

# Kluwer Arbitration Blog

## The 2023 SIAC Draft Rules: Raising the Bar for Efficiency

Anjali Anchayil, Aiman Singh Kler (JSA, Advocates & Solicitors) · Thursday, October 26th, 2023

On 22 August 2023, the Singapore International Arbitration Centre (“**SIAC**”) published the [Draft 7th Edition of the SIAC Rules](#) (the “**Draft Rules**”) for public consultation. The Draft Rules introduce several noteworthy changes as part of a concerted effort to “raise the bar on efficiency, expedition, and cost-effectiveness” (*see* [SIAC Registrar’s Report](#)). The public consultation period remains in effect until 21 November 2023 and comments can be submitted via email to [rulesconsult2023@siac.org.sg](mailto:rulesconsult2023@siac.org.sg) and [kevinnash@siac.org.sg](mailto:kevinnash@siac.org.sg) or via the SIAC website under “Feedback.”

A recent post in this blog covering [the SIAC Symposium 2023](#) touched on practitioners’ views of different themes that can be found in the Draft Rules. This post places the spotlight on key provisions in the Draft Rules specifically aimed at bolstering efficiency.

### Streamlined Procedure

The most innovative feature of the Draft Rules is perhaps the introduction of the Streamlined Procedure as an even faster alternative to the Expedited Procedure.

In accordance with Draft Rule 13 and Schedule 2 of the Draft Rules, a party can apply for Streamlined Procedure when: (a) parties have agreed to it, (b) the amount in dispute does not exceed SGD 1,000,000 at the time of application, or (c) the circumstances of the case warrant such an application. The last ground (c) may allow relatively straightforward disputes exceeding SGD 1,000,000 in value to potentially be conducted under Streamlined Procedure. As a safeguard, the Draft Rules introduce a fallback provision empowering the arbitral tribunal to order, at any stage during the process, that the arbitration will no longer be conducted under Streamlined Procedure (Schedule 2, Rule 18).

The time limit for issuing the award is three months from the date of constitution of the tribunal—effectively half the duration of an arbitration under Expedited Procedure. This exceptionally short time limit is made possible by allowing tribunals to do away with the need for hearings, document production, and the presentation of witness evidence.

Streamlined Procedure is cost efficient as well and effectively offers a 50% discount on the maximum amounts of SIAC administrative fees calculated in accordance with the Schedule of Fees.

Streamlined Procedure is likely to be attractive to small-scale enterprises and parties involved in short-term contracts that prefer a swift determination within three months. It may also be a viable option for disputes currently conducted under the rules of various trade associations, which typically involve lower amounts in dispute and shortened timelines. Whether Streamlined Procedure will become as popular as Expedited Procedure remains to be seen.

One point of concern is that even where parties agree to the application of Streamlined Procedure, the SIAC President retains the discretion whether or not to apply Streamlined Procedure. This could be seen as deviating from the parties' agreement, and the Draft Rules do not provide any rationale for such deviation.

## **Expedited Procedure**

Since Expedited Procedure was introduced in 2010, it has become increasingly popular. As per [SIAC's annual report of 2022](#), SIAC has received a total of 802 requests for Expedited Procedure since 2010. In 2022 alone, SIAC received 87 requests for Expedited Procedure, of which 48 were accepted.

Draft Rule 14.1(b) proposes raising the monetary threshold for Expedited Procedure from SGD 6,000,000 to SGD 10,000,000, positioning SIAC as the institution with the most substantial threshold amount in place for Expedited Procedure.<sup>1)</sup> This will potentially result in an increased number of Expedited Procedure arbitrations and allow a greater number of parties to save time and costs. As with Streamlined Procedure, Expedited Procedure can be applied in even higher value disputes if the circumstances of the case warrant such application. Draft Rule 14.3 affords additional flexibility and discretion to the tribunal enabling it to adopt any procedural mechanisms while considering the expedited nature of the proceedings. The time limit for rendering an Expedited Procedure award remains the same at six months from the date of constitution of the tribunal.

Similar to Streamlined Procedure, the discretion with the SIAC President to reject an application for Expedited Procedure—where parties consent or expressly provide for Expedited Procedure in their arbitration agreement—could cause tensions with party autonomy.

## **SIAC Gateway**

Various leading arbitral institutions provide digital case management platforms for the convenience of parties and tribunals. Examples include [ICC Case Connect](#), the [SCC platform](#), and [HKIAC Case Connect](#). SIAC has now partnered with [Opus 2](#) to launch its own in-house digital case management platform—[SIAC Gateway](#).

In accordance with Draft Rule 4.2, the Registrar may direct that the parties be required to upload all written communications to SIAC Gateway. This will include all documents produced, submitted, or exchanged during an arbitration. The SIAC Gateway will hopefully enhance user experience and efficiency by offering a centralised platform for online case filing and the ability to make online payments. SIAC Gateway's success will hinge on the ease of use—particularly in uploading large files, making payments, and facilitating communication for administrative matters.

## Emergency Arbitration

The SIAC Rules 2016 (“**2016 Rules**”) allow a party to apply for the appointment of an emergency arbitrator along with or following the notice of arbitration. The Draft Rules go a step further and allow a party to apply for an emergency arbitrator’s appointment even before filing the notice of arbitration. Such an application will be made according to Schedule 1 of the Draft Rules.

Allowing parties to access emergency arbitration procedures prior to filing the notice of arbitration is a step toward ensuring greater efficiency in handling emergency relief requests.

In cases with multi-tiered dispute resolution clauses, it is not uncommon for defendants to challenge the jurisdiction of the emergency arbitrator citing non-fulfilment of pre-arbitration steps prior to filing the notice of arbitration. Such challenges consume valuable time for the emergency arbitrator and delay consideration of the emergency relief application. The Draft Rules could limit or prevent such challenges as the initiation of arbitration is no longer a prerequisite for seeking relief in emergency arbitration. Additionally, there is a safeguard against the filing of frivolous emergency arbitration applications, as parties are required to file the notice of arbitration within 5 days.

The Draft Rules also cut short certain time limits in the conduct of emergency proceedings. For example, the time limit for the emergency arbitrator to establish a schedule for consideration of the application has been shortened from 2 days to 24 hours. The time limit for the emergency arbitrator to issue the order/award has also been reduced from 14 days to 10 days. It is important to contemplate whether this reduction may pose challenges in ensuring a thorough and well-considered decision within the constrained timeframe. Probably not, given that the SCC Arbitration Rules provide for an even shorter time limit for an emergency decision, *i.e.*, within 5 days from the date the application is referred to the emergency arbitrator.

Cumulatively, these changes could lead to increased use of emergency arbitration procedures where assets can be disposed of quickly (*e.g.*, in crypto-related disputes) or where parties prefer not to approach local courts for pre-arbitration interim relief due to concerns of loss of confidentiality.

## Early Dismissal

SIAC’s early dismissal procedure, which allows manifestly unmeritorious claims to be dismissed early in the arbitration process, has the potential to significantly reduce time and costs. The procedure has seen substantial interest from users, with 56 applications filed since 2016.

Where an application for early dismissal is allowed, the 2016 Rules require the tribunal to render its decision within 60 days of the date of filing of the application for early dismissal. The Draft Rules reduce the time period for a decision to 45 days. The Draft Rules remove the vague “exceptional circumstances” standard in the 2016 Rules for extending the time period for a decision, and instead subject it to the Registrar’s discretion.

Like the 2016 Rules, the Draft Rules provide no guidance on what constitutes “manifestly without legal merit” or “manifestly outside the [Tribunal’s] jurisdiction”—there could be more clarity on

this, perhaps through a practice note. Another point worth considering is the possibility of incorporating a specific time frame in the Draft Rules beyond which early dismissal applications cannot be made. This approach could deter parties from employing early dismissal applications as guerrilla tactics at late stages of the proceeding.

## **Preliminary Determination**

The Draft Rules have introduced a new provision permitting a party to seek a preliminary determination of any issue in the arbitration where: (a) the parties agree to such determination by the tribunal; (b) the party can demonstrate that such determination is likely to contribute to time or costs savings and a more efficient and expeditious resolution of the dispute; or (c) the circumstances of the case warrant such preliminary determination. Where an application seeking preliminary determination is allowed to proceed, a decision is to be made within a period of 45 days from the filing of the application.

Preliminary determinations can assist the arbitral process by having the tribunal decide an issue that either: (a) narrows down the issues to be considered; or (b) disposes of the arbitration itself or a substantial part of the claims raised.

An earlier [post](#) on this blog notes that while preliminary determinations are useful, tribunals have been reluctant to use them because of due process paranoia. The specific inclusion of a provision for preliminary determination in the Draft Rules could encourage tribunals to make preliminary determinations.

## **Consolidation**

SIAC has tried to improve the consolidation provisions by taking a more permissive approach to consolidation. Parties can now apply for consolidation under the Draft Rules where “a common question of law or fact arises out of or in connection with all the arbitrations” as long as the arbitration agreements are compatible. This will enable consolidation, saving time and costs in an even larger number of cases.

Given that consolidation under the Draft Rules does not require party consent, there is a higher risk of awards rendered in consolidated proceedings being challenged. Parties could argue that the award deals with issues falling outside the scope of the arbitration reference, or that the composition of the tribunal or the arbitral procedure was not in accordance with their agreement. One counter is that parties have, by adopting the rules, agreed to consolidating the proceedings in a broader range of scenarios and waived their rights to participate in the tribunal constitution. Nevertheless, this is an important factor for parties to consider when seeking consolidation.

Further, the Draft Rules now permit arbitrations administered by SIAC, but under different arbitral rules (*e.g.*, SIAC Rules and UNCITRAL Rules) or different iterations of the same arbitral rules (*e.g.*, the 2016 Rules and SIAC Rules 2007) to be consolidated. The 2016 Rules had only permitted consolidation of arbitrations pending under the SIAC Rules.

## Coordinated Proceedings

The Draft Rules introduce a new provision, Rule 17, which permits coordinated proceedings where the same arbitral tribunal may be constituted in two or more arbitrations and a common question of law or facts arises in those arbitrations. The tribunal may determine that the coordinated arbitrations shall be: (a) conducted concurrently or sequentially; (b) heard together and any procedural aspects shall be aligned, or that any of the coordinated arbitrations shall be suspended pending a determination in any of the others. Unless parties agree otherwise, the proceedings continue to be separate, with separate decisions, rulings, orders, or awards. Coordinated proceedings thus stop short of consolidation.

Coordinated proceedings could lead to greater efficiency by avoiding conflicting findings on common issues, especially where consolidation or joinder may not be feasible or advantageous, e.g., where consolidation of proceedings would hinder a party's ability to effectively represent itself.

## Conclusion

The Draft Rules are welcome in light of [growing criticism by users](#) that cost and lack of speed remain a significant challenge in arbitration. The introduction of new provisions relating to Streamlined Procedure, coordinated proceedings and Preliminary Determination as well as enhancements to existing provisions on emergency arbitrations, early dismissals, and consolidation should significantly contribute to a more efficient arbitration process. It is expected that SIAC may fine-tune the Draft Rules following the consultation process. Once finalised, the new rules hold the potential to mark a significant stride toward enhancing efficiency in international arbitration.

---

*To make sure you do not miss out on regular updates from the Kluwer Arbitration Blog, please subscribe [here](#). To submit a proposal for a blog post, please consult our [Editorial Guidelines](#).*

## Profile Navigator and Relationship Indicator

Access 17,000+ data-driven profiles of arbitrators, expert witnesses, and counsels, derived from Kluwer Arbitration's comprehensive collection of international cases and awards and appointment data of leading arbitral institutions, to uncover potential conflicts of interest.

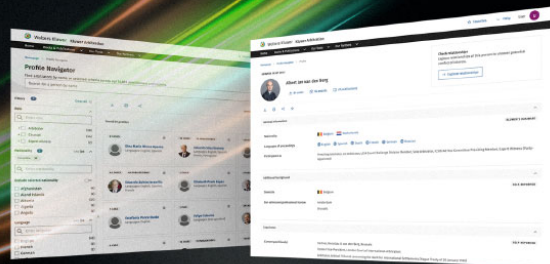
Learn how **Kluwer Arbitration** can support you.

Newly updated

# Profile Navigator and Relationship Indicator Tools



Wolters Kluwer



Request your free trial now →

## References

Other leading arbitral institutions with monetary threshold amounts for EP include the ICC, HKIAC, CIETAC, and MCIA, with their respective monetary thresholds being USD 3,000,000, USD 3,190,000 (approx.), USD 715,000, and USD 1,330,00 (approx.).

This entry was posted on Thursday, October 26th, 2023 at 10:12 am and is filed under [Case Management](#), [Consolidation](#), [Early Dismissal](#), [Emergency Arbitrator](#), [Expedited Proceedings](#), [Preliminary Ruling](#), [SIAC](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. You can leave a response, or [trackback](#) from your own site.