

**BRIEFING NOTE**

**Arbitration Proceedings – Conditional Fee Arrangements to be Legalised in Singapore**

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**Introduction**

Earlier this month, the Ministry of Law introduced the Legal Profession (Amendment) Bill for first reading before the Singapore Parliament. The proposed amendments will legalise conditional fee arrangements (“CFA” or “CFAs”) in certain contentious proceedings.

CFAs provide for an uplift in legal fees (on top of the “base” legal fees) if the claim is successful. Whilst CFAs will be legalised, fee arrangements as a percentage of damages awarded will still be prohibited in Singapore.

Below, we discuss the proposed amendments and the implications moving forwards.

**When are Conditional Fee Arrangements Allowed?**

Pursuant to the Bill, CFAs are allowed in “prescribed proceedings” (both within Singapore and beyond Singapore) if they satisfy the following requirements:

- (a) the CFA is in writing and signed by the client;
- (b) the CFA does not stipulate payment as a percentage / proportion of the damages or other amounts that the client receives or is awarded to in the “prescribed proceedings”; and
- (c) the CFA adheres to regulations made by the Minister from time to time.

Whilst the Bill does not describe the type of “prescribed proceedings”, the Ministry of Law stated in a [press release](#) that these would include domestic and international arbitration proceedings, as well as Singapore International Commercial Court proceedings.

Further, CFAs are also allowed for legal advice and assistance connected to “prescribed proceedings”. For example:

- preliminary and preparatory legal steps prior to contemplated “prescribed proceedings”; and
- settlement negotiations in connection with contemplated “prescribed proceedings”.

Even where the contemplated “prescribed proceedings” are not commenced, the CFAs relating to the above legal advice and assistance are still valid and enforceable.

### **What are the Implications of Allowing Conditional Fee Arrangements?**

Since 2017, Singapore has been working to ease restrictions on the funding of contentious proceedings. The torts of champerty and maintenance have been abolished a while back. Also, the landscape for third-party funding was established and then extended recently.

By legalising CFAs, clients who do not have sufficient cash flow to pursue meritorious claims may now agree with their lawyers for a lower “base” fee in return for a higher uplift fee if the claim is successful. Clients whose dispute resolution clauses provide for arbitration (whether or not seated in Singapore) can look forward to this new development.

Further, Singapore’s position as an international dispute resolution hub will be strengthened vis-à-vis other dispute hubs. This is especially so for international arbitration proceedings, where parties have the option of selecting counsel from any dispute hub. When enacted, the proposed amendments will increase the competitiveness of counsel based in Singapore, as well as the overall dispute resolution landscape of Singapore.

### **How We May Assist**

Our arbitration specialists often act as lead counsels in various domestic and international arbitration proceedings. We take pride in securing a cost-effective result that best advances our clients’ commercial objectives. With the upcoming legalisation of CFAs, we would be delighted to explore alternative fee arrangements with clients.

Should you require assistance, please reach out to any member of our team.

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