

Bill Passed to Allow Conditional Fee Agreements, Expand Foreign Lawyers' Representation

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Introduction

In a drive to strengthen Singapore's position as an international dispute resolution hub, the Ministry of Law ("**MinLaw**") has been continuously updating Singapore's legal regime. This has borne fruit, with Singapore being selected in 2021 as the most preferred seat of arbitration in the world for the first time, while its exports of legal services exceeded S\$0.9 billion in 2020.

As part of Singapore's continuing efforts to stay competitive and current, the [Legal Profession \(Amendment\) Bill](#) ("**Bill**") was passed by Parliament on 12 January 2022. The Bill principally sets out two key amendments to the Legal Profession Act:

1. Introduction of a framework for conditional fee agreements ("**CFAs**"), commonly known as "no win no fee" or "no win less fee" agreements; and
2. Refining the scope of representation of foreign lawyers in the Singapore International Commercial Court ("**SICC**"), thus facilitating collaboration between local and foreign lawyers.

We elaborate on these two developments below.

Conditional Fee Agreements

As suggested by the phrases "no win no fee" and "no win less fee", conditional fee agreements are a type of lawyer-client arrangement whereby a lawyer receives payment of all or part of his or her legal fees only in specified circumstances, for example where the claim is successful. Prospective litigants with strong claims are therefore better able to pursue their claims in court without being hindered by a lack of funds.

Other aspects of the CFA framework include:

1. **Restriction to certain categories of proceedings**, which will be prescribed in subsidiary legislation. These have been indicated to be:
 - a. international and domestic arbitration proceedings;
 - b. certain SICC proceedings; and
 - c. court and mediation proceedings related to the above.
2. **Allowing uplift fees** – where, if a certain outcome is achieved, legal fees charged are higher than what would otherwise be payable if there were no CFA. However, uplift fees will not be recoverable as part of legal costs from the opposing party.
3. **Continued prohibition of contingency fees** – where legal fees are calculated as a percentage of damages awarded.
4. **Safeguards for clients** – the CFA must meet statutory requirements to be valid, such as being in writing and providing for a cooling-off period.

The introduction of the CFA framework is a significant change as CFAs have thus far been prohibited in Singapore. For more details on the CFA framework, please see our earlier Legal Update titled "[Conditional Fee Agreements: A New Avenue for Legal Funding](#)".

Foreign Lawyers in SICC Proceedings

Clause 2 of the Bill seeks to refine the scope of representation of a foreign lawyer in certain proceedings in the SICC, particularly international corporate debt restructuring and insolvency cases. As noted by Second Minister for Law Mr Edwin Tong in the [Second Reading Speech on the Bill](#), the refinements here seek to facilitate collaboration between local and foreign lawyers for the efficient and fair resolution of such cases before the SICC, thus supporting the growth of international cases being heard in Singapore.

Key aspects are:

1. A foreign lawyer with full registration may submit on matters in the prescribed proceedings, subject to certain restrictions. Examples include only being allowed to submit on matters with the court's permission, and not being permitted to make a submission on a matter of Singapore law.
2. Subsidiary legislation may provide for:
 - a. the various categories of specified proceedings that these changes will apply to;
 - b. factors considered by the court in granting permission; and
 - c. exceptions to any of these restrictions.

Concluding Words

The introduction of the CFA framework is a significant step forward in legal funding, and MinLaw has indicated in its November 2021 press release titled "[Proposed Framework for Conditional Fee Agreements](#)" that it will continue to study whether CFAs can promote access to justice for other categories of proceedings, including domestic proceedings.

The proposed refinements to foreign lawyers' scope of representation are also welcome, as it will facilitate the efficient and effective presentation of arguments, as well as resolution of debt restructuring and insolvency proceedings in the SICC, and ultimately improve Singapore's competitiveness as an international dispute resolution hub.

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