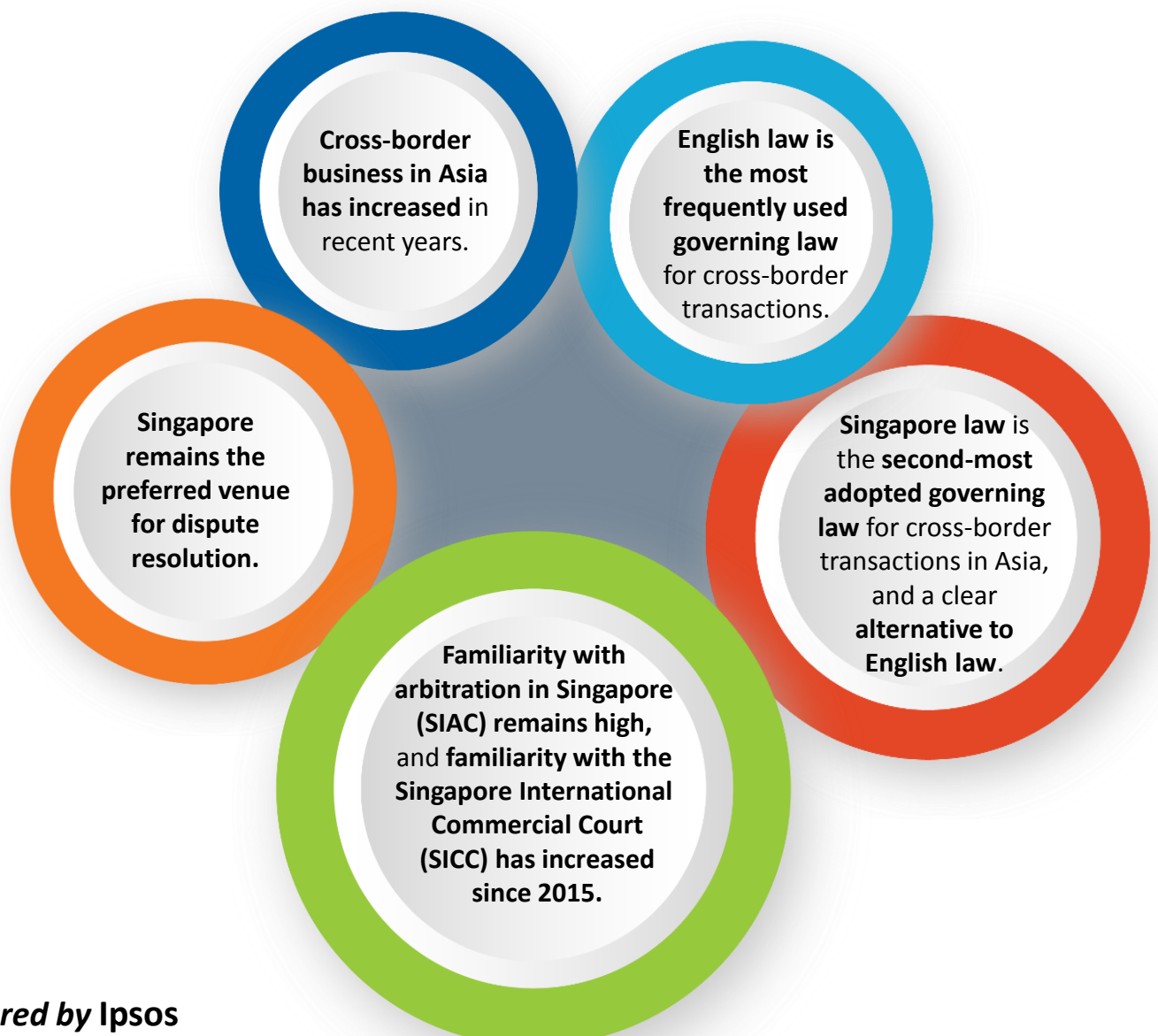# 2019 STUDY ON **GOVERNING LAW** & **JURISDICTIONAL CHOICES** IN CROSS-BORDER TRANSACTIONS

In 2015, the Singapore Academy of Law (SAL) commissioned an independent study to understand the adoption of Singapore law and attitudes towards choosing Singapore as a jurisdiction for dispute resolution in cross-border transactions.

In 2019, an enhanced study was commissioned by SAL to understand the changes in perception towards governing law and jurisdictional choices in cross-border transactions, as well as to cover a broader scope and wider reach. The survey polled 606 legal practitioners and in-house counsel who deal with cross-border transactions in Singapore and the region.
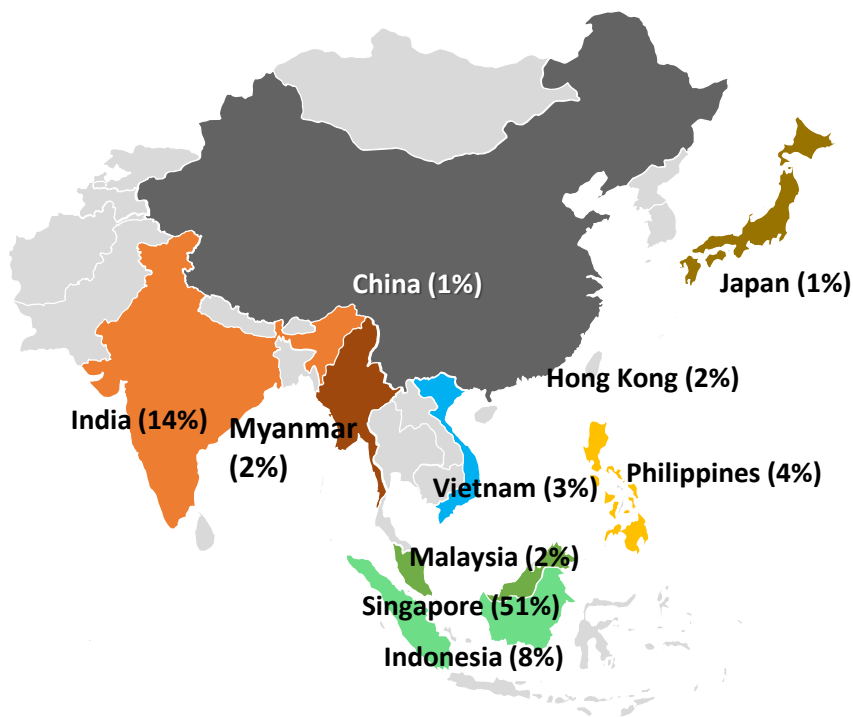
KEY HIGHLIGHTS

Cross-border business in Asia has increased in recent years.

English law is the most frequently used governing law for cross-border transactions.

Singapore remains the preferred venue for dispute resolution.

Singapore law is the **second-most adopted governing law** for cross-border transactions in Asia, and a clear **alternative to English law**.

Familiarity with arbitration in Singapore (SIAC) remains high, and **familiarity with the Singapore International Commercial Court (SICC) has increased since 2015.**

Prepared by **Ipsos**
April 2019

PROFILE OF SURVEY PARTICIPANTS

OVERALL

76%	17%	8%

- 🔵 Law Firm Practitioners
- 🟠 In-house Counsel
- ⚪ Others

n=606

Base Jurisdiction

China (1%)

Japan (1%)

Hong Kong (2%)

India (14%)

Myanmar (2%)

Vietnam (3%)

Philippines (4%)

Malaysia (2%)

Singapore (51%)

Indonesia (8%)

Other Jurisdictions*: 11%

*Individual jurisdiction < 1%

Years of Experience

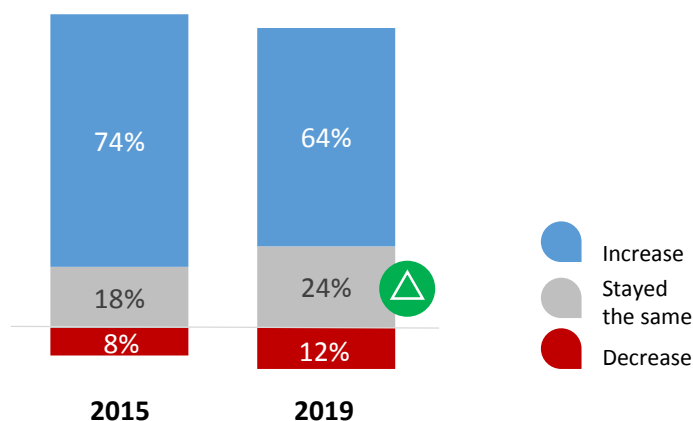|	
More than 20 years	31%
16 – 20 years	14%
11 – 15 years	12%
6 – 10 years	19%
1 – 5 years	25%
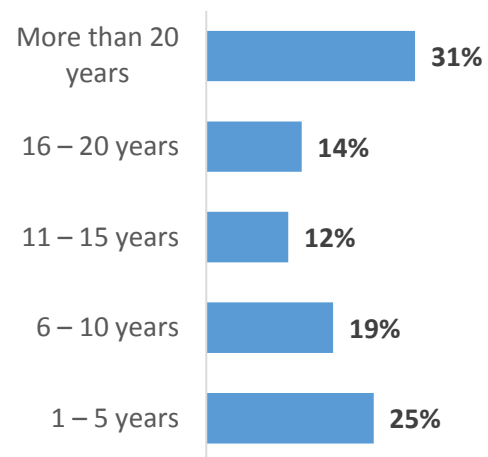
Average years of experience: **15.3 years**

ASIAN BUSINESS ENVIRONMENT
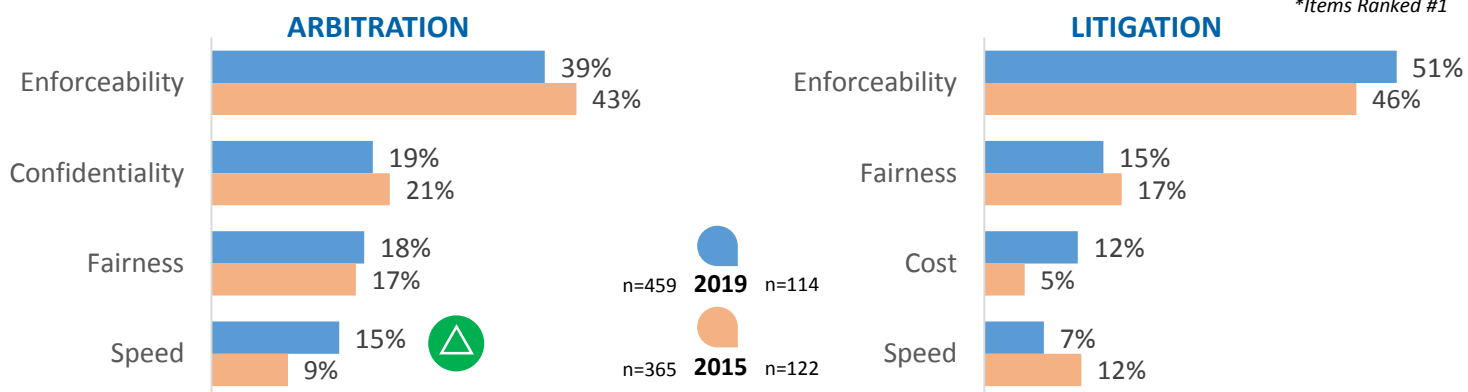
Cross-border Business in Asia

The majority of respondents indicate that cross-border business in Asia has increased in recent years. However, compared to 2015, more respondents report that the level is flat.

2015
- 74% (Increase)
- 18% (Stayed the same)
- 8% (Decrease)

2019
- 64% (Increase)
- 24% (Stayed the same) 🔺
- 12% (Decrease)

- 🔵 Increase
- ⚪ Stayed the same
- 🔴 Decrease

🔺 *Significantly increased versus 2015, at 95% CI*

TRENDS IN DISPUTE RESOLUTION

Factors Influencing Choice of Dispute Resolution *

Items Ranked #1

ARBITRATION

- **Enforceability**: 39% (2019), 43% (2015)
- **Confidentiality**: 19% (2019), 21% (2015)
- **Fairness**: 18% (2019), 17% (2015)
- **Speed**: 15% (2019) △, 9% (2015)

n=459 **2019** n=114
n=365 **2015** n=122

LITIGATION

- **Enforceability**: 51% (2019), 46% (2015)
- **Fairness**: 15% (2019), 17% (2015)
- **Cost**: 12% (2019), 5% (2015)
- **Speed**: 7% (2019), 12% (2015)

Enforceability is still the key factor in choice of dispute resolution method.

Preferred Venue for Dispute Resolution

- **Singapore**: 63% (2019) △, 52% (2015)
- **Home Country**: 16% (2019), 12% (2015)
- **London**: 7% (2019), 7% (2015)
- **Hong Kong**: 4% (2019), 22% (2015)

n=606 **2019**   **2015** n=500
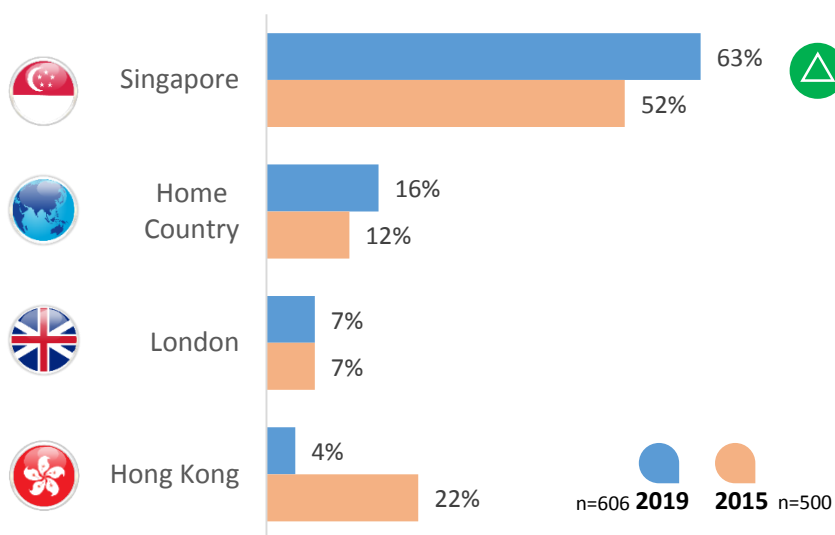
Venues with < 3% incidence are not shown
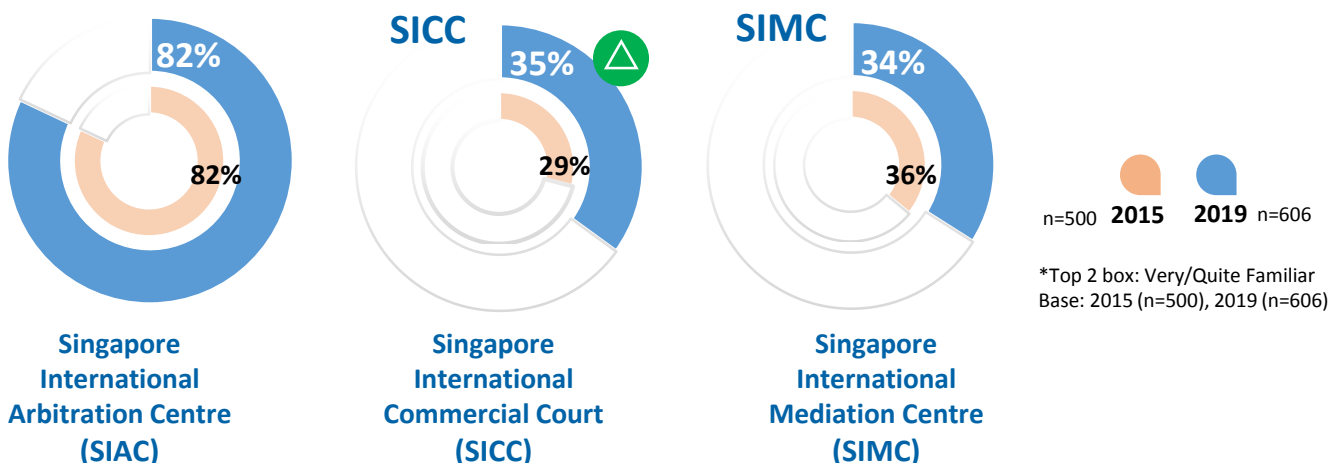
Singapore remains the preferred dispute resolution venue and has seen a significant increase in its level of preference compared to 2015.

Dispute Resolution Choices

2015: Mediation 5%, Litigation 24%, Arbitration 71%
2019: Mediation 5%, Litigation 19%, Arbitration 76%

● Arbitration   ● Litigation   ● Mediation
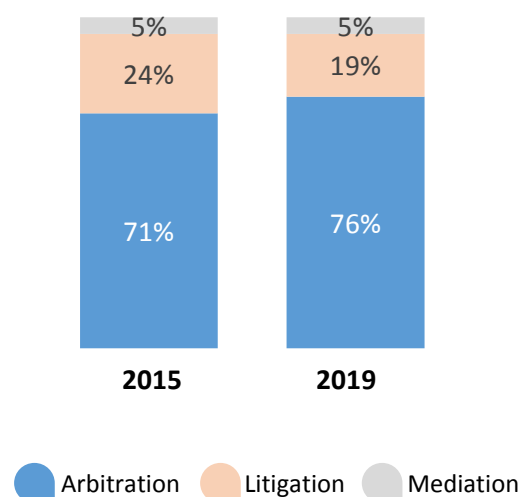
Arbitration remains the preferred choice of dispute resolution method in cross-border transactions.

Familiarity* with Dispute Resolution Services in Singapore

82% (2019) / 82% (2015)
Singapore International Arbitration Centre (SIAC)

SICC **35%** (2019) △ / 29% (2015)
Singapore International Commercial Court (SICC)

SIMC **34%** (2019) / 36% (2015)
Singapore International Mediation Centre (SIMC)

n=500 **2015**   **2019** n=606

*Top 2 box: Very/Quite Familiar
Base: 2015 (n=500), 2019 (n=606)

△ *Significantly increased versus 2015, at 95% CI*

GOVERNING LAW PREFERENCES

Preference for Governing Law

2015 n=500
2019 n=606

- Have a preference
- Varies from contract to contract
- No preference

3%
47%
50%
2%
52%
46%
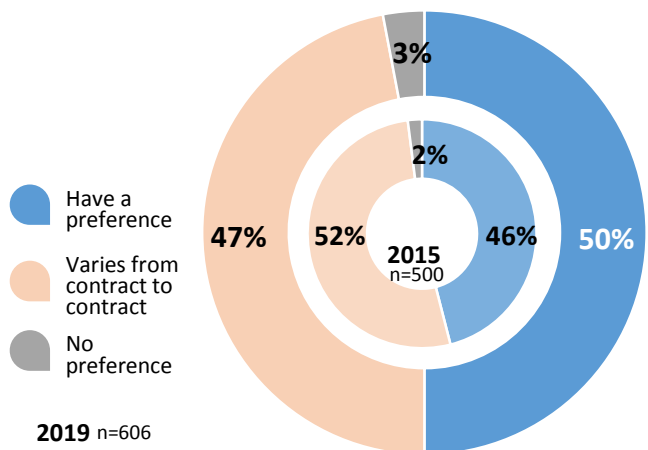
Similar to the 2015 results, half of the respondents surveyed have a preferred choice for governing law. The other half adapt their choice on a contract by contract basis.
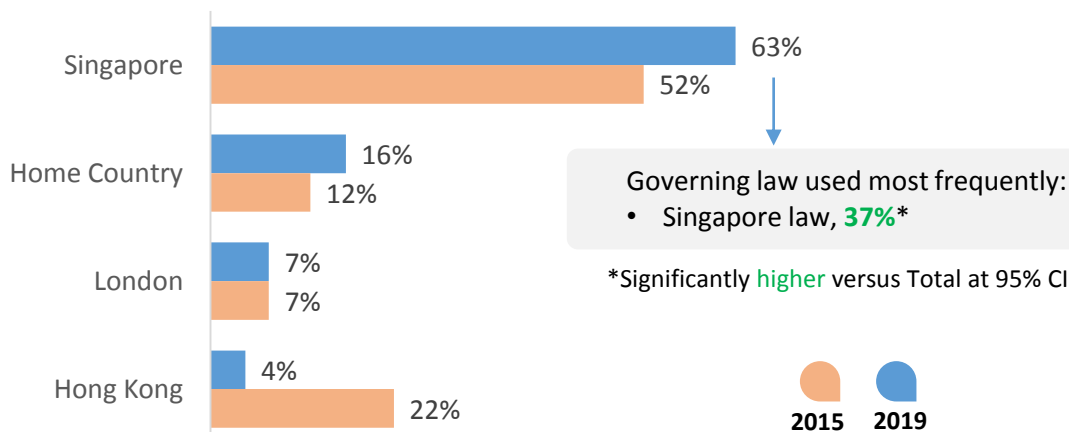
Most Frequently Used Governing Law
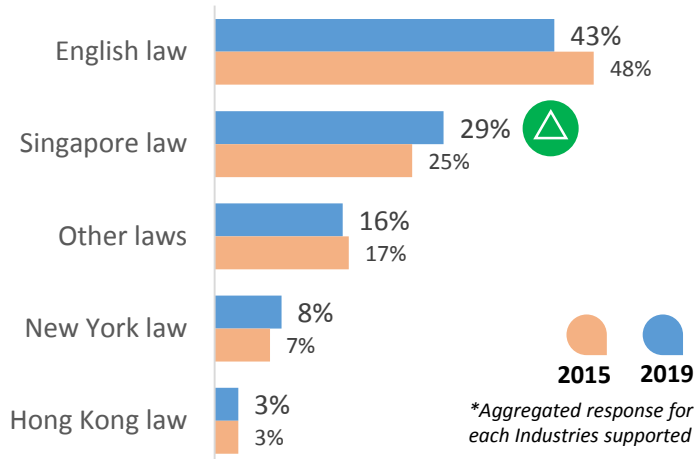
	2019	2015
English law	43%	48%
Singapore law	29% △	25%
Other laws	16%	17%
New York law	8%	7%
Hong Kong law	3%	3%

2015   2019
Aggregated response for each Industries supported

English law is the most frequently used governing law for cross-border transactions. Singapore law adoption is increasing.

Dispute Resolution Venue and Choice of Law

When Singapore is used as the venue for dispute resolution, it is more likely that Singapore law will be chosen as the governing law.

	2019	2015
Singapore	63%	52%
Home Country	16%	12%
London	7%	7%
Hong Kong	4%	22%

Governing law used most frequently:
- Singapore law, **37%***

*Significantly higher versus Total at 95% CI

2015   2019

Top Two Reasons for Choosing Singapore Law as Governing Law in Cross-border Contracts

Established legal system and jurisprudence

Familiarity with the chosen governing law

The 2019 study has revealed opportunities for Singapore to advance its standing as a global legal jurisdiction with a well-regarded body of law.

SAL will take these findings into account to explore further opportunities for Singapore law to increase its preference internationally.

SAL's Promotion of Singapore Law Committee wishes to thank all respondents who participated in this study.

This document intends to summarize key findings for ease of understanding. Should you need more information, please email us at **singaporelaw@sal.org.sg**