

Dispute Resolution

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

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.



Dispute Resolution

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 Remarks

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.

Dispute Resolution

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.

Contacts



Adrian Wong
Deputy Head, Dispute
Resolution

T +65 6232 0427

adrian.wong@rajahtann.com



Vikram Nair
Partner, Commercial Litigation
and International Arbitration

T +65 6232 0973

vikram.nair@rajahtann.com

Please feel free to also contact Knowledge and Risk Management at eOASIS@rajahtann.com.

Our Regional Contacts

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600
sg.rajahtannasia.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office

T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

Rajah & Tann Singapore LLP Shanghai Representative Office

T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited

T +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

Hanoi Office

T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this update.

Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or email Knowledge & Risk Management at eOASIS@rajahtann.com.