

BRIEFING NOTE

Third-Party Funding Framework in Singapore Extended to Arbitrations, SICC Proceedings and Certain Litigation and Mediation Proceedings

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Introduction

When assessing a claim, the top questions on the minds of claimants are “how much would it take to prosecute the claim” and “how much of the cost is recoverable upon a successful claim”. Undeniably, cost considerations form a large part of a claimant’s decision making.

In this briefing note, we discuss how the extensions to the third-party funding framework in Singapore will benefit both local and foreign claimants.

Third-Party Funding

Third-party funding refers to the funding of legal proceedings by an entity unconnected with the dispute. Funding typically covers the claimant’s legal fees and expenses, and may be extended to cover any adverse cost orders. In return, the entity seeks a financial return, such as a share of the damages awarded or a share of the settlement sum.

In 2017, Singapore abolished the torts of champerty and maintenance. Third-party funders were permitted so long as they are professional funders whose principal business is the funding of dispute resolution proceedings. Further, to ensure confidence in the market, funders are required to have a paid-up share capital of no less than S\$ 5 million.

At that time, third-party funding was somewhat limited to international arbitration proceedings and associated litigation and mediation proceedings.

Extension of Third-Party Funding

As of 28 June 2021, the Civil Law (Third-Party Funding) Regulations 2017 has been amended to reflect the new categories of dispute resolution proceedings where third-party funding is permitted. These are:

- Arbitration (both domestic and international) proceedings;
- Court proceedings in connection with arbitration proceedings (including proceedings to enforce an arbitral award);
- Mediation proceedings in connection with arbitration proceedings or proceedings to enforce an arbitral award;

- Proceedings commenced in the Singapore International Commercial Court (“**SICC**”);
- Appeal and mediation proceedings in connection with SICC proceedings.

With the recent extension, just about all arbitration proceedings (and their associated litigation and mediation proceedings) may be eligible for third-party funding. However, it is worth noting that the extension to SICC proceedings is limited to only those proceedings *commenced* in the SICC. This appears to exclude proceedings that were commenced in the General Division of the High Court but subsequently transferred to the SICC.

Implications of the Extension

In its press release, the Singapore Ministry of Law states that the extended third-party funding framework will provide businesses with an alternative avenue to fund meritorious claims. This will strengthen Singapore’s position as an international commercial dispute resolution hub.

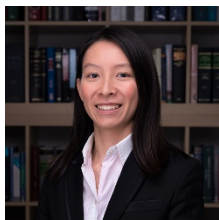
Indeed, widening the types of dispute resolution proceedings eligible for funding is a welcome development to claimants. This is especially so in the current climate where cost considerations may weigh heavily on the minds of claimants managing through the pandemic.

How We May Assist

As arbitration specialists, we have been assisting local and foreign parties with domestic and international arbitration proceedings. We have also worked with a number of third-party funders and are well-placed to advise on funding options.

To find out more about how we can assist you, please reach out to any member of our team.

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