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International Arbitration Experts Discuss Effects Of Changes To SIAC Rules

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Commentary

International Arbitration Experts Discuss Effects Of Changes To SIAC Rules

Mealey's International Arbitration Report recently asked industry experts and leaders for their thoughts on the changes to the Seventh Edition of the Singapore International Arbitration Centre (SIAC) Arbitration Rules (SIAC Rules 2025). We would like to thank the following individuals for sharing their thoughts on this important issue.

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Mealey's: How will the changes to the 7th Edition of the Singapore International Arbitration Centre (SIAC) Arbitration Rules (SIAC Rules 2025) affect arbitral proceedings?

Grubbs: Several prominent international arbitration institutions used the downtime imposed by COVID-19 in 2020-21 — the suspension of travel, the prevalence of remote work and the expanded use of videoconferencing to overhaul their rules. These institutions include the Asian International Arbitration Centre, the Australian Centre for International Commercial Arbitration, the International Cham- ber of Commerce, JAMS, the International Centre for Dispute Resolution, the London Court of International Arbitration, the Swiss Arbitration Centre and the World Intellectual Property Organization. Their revised rules contained mainly predictable and conservative changes to existing provisions, including, for example, rules on joinder, third-party funding and summary disposition.

The Singapore International Arbitration Centre (SIAC) sat out the pandemic rulemaking but recently overhauled and supplemented its 2016 rules. Its new rules, which took effect at the beginning of this year, include both updates — provisions dealing with the focus of COVID-era amendments at other institutions — and innovations — new rules not previously available at most other major institutions.

Updates

Updates include:

- Rule 17 (new) deals with coordinating proceedings.
- Rule 26.1(c) (revised) adds a new ground for challenging arbitrators (when they become unable to perform their functions as arbitrators).
- Rule 34.1 (new) requires arbitrators to identify and sequence issues.
- Rule 38 (new) pertains to the disclosure of third-party funding.
- Rule 40.5 (new) makes clear that parties and counsel may meet with and prepare witnesses.

While these revisions and additions are noteworthy, they are essentially improvements on and clarifications to existing protocols.

Innovations

There are two innovations, on the other hand, that offer significant new tools:

- Rule 12 (new), along with Schedule 1 of the SIAC's 2025 rules, allows — with various safeguards — a party to obtain *ex parte* relief in the form of a protective preliminary order (PPO) without giving prior notice.

- Rule 13 (new), along with a revised Schedule 2, adds a streamlined procedure to the SIAC's menu of options.

Most importantly, Rule 12 addresses a weakness in the arbitration process: By the time arbitrators — even emergency arbitrators — are appointed, a counterparty can take steps to dilute — or even frustrate — any remedy. The PPO process is designed to prevent such steps. It is a worthwhile attempt. And it will be interesting to see whether courts will enforce PPOs, as they are obviously not final awards. If the attempt succeeds, however, PPOs have the potential to fill a gap in international arbitration practice.

Rule 13 is also significant, if less radical. It adds to the menu of processes for dealing with arbitrations that may not require or justify more elaborate, time-consuming and expensive proceedings.

Cooke: The SIAC Rules 2025 introduce a range of procedural innovations intended to promote efficiency, transparency, and certainty in SIAC-administered arbitrations. How much they will affect proceedings will, however, depend on parties making full use of the new procedures and on arbitral tribunals' willingness to embrace the opportunities for more efficient and effective case management. Three key innovations are worth highlighting.

One is the new streamlined procedure for lower-value or low-complexity disputes (with a threshold of SGD 1 million). Under this procedure, a sole arbitrator must issue a final award within three months of constitution. With no document production or factual or expert witness evidence (unless the tribunal decides otherwise), the mechanism promises a faster and lower-cost option for cases that parties might otherwise have considered uneconomic to pursue. This is likely to lead to an increase in smaller claims being arbitrated.

Another innovation is the introduction of protective preliminary orders, which may be granted by an emergency arbitrator on an *ex parte* basis. A party may apply without notifying the respondent; an emergency arbitrator must then be appointed within 24 hours and render a decision within a further 24 hours. The availability of *ex parte* relief in arbitration is novel and offers parties a powerful tool for urgent interim protection. Its implementation, however, will require careful consideration by emergency arbitrators to balance efficiency with fairness.

Finally, the SIAC has strengthened its approach to third-party funding. Parties must now disclose the existence of any funding, the identity of the funder, the funder's interest in the outcome, and whether the funder has assumed adverse costs liability. In addition, no new funding agreement may be entered into after tribunal constitution if it would create conflicts or bias. These provisions are a welcome development in promoting transparency and integrity around the use of third-party funding in arbitration.

In conclusion, the SIAC Rules 2025 promise to make SIAC arbitration more agile and responsive to modern demands. Properly applied, the Rules will enable parties and tribunals to tailor procedures to the circumstances of each dispute and thereby reinforce arbitration's core strengths of fairness, efficiency, and flexibility.

Sud and Priya: The SIAC 2025 Rules, effective 1 January 2025, have introduced several new features designed to modernize, streamline, and enhance the efficiency of international arbitration proceedings. We highlight below three key changes in the 2025 Rules, which changes are a welcome response to the evolving needs of users and further solidify the SIAC Rules as a leading choice in arbitration clauses.

1. Emergency Relief

Under the 2025 Rules, parties may now seek emergency interim relief <u>even before</u> filing a Notice of Arbitration.[1] This includes Protective Preliminary Orders, which are issued within 24 hours of an emergency arbitrator's appointment on an *ex parte* basis (*i.e.,* even before the respondent has been notified of, and heard on, the application).[2] This is a significant and meaningful remedy that accounts for those circumstances where notice to the respondent may frustrate the requested relief (*e.g.* where evidence may be destroyed or assets moved or dissipated), and where interim relief is so urgent that it cannot await the preparation and filing of a Notice of Arbitration. This enhanced safeguard reduces the risk of sabotage and seeks to preserves the integrity of the process from the outset.

2. Streamlined Procedure

The 2025 Rules have introduced a new Streamlined Procedure for disputes not exceeding SGD 1 million (or higher if parties agree).[3] Proceedings are simplified by appointing a sole arbitrator and foregoing hearings, document production, and witness evidence in favor of written submissions only.[4] Tribunal and SIAC fees are capped, and awards must be issued within three months of constitution.[5] The Streamlined Procedure reduces the time and cost barriers to entry and will undoubtedly appeal to users with more modest disputes who seek low costs, faster resolution, and minimal procedural complexity.

3. Expanded Expedited Procedure

The 2025 Rules raise the monetary threshold for expedited arbitration from SGD 6 million to SGD 10 million,[6] significantly widening the scope of disputes eligible for fast-track resolution. This change enables more mid-sized claims to benefit from streamlined procedures, reducing time and cost. Importantly, parties are now guaranteed a hearing if requested, reinforcing procedural fairness and ensuring that expedited arbitration does not compromise the right to be heard.

Endnotes

1. 2025 SIAC Rules, Schedule 1, Rules 1 and 2(a). See, 2016 SAIC Rules, Schedule 1, Rule 1.
2. 2025 SIAC Rules, Schedule 1, Rule 27.
3. 2025 SIAC Rules, Rule 13.
4. 2025 SIAC Rules, Schedule 2, Rules 1-4, 11 and 12.
5. 2025 SIAC Rules, Rules 15 and 16.
6. 2025 SIAC Rules, Rule 14.2. See, 2016 SIAC Rules, Rule 5.1.

Cain: The latest edition of the SIAC Rules introduce changes designed to make arbitral proceed- ings more expeditious, cost-effective and proportionate to the amount and complexity of the issues in dispute.

One area of development is the enhancement of the Expedited Procedure and the introduction of a Streamlined Procedure.

According to their latest annual report, SIAC undertook 143 arbitrations under the Expedited Procedure last year (approximately 20 percent of the total registrations in that period). Since being introduced in 2010, there have been over 1,000 applications for the Expedited Procedure. These faster, simpler and cheaper arbitrations will continue to grow as the amount in dispute that can be resolved under the Expedited Procedure has been increased under the new Rules from S$6 million to S$10 million.

The new Streamlined Procedure will apply where the amount in dispute is less than S$1,000,000 or the parties have agreed to apply this procedure. Under it, the dispute will proceed before a sole arbitrator and is likely to be determined on documents only. It aims to deliver an award within three months, and where appropriate, dispenses with document production, discovery, witness and expert evidence and the hearing.

Another change is the introduction of a rule permitting preliminary determination. The mechanism enables parties to seek to address discrete legal or factual issues early and for tribunals to render final and binding determinations which will impact the future conduct of the case where the parties' consent, there is evidence of likely time or cost savings and greater efficiency, or the circumstances warrant it. It complements the existing early dismissal of claims and defence procedures, which last year saw 7 out of 13 applications succeed. That procedure is used where the claim or defence is considered to be manifestly without merit or manifestly outside the jurisdiction of the tribunal. Both procedures are aimed at promoting efficiency in the conduct of the arbitral proceedings.

Finally, the new Rules build on the consolidation and joinder provisions and now allow for the coordination of procedural steps across related cases that share a common question of law or fact provided that the same tribunal is constituted in each matter. Tribunals are expected to take a broader view of the overall landscape of the disputes, while maintaining careful attention to the details of each individual case, with the intention of reducing the risk of conflicting outcomes and duplication of costs.

Cheng and Wu: The Singapore International Arbitration Centre (SIAC) has introduced several significant changes in its 2025 Rules. The key updates and their potential impact on arbitral proceedings are highlighted below.

1. The New Preliminary Order Regime

The headline update is the introduction of "protective preliminary order" ("**PPO**") procedure. This allows a party to apply *ex parte* to an Emergency Arbitrator for an order directing another party not to frustrate a requested emergency interim measure, pending determination of the emergency application proper. Under the mechanism:

- The Emergency Arbitrator shall rule on the PPO application within 24 hours of appointment.
- Any PPO shall be promptly served on the respondent within 12 hours thereafter.
- The PPO is temporary, expiring after 14 days, or earlier once the Emergency Arbitrator rules on the full emergency relief application after hearing the parties.

Curiously, similar mechanisms for *ex parte* relief do not exist in other major arbitration rules even though the 2006 UNCITRAL Model Law (see Articles 17B and 17C) already allows *ex parte* preliminary orders from tribunals. This may be due to the limited coercive power of arbitral orders, particularly on third parties, which makes national courts a more effective venue for urgent interim relief in practice. This update will serve as a litmus test for the mechanism's practical utility and influence whether other institutions follow suit.

2. Enhanced Case Management Tools

SIAC Rules 2025 introduce other tools to enhance case management:

- Coordination of Multiple Proceedings (Rule 17): This new rule provides a framework for coordinating multiple arbitrations with common issues and a shared tribunal, which could be useful in avoiding conflicting outcomes in multi-contract disputes and also saving costs. The codified mechanism allowing parties and tribunal to consult on coordination logistics mitigates future challenges to the awards.

- Preliminary Determination (Rule 46): A party may now apply for an early final and binding ruling on a particular issue. While the previous iteration of the SIAC Rules (and other rules of major arbitral tribunals) already allow tribunals to make separate Awards on different issues at different times, this is nonetheless a welcomed clarification to remind parties and tribunals that they could save time and costs by dealing with threshold issues early and narrowing the issues to be dealt with at trial.

Amidst criticism by arbitration users for the length and costs of arbitration, these updates should provide the tools parties and tribunals need to enhance efficiency and control costs. ■

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