

New Rules Introduced in Relation to Cross-Border Corporate Insolvency, Restructuring and Dissolution Matters

The Singapore International Commercial Court (SICC) (Amendment No. 2) Rules 2022, which came into force on 1 October 2022, predominantly spotlight the new Order 23A of the SICC Rules 2021.

Key Features:

SICC's jurisdiction to hear corporate insolvency, restructuring and dissolution proceedings

- The SICC has jurisdiction to hear corporate insolvency, restructuring and dissolution proceedings under Parts 3 to 12 and 22 of the Insolvency, Restructuring and Dissolution Act 2018 (IRDA). These include proceedings relating to the following matters:
 - schemes of arrangement;
 - judicial management;
 - winding up;
 - the UNCITRAL Model Law on Cross-Border Insolvency.
- The SICC's jurisdiction to hear corporate insolvency, restructuring and dissolution proceedings is contingent on the proceedings being international and commercial in nature.
- Such proceedings are international in nature if at least one of the following factors applies to the subject of the proceedings (i.e. the debtor entity) at the commencement of the proceedings:
 - the subject has a place of business in a foreign country;
 - the subject has at least an asset or property in a foreign country;
 - the subject has at least a liability that arose in a foreign country;
 - the subject has at least a contractual obligation that has been or is to be performed in a foreign country, or that was or is owed to a person in a foreign country;
 - the subject has obligations and liabilities that are governed by the laws of one or more foreign countries;
 - at least one creditor of the subject has a place of business in a foreign country;
 - the control and direction of the subject is administered from a foreign country.
- Such proceedings are commercial in nature if the subject of the proceedings and any affected person have a relationship of a commercial nature, whether contractual or not.



Transfers from the General Division to the SICC

- Before an order for the transfer of any corporate insolvency, restructuring or dissolution proceedings is made by the General Division (either on its own motion or on the application of a party):
 - notice must first be given by the applicant or claimant in the proceedings (in a case where the order is to be made by the General Division on its own motion); or by the party applying for the transfer, to the other parties in the proceedings and certain affected persons; and
 - the General Division must give the applicant or claimant or the party applying for the transfer (as the case may be), every other party in the insolvency proceedings, and certain affected persons, a reasonable opportunity to be heard.
- The General Division may make any order in those insolvency proceedings as a consequence of the transfer; SICC may likewise do so provided that its order is not inconsistent with any order made by the General Division.



The Rules applicable to corporate insolvency, restructuring and dissolution proceedings heard by the SICC

- In any insolvency proceedings, the IRDA and the Insolvency, Restructuring and Dissolution (Corporate Insolvency and Restructuring) Rules 2020 (CIR Rules) apply with the necessary modifications, with the SICC Rules to be read subject to the IRDA and the CIR Rules.
- Where there is no express provision in the IRDA or the CIR Rules on any matter of practice or procedure, SICC may:
 - adopt such practice or procedure under the SICC Rules as the court considers appropriate; or
 - make such orders and give such directions as are likely to secure substantial justice between the parties.
- The milestone fees for corporate insolvency, restructuring or dissolution proceedings in the SICC are payable:
 - by the applicant or claimant: upon the filing of the originating application, as well as when the applicant or claimant receives its first notification of a hearing for directions on case management, and when filing an interlocutory application;
 - by an affected person (other than the applicant or claimant in the originating application) that wishes to actively participate in the proceedings: upon the filing of the affected person's first document in the proceedings, as well as when that person files an interlocutory application.



Legal representation in corporate insolvency, restructuring and dissolution proceedings in SICC

- Permission from the SICC must first be obtained before a foreign lawyer registered under section 36P(1) of the Legal Profession Act 1966 (full registration foreign lawyer) or a solicitor registered under section 36E of the Legal Profession Act 1966 (section 36E solicitor) may act in the corporate insolvency, restructuring and dissolution proceedings.
- An application to represent a party may be made by the full registration foreign lawyer or the section 36E solicitor and may be made before, at the same time as, or after the commencement of the proceeding:
 - if the application is made prior to the commencement of the proceeding, it may be made by an originating application; in any other case, by way of a summons; and
 - must also be supported by a witness statement that is made by the applicant.
- Full registration foreign lawyers and section 36E solicitors are precluded from making submissions on any matter of Singapore law in corporate insolvency, restructuring and dissolution proceedings before the SICC.



These Key Features serve to provide general information on certain points of note and are for reference purposes only. Reference should always be made to the relevant provisions in the Singapore International Commercial Court (Amendment No. 2) Rules 2022. These Key Features are not in any way binding on the SICC. They are not intended to be, and should not be construed as, legal advice and should not be relied upon as such. For further information, please refer to the Singapore International Commercial Court (Amendment No. 2) Rules 2022 and information on the SICC website at www.sicc.gov.sg.