

# SINGAPORE INTERNATIONAL ARBITRATION CENTRE

## PRACTICE NOTE PN – 01/10 (1 July 2010)

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### ADMINISTERED CASES

#### ON APPOINTMENT OF ARBITRATORS, ARBITRATORS' FEES & FINANCIAL MANAGEMENT

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##### Introduction

1. This Practice Note shall govern the appointment of arbitrators and the financial management of arbitration in all cases administered by the SIAC.
2. An arbitration shall be administered by SIAC in accordance with this Practice Note where –
  - a. it is governed by the arbitration rules of the SIAC; or
  - b. the parties have agreed that the case be administered by the SIAC.

3. In this Practice Note –

'Chairman' means the Chairman of the Singapore International Arbitration Centre ('SIAC') and includes the Deputy Chairman and the Chief Executive Officer ('CEO');

'Registrar' means the Registrar of SIAC and includes a Deputy Registrar.

4. Administration by the SIAC includes:
  - a. Appointment of arbitrators;
  - b. Financial management of the arbitration;
  - c. Case management, which includes liaising with arbitrators, parties and their authorised representatives on proper delivery of notices, monitoring schedules and time lines for submissions, arranging hearing facilities and all other matters which facilitate the smooth conduct of the arbitration;
  - d. Where applicable, exercising such supervisory functions entrusted by the arbitration rules; and
  - e. Scrutiny and issuance of awards made by the Tribunal.

##### Appointment of Arbitrators

5. The criteria for appointment shall follow the provisions specified in legislation or the contract between the parties. In all cases, the objective is to appoint an arbitrator with the attributes of integrity and competence, who is independent and impartial, and who will be perceived as such by the parties.

6. In all cases where the Chairman is to make an appointment of an arbitrator, he will in general and where appropriate, consult two members of the Board of Directors of the SIAC. The Chairman and the Directors may seek the assistance of the Secretariat of the SIAC.
7. The Chairman shall not appoint a Director of SIAC (including the Chairman and Deputy Chairman) as an arbitrator, except where a Director is expressly nominated by a Party as its party-nominated arbitrator, or where two co-arbitrators in a tribunal nominate a Director as the third or presiding arbitrator. Where a party or two co-arbitrators nominate the Chairman, the appointment shall be made by the Deputy Chairman or the CEO.
8. In exceptional cases, such as where there are no suitable candidates on the SIAC panel of arbitrators, the Chairman may appoint an arbitrator who is not on the SIAC panel of arbitrators.

### **Conflict of Interest**

9. Any potential candidate for appointment must make a full declaration of independence and impartiality, and disclose any fact, circumstance, or relationship which could give rise to justifiable doubts about his or her independence and impartiality.

### **SIAC Financial Management**

10. The financial management of the arbitration includes:
  - a. fixing of Tribunal's fees and other terms of appointment;
  - b. regular rendering of accounts;
  - c. collecting deposits towards the costs of the arbitration; and
  - d. processing the Tribunal's fees and expenses.

### **Tribunal Not to Make Directions Concerning Fees and Deposits**

11. The Tribunal shall not at any time issue directions concerning its own fees and expenses, and deposits thereof.
12. Any administrative matter concerning the costs or expenses in the arbitration shall be dealt with by the Registrar.

### **Tribunal's Fees**

13. The Tribunal's fees shall be ascertained in accordance with the Schedule of Arbitrators' Fees in force at the time of commencement of the arbitration. These fees are payable following the final conclusion of the matter. Interim payments may be made at the discretion of the Registrar following the completion of significant steps in the arbitration, in accordance with paragraphs 23 to 27.

14. In exceptional circumstances, the Registrar may allow an additional fee to be paid to the arbitrator over that prescribed in the Schedule of Arbitrators' Fees.
15. Where the arbitration is terminated, withdrawn or settled, the Registrar shall fix the quantum of fees payable to the arbitrator. In doing so, the Registrar shall take into account the stage of proceedings at which the arbitration was terminated and the amount of work done or time spent by the arbitrator on the matter. In the case of a three-member Tribunal, in general, relative to the other members of the Tribunal, the Chairman/Presiding arbitrator will receive a third more in fees.

### **Tribunal's Expenses**

16. The Tribunal's reasonable out-of-pocket expenses necessarily incurred shall be borne by the parties and reimbursed at cost. The expenses will be reimbursed upon submission and verification by the SIAC of the supporting invoices or receipts.
17. An arbitrator who is required to travel outside his place of residence will be reimbursed with business class airfare, supported by an invoice or receipt.
18. In addition to out-of-pocket expenses, a per diem of SGD 800 shall be allowed to an arbitrator who is required to travel outside his place of residence, whenever overnight accommodation is required. Where no overnight accommodation is required, a per diem of SGD 400 shall be paid.
19. The expenses covered by the per diem in paragraph 18 include the following items which are therefore not claimable as out-of-pocket expenses:
  - a. Hotel accommodation;
  - b. Meals / beverages;
  - c. Laundry / dry cleaning / ironing;
  - d. City transportation (excluding airport transfers);
  - e. Communication costs (telephone, faxes, internet usage etc); and
  - f. Tips.

### **Advances and Deposits**

20. The SIAC shall collect advances and deposits from the parties towards the costs of the arbitration.
21. The first tranche of advances and deposits shall normally be required from the parties shortly after the commencement of the arbitration or request for administration.
22. The Registrar may from time to time request further advances and deposits from the parties.
23. Unless the Registrar directs otherwise, 50% of such advances shall be payable by the Claimant(s) and the remaining 50% of such advances shall be payable by the Respondent(s).
24. All advances and deposits shall be made to and held by the SIAC. Any interest which may accrue on such advances and deposits shall be retained by the SIAC.

### **Interim Payments to the Arbitrator**

25. In appropriate circumstances and upon the request of the arbitrator, the Registrar may allow interim payments to be made.
26. In assessing interim payments, the Registrar shall take into consideration the relevant stage of the arbitration and the work undertaken by the arbitrator to date. The following may be taken as a guide to determine the appropriate amounts of payment

<b><i>Stage of the Proceedings</i></b>	<b><i>Percentage of Fees</i></b>
Issuance of a substantial order or partial award	Up to 20%
Completion of hearing on merits	Up to 50%

27. The percentages referred to in paragraph 26 shall be taken from the total amount of fees ascertained in accordance with the Schedule of Arbitrator's Fees.
28. The aggregate amount of interim payments shall not exceed 50% of the arbitrator's fees ascertained in accordance with the applicable Schedule of Arbitrators' Fees.
29. Interim payments to the arbitrator may be made without reference to the parties. The parties will be informed of such payments through an updated statement of account.

### **Legal Liability for Costs of the Arbitration**

30. The parties are jointly and severally liable for the costs of the arbitration. SIAC acts as agent of the Tribunal in collecting these advances and deposits, but is not legally liable to the Tribunal or the parties except to account for the advances and deposits so collected.

### **Miscellaneous**

31. This Practice Note applies to all cases commenced or submitted for administration on or after 1 July 2010. It supersedes earlier Practice Notes on Appointment of Arbitrators for Administered Cases (PN-01/09).

**Issued by:**

**Registrar, SIAC  
1 July 2010**