

# International Insolvency

by  
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Mr. Yeung was called to the Bar in 1997. Prior to that he was admitted as a solicitor in England and Wales and in Hong Kong and practised as a solicitor in the litigation department of an international firm. He was a contributor to Halsbury's Laws of Hong Kong Volume 18(1) Maritime Law (Butterworths) and has authored a book on the law of unjust enrichment in Hong Kong.

In *Kam Leung Sui Kwan and Kam Kwan Lai* (2015) 18 HKCFAR 501 the Court of Final Appeal observed that the registrar of companies of the BVI might not alter the register of members of a BVI company in order to replace the shareholders by a liquidator appointed by a Hong Kong court. This (respectfully) prescient remark was underpinned by the common law principle that a liquidation in the place of incorporation (as opposed to an order to wind up a foreign company) is entitled to recognition in a common law jurisdiction such as the BVI. The same general principle applied in Hong Kong. But the Companies Court of Hong Kong has since questioned the primacy traditionally accorded to liquidations in the corporate domiciles of debtor companies. In the recent case of *Global Brands Group Holding Limited* (unreported, HCMP 644/2022, 23 June 2022), it held that subject to exceptions, recognition of foreign liquidations not taking place in the companies' centres of main interests (COMI) should be denied.

Thus, liquidations in jurisdictions where the debtor companies have their COMI will be recognised in Hong Kong.

But it remains to be confirmed if provisional liquidators appointed in soft-touch liquidations in respect of companies listed on the Hong Kong Stock Exchange that are incorporated offshore and are in financial distress would continue to be recognised.

This talk traces the recent development of the law in the area of recognition of and assistance to foreign insolvency processes, in circumstances where a restructuring of the debtor company is being pursued. It will look at the following cases from Hong Kong and some of the leading offshore jurisdictions. It will take a detailed look at in particular *Global Brands Group Holding Limited* and the decision of the Grand Court of the Cayman Island in *GTI Holdings Limited* (15 March 2022), where comity was the main concern.

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## Offshore Jurisdictions:

1. *China Agrotech Holdings Limited (in Liquidation)* [2017] (2) CILR 526
2. *Changgang Dunxin Enterprise Company Limited* (Grand Court of Cayman Islands, 1 March 2018)
3. *Re Constellation Overseas Limited* (BVIHC (COM) 2018/0206, 5 February 2019)
4. *In the matter of North Mining Shares Company Limited* [2020] SC (Bda) 7 Com (27 January 2020)
5. *Sun Cheong Creative Development Holdings Limited* (Grand Court of Cayman Islands, 20 October 2020)
6. *GTI Holdings Limited* (Grand Court of Cayman Islands, 15 March 2022)

## Hong Kong:

1. *Re China Huiyuan Juice Group Limited* [2021] 1 HKLRD 255
2. *Re China Bozza Development Holdings Limited* [2021] 2 HKLRD 977
3. *Re Lamtex Holdings Limited* [2021] 2 HKLRD 177
4. *Re Ping An Securities Group (Holdings) Limited* [2021] 2 HKLRD 204
5. *Re Up Energy Development Group Limited* (HCCW 91/2016, unreported, 31 August 2021)
6. *Global Brands Group Holding Limited* (HCMP 644/2022, unreported, 23 June 2022)

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Code:	<b>EVT000000380</b>	Level:	<b>Intermediate</b>
Date:	<b>27 October 2022 (Thursday)</b>	Language:	<b>English</b>
Time:	<b>14:30 - 16:00</b> (Reception starts at 14:00)	Accreditation(s):	<b>LSHK 1.5 CPD Points</b>
Venue:	<i>Option of:</i> (1) <b>Online</b> via Zoom; <i>or</i> (2) <b>Kornerstone Institute</b> 15/F, Hip Shing Hong Centre 55 Des Voeux Road Central Central, Hong Kong	Request for Rerun:	<b>Please Contact Us for Details</b>



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