# Arbitration

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## Why crypto contracts choose arbitration

Most token purchase agreements, custody agreements between institutions and software licences in the crypto sector contain arbitration clauses. The reasons are enforceability under the New York Convention, which has over 170 parties including Switzerland and Singapore, confidentiality and the ability to choose arbitrators with technical knowledge. Singapore's International Arbitration Act 1994 gives effect to the UNCITRAL Model Law and provides for a mandatory stay of court proceedings brought in breach of an arbitration agreement.[1] The Singapore International Arbitration Centre's 2025 Rules, in force from 1 January 2025, provide for emergency arbitrators, expedited procedure, and coordinated proceedings, each of which has been used in digital-asset disputes.[2]

## Arbitrability

Whether a dispute may be arbitrated is determined in Singapore by a composite test. At the pre-award stage the court applies the law of the arbitration agreement and, if the dispute is arbitrable under that law, also the law of the seat.[3] Disputes about the ownership of tokens, breach of custody agreements and token sale terms are arbitrable under both Singapore and Swiss law. Disputes involving the insolvency of a platform are not, to the extent they concern the collective process. A moratorium under s 64 of the IRDA stays arbitrations as well as court proceedings unless the court grants leave.[4] Claims by consumers against platforms are arbitrable in principle, but a Singapore court may refuse a stay where the clause is unreasonable under the Unfair Contract Terms Act, which is the argument discussed in Chapter III.

## Emergency relief and tokens

An emergency arbitrator under the SIAC Rules can order a respondent to refrain from transferring tokens within days of the application. The order is enforceable in Singapore as an order of the tribunal under the International Arbitration Act.[5] Its weakness is the same as that of a court injunction. It binds the respondent alone and cannot be served on an exchange that is not a party to the arbitration. A claimant who needs to freeze assets held by a third-party exchange must go to court, which the International Arbitration Act permits in support of arbitration under s 12A.[6] The usual sequence in a Singapore-seated crypto dispute is therefore an emergency arbitrator's order against the counterparty, a court application under s 12A for a proprietary injunction and disclosure orders against the exchanges, and then the arbitration on the merits.

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### Awards against foundations and DAOs

An award against a Zug foundation is enforced in Switzerland under the New York Convention through Swiss debt enforcement proceedings, with the award serving as the basis for definitive dismissal of the debtor's objection under Art. 80 DEBA.[7] An award against a DAO with no legal personality is enforceable only against the persons who were parties to the arbitration agreement, which in practice means the entity that signed the contract. Where the DAO acted through a Swiss association or a Singapore company limited by guarantee, that entity is the respondent. Where it acted through nobody, the claimant must identify the individuals who controlled the treasury and establish that they were bound, which is rarely possible after the fact. The drafting answer is to require that every protocol counterparty contract through a legal entity.

### Practice note

A custody or services agreement between a Swiss entity and a Singapore entity should choose one governing law and one forum, with the forum chosen for enforceability where the assets and the counterparty are. If the assets will sit with the Singapore party, Singapore law and SIAC arbitration seated in Singapore are the natural choice. A Singapore court can grant interim relief in aid of the arbitration under s 12A of the International Arbitration Act. A Singapore award is enforceable in Switzerland under the New York Convention. If the assets will sit with the Swiss party, Swiss law and arbitration seated in Zürich or Zug under the Swiss Rules are the mirror image. A clause choosing Singapore courts exclusively works in Singapore under the Choice of Court Agreements Act but relies in Switzerland on Art. 5 PILA. Part Q, Chapter III contains model wording.

### Pitfalls

Three errors recur. The first is choosing a governing law and a forum without asking where enforcement will happen, which produces a London-seated award against a Zug foundation whose only assets are tokens controlled from Singapore. The second is assuming that a Singapore freezing order can be enforced in Switzerland, which it cannot. The third is treating the location of a token as a matter of where the servers are, which no court has accepted. The Singapore rule is clear enough to plan around. The Swiss rule remains to be written.

## Notes

1. International Arbitration Act 1994, ss 3 (Model Law to have force of law) and 6 (stay of proceedings).
2. SIAC Rules 2025 (7th edition), effective 1 January 2025, Schedule 1 (emergency arbitrator) and the expedited procedure provisions. Part N, Chapter VI examines SIAC practice in crypto disputes.
3. *Anupam Mittal v Westbridge Ventures II Investment Holdings* [2023] SGCA 1 at [51]–[76].
4. Insolvency, Restructuring and Dissolution Act 2018, s 64(1), which restrains the commencement or continuation of proceedings, including arbitral proceedings, against the company.

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5. International Arbitration Act 1994, s 2(1) (definition of arbitral tribunal including an emergency arbitrator) and s 12(6) (enforcement of tribunal orders with leave of the court).
6. International Arbitration Act 1994, s 12A (court-ordered interim measures in aid of arbitration, including foreign-seated arbitration).
7. Art. 80–81 DEBA (SR 281.1) on definitive dismissal of objection on the basis of an enforceable decision, including a recognised foreign award.

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