

Update: Cross-Border Legal Cooperation between Hong Kong and China

December 2023



Introduction

The Hong Kong government has appointed 29 January 2024 as the date on which both the **Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules** (the Rules) and the **Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance** (the Ordinance) will come into force.

The Ordinance is a crucial piece of legislation that facilitates the recognition and enforcement of Mainland judgments in Hong Kong and similarly for Hong Kong judgments in the Mainland.

Both the Ordinance and the Rules will no doubt strengthen cross-border legal cooperation and promote an efficient resolution of civil and commercial disputes between Hong Kong and the Mainland.

To quote the Department of Justice in Hong Kong:

*"The implementation of the Ordinance and the Rules establishes a more **comprehensive mechanism for reciprocal enforcement of judgments (REJ)** in civil and commercial matters between Hong Kong and the Mainland, thereby reducing the need for re-litigation of the same disputes in both places and offering better protection to the parties' interests.*

*They would **enhance certainty and predictability** of the cross-boundary enforceability of judgments in civil and commercial matters between the two places, and reduce the risks, legal costs, and time usually associated with the cross-boundary enforcement of such judgments. This would in turn **improve the environment for cross-boundary trade and investment.***

*Further, the breakthrough in expressly including judgments on certain intellectual property rights **makes Hong Kong the first jurisdiction to have an REJ arrangement with the Mainland with such a wide coverage.** This would help consolidate Hong Kong's status as a regional intellectual property trading centre as well as a regional centre for international legal and dispute resolution services as outlined in the National 14th Five-Year Plan."*

Key features and benefits of the Ordinance

- **Reciprocal Enforcement:** putting in place a reciprocal arrangement between Hong Kong and Mainland China, whereby judgments rendered by courts in one jurisdiction can be registered and enforced in the other.
- **Eligible judgments:** applicable to civil and commercial judgments as well as a wide range of matters including contractual disputes, tort claims, intellectual property rights, and corporate litigation.
- **Application for registration and enforcement:** setting out a clear procedure for the registration and enforcement of Mainland judgments in Hong Kong.
- **Expanded scope:** the Rules have expanded the scope of judgments eligible for enforcement and now include interim measures granted by Mainland Chinese courts, such as, for example, injunctions or asset preservation orders.
- **Clarification of requirements:** the Rules provide further clarity on the requirements for making an application for enforcement including the evidence required to be submitted by the parties.
- **Enhanced legal certainty:** promoting legal certainty by providing a mechanism for the enforcement of judgments.
- **Efficiency and cost-effectiveness:** reducing the risks, legal costs, and time usually associated with the cross-boundary enforcement of such judgments between the two places by streamlining the enforcement process and limiting the procedural hurdles for litigants.
- **Promoting trade and investment:** contributing to the development of trade and investment between Hong Kong and the Mainland. By facilitating the enforcement of judgments, it provides businesses and individuals with a more predictable and secure legal environment which would in turn encourage cross-border transactions and investment activities.
- **Enhanced access to justice:** due to the expanded scope of enforceable judgments, including interim measures, parties are able to enjoy enhanced access to justice in cross-border civil and commercial disputes.
- **Strengthened legal cooperation:** the Ordinance and the Rules reflect the ongoing commitment of both Hong Kong and the Mainland to promote legal cooperation. The change will certainly contribute to the continued development of a robust legal environment in fostering cross-border trade and investment.



Conclusion

The recent update marks another significant step in strengthening cross-border ties between Hong Kong and the Mainland. As parties continue to engage in cross-border transactions and face potential disputes, these changes seek to provide a more comprehensive and effective framework for the registration and enforcement of Mainland judgments in Hong Kong.

Please reach out to us if you have any questions.

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