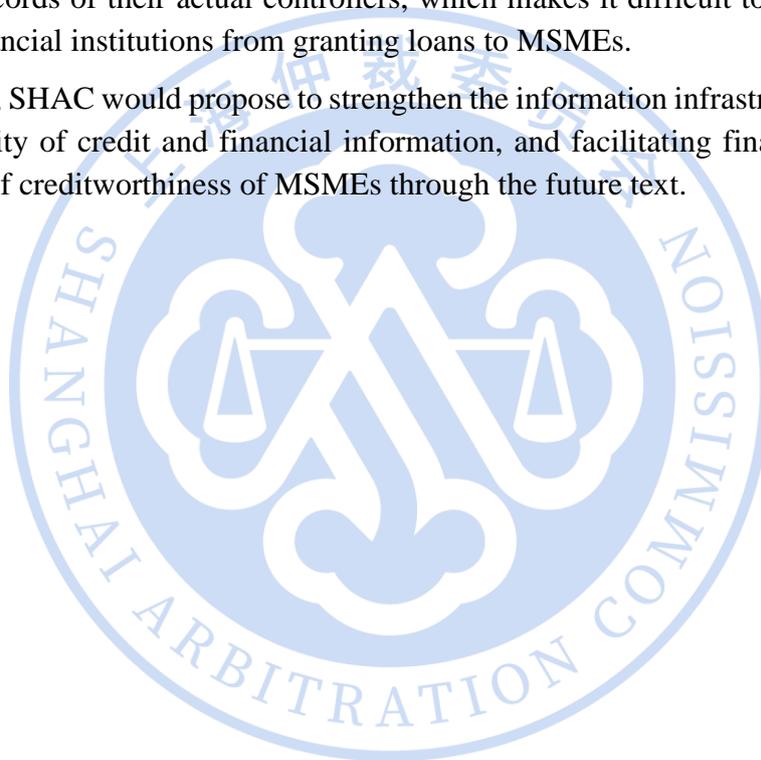
changes in external policies during the business development process; and secondly, The rights and obligations of highly related subjects in the business development process are not clarified/clear.

Accordingly, SHAC would propose to include credit support institutions, to provide service such as security information and data supervision, credit rating, credit default penalties for MSMEs through the future text.

## **6. Information Infrastructure**

Information asymmetry is a major obstacle MSMEs to access credit through commercial banks and other financial institutions. Under current market conditions, it is hard for financial institutions to obtain information such as the business operations of MSMEs or the credit records of their actual controllers, which makes it difficult to assess credit and prevents financial institutions from granting loans to MSMEs.

Accordingly, SHAC would propose to strengthen the information infrastructure, enhancing the availability of credit and financial information, and facilitating financial institutions' assessment of creditworthiness of MSMEs through the future text.





## About Shanghai Arbitration Commission

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Shanghai Arbitration Commission (SHAC) as one of the first pilot arbitration institutions in China was founded on September 18, 1995 by the Shanghai Municipal People's Government. Since its establishment, SHAC has administrated over 45,000 cases in total, involving a total amount in dispute of nearly RMB 250 billion. All administered cases account for approximately 60-70% of the overall number of arbitration cases in Shanghai. The types of the disputes include real estates, construction projects, finance (including disputes over insurance, futures, securities, financing, etc.), product quality liability, intellectual properties (including disputes over patents, copyrights, trademarks, etc.), maritime affairs, transportation, international trades, international agencies, international engineering projects, international investments, international technical cooperation and other contract disputes.

SHAC has established Shanghai Court of Financial Arbitration, Shanghai Court of Intellectual Property Arbitration, Shanghai Court of International Shipping Arbitration and Shanghai Court of Construction Arbitration, to provide specialized arbitral service of high quality to its client.

