

Framework for Conditional Fee Agreements in Singapore Comes into Operation

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Introduction

Conditional fee agreements ("**CFAs**"), which were previously prohibited under Singapore law, are now allowed for specific contentious proceedings. On 4 May 2022, the framework for CFAs in Singapore came into operation, opening the door for lawyers and clients to enter into a wider range of permitted fee arrangements.

This development has been keenly anticipated in the legal industry, serving to enhance litigation funding in Singapore and support the dispute resolution needs of businesses and individuals. The costs of traversing a commercial dispute can be potentially prohibitive. With the introduction of CFAs, disputants with strong claims will have greater access to justice, being able to pursue their claims without being hindered by cash flow issues.

The CFA framework is contained in the Legal Profession Act and the Legal Profession (Conditional Fee Agreement) Regulations 2022 ("**CFA Regulations**"). Following a public consultation on the proposed framework, the Legal Profession (Amendment) Bill was tabled for First Reading in Parliament on 1 November 2021 (covered in our earlier Legal Update, available [here](#)). The Bill was passed in Parliament on 12 January 2022 (covered in our subsequent Legal Update, available [here](#)), and has now come into force.

In this Update, we provide an overview of the key elements of the newly operational CFA framework, including the permitted types of CFAs, the situations in which CFAs are allowed, and the requirements for a valid CFA.

What is a CFA?

Traditionally, in lawyer-client fee agreements for dispute resolution, lawyers were prohibited from having fees contingent on the outcome of a contentious matter. The new CFA framework allows for lawyers and clients to enter into CFAs, in which lawyers may receive payment of all or part of their legal fees only in specified circumstances (for example, where the claim is successful).

Examples of CFAs would include:

- **Win, more fee** – The lawyer would receive higher fees upon a successful claim.
- **No win, no fee** – The lawyer would not receive fees if the claim is unsuccessful.
- **No win, less fee** – The lawyer would receive lower fees if the claim is unsuccessful.
- **Uplift fees** – If a certain outcome is achieved, the legal fees charged would be higher than what would otherwise be payable.

In What Situations are CFAs Allowed?

The CFA framework applies to Singapore lawyers and law practices, as well as certain registered foreign lawyers and foreign law practices.

CFAs are only applicable to certain disputes. The CFA Regulations prescribes the contentious proceedings to which a CFA may relate, which currently includes the following:

- International and domestic arbitration proceedings, as well as related court proceedings (e.g. stay of proceedings applications, enforcement of awards, mediation proceedings); and
- Proceedings in the Singapore International Commercial Court, as well as related proceedings (e.g. appeal proceedings, mediation proceedings).

What are the Requirements of a CFA?

The CFA framework sets out certain requirements for a valid CFA. This includes the following:

- **Form** – The CFA must be in writing and signed by the client;
- **No contingency fees** – Remuneration or costs payable cannot be calculated as a percentage of the amount of damages awarded to the client (also known as contingency fees);
- **Provision of information** – Before a CFA is entered into, the lawyer must provide the client with certain prescribed information on the CFA in plain language, and the client must sign and date an acknowledgement that they have received and understood such information. The prescribed information includes the nature and operation of the CFA and the client's right to seek independent legal advice; and

- **Prescribed terms** – The CFA must include certain prescribed terms, including a cooling-off period of five days from when the CFA is entered into, and three days from any variation to the CFA relating to costs.

These requirements serve to establish the formalities for a valid CFA, as well as implement certain protections for clients against any abuse of the CFA. In particular, the requirements seek to ensure that the client is fully informed of the CFA and what it means, and has a reasonable opportunity to back out of the CFA during the cooling-off period.

Concluding Words

The new CFA framework is an important milestone in litigation funding in Singapore, widening the scope of cost arrangements which clients and lawyers can enter into, and allowing for the crafting of arrangements which accommodate the specific financial situation of the client. It also serves to further enhance Singapore's position as a dispute resolution hub.

Parties considering the use of CFAs should seek to explore the options available to them in terms of the types of permitted CFAs and the situations in which CFAs are allowed. For further queries, please feel free to contact our team below.

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