Singapore has long been recognised as one of the region’s leading centres for finance and trade and more recently has become leader for insurance and re-insurance in Asia.

In recent years, with the support of the Singapore government, Singapore has also gained increasing prominence as a seat for international arbitration. This is a result of the government continuing to refine the legislative framework in which it operates to ensure clarity and efficiency.

On 9 April 2012, the Singapore government passed the International Arbitration (Amendment) Bill\(^1\) (“IAAB”), to amend the International Arbitration Act (“IAA”). The amendments to the IAA are designed to further strengthen Singapore’s status as a hub for international arbitration and demonstrate to the international community Singapore’s continued commitment to international arbitration.

This article does not provide an exhaustive discussion of all the changes introduced by the IAAB. Instead, it aims to focus on issues relevant to insurance companies involved in arbitration proceedings in Singapore.

**Relaxing the definition of arbitration agreement**

One of the most significant changes made by the IAAB is the relaxation of what constitutes an “arbitration agreement”. The revised legislation incorporates the 2006 amendments to the Model Law on International Commercial Arbitration\(^2\) (“the Model Law”).

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\(^1\) Bill 10 of 2012

\(^2\) Option I of Article 7 of the Model Law of International Commercial Arbitration, as amended by UNICTRAL on 7 July 2006.
The term “arbitration agreement” is currently defined as an agreement in writing\(^3\), whether contained in an exchange of letters, telefacsimile, communications by teleprinter\(^4\) or other electronic communications, including but not limited to, those made by email, telex, telegram or telexcopy\(^5\).

The introduction of the new section 2A to the IAA (section 3 of the IAAB) will extend the scope of the definition of “arbitration agreement” to include agreements that are concluded orally or by conduct or by any other means.\(^6\) Following implementation of the amendments, providing that the content and terms of the agreement are recorded in some way, it will be recognised as a binding arbitration agreement in the context of the IAA.

Whilst most modern insurance policies generally contain a dispute provisions, older policies may not. Accordingly, these amendments have the potential to impact upon insurance policies where no dispute provision is specified.

**Interest**

Currently, the arbitral tribunal does not have the authority to order interest to be paid on awards. However, pursuant to the IAAB, the arbitral tribunal will have the discretion to order compound or simple interest on all or part of the award, unless otherwise agreed by the parties\(^7\).

This amendment will create scope for insurers to recover or alternatively pay further costs in arbitral proceedings.

**Emergency Arbitrators**

The amendments to the IAA will offer insurers who are involved in arbitral proceedings in Singapore further protection, in that interim orders and awards made by Emergency Arbitrators will have the same status as those made by a constituted tribunal. As a result, there is effective emergency relief available to parties involved in arbitration under the Singapore regime.

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\(^3\) Section 2(1) of IAA  
\(^4\) Section 27(1) IAA  
\(^5\) Section 2(1)(a) of IAA  
\(^6\) Section 2A(4) of IAA  
\(^7\) The new Section 12(5) of IAA (section 5 of the IAAB)
In 2010, the Arbitration Rules of the Singapore International Arbitration Centre ("the SIAC Rules") introduced new interim measures by vesting in Emergency Arbitrators the authority to issue awards and grant interim measures, thus affording parties emergency relief.\(^8\)

Although the SIAC Rules assisted in providing parties with emergency relief prior to the constitution of the tribunal, there remained a great deal of uncertainty with regards to the enforceability of the Emergency Arbitrator’s orders and awards. This was due to the exclusion of Emergency Arbitrators from the definition of “arbitral tribunal”, which had created a lack of clarity as to the status of an Emergency Arbitrator and the authority of its decisions.

Pursuant to the IAAB, the scope of the definition of “arbitral tribunal” will be extended to expressly include Emergency Arbitrators appointed subject to, and in compliance with, the rules of arbitration agreed.\(^10\) This serves to clarify that any interim measures ordered by an Emergency Arbitrator will be enforceable by the High Court.

The inclusion of Emergency Arbitrators in the IAA will have a significant impact on the enforceability of awards in Singapore and will further enhance Singapore’s desirability as a seat for arbitration. However, there is still uncertainty as to the enforceability of such awards outside of the jurisdiction.

**Negative Jurisdictional Rulings**

Currently the courts in Singapore can only hear appeals on positive jurisdictional rulings where it has been held that a Tribunal has jurisdiction to hear a dispute. Subject to the Model Law, it was considered that as a negative jurisdictional ruling did not have the status of an award and therefore the court did not have the jurisdiction to carry out a judicial review of such decisions.\(^11\) The inconsistent treatment of negative and positive jurisdiction has created scope for inequity. The IAAB seeks to rectify this by enabling the courts to review decisions where it has been held that the Tribunal does not have jurisdiction.

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\(^8\) 4\(^{th}\) Edition, 1 July 2010  
\(^9\) Rule 26 of the SIAC Rules  
\(^10\) Section 2(a) of IAAB  
\(^11\) Article 16(3) of the Model Law
Conclusion

The Singapore International Arbitration Centre has long been regarded as a leading global institution and the growing popularity of Singapore as a venue for hearing international insurance disputes provides an indication of the confidence that insurers and reinsurers have in Singapore as a seat in which to settle disputes.

The amendments introduced by the IAAB will serve to refine the framework in which international arbitral proceedings operate. These changes have broad implications, with the new measures equipping the courts with greater powers to challenge jurisdiction, in addition to offering greater clarity and protection to parties who opt to settle disputes here.