



Recent Significant Developments to Third-Party Funding in Singapore's Arbitration Landscape

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Third-party funding is increasingly prevalent globally in both litigation and arbitration. Prior to the legislative change in Singapore, many of the leading centres of international arbitration, e.g. New York, London, and Paris, had already permitted third-party funding.

Third-party funding involves the funding of a claim by a funder who has no connection to the dispute. Usually, the third-party funder will agree to finance some or all of the client's legal fees in exchange for a share of the recovered damages.

In order to maintain and fortify Singapore's prominence in international disputes, the Singapore Parliament passed the Civil Law (Amendment) Bill which amended the Civil Law Act (Cap 43) ("**CLA**"). This came into effect on 1 March 2017.

We set out below a brief overview of the key changes relating to third-party funding in Singapore.

I. Abolishment of Maintenance and Champerty

- The CLA abolished the common law torts of maintenance and champerty. [Section 5A of CLA].
- However, contracts affected by maintenance and champerty continues to be contrary to public policy or illegal unless they fall under one of the permitted categories [section 5A(2) of CLA].

II. Civil Law Act 2017 ("CLA") and the Civil Law (Third-Party Funding) Regulations 2017 ("CLR")

- Third-party funding is only permitted for international arbitration proceedings and its related court or mediation proceedings.
- In order to fund a claim in Singapore, a third-party funder must meet and continue to satisfy the requirements below:
 - a. The funder must carry on the principal business of funding dispute resolution proceedings;
 - b. The funder has a paid-up capital of, or has managed assets of, not less than S\$5 million.

III. Related amendments

- Under the Legal Profession Act, lawyers are permitted to play a role in funder referral and act for clients in relation to third-party funding contract (section 107(3A)). However, lawyers cannot receive any direct financial benefit from funder referral.
- The Legal Profession (Professional Conduct) Rules 2015 imposes a duty of disclosure on the lawyer to disclose to the Court / Tribunal and all other parties in the proceedings the use of a third-party funder.

IV. "Soft laws"

- The legislative framework in Singapore is supplemented by "soft laws", i.e. guidelines / codes of practice published by legal institutions. These includes:
 - a. The Singapore institute of Arbitrators' *Guidelines for Third Party Funders*;

- b. The Law Society of Singapore's *Guidance Note for Lawyers*; and
- c. Singapore International Arbitration Centre's *Practice Note on Arbitrator Conduct in Cases Involving External Funding*.

V. Conclusion

As third-party funding is already permitted in many of the other leading international arbitral seats, the change introduced to the CLA and its related regulation are a welcoming and critical change for Singapore to maintain its competitive edge over other arbitration centres worldwide.

The fact that Singapore has had its first third-party funded arbitration case within a short 3 months after the CLA's enactment bears testament to the increasing demand for third-party funding in international arbitration. Similarly, it signifies the potential for an increase in meritorious claims presented for international arbitration in Singapore.

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