

**MEMORANDUM OF GUIDANCE AS TO ENFORCEMENT OF MONEY
JUDGMENTS**

BETWEEN

THE SUPREME COURT OF THE REPUBLIC OF SINGAPORE

AND

THE SUPREME JUDICIAL COUNCIL OF THE KINGDOM OF BAHRAIN

Introduction

1. The purpose of this Memorandum of Guidance (hereinafter referred to as “MOG”) is to set out the understanding of the Supreme Court of Singapore and the Supreme Judicial Council of Bahrain (hereinafter referred to individually as a “party” and collectively as the “parties”) regarding the procedures for the enforcement of each party’s money judgments in the other party’s courts. This MOG is concerned only with judgments requiring a person to pay a sum of money to another person.
2. This MOG does not create any binding legal obligations on the parties. This MOG does not constitute a treaty or legislation, is not binding on the judicial officers of either party and does not supersede any existing or future laws, judicial decisions or court rules. It is not intended to be exhaustive and is not intended to create or alter any existing or future legal rights or relations or to create any binding arrangements for the reciprocal enforcement of each party’s money judgments in the other party’s courts.
3. The parties desire and believe that the cooperation demonstrated by this MOG will provide a mutual understanding of their laws and judicial processes and will improve public perception and understanding.

The Supreme Court of Singapore

4. The Supreme Court of Singapore is a superior court of law. It comprises the General Division of the Singapore High Court the Appellate Division of the Singapore High Court and the Singapore Court of Appeal. The Singapore International Commercial Court is a division of the General Division of the High Court and part of the Supreme Court of Singapore. As used in this MOG, the term “the Singapore Courts” refers collectively to the Supreme Court of Singapore and the State Courts of Singapore.

Supreme Judicial Council of Bahrain

5. The Supreme Judicial Council is the body formed according to the constitution and the law on Judicial Authority. It overlooks and supervises the proper course of work in all courts of Bahrain (hereinafter referred to as “the Bahrain Courts”) and in their supporting agencies.

The requirements for enforcing judgments of the Bahrain Courts in the Singapore Courts

6. There is currently no treaty in place pursuant to which either party’s judgments may be registered for enforcement by the other party’s courts. In the absence of a relevant treaty or a binding bilateral arrangement, a foreign judgment may be enforced in the Singapore Courts by filing an action at common law.
7. The approach of the Singapore Courts is where a foreign court of competent jurisdiction has given judgment that a certain sum of money is due from one person to another, an obligation arises on the debtor to pay that sum. The creditor may then bring an action at common law in the Singapore High Court to enforce that obligation as a debt.
8. The judgment of the Bahrain Courts must be final and conclusive on the merits of the case, and for a fixed or ascertainable sum of money.
9. The Singapore Courts will not enforce a judgment of the Bahrain Courts which would amount to the direct or indirect enforcement of any foreign penal, revenue or public law, nor will the Singapore Courts enforce an order against a person to do anything else apart from the payment of a fixed or ascertainable sum of money.
10. The Bahrain Courts must have had jurisdiction, according to the conflict of laws rules determined to be applicable by the Singapore Courts, to determine the subject matter of the dispute. The Singapore Courts will generally consider the Bahrain Courts to have had the required jurisdiction only where the person against whom the judgment was given:
 - (a) was, at the time the proceedings were commenced, present or resident in the jurisdiction of the Bahrain Courts;
 - (b) was the claimant, or counterclaimant, in the proceedings; or
 - (c) submitted to the jurisdiction of the Bahrain Courts.
11. Where the above requirements are established to the satisfaction of the Singapore Courts, a judgment of the Bahrain Courts may be challenged in the Singapore Courts only on limited grounds. These grounds include, but are not limited to:

- (a) where the judgment had been procured by fraud;
 - (b) where the enforcement or recognition of the judgment would be contrary to Singapore public policy; and
 - (c) where the proceedings in which the judgment was obtained were conducted in a manner which the Singapore Courts regard as contrary to the principles of natural justice.
12. The Singapore Courts will not re-examine the merits of a judgment of the Bahrain Courts. The judgment may not be challenged on the grounds that it contains an error of fact or law. A judgment of the Bahrain Courts will be enforced on the basis that the judgment debtor has a legal obligation, recognised by the Singapore Courts, to satisfy a judgment of the Bahrain Courts for a fixed or ascertainable sum of money.

The requirements for enforcing judgments of the Singapore Courts in the Bahrain Courts

13. There is currently no treaty in place pursuant to which either party's judgments may be registered for enforcement by the other party's courts. In the absence of a relevant treaty or a binding bilateral arrangement, a Singapore Courts' judgment on civil or commercial matters may be enforced in Bahrain Courts by an order to be enforced on the same conditions as are laid down in the law of Singapore for enforcing court judgments and orders issued in Bahrain Courts.
14. The approach of the Bahrain Courts is where a foreign court of competent jurisdiction has given judgment that a certain sum of money is due from one person to another, an obligation arises on the debtor to pay that sum. An Application to issue an enforcement order shall be filed by the creditor in the Bahrain Courts in accordance with the terms and conditions for filing court action.
15. The Bahrain Courts will not re-examine the merits of a judgment of the Singapore Courts. The judgment may not be challenged on the grounds that it contains an error of fact or law. A judgment of the Singapore Courts will be enforced on the basis that the judgment debtor has a legal obligation, recognised by the Bahrain Courts, to satisfy a judgment of the Singapore Courts.
16. An enforcement order is issued after ascertaining that there are no cases being heard in the Bahrain Courts in respect of which the Singapore Courts' judgment or order was passed.
17. The litigants to the case in respect of which the judgment of the Singapore Courts was issued were duly summoned and properly represented.

18. The Singapore Courts' judgment or order has become final and conclusive on the merits of the case, and for a fixed or ascertainable sum of money, in accordance with the law of Singapore.
19. The Singapore Court judgment is in no way inconsistent with any judgment or order previously passed by the Bahrain Courts that constitutes *res judicata*, and does not provide for anything which constitutes a breach of public order.
20. The Singapore Courts must have had jurisdiction, according to the conflict of laws rules determined to be applicable by the Bahrain Courts, to determine the subject matter of the dispute.
21. The Bahrain Courts will generally consider the Singapore Courts to have had the required jurisdiction on the same conditions that as are laid down in the law of Singapore for enforcing court judgments and orders issued in Bahrain Courts.

The procedure for enforcing judgments of the Bahrain Courts in the Singapore Courts

22. In order to enforce a judgment of the Bahrain Courts in the Singapore Court, the judgment creditor may commence a fresh action for the judgment debt by filing an originating claim in the Singapore High Court under Order 6 Rule 1 of the Rules of Court 2021 ("Singapore Rules of Court").
23. The fresh action to enforce a judgment of the Bahrain Courts must be commenced before the expiration of 6 years after the date of the judgment of the Bahrain Court.
24. Where the judgment debtor is outside of Singapore, unless it has been contractually agreed, the judgment creditor will have to seek the approval of the Singapore Courts to serve the originating process out of jurisdiction in accordance with Order 8 Rule 1 of the Singapore Rules of Court. To obtain the approval of the Singapore High Court, the judgment creditor must apply to the Singapore High Court by summons without notice and supported by affidavit which must state:
 - (a) why the Singapore High Court has the jurisdiction or is the appropriate court to hear the action;
 - (b) the place or country the judgment debtor is, or probably may be found; and
 - (c) whether the validity of the originating process needs to be extended.

25. For the purposes of showing why the Singapore High Court is the appropriate court to hear the action, the judgment creditor should include in the supporting affidavit any relevant information showing the following:
- (a) there is a good arguable case that there is sufficient nexus to Singapore;
 - (b) Singapore is the *forum conveniens*; and
 - (c) there is a serious question to be tried on the merits of the claim.
26. Should the judgment debtor intend to contest the action, the judgment debtor must file a notice of intention to contest or not contest in the action and subsequently file a defence within the prescribed timelines under the Singapore Rules of Court.
27. If, after the judgment creditor has effected valid service, the judgment debtor does not respond to the claim by filing and serving (within the prescribed time) a notice of intention to contest or not contest, or states in the notice that he does not intend to contest all or some of the claims, the judgment creditor will be entitled to apply for judgment to be given against the judgment debtor in respect of the uncontested claims, under Order 6 Rule 6(5) of the Singapore Rules of Court.
28. In most cases, if a defence is filed, the judgment creditor will file an application for summary judgment under Order 9 Rule 17 of the Singapore Rules of Court. The judgment creditor will generally be able to obtain summary judgment, unless the judgment debtor can show that there is a triable issue in relation to a defence, which include, but are not limited to, the grounds set out in paragraph 11 above. Applications for summary judgment are dealt with swiftly, typically without the need for oral evidence.
29. If the claim in the Singapore High Court is successful, the judgment creditor will then have the benefit of a judgment of the Supreme Court of Singapore. The judgment creditor will be entitled, if necessary, to use the procedures of the Supreme Court of Singapore to enforce the judgment under the Singapore Rules of Court.

The procedure for enforcing judgments of the Singapore Courts in the Bahrain Courts

30. In order to enforce a judgment of the Singapore Courts in the Bahrain Courts, the judgment creditor must commence an enforcement request to the Bahrain High Court in accordance with Article 16 of The Law on The Enforcement in Civil and Commercial Matters No. (22) of 2021.
31. The request to enforce a judgment of the Singapore Courts must be commenced before the expiration of 6 years after the date of the judgment of the Singapore Courts.

32. The judgment debtor gets notified in accordance with Articles 32- 39 of the Civil and Commercial Procedures Code No. (12) of 1971 and its amendments.
33. The request of enforcement will be conducted in accordance with the provisions of the Civil and Commercial Procedures Code No. (12) of 1971 and its amendments, and the Law on the Enforcement in Civil and Commercial Matters No. (22) of 2021.
34. The substantive issues related to the request of enforcement will be considered and determined in accordance with the principle of reciprocity.
35. If the request of enforcement is successful, the judgment creditor will then have the benefit of a judgment of the Bahrain Courts enforcing the Singapore Courts' judgment.
36. The judgment creditor will be entitled, to use the procedures of the Law on The Enforcement in Civil and Commercial Matters No. (22) of 2021. The Singapore Courts' judgment attached to the Bahrain Courts' enforcement judgment will be the enforcement deed which will be put before the Bahrain Enforcement Court Judges.

Term of MOG

37. This MOG shall commence on the date of signature of this MOG. Either party may terminate this MOG by giving the other party six (6) months' notice in writing.

Variation of MOG

38. This MOG may be varied in writing and any such variation shall be signed by both parties.

Contacting the Courts

39. Further information about the Singapore Courts can be obtained:
 - (a) By visiting the Singapore Courts website at <https://www.judiciary.gov.sg>;
 - (b) By contacting the Registry of the Supreme Court of Singapore:
 - (i) At Level 2, 1 Supreme Court Lane, Singapore 178879;
 - (ii) By telephone at 1800 338 1034; or
 - (iii) By email at supcourt_registry@supcourt.gov.sg
40. Further information about the Bahrain Courts can be obtained:
 - (a) By visiting the Supreme Judicial Council of Bahrain website at <http://www.sjc.bh>

- (b) By visiting the Ministry of Justice of Bahrain website at <http://www.moj.gov.bh>
(c) By contacting the Court Director of Bahrain Courts, or the General Secretariat of the Supreme Judicial Council:
(i) At 82 Road No 1702, Diplomatic Area, Manama; or
(ii) By telephone at (+973)17532888; or (+973) 17513236
(iii) By email at court.director@moj.gov.bh

SIGNED in the Kingdom of Bahrain on the 8th day of May 2023



Sundares Menon
Chief Justice
Supreme Court of the
Republic of Singapore



Khaled Bin Ali AlKhalifa
Vice President of the Supreme Judicial
Council – Head of the Court of Cassation
Supreme Judicial Council of the Kingdom of
Bahrain