

## Singapore Permits Conditional Fee Agreements Between Lawyers and Clients

### 新加坡允许律师和客户之间签订按条件收费协议

With effect from 4 May 2022, lawyers in Singapore may enter into conditional fee agreements (“CFAs”) with clients in selected proceedings.

从 2022 年 5 月 4 日起，新加坡的律师可以在特定程序中与客户签订按条件收费协议（“条件收费协议”）。

CFAs are agreements under which lawyers receive the whole or a part of their fees only in certain specified circumstances as agreed with the client. Such agreements can also provide for an uplift on fees where the client’s claims or defences are successful or where certain mutually agreed outcomes are achieved.

条件收费协议是指，律师经客户同意仅在某些情况下收取全部或部分费用的协议。这类协议也可以约定当客户索赔或辩护成功时，或在某些共同约定的结果实现时，收取额外费用。

Traditionally, CFAs were prohibited because of the rules against maintenance and champerty, which Singapore inherited from the English common law system. The disapproval of these concepts stemmed from a historical fear that allowing a third party with no connection to the case to support litigation in return for a share of the proceeds would encourage litigants to bring fraudulent and vexatious claims. The prohibition on arrangements such as third-party funding and CFAs was meant to prevent such abuses of the court process.

由于新加坡从英国普通法体系中继承了反对帮助诉讼以及包揽诉讼的规则，条件收费协议在传统上是被禁止的。对这些概念的反源于一种历史性的担忧，即允许与案件没有关系的第三方支持诉讼以换取收益份额，会鼓励当事人提出欺诈性以及无理的索赔。禁止例如第三方资助和条件收费协议等安排是为了防止这种滥用法院程序的行为。

The prohibition has now been relaxed in many jurisdictions, and a few years ago, third-party funding was permitted in Singapore for specific categories of claims. In line with developments in other Commonwealth jurisdictions, the availability of CFAs in Singapore will enhance access to justice by providing parties with additional funding options to pursue meritorious claims which they may otherwise not pursue. It may also help discourage weak and frivolous claims as the fees payable are contingent on the outcome.

如今，许多法域已经放宽了对条件收费协议的禁止，而几年前，新加坡允许特定类别的索赔受到第三方资助。与其他英联邦法域的发展相一致，新加坡允许条件收费协议将增加诉诸司法及实现正义的机会。它为当事人提供额外的融资选择，以进行有望成功的索赔，而当事人在无额外融资的情况下，可能不会进行这种索赔。它也有助于阻止律师协助客户进行成功希望不大以及轻率的索赔，毕竟当事人所需支付的费用取决于案件结果。

## What are CFAs?

### 什么是条件收费协议？

Under the new CFA framework, examples of CFAs that lawyers and clients may enter into include the following:

根据新的条件收费协议框架，律师和客户可以签订不同类型的条件收费协议，举例如下：

(a) **No win, no fee** 无胜诉，不收费

The CFA may provide that the client will pay 100% of its lawyer's fees if its claim succeeds, or nothing if the claim fails.

条件收费协议可以约定，如果索赔成功，客户将支付 100% 的律师费，如果索赔失败，客户不支付任何费用。

(b) **No win, less fee** 无胜诉，少收费

The CFA may provide that the client will pay 100% of its lawyer's fees if its claim succeeds, or a reduced amount if the claim fails.

条件收费协议可以约定，如果索赔成功，客户将支付 100% 的律师费，如果索赔失败，客户将支付降低金额的律师费。

(c) **Win, more fee** 胜诉，多收费

In combination with the other two possibilities above, the CFA may provide that the client will pay an uplift fee if the claim succeeds, with the uplift to be agreed between the lawyer and the client.

结合上述的两种可能性，条件收费协议可以约定，如果索赔成功，客户将支付额外费用，而该额外费用可由律师与客户自行约定。

The definition of “conditional fee agreement” in the Legal Profession Act 1966 suggests that CFAs may cover fees, charges, disbursements, expenses and remuneration. This means that lawyers and clients may negotiate CFAs that cover the client's disbursements incurred during legal proceedings, such as filing expenses and printing costs.

1966 年《法律职业法》中对“按条件收费协议”的定义表明，条件收费协议可以涵盖费用、收费、支出、开支和报酬。这说明律师和客户可以商议条件收费协议，以涵盖客户在法律程序期间产生的支出，例如立案费以及文印方面的费用。

CFAs should be distinguished from contingency fee agreements, which are agreements where the lawyer involved may share in an agreed percentage of the sum recovered by the client, with no direct correlation to the work done. Contingency fee agreements continue to be impermissible in Singapore.

条件收费协议应当与风险代理安排区分开来，后者是指律师可以从客户收回的款项中按约定的百分比分享收益，与完成的工作没有直接关联的协议。在新加坡，风险代理安排将继续被禁止。

Despite the existence of CFAs, the client continues to be liable to pay any adverse costs (i.e., if the client loses an application or the proceeding, the court or arbitral tribunal may order the client to pay costs to the winning party). Further, if the CFA provides for the payment of an uplift fee, the client cannot recover this uplift fee as part of an adverse costs order against the losing party. Thus, the client can only recover from the losing party the normal amount of costs that a court or arbitral tribunal thinks is reasonable.

尽管有条件收费协议的存在，客户仍然有责任支付任何不利费用（即如果客户在申请或程序中败诉，法院或仲裁庭可以命令客户向胜诉方支付费用）。此外，如果条件收费协议约定支付额外费用，客户不能从败诉方收回额外费用（作为不利费用判决的一部分）。因此，客户只能从败诉方收回法院或仲裁庭认为合理的正常费用。

## Proceedings where CFAs are permissible

### 允许使用条件收费协议的程序

Generally speaking, CFAs cover proceedings where litigants tend to be more commercially sophisticated. They are permissible for proceedings similar to those where third-party funding is available, namely:

一般来说，在条件收费协议涉及的程序中，当事人往往在商业上更为成熟老练。在被允许的相关程序方面，条件收费协议与第三方资助是类似的，即：

- (a) International and domestic arbitration proceedings;  
国际和国内仲裁程序；
- (b) Certain proceedings in the Singapore International Commercial Court, including appeals;  
and  
新加坡国际商业法院的某些程序，包括上诉；以及
- (c) Court and mediation proceedings that are related to (a) and (b) above, including applications to stay arbitration proceedings, or applications to enforce arbitral awards.  
与上述(a)项和(b)项有关的法院和调解程序，包括申请暂停仲裁程序，或申请执行仲裁裁决。

Arbitration-related court proceedings cover court proceedings both in Singapore and in states and territories outside Singapore. This means CFAs may apply, for example, where a lawyer in Singapore is engaged in respect of proceedings in a foreign court that are connected with arbitration proceedings.

与仲裁有关的法院程序包括在新加坡和新加坡以外的国家和地区的法院程序。这意味着，条件收费协议可能适用于新加坡的律师受聘于与仲裁程序相关的外国法院程序。

CFAs may cover remuneration and costs incurred in relation to preliminary and preparatory advice, negotiations or settlement of disputes for the purposes of contemplated proceedings in relation to the claims above, even if those claims are eventually not commenced or the claim is settled.

条件收费协议也可以适用于因初步及准备性建议、谈判或争议的和解（为了前述相关程序）而产生的报酬及成本，即使申请人最终没有启动索赔，或者已就索赔事项达成和解。

Currently, CFAs are not permitted for domestic Singapore court proceedings. The Ministry of Law has stated that it is studying the feasibility of allowing CFAs in other categories of proceedings.

目前，新加坡国内的法院程序不允许使用条件收费协议。律政部表示，其正在研究在其他类别的程序中允许条件收费协议的可行性。

## Requirements for CFAs

### 条件收费协议的要求

Lawyers and clients have the freedom to determine a mutually agreeable arrangement for the payment of fees, subject to the prescribed requirements. For instance, they may agree to a traditional fee structure in one area of work (e.g., time costs or fixed fees), and a CFA in another. Parties may also agree to include or exclude the payment of disbursements from the CFA.

律师和客户可以自由决定双方同意的费用支付安排，但必须符合法定的要求。例如，他们可以就某个工作领域同意采用传统的收费结构（例如时间成本或固定费用），而在另一个领域同意采用条件收费协议。当事人也可以同意在条件收费协议中包括或排除关于开支的支付。

For CFAs to be valid and enforceable, the CFA must comply with certain requirements, including the following:

为了使条件收费协议有效以及可执行，它必须符合某些要求，包括以下：

- (a) The CFA must be in writing and signed by the client;  
条件收费协议必须是书面形式，并由客户签署；
- (b) The CFA must not provide for the remuneration and costs to be payable as a proportion of the sum recovered by the client (i.e., no contingency fee agreements);  
条件收费协议不得约定报酬和费用按客户收回金额的一定比例支付（即无风险代理安排）；

- (c) The lawyer must provide certain information to the client in plain language, such as the nature and operation of the CFA, and how the uplift fees are calculated; and  
律师必须以通俗易懂的语言向客户提供一些信息，例如条件收费协议的性质和操作，以及额外费用是如何计算的；以及
- (d) The CFA must provide for a cooling-off period of five days after the CFA is entered into, during which the client or lawyer may terminate the CFA by giving written notice. If the CFA is terminated during this cooling-off period, the client is not liable for any remuneration or costs incurred except for what was expressly instructed by or agreed to by the client.  
条件收费协议必须约定在签订后有五天的冷静期，在此期间，客户或律师可以通过发出书面通知的方式终止条件收费协议。如果条件收费协议在冷静期内被终止，除了客户明确指示或同意外，客户不会承担任何报酬或费用。

If you would like information or assistance on the above, you may wish to contact the Partner at WongPartnership whom you normally work with or the following:



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