

# ASIAN LEGAL BUSINESS



THOMSON REUTERS™

NOVEMBER 2016  
ASIA EDITION



MCI (P) 158/01/2016  
ISSN 0219 - 6875  
KDN PPS1867/10/2015(025606)



## AGAINST THE STATE

The risks and benefits of investor-state dispute settlement

PAGE 14

## CRYSTAL BALL

As the year draws to a close, offshore firms offer predictions for 2017

PAGE 18

## BRINGING IT BACK

We look closer at Indonesia's tax amnesty programme

PAGE 40

## INSIDE

■ THE BRIEFING	3
■ DEALS	4
■ NEWS	6
■ APPOINTMENTS	12

## SCHELLENBERG WITTMER



■ **Dr. Christopher Boog**  
Managing Director/Partner  
(65) 6580 2248  
christopher.boog@swlegal.sg



■ **Julie Raneda**  
Counsel  
(65) 6580 2249  
julie.raneda@swlegal.sg

### THE 2016 SIAC RULES – FOR AN EVEN MORE EFFICIENT ARBITRAL PROCESS

On 1 August 2016, the revised Arbitration Rules of the Singapore International Arbitration Centre (“SIAC Rules”) entered into force. Unless otherwise agreed by the parties, the new SIAC Rules apply to arbitrations commenced on or after 1 August 2016.

Since commencing operations in 1991, SIAC arbitration has experienced phenomenal growth. In 2015, SIAC recorded the highest ever number of cases filed, highest ever number of administered cases and highest ever total sum in dispute in the history of SIAC.<sup>1</sup> SIAC’s case filings have increased by over 250 per cent in the past ten years.<sup>2</sup>

While SIAC has a proven track record of providing quality and neutral arbitration services in a very pro-arbitration and stable jurisdiction, there was a common desire of users and practitioners alike to update the 2013 SIAC Rules, not only to reflect current trends in international arbitration, but to set new standards.

The revision process was run by the SIAC Rules Revision Executive Committee in collaboration with a number of subcommittees. They were supported by the SIAC Users’ Council, composed of arbitration practitioners and corporate counsel from over 30 jurisdictions. Finally, in order to allow the broadest possible input from users around the globe, draft Rules were released in December 2015 for an extensive 6-month public consultation process.

The most remarkable amendment to the SIAC Rules is the introduction of a procedure for the **early dismissal of claims and defences**. The absence of explicit provisions regarding summary judgment procedures in international arbitration is a concern for businesses across industries. SIAC has now addressed this concern. In line with its pioneering role in international arbitration, SIAC is the first major arbitration centre to provide for such a procedure in international commercial arbitration. The new provision has the potential of significantly reducing time and costs in arbitrations conducted under the SIAC Rules. It also sets the SIAC Rules apart from other institutional rules and will serve as another selling point for SIAC arbitration.

Furthermore, the revised SIAC Rules take into account the **increasing number of complex disputes** involving multiple contracts and/or multiple parties. The new provisions concerning claims deriving from multiple contracts, joinder of additional parties and consolidation of two or more arbitrations generally reflect current best practice in international arbitration, but are noteworthy in that they in some aspects go beyond what other institutions offer and grant parties to SIAC arbi-

trations greater flexibility in dealing with complex arbitrations than other sets of arbitration rules do.

The 2016 SIAC Rules have also introduced a number of changes aimed at **further optimizing the arbitral process** under the SIAC Rules. These changes relate, *inter alia*, to improvements to the existing emergency arbitrator and expedited procedures, for instance by shortening the overall schedule of the emergency arbitrator proceedings so as to allow parties to SIAC arbitrations to obtain urgent interim relief even more efficiently than under the 2013 Rules; or by allowing more cases to be submitted to the popular expedited procedure under the SIAC Rules, by raising the monetary threshold for the applicability of that procedure from SGD 5 million to SGD 6 million.

Moreover, by clarifying that the seat of the arbitration need not be in Singapore, the revised Rules underscore SIAC’s role as more than a regional, but rather a truly international arbitral institution, operating alongside other leading arbitral institutions and providing truly international dispute resolution services.

Finally, it is worth noting that the 2016 revision of the SIAC Rules will be accompanied by an entirely new set of rules specifically designed for investment disputes: the **SIAC Investment Arbitration Rules**. These are based on the SIAC Rules but are tailored to the particularities of investment arbitration. At the time of writing, the consultation process is in its final stages and the SIAC Investment Arbitration Rules are expected to enter into force at the end of 2016.

In sum, with the adoption of the 2016 SIAC Rules, SIAC successfully tackles the growing complexity of disputes subject to international arbitration. Moreover, the new SIAC Rules contain innovative changes that confirm SIAC’s role as one of the world’s leading international arbitration centres. The SIAC Rules now enable parties to resolve, where appropriate, all relevant disputes in a single arbitration, preventing the duplication of work and the risk of contradictory or conflicting results. SIAC has also made state-of-the-art changes to improve time efficiency and cost effectiveness of the arbitral process. By introducing an innovative manner to allow for the early dismissal of claims and defences – and soon a whole new set of Investment Arbitration Rules – SIAC positions itself not only as a leading arbitral institution but as a pioneer in the development of international arbitration practice.

<sup>1</sup> SIAC Annual Report 2015 available at [www.siac.org.sg/2013-09-18-01-57-20/2013-09-22-00-27-02/annual-report](http://www.siac.org.sg/2013-09-18-01-57-20/2013-09-22-00-27-02/annual-report).

<sup>2</sup> SIAC Annual Report 2015 available at [www.siac.org.sg/2013-09-18-01-57-20/2013-09-22-00-27-02/annual-report](http://www.siac.org.sg/2013-09-18-01-57-20/2013-09-22-00-27-02/annual-report).