



Dispute Resolution in GBA —Collaboration with Chinese Law Firms



Speaker: Patrick Yuan

yuanpeihao@foxmail.com

18823166822

Date: 7th November, 2020

Strictly Confidential

—LEGAL SOLUTIONS FOR DOING BUSINESS IN CHINA—

CATALOG



- **PART1** | Difficulties of Judicial Assistance and the Necessity of Collaboration in GBA
- **PART2** | Differences between Mainland China and HK on the Rules of Substantive Law
- **PART3** | Differences between Mainland China and HK on the Rules of Evidence
- **PART4** | Differences between Preservation and Injunction
- **PART5** | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments
- **PART6** | Differences between Mainland China and HK on Recognition and Enforcement of Arbitral Awards
- **PART7** | The Opportunities of HK Lawyers in Dispute Resolution in GBA

Strictly Confidential

2

 君泽君律师事务所
JunZeJun Law Offices



■ PART1 | Difficulties of Judicial Assistance and the Necessity of Collaboration in GBA

Strictly Confidential

3

 君泽君律师事务所
JunZeJun Law Offices

■ **PART1** | Difficulties of Judicial Assistance and the Necessity of Collaboration in GBA



- The Limitation of Present Arrangements;
- Difficulties of Ascertaining the Applicable Law;
- Differences in the Attorneys' Practice Rules between HK and Mainland China;

Strictly Confidential


4

君泽君律师事务所
JunZeJun Law Offices

PART1 | Difficulties of Judicial Assistance and the Necessity of Collaboration in GBA



The Limitation of Present Arrangements (1/3)

NO	Name of Arrangements	Number	Notes
1	The Arrangement of the Supreme People's Court on the Mutual Commissioning of the Service of Civil and Commercial Documents by the Courts in the Mainland and HKSAR	Fa Shi [1999] No.9	/
2	Arrangements of the Supreme People's Court on the Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong Special Administrative Region	Fa Shi [2000] No.3	/
3	Supreme People's Court, Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region Pursuant to Choice of Court Agreements between Parties Concerned Interpretation	Fa Shi [2008] No.9	The scope of application is limited.
4	Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the Hong Kong Special Administrative Region	/	Not Yet Effective  君泽君律师事务所 JunZeJun Law Offices

Strictly Confidential

5

PART1 | Difficulties of Judicial Assistance and the Necessity of Collaboration in GBA



The Limitation of Present Arrangements (2/3)

NO	Name of Arrangements	Number	Notes
5	Plan of the Supreme People's Court for Mutual Entrustment in Civil and Commercial Matters for the Service of Judicial Documents and Investigation and Evidence Obtainment Between the Mainland and Macau Special Administrative Region (2020 Amendment)	Fa Shi [2001] No.26	/
6	Arrangement between the Mainland and the Macau SAR on Reciprocal Recognition and Enforcement of Arbitration Awards	Fa Shi [2007] No.17	/
7	Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region	Fa Shi [2019] No.14	<ul style="list-style-type: none"> Ad hoc arbitration is not included; The issue of interim measures in the Enforcement is not explicitly included.

PART1 | Difficulties of Judicial Assistance and the Necessity of Collaboration in GBA



The Limitation of Present Arrangements (3/3)

NO	Name of Arrangements	Number	Notes
8	Arrangement of the Supreme People's Court for Mutual Entrustment in Evidence-Taking in Civil and Commercial Cases between Courts of the Mainland and the Hong Kong Special Administrative Region	Fa Shi [2017] No.4	/
9	Arrangement between the Mainland and the Macao Special Administrative Region on the Mutual Recognition and Enforcement of Civil and Commercial Judgments	Fa Shi [2006] No.2	/
10	Arrangements for Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Cases between Courts of the Mainland and Hong Kong Special Administrative Region	/	Not Yet Effective



■ **PART1** | Difficulties of Judicial Assistance and the Necessity of Collaboration in GBA

■ **The Limitation of Present Arrangements**

- • Do the present Arrangements cover all affairs in GBA?
- • Is it absolutely possible for the arbitral awards to be recognized and enforced in the Mainland China by meeting the requirements of the Arrangement(Fa Shi〔2007〕No.17)?
- • The definition of public policy is different in Hong Kong and the Mainland.

Strictly Confidential

8

君泽君律师事务所
JunZeJun Law Offices



■ PART1 | Difficulties of Judicial Assistance and the Necessity of Collaboration in GBA

■ Difficulties of Ascertaining the Applicable Law

- *Hengguang Co., Ltd., etc. v. Sibao Consulting Co., Ltd.*
- **First Instance:** (2010) Yue Gao Fa Min Si Chu No.1
- The Court hold that : "The prejudications adopted in the two Legal Opinions are different and the conclusions are contradictory. It is impossible to ascertain the validity of common law prejudications and apply to the case. Therefore, it should be determined that the applicable Hong Kong law cannot be ascertained in this case. "
- **Second Instance:** (2013) Supreme People's Court Min Si Zhong No. 3
- The Court hold that : "The court of first instance hold that none of the Legal Opinions submitted by the parties cited Hong Kong statutory law and that the Legal Opinions provided by both parties cited different cases and inconsistent conclusions, and determined that it could not ascertain that the applicable Hong Kong law, which is wrong and should be corrected. Hengguang's argument for appealing that Hong Kong law should apply to this case is supported.



■ **PART1** | Difficulties of Judicial Assistance and the Necessity of Collaboration in GBA

■ **Differences in the Attorneys' Practice Rules
between HK and Mainland China**

- Mainland China allows contingency fee conditionally, which is prohibited in HK on the contrary.
- Cap fee v. hourly rate (HK)

Strictly Confidential

10

君泽君律师事务所
JunZeJun Law Offices



■ PART2 | Differences between Mainland China and HK on the Rules of Substantive Law

Strictly Confidential

11

 君泽君律师事务所
JunZeJun Law Offices

 **PART2** | Differences between Mainland China and HK on the Rules of Substantive Law



○ Interest Rate

○ Limitation of Action
(Prescriptive Period)

Strictly Confidential

12

 君泽君律师事务所
JunZeJun Law Offices

 **PART2** | Differences between Mainland China and HK on the Rules of Substantive Law



● Interest Rate

HK Law: Money Lenders Ordinance (Cap 163)

Strictly Confidential

13

 君泽君律师事务所
JunZeJun Law Offices

■ **PART2** | Differences between Mainland China and HK on the Rules of Substantive Law



● Interest Rate

■ Law of Mainland China

Rule: Provisions on Several Issues concerning the Application of Law in the Trial of Private Lending Cases (Amended in 2020)

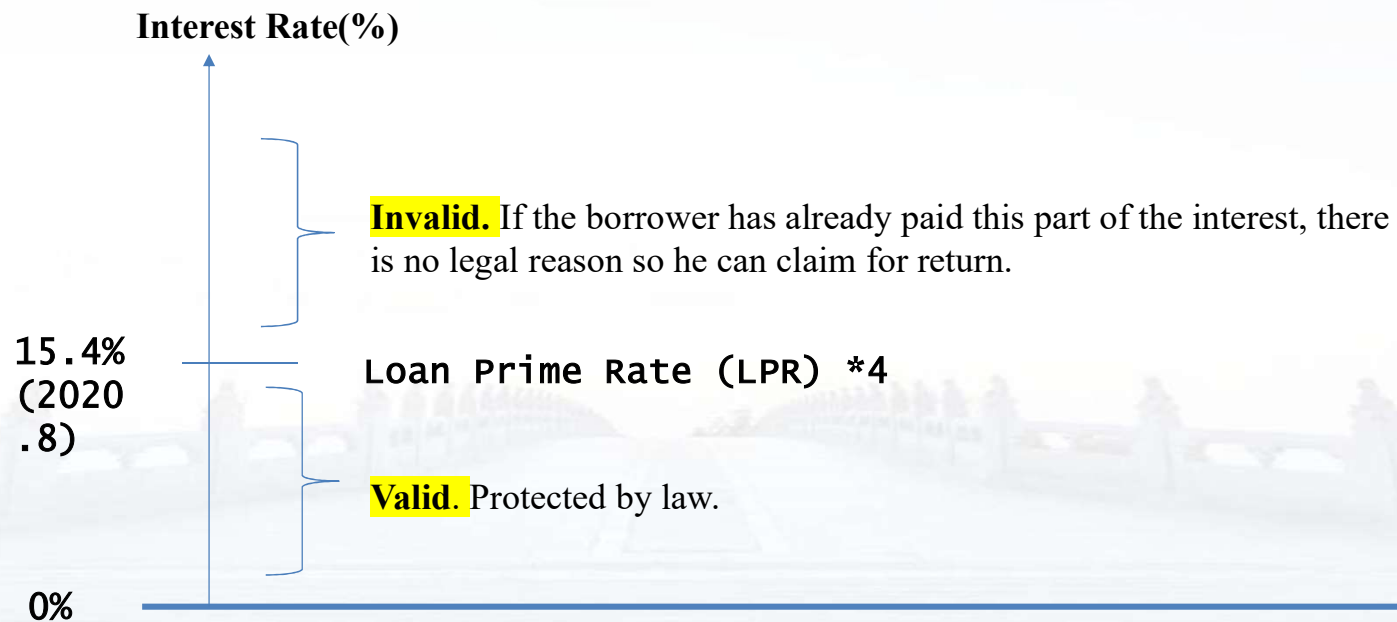
- **Article 32(2)** The protected upper limit of the four times of the interest rate quoted for the one-year loan market at the time when the claimant files the lawsuit may apply mutatis mutandis to any borrowing or lending occurred before August 20, 2019.



PART2 | Differences between Mainland China and HK on the Rules of Substantive Law

Interest Rate

Law of Mainland China



■ **PART2** | Differences between Mainland China and HK on the Rules of Substantive Law




⦿ **Rate of Interest**

■ **Law of Mainland China**

Rule: Provisions on Several Issues concerning the Application of Law in the Trial of Private Lending Cases (Amended in 2020)

Q: Will the Provisions be applied to the lending of **financial institutions**, e.g. Commercial Bank ?



PART2 | Differences between Mainland China and HK on the Rules of Substantive Law

Rate of Interest

Law of Mainland China

“the interest rate of financial lending should not be higher than the interest rate of private lending”

Rule: Provisions on Several Issues concerning the Application of Law in the Trial of Private Lending Cases (Amended in 2020)

Shanxi Liulin Hongsheng Jude Coal Industry Co., Ltd. v. Shanxi Hongsheng Energy Development Investment Group Co., Ltd.
(2017) Supreme Court Min Zhong No. 927

Although the lending of non-banking financial institutions is different from private lending, there is no clear legal requirement for the maximum limit on the total financing cost of interest, compound interest, penalty interest, liquidated damages, and other expenses for borrowing by non-banking financial institutions. However, as far as the positioning of finance in a market economy is concerned, finance should serve the real economy, promote the healthy flow of capital among various industries and enterprises, and share the value created by the development of the real economy. If the surplus value shared by financial services is too high, it will hinder the development of the real economy and go against the fundamentals of financial services. Compared with the market positioning of financial lending, private lending is a useful supplement to the insufficiency of financial services to the real economy, and the risk prevention and control and tolerance of private lending is lower than that of financial lending. According to the market positioning of financial lending and private lending and the market rule that the risks and benefits are consistent, **the interest rate of financial lending should not be higher than the interest rate of private lending.** Therefore, **the upper limit of financing fees of financial institutions should also refer to 24% per annum** under the rule of Provisions on Several Issues concerning the Application of Law in the Trial of Private Lending Cases.

■ **PART2** | Differences between Mainland China and HK on the Rules of Substantive Law



⦿ Limitation of Action

HK Law: Limitation Ordinance (Cap 347)

Strictly Confidential

18

君泽君律师事务所
JunZeJun Law Offices

■ **PART2** | Differences between Mainland China and HK on the Rules of Substantive Law



⦿ **Prescriptive Period**

■ **Law of Mainland China**

Rule: Civil Code of the People's Republic of China

- **Article 188** An action instituted in a people's court for protection of civil rights is prescribed by **three years**, except as otherwise prescribed by any law.



■ PART2 | Differences between Mainland China and HK on the Rules of Substantive Law

○ Prescriptive Period ■ Law of Mainland China

Prescriptive Period v. Scheduled Period (Ausschlussfristen) in PRC

——Take **the period for suretyship** of joint and several liability guarantee as an example.

- **Article 692** The period for suretyship is a period to determine that the surety is subject to suretyship liability, without any suspension, interruption, or extension.
- **Article 694** Where a creditor secured by ordinary suretyship institutes an action or applies for arbitration against the debtor before the expiration of the period for suretyship, the extinctive prescription for the suretyship obligation shall commence to run from the date when the right of the surety to refuse to assume the suretyship liability is extinguished. If a creditor secured by joint and several suretyship requests the surety to assume the suretyship liability before the expiration of the period for suretyship, the extinctive prescription for the suretyship obligation shall commence to run from the date when the creditor so requests.

■ **PART2** | Differences between Mainland China and HK on the Rules of Substantive Law



⦿ **Prescriptive Period**

■ **Law of Mainland China**

Rule: Civil Code of the People's Republic of China

- (1) The Suspension of Prescriptive Period (Article 194)
- (2) The Interruption of Prescriptive Period (Article 195)

What are the
differences between the
suspension and
interruption of the
prescriptive period?

Strictly Confidential

21

君泽君律师事务所
JunZeJun Law Offices

■ PART2 | Differences between Mainland China and HK on the Rules of Substantive Law



⦿ Limitation of Action

■ Law of Mainland China

(1) The **Suspension** of Prescriptive Period

The prescriptive period shall be suspended if during **the last six months of the period**, a claim cannot be filed for any of the following obstacles:

- I. A force majeure.
 - II. The person without or with limited capacity for civil conduct has no statutory agent, or his or her statutory agent dies, loses capacity for civil conduct, or loses the power conferred by laws.
 - III. The successor or legacy administrator has not been determined after the commencement of succession.
 - IV. The obligee is controlled by the obligor or any other person.
 - V Any other obstacle resulting in the obligee's failure to file a claim.
- The prescriptive period shall expire six months after the day when the obstacle causing the suspension is eliminated.



PART2 | Differences between Mainland China and HK on the Rules of Substantive Law

Limitation of Action

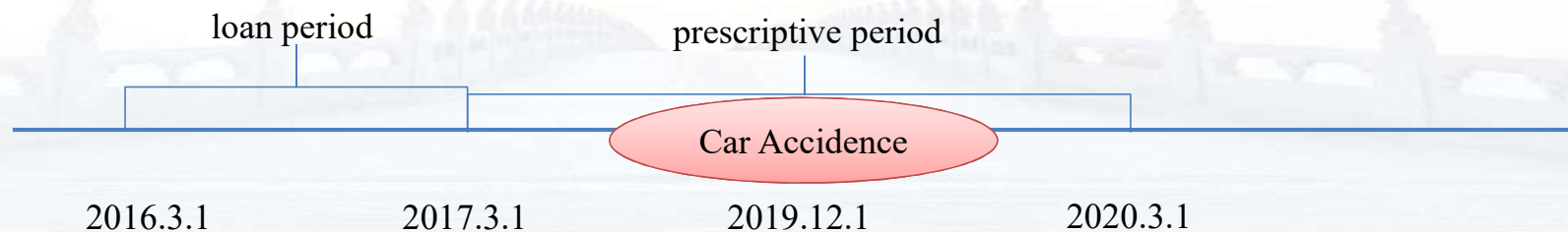
Law of Mainland China


(1) The Suspension of Prescriptive Period

the last six months
of the period

Case Scenario:

On March 1, 2016, Party A borrowed 200,000RMB from Party B. The loan period was from **March 1, 2016 to March 1, 2017**. After the expiration, Party A did not repay the loan and B did not remind the payment. On **December 1, 2019**, Party B had **a car accident and became a person with restricted capacity and He had no legal representative**. This incident constitutes the suspension of prescriptive period.





PART2 | Differences between Mainland China and HK on the Rules of Substantive Law

Limitation of Action

Law of Mainland China

(2) The Interruption of Prescriptive Period

The prescriptive period interrupted under any of the following circumstances shall be recalculated from the time of interruption or conclusion of the relevant procedure:

- (1) The obligee **requests** the obligor's performance.
- (2) The obligor **agrees** to perform.
- (3) The obligee **institutes an action or applies for arbitration.**
- (4) Any other circumstance with **equal effects** as instituting an action or applying for arbitration.

■ PART2 | Differences between Mainland China and HK on the Rules of Substantive Law



🔵 Discussion:

Lender is a Hong Kong (branch) Bank.

Borrower is a Hong Kong company.

Guarantor (usually the substantial shareholder and/or director of Borrower) has his main assets in Mainland.

Lender and Borrower would execute relevant banking facilities agreements, providing for the laws of the People's Republic of China (excluding the laws of Hong Kong, Macau and Taiwan) as applicable law and for non-exclusive jurisdiction of the mainland court. The loan would be released in Hong Kong.

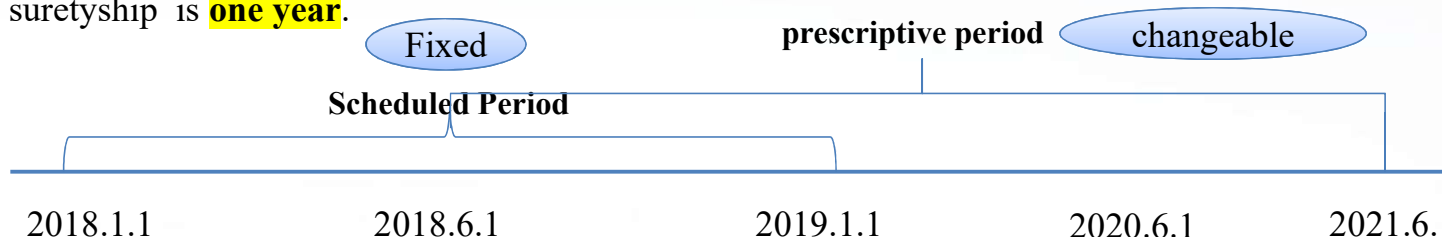
Q: The Borrower failed to repay the loan more than 3 years. During this period, the Lender has sent e-mails to call for debt twice. Does this constitute the interruption of prescription?

PART2 | Differences between Mainland China and HK on the Rules of Substantive Law



Discussion:

- **2018.1.1** Company A, Bank B, and Company C reached a Loan Agreement: Company A borrowed money from Bank B, and Company C provide a joint liability guarantee for the loan. The period for suretyship is **one year**.



Q1. What are the consequences if Bank B does not claim to Company C for guarantee liability during the period for suretyship (2018.1.1-2019.1.1)?

Q2. If Bank B claims the guarantee liability against Company C on 2018.6.1 but is rejected, during which period (prescriptive period) can Bank B institute an action against Company C?

Q3. What will the prescriptive period change into if Bank B claims to Company C again on 2020.1.1 to assume guarantee liability?

Strictly Confidential

 君泽君律师事务所
JunZeJun Law Offices



■ PART3 | Differences between Mainland China and HK on the Rules of Evidence

Strictly Confidential

27

 君泽君律师事务所
JunZeJun Law Offices

■ **PART3** | Differences between Mainland China and HK on the Rules of Substantive Law



● Hong Kong Law

Strictly Confidential

28

君泽君律师事务所
JunZeJun Law Offices

■ PART3 | Differences between Mainland China and HK on the Rules of Substantive Law



● Law of Mainland China

The Civil Procedure Law of the People's Republic of China (2017 Amendment)

Article 63 Evidence includes: (1)statement of a party; (2)documentary evidence; (3)physical evidence; (4)audio-visual recordings; (5)electronic data; (6)witness testimony; (7)expert opinion; and (8)transcript of survey.

Evidence must be verified before being used as a basis for deciding a fact.

Article 64 A party shall have the burden to provide evidence for its claims.

A people's court shall investigate and collect evidence which a party and its litigation representative are unable to collect for some objective reasons and evidence which the people's court deems necessary for trying a case. A people's court shall, under statutory procedures, verify evidence comprehensively and objectively.

■ PART3 | Differences between Mainland China and HK on the Rules of Substantive Law



● Law of Mainland China

Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China

Article 90 A party shall provide evidence to prove the facts on which his claims are based or to repudiate the facts on which the claims of the opposing party are based, unless it is otherwise prescribed by any law.

Where a party fails to provide evidence or the evidence provided is insufficient to support his claims before a judgment is entered, the party bearing the burden of proof shall take the adverse consequences.

Article 91 A people's court shall determine the carrying of burden of proof under the following principles, unless it is otherwise prescribed by any law: (1) A party claiming the existence of a legal relationship shall carry the burden of proof on the basic facts giving rise to the legal relationship. (2) A party claiming the modification or extinction of a legal relationship or the impairment of a right shall carry the burden of proof on the basic facts about the modification or extinction of a legal relationship or the impairment of a right.

Article 104 A people's court shall organize the parties to make cross-examination on the authenticity and legitimacy of evidence and the relevance of the evidence to be investigated, and explain and debate on the existence or not and degree of the probative force of the evidence. Evidence which can reflect the reality of a case, which is related with the facts to be investigated, and whose source and form comply with the provisions of laws shall be deemed the basis for deciding the facts of a case.

 **PART3** | Differences between Mainland China and HK on the Rules of Evidence



 Law of Mainland China

 Authenticity

 Legitimacy

 Relevance

Strictly Confidential

31

 君泽君律师事务所
JunZeJun Law Offices

■ **PART3** | Differences between Mainland China and HK on the Rules of Substantive Law



● **Law of Mainland China**

- Common law attach importance to **witness testimony**.
- Civil Law pays more attention to **documentary evidence** with the low attendance rate of witnesses.

Strictly Confidential

32

君泽君律师事务所
JunZeJun Law Offices



 **PART3** | Differences between Mainland China and HK on the Rules of Substantive Law

 **Law of Mainland China**

● **Identification of the Three Characteristics of Evidence: Obtaining Software Information with Telnet Remote Login**

Rhino Software, Inc v. Shenzhen Netac Technology Co., Ltd.
(2014) Shen Zhong Fa Zhi Min Zhong No.504

Legitimacy

“To determine whether the evidence obtained by the telnet with remote login program is illegal evidence, one is to determine whether the program is a tool specially used to invade and illegally control computer information systems, and the other is to analyze whether the process of obtaining evidence using the program is illegal Intrusion into the computer system of another person, that is, without authorization, actually invades the computer system of another person, and can issue instructions and obtain data feedback. If the computer program used to obtain the evidence is specialized hacker software or the computer information system of the other party is actually intruded without authorization in the process of obtaining the evidence, then the evidence should be illegal and not be accepted.”

Strictly Confidential

33

 君泽君律师事务所
JunZeJun Law Offices

■ **PART3** | Differences between Mainland China and HK on the Rules of Evidence



● **Discussion:**

If you want to prove the attorney fees, can you use the contract signed with the lawyer as evidence?

■ transfer voucher

■ invoice

Strictly Confidential

34

君泽君律师事务所
JunZeJun Law Offices



■ PART4 | Differences between Preservation and Injunction

Strictly Confidential

35

 君泽君律师事务所
JunZeJun Law Offices



 **PART4** | Differences between Preservation and Injunction

 **Case Scenario:**

If you are an applicant in an arbitration case in HKIAC and the Seat of arbitration is HK, the main assets of the respondent are in HK. You are more likely to win, but you are worried that the respondent will evade the execution.

Q1: Can you apply for a Mareva Injunction in HK when there is no indication that the other party has started or is ready to transfer assets?

Q2: If the respondent is going to transfer his assets, will the answer be different?

Q3: If it turns out that the respondent also has a set of real estate in Mainland China, can he apply for preservation in Mainland China?

PART4 | Differences between Preservation and Injunction



Preservation v. Injunction (1/2)

NO	Items	HK (Injunction)	Mainland China (Preservation)
1	Measures	<p>“Mareva Injunction”</p> <p>The HK courts have no power to freeze the property of a party directly, but may order that it shall not dispose of assets or part of them. Violation of such orders may constitute a Civil contempt.</p>	The court may seal up, distrain and freeze the property or adopt any other means prescribed by law.
2	Requirements	<p>(1) Good arguable case</p> <p>(2) The respondent has assets in HK (if not, still possible for worldwide Mareva)</p> <p>(3) Real risk of dissipation (simple speculation is not enough to meet this condition)</p> <p>(4) Balance of convenience</p>	<p>For the conduct of a party or for other reasons, it may be difficult to execute a judgment or any other damage may be caused to a party.</p> <p>Preservation has become a key part in litigation, and it can even have a fatal impact on SMEs.</p>

Strictly Confidential

37

 君泽君律师事务所
JunZeJun Law Offices

PART4 | Differences between Preservation and Injunction



Preservation v. Injunction (2/2)

NO	Items	HK (Injunction)	Mainland China (Preservation)
3	Securities	In general, the HK court does not require the applicant to provide a guarantee when issuing a Mareva Injunction, but it will require the applicant to promise that if the respondent suffers losses as a result of the Injunction and the court decides that the respondent should be compensated, the applicant will be liable for compensation (cross undertaking as to damages).	A people's court may order the applicant to provide security for taking a preservative measure and, if the applicant fails to provide security, shall issue a ruling to dismiss the application.
4	Security for Costs		/
5	Efficiency		After accepting an application, a people's court must issue a ruling within 48 hours ; and if it rules to take a preservative measure, the measure shall be executed immediately.



PART4 | Differences between Preservation and Injunction

Measures on the Payment of Litigation Costs (Order of the State Council No.481)

Article 14 When applying for a preservation measure, the party concerned shall pay the fee at the following rates in view of the value of the actually preserved property: If the property amount is not more than 1,000 Yuan or does not involve any property amount, 30 Yuan shall be paid for each case; for the part of more than 1,000 Yuan up to 100,000 Yuan, the fee shall be paid at the rate of 1%; for the part of more than 100,000 Yuan, the fee shall be paid at the rate of 0.5%. However, the expenses paid by the party concerned in applying for the preservation measure shall not exceed 5,000 Yuan.

Property Amount:
200,000RMB

Preservation Fee:
1,520RMB

Standard	Costs
not more than 1000 Yuan or does not involve any property amount	30RMB
1000RMB-10RMB: 1%	$(100000-1000) \times 1\% = 990\text{RMB}$
more than 100000 RMB: 0.5%	$(200000-100000) \times 0.5\% = 500\text{RMB}$
Total (shall not exceed 5,000 Yuan)	1,520RMB



■ PART5 | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments

Strictly Confidential

40

 君泽君律师事务所
JunZeJun Law Offices

■ **PART5** | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments



🔵 **Case Scenario:**

“This agreement shall be governed by and interpreted in accordance with the laws of the Hong Kong Special Administrative Region. The parties to this agreement are willing to submit to the jurisdiction of the courts of the Hong Kong Special Administrative Region in respect of any disputes and differences that may arise out of this agreement.”

Q: Do HK courts have exclusive jurisdiction according to this clause?

Strictly Confidential

41

君泽君律师事务所
JunZeJun Law Offices



PART5 | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments

24.2 Jurisdiction of Hong Kong Courts

- 24.2.1 The courts of Hong Kong have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter, existence, negotiation, validity, termination or enforceability (a "**Dispute**").
- 24.2.2 Subject to Clause 24.2.3 below, the Parties to this Agreement agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly the Issuer will not:
- (A) argue to the contrary; or
 - (B) take any proceedings relating to a Dispute in any jurisdiction other than Hong Kong.
- 24.2.3 This Clause 24.2 is for the benefit of the Investor only. As a result, the Investor shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction or from contending that such courts are appropriate and convenient. To the extent allowed by law, the Investor may take:
- (A) proceedings in any other court; and
 - (B) concurrent proceedings in any number of jurisdictions.

Strictly Confidential

42

 君泽君律师事务所
JunZeJun Law Offices

**PART5**

Differences between Mainland China and HK on the Recognition and Enforcement of Judgments

**Arrangements Concerning Recognition and Enforcement of Judgments (1/3)**

- I. Rule: Supreme People's Court, Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of Mainland and of the Hong Kong Special Administrative Region Pursuant to Choice of Court Agreements between Parties Concerned Interpretation (Fa Shi〔2008〕No.9)

Notes:

Article 1 For a final decision of payment with executive force made by a people's court in the mainland and a court of the HKSAR in a civil or commercial case under a written jurisdiction agreement, the party concerned may apply to the people's court in the mainland or the HK court for the recognition and enforcement of the decision.

PART5 | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments



Arrangements Concerning Recognition and Enforcement of Judgments (2/3)

Notes:

Article 2 "An enforceable final judgment" referred to herein means:

(1) in the case of the Mainland:

- (a) any judgment made by the Supreme People's Court;
- (b) any judgment of the first instance made by a Higher or Intermediate People's Court or a Basic People's Court which has been authorized to exercise jurisdiction of the first instance in civil and commercial cases involving foreign, Hong Kong, Macao and Taiwan parties (please refer to Annex 1), from which no appeal is allowed according to the law or in respect of which the time limit for appeal has expired and no appeal has been filed; any judgment of the second instance; and any legally effective judgment made in accordance with the procedure for trial supervision by bringing up the case for a retrial by a people's court at the next higher level.

(2) in the case of the HKSAR, any legally effective judgment made by the Court of Final Appeal, the Court of Appeal and the Court of First Instance of the High Court and the District Court.

For the purpose of this Arrangement, a judgment, in the case of the Mainland, includes any judgment, ruling, conciliation statement and order of payment and, in the case of the HKSAR, includes any judgment, order and allocatur.

PART5 | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments



Arrangements Concerning Recognition and Enforcement of Judgments (2/3)

Notes:

1. What is "choice of court agreement in writing" ?

A "choice of court agreement in writing" referred to herein means any agreement in written form made, as from the day of commencement of this Arrangement, by the parties concerned in which a people's court of the Mainland or a court of the HKSAR is expressly designated as the court having sole jurisdiction for resolving any dispute which has arisen or may arise in respect of a particular legal relationship.

2. What is "particular legal relationship"?

A "particular legal relationship" referred to in this Article means civil and commercial contracts between the parties concerned, excluding any employment contracts and contracts to which a natural person acting for personal consumption, family or other non-commercial purposes is a party.

3. What is "In written form" ?

"In written form" referred to in this Article means a form in which the contents may be displayed in visible form and are accessible for subsequent reference and use, such as a written contract, a letter or an electronic data message (including a telegram, a telex, a facsimile, an electronic data interchange and an email).

 **PART5** | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments



 **Arrangements Concerning Recognition and Enforcement of Judgments (1/3)**

- **II. Rule:** Arrangements for Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Cases between Courts of the Mainland and Hong Kong Special Administrative Region
—— Not Yet Effective

Strictly Confidential

46

 君泽君律师事务所
JunZeJun Law Offices

**PART5**

Differences between Mainland China and HK on the Recognition and Enforcement of Judgments

**Relevant Cases**

recognized and enforced

- *I. BEL NICKEL RESOURCES LIMITED, Quanzhou Teng Coal Co., Ltd. And Xiao Wenlong applied for recognition and enforcement of civil judgments of the courts of the Hong Kong Special Administrative Region*
- *(2015) Quan Min Ren No.76*
- The court held that the Final judgments in 2011 (No.1285) made by the high court of the Hong Kong Special Administrative Region applied for recognition and enforcement in this case determined that the two defendants paid 970,000 US dollars and interest to the applicant Baiying company, which were "the final judgment with enforcement force on the payable items" and "the interest to be paid according to the judgment" stipulated in Articles 1 and Article 16 of the CEPA. Moreover, the dispute handled by the judgment does not belong to the case of "the court at the place of enforcement has exclusive jurisdiction over the case" referred to in Item 3 of Article 9 of the CEPA, and there are no other cases of disapproval and enforcement as stipulated in Article 9 of the CEPA. Therefore, the court has recognized and enforced 1285 final judgments of the court of first instance of the high court of the Hong Kong Special Administrative Region in 2011.

PART5 | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments



Relevant Cases

recognized and enforced

- *II. EXCELLENT INVESTMENT LIMITED and Xiao Wenlong applied for recognition and enforcement of civil judgments of the courts of the Hong Kong Special Administrative Region*
- *(2016) Min 08 Ren HK No.1*
- In 2011, Final judgments (No.1138) made by the court of first instance of the high court of the Hong Kong Special Administrative Region applied for recognition and enforcement in this case ruled that the payment of HK \$25000000 and interest by Xiao Wenlong to Excellence Investment Co., Ltd. were in accordance with the provisions of Articles 1 and 16 of the CEPA Approved attorneys' fees and litigation costs ". The judgment does not violate the basic principles of mainland law or national sovereignty, security, social and public interests. The judgment also does not exist the situation of non recognition and enforcement as stipulated in Article 9 of the CEPA. Therefore, the court has recognized and enforced Final judgments (No.1138) of the court of first instance of the high court of the Hong Kong Special Administrative Region in 2011.

Strictly Confidential

48

 君泽君律师事务所
JunZeJun Law Offices



PART5 | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments

Discussion

- (1) In the Court Agreement, the Parties **only agree that the applicable law is Hong Kong Law.**
Can the party concerned apply under this Arrangement to a people's court of the Mainland for recognition and enforcement of the **judgment made by a court of the HKSAR** ?
- *He Peiheng v. Tian Xiaoling* (2013) Yue Gao Fa Li Min Zhong No. 468

“The execution, validity, interpretation, performance, modification and termination of this Agreement and the resolution of disputes shall be governed by Hong Kong Law.”



Can the party apply to a people's court of the Mainland for recognition and enforcement of the judgment made by a court of the HKSAR ?



PART5 | Differences between Mainland China and HK on the Recognition and Enforcement of Judgments

Discussion

- (2) In the Court Agreement, the Parties **agree to be bound by the non-exclusive jurisdiction of the Hong Kong courts**. Can the party concerned apply under this Arrangement to a people's court of the Mainland for recognition and enforcement of the **judgment made by a court of the HKSAR** ?
- *Haitong International Securities Co., Ltd. v. Chen Hong (2016) Yue 0391 Min Chu No. 1944*

“The Parties agree to be bound by the non-exclusive jurisdiction of the Hong Kong courts. ”



Can the party apply to a people's court of the Mainland for recognition and enforcement of the judgment made by a court of the HKSAR ?



■ PART6 | Differences between Mainland China and HK on the Recognition and Enforcement of Arbitral Awards

Strictly Confidential

51

 君泽君律师事务所
JunZeJun Law Offices

**PART6**

Differences between Mainland China and HK on the Recognition and Enforcement of Arbitral Awards

**Mutual Recognition and Enforcement of Arbitral Awards**

- **Rule1: Arrangements of the Supreme People's Court on the Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong Special Administrative Region Fa Shi (2000) No.3**
- **Applying documents:**
 - (I) an application for recognition and enforcement;
 - (II) a copy of the judgment sealed by the court which made the final judgment;
 - (III) a certificate issued by the court which made the final judgment, certifying that the judgment is a final judgment enforceable at the place where the judgment was made;
 - (IV) identification documents;
- **Rule2: Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region**

■ PART6 | Differences between Mainland China and HK on the Recognition and Enforcement of Arbitral Awards



■ Mutual Recognition and Enforcement of Arbitral Awards

- When the respondent submits evidence which proves that one of the following situations exists, and such evidence is examined and found to be reliable, the relevant court may decide not to enforce the award:
 1. One of the parties to the arbitration agreement can be classified in some respect as lacking legal capacity in respect of the law applying to the party; or the said arbitration agreement is invalid according to the agreed applicable law; or where the applicable law has not been clearly stated, the agreement is invalid according to the law of the place where the arbitration award was made.
 2. The respondent has not received appropriate notification from the appointed arbitrator(s), or for some other reason, the respondent is unable to set out his or her opinions.
 3. The disputes dealt with by the award are not the matters which may be submitted for arbitration, or the said disputes do not fall within the provisions of the arbitration agreement, or the award contains decisions in relation to matters outside the scope of those matters submitted for arbitration; but where any decision on matters submitted for arbitration can be severed from other decisions on matters not submitted for arbitration, then that part of the award containing decisions on matters that have been submitted for arbitration shall be enforced.

■ PART6 | Differences between Mainland China and HK on the Recognition and Enforcement of Arbitral Awards



■ Mutual Recognition and Enforcement of Arbitral Awards

- **When the respondent submits evidence which proves that one of the following situations exists, and such evidence is examined and found to be reliable, the relevant court may decide not to enforce the award:**

4. The composition of the arbitral tribunal or the procedures followed by the arbitral tribunal do not conform with the terms of the parties' agreement, or, where the parties have not concluded such an agreement, the said tribunal composition or procedures do not conform with the laws of the place where the arbitration was conducted.

5. The award has not become effective in relation to the parties, or it has been annulled or its enforcement has been suspended by a court in the place of arbitration or in accordance with the law of the place of arbitration.

If the relevant court decides the matters under dispute cannot be resolved through arbitration in accordance with the law of the place of enforcement, the court may decide not to enforce the said award.

If a court in mainland China decides that to enforce the arbitration award in mainland China is contrary to the social public interests of mainland China, or if a court of the HKSAR decides that to enforce the arbitration award in the HKSAR is contrary to **public policy** in the HKSAR, such a court may refuse to enforce the said award.

■ PART6 | Differences between Mainland China and HK on the Recognition and Enforcement of Arbitral Awards



■ Mutual Recognition and Enforcement of Arbitral Awards

enforce

- I. Recognition and Enforcement of Arbitral Awards of Mainland China in HK
- **Case 2:** *Gao Haiyan & Anor v. Keeneye Holdings Ltd & Anor*
- The court of Appeal held that although the trial judge was not satisfied with the mediation method of the case, it was understandable that the mediation in Hong Kong was quite different from that in the mainland. However, the above-mentioned mediation procedure was widely used in the mainland and there was no obvious bias, and there was **no public policy basis** for refusing to recognize the enforcement of the award. **Therefore, it was allowed to enforce the award.**

Strictly Confidential

55

君泽君律师事务所
JunZeJun Law Offices

PART6 | Differences between Mainland China and HK on the Recognition and Enforcement of Arbitral Awards



Mutual Recognition and Enforcement of Arbitral Awards

refuse to enforce

- I. Recognition and Enforcement of Arbitral Awards of Mainland China in HK
- **Case 1:** *Paklito Investment Ltd v Klockner East Asia Ltd* [1996] 2 HKLR 39
- In accordance with section 44 of Arbitration Ordinance, the applicant requests the enforcement of the Mainland arbitral award in Hong Kong. However, the respondent claimed that certain procedures adopted by the arbitration tribunal **deprived him of the opportunity to reply or express his opinions.** For example, the respondent is not allowed to comment on the investigation report issued by the expert appointed by the arbitration tribunal. In view of the above situation, **the Hong Kong High Court held that the Mainland arbitral tribunal did not respect due process of law and there were flaws in the procedure, so it refused to enforce the award of the arbitration tribunal.**

Strictly Confidential

56

 君泽君律师事务所
JunZeJun Law Offices

PART6 | Differences between Mainland China and HK on the Recognition and Enforcement of Arbitral Awards



Mutual Recognition and Enforcement of Arbitral Awards

enforce

- II. Recognition and Enforcement of Arbitral Awards of HK in Mainland China

Case 1: *Application for recognition of HKSAR arbitration award by Flame Co., Ltd (2013) Shao Mid Fa 03 Min Ren NO.1*

The court held that one of the focuses of the dispute between the two parties was **whether the arbitration procedure was inconsistent with the agreement of the parties.** The arbitration tribunal of this case agreed to the application for extension of the submission of rebuttal opinions by Flame Co., Ltd under the condition that the provisional timetable agreed by the parties allows them to apply freely. The arbitration procedure conforms to the agreement between the parties, which does not belong to Article 7 (4) of the Supreme People's court's arrangement for the Reciprocal Enforcement of arbitral awards between the mainland and the HKSAR or the arbitration procedure is inconsistent with the agreement between the parties.

PART6 | Differences between Mainland China and HK on the Recognition and Enforcement of Arbitral Awards



Mutual Recognition and Enforcement of Arbitral Awards

refuse to enforce

- II. Recognition and Enforcement of Arbitral Awards of Mainland China in HK

Case 2: *Application for recognition of HKSAR arbitration award by IP Cathay II, L.P. (2016) Jing 04 Ren Gang No.2*

The arbitration award involved in the case has the situation that “the award contains a decision on matters beyond the scope of the arbitration” as stipulated in Article 7 of the Arrangement, and the arbitration award involved in the case is made on all 21 respondents as a whole while the matter of the award are inseparable, so in accordance with the provisions of the Arrangement, the arbitral award should not be recognized and enforced.



■ PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA

Strictly Confidential

59

 君泽君律师事务所
JunZeJun Law Offices

■ **PART7** | The Opportunities of HK Lawyers in Dispute Resolution in GBA



- Act as an expert witness;
- Act as a mediator;
- Act as an attorney;
- Act as an arbitrator;

Strictly Confidential

60

 君泽君律师事务所
JunZeJun Law Offices

PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



Act as An Expert Witness



- **Case :** *Weng Jiye v. Li Ye (2018) Yue 03 Min Zhong No.591*
- **Notes:** The court entrusted Benchmark Chambers International & Benchmark International Mediation Center (“BCI & BIMC”) to carry out the foreign law ascertainment. BCI & BIMC employed Mr. Mai Yecheng (麦业成), a HK lawyer of Woo Pak Chuen law firm, to issue the legal opinion of Weng Jiye v. Li Ye, which concerns the jurisdiction of this case and the application of Money Lender Ordinance.

Strictly Confidential

61

 君泽君律师事务所
JunZeJun Law Offices

■ PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



■ Act as a Mediator

- By **July 2020**, there are **74 mediators** from Hong Kong, Macao and Taiwan and other overseas regions registered in Shenzhen Qianhai Cooperation Zone People's Court, and **659 cases** have been successfully mediated. The main cases are loan contract disputes, equity disputes, financial disputes, international sales contract disputes and transportation contract disputes.
- "There are three main identities of mediators from Hong Kong, Macao and Taiwan: **lawyers, professionally qualified mediators, and well-known figures** in the fields of international finance and trade in the Mainland. They can apply by themselves or be invited by the court to become the court's special mediator." said Liu Zhe, a judge of the Diversified Dispute Resolution Center of Shenzhen Qianhai Cooperation Zone People's Court.



Strictly Confidential

62

 君泽君律师事务所
JunZeJun Law Offices

PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



Act as a Mediator



深圳前海合作区人民法院
SHENZHEN QIANHAI COOPERATION ZONE PEOPLE'S COURT
“一带一路”法律公共服务平台

在此输入搜索关键词

网站首页 最新动态 法律法规 相关案例 法律文献 专家名录 法律咨询 诉调对接 法律查明 关于我们

您的当前位置: 首页>调解员名册

	<p>赵东川 发布时间: 2018-10-22 男, 本科, 毕业于中南财经政法大学, 擅长领域为经济、金融、担保合同纠纷, 房地产纠纷, 股权投资。</p>
	<p>肖黄鹤 发布时间: 2018-10-22 男, 中共党员, 博士, 曾就读于西南政法大学、香港大学、武汉大学, 擅长领域为民商法、金融法、保险法、证券与基金法、跨境投融资业务等。</p>
	<p>彭雪珍 发布时间: 2018-10-22 女, 硕士, 毕业于上海海事大学, 擅长领域为保理、金融、股权纠纷、股东会 / 董事会决议效力纠纷等。</p>
	<p>林博</p>

 **PART7** | The Opportunities of HK Lawyers in Dispute Resolution in GBA **Act as An Attorney**

- **Rule:** Decision of the Standing Committee of the National People's Congress on Authorizing the State Council to Carry out the Pilot Program of Granting Mainland Practicing Qualifications to Hong Kong Legal Practitioners and Macao Practicing Lawyer in Nine Cities in the Guangdong-Hong Kong-Macao Greater Bay Area (2020.8.11)

“Qualified Hong Kong and Macao practicing lawyers **who have passed the examination of practicing lawyers** in the Guangdong-Hong Kong-Macau Greater Bay Area and obtained practicing qualifications in the Mainland may engage in legal affairs in a certain area of the Mainland.”

Strictly Confidential

64

 君泽君律师事务所
JunZeJun Law Offices

PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



Act as An Attorney

- **Rule:** Notice of the General Office of the State Council on Pilot Measures for Hong Kong Legal Practitioners and Macau Practicing Lawyers to Obtain Mainland Admissions Qualifications and practice in the Lawyer Profession in the nine cities in the Guangdong-Hong Kong-Macao Greater Bay Area (Guo Ban Fa [2020] No. 37) (2020.10.22)

- ◆ Registration Examination
- ◆ Application for Practice
- ◆ Business Scope
- ◆ Practice Management
- ◆ Organization and Implementation

Strictly Confidential

65

 君泽君律师事务所
JunZeJun Law Offices

 **PART7** | The Opportunities of HK Lawyers in Dispute Resolution in GBA **Act as An Attorney**

- **Rule:** Notice of the Ministry of Justice on Pilot Schemes for Domestic Law Firms Employing Foreign Lawyers as Foreign Legal Counsels (2017.3.27)

I. Criteria for Domestic Law Firms and Foreign Lawyers Participating in the Pilot Scheme

(I) A domestic law firm participating in the pilot scheme shall satisfy the following criteria:

1. It is a partnership law firm which has been established for three years or more;
2. It employs 20 or more full-time practicing lawyers;
3. It has relatively strong foreign-related legal service capability and internal management norms; and
4. It has not been subject to administrative punishment and industry sanction during the past three years.

The Mainland China law firms participating in the pilot scheme shall be law firms established in Beijing, Shanghai and Guangdong (excluding branches of law firms).

 **PART7** | The Opportunities of HK Lawyers in Dispute Resolution in GBA **Act as An Attorney**

- **Rule:** Notice of the Ministry of Justice on Pilot Schemes for Domestic Law Firms Employing Foreign Lawyers as Foreign Legal Counsels (2017.3.27)

I. Criteria for Domestic Law Firms and Foreign Lawyers Participating in the Pilot Scheme

(II) A foreign lawyer participating in the pilot scheme shall satisfy the following criteria:

1. He/ She is not a natural person holding Chinese nationality;
2. He/ She has worked as a lawyer overseas for not less than three years, and is currently a practicing lawyer;
3. He/ She has relatively strong competency in handling legal matters of the country where he is located and international legal matters;
4. He/ She has not been subject to criminal punishment, and has not been punished for violation of lawyer's code of ethics or practice discipline; and
5. He/ She satisfies the corresponding criteria for foreigners working in China.

Strictly Confidential

67

 君泽君律师事务所
JunZeJun Law Offices

 **PART7** | The Opportunities of HK Lawyers in Dispute Resolution in GBA **Act as An Attorney**

- **Rule:** Notice of the Ministry of Justice on Pilot Schemes for Domestic Law Firms Employing Foreign Lawyers as Foreign Legal Counsels (2017.3.27)

II. Procedures for Domestic Law Firms' Employment of Foreign Lawyers as Foreign Legal Counsels

- (I) Domestic law firms employing foreign lawyers as foreign legal counsels shall adopt the filing as examination method.
- (II) Domestic law firms proposing to employ foreign lawyers shall submit the following documents and materials to the provincial (district, city) justice office (bureau) at the locality:
- (III) The relevant provincial (district, city) justice office (bureau) shall examine the materials, file records for foreign legal counsels who satisfy the stipulated criteria, and issue a foreign legal counsel permit to these foreign legal counsels; no filing shall be made for foreign legal counsels who do not satisfy the stipulated criteria, and they shall be notified in writing of the reason.

Strictly Confidential

68

 君泽君律师事务所
JunZeJun Law Offices



PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA

Act as An Attorney

- **Rule:** Notice of the Ministry of Justice on Pilot Schemes for Domestic Law Firms Employing Foreign Lawyers as Foreign Legal Counsels (2017.3.27)

III. Scope of Business and Practice Method of Foreign Legal Counsels

(I) A foreign legal counsel may, in addition to providing advisory services for legal information and legal environment etc. of the country he/she is approved to practice as lawyer, and advisory services relating to the relevant international treaties and international practices, to the domestic law firm which employing them, provide advisory and agency services applicable for foreign laws in the capacity of foreign legal counsel to clients (except for litigation agents), and may cooperate with the domestic lawyers of the law firm in handling cross-border or international legal services.

PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



Act as An Attorney

- Rule: Notice of the Ministry of Justice on Pilot Schemes for Domestic Law Firms Employing Foreign Lawyers as Foreign Legal Counsels (2017.3.27)

III. Scope of Business and Practice Method of Foreign Legal Counsels

(II) Foreign lawyers shall not engage in or claim that they can engage in Chinese legal services during their employment period, shall not become a partner of a Chinese law firm in name or substantially, and shall not participate in internal management in the Chinese law firm. Chief representatives and representatives of foreign law firms' representative offices in China shall not be appointed as foreign legal counsels of domestic law firms.

(III) Legal documents issued by a foreign legal counsel to external parties shall bear his/her signature and be affixed with the official seal of the law firm, stating the date of signing.

(IV) Domestic law firms shall purchase professional liability insurance for foreign legal counsels for coverage not less than their lawyers'.

■ PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



■ Act as An Attorney

- **Rule:** Notice of the Ministry of Justice on Pilot Schemes for Domestic Law Firms Employing Foreign Lawyers as Foreign Legal Counsels (2017.3.27)

● Leading Chinese Law Firms:

According to a report by the Asian Law Journal (ALB) known as "Forbes" in the legal profession, the "Red Circle" law firms in PRC including **King & Wood Mallesons, Jun He, Fangda Partners, Zhong Lun, Jingtian & Gongcheng, Commerce & Finance, Global Law Offices, Haiwen & Partners.**

Asian Law Journal (ALB): <https://asia.legalbusinessonline.com/>

■ PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



■ Act as An Arbitrator

- According to “Annual Report on International Commercial Arbitration in China” (2019), 253 arbitration commissions across China accepted a total of **486,955 cases** in 2019. The dispute amount of these cases **was RMB759.8 billion** in total, growing by RMB64.8 billion with the growth rate of **9.3%** compared with 2018.
- In 2019, the types of cases accepted by arbitration institutions in China were sequenced as follows by quantity: **financial cases (58.1%)**; real-estate cases (7.66%). The dispute amounts of the above cases were ranked as follows: financial cases (RMB259.8 billion, 34.19); construction project (RMB105.7 billion, 13.91%).



Strictly Confidential

72

君泽君律师事务所
JunZeJun Law Offices

PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



Act as An Arbitrator

- **In Mainland China, an Arbitration Agreement shall contain the following particulars:**
 - (1) an expression of intention to apply for arbitration;
 - (2) matters for arbitration; and
 - (3) a designated arbitration commission.

- **An Arbitration Agreement shall be null and void under one of the following circumstances:**
 - (1) The agreed matters for arbitration exceed the range of arbitrable matters as specified by law;
 - (2) One party in the Arbitration Agreement has no capacity for civil conducts or has limited capacity for civil conducts; or
 - (3) One party coerced the other party into concluding the Arbitration Agreement.

 **PART7** | The Opportunities of HK Lawyers in Dispute Resolution in GBA **Act as An Arbitrator**

- **To be an arbitrator in the Mainland shall meet one of the conditions set forth below:**

- (1) He or she has passed the national uniform legal profession qualification examination and obtained the legal profession qualification, and conducted the arbitration work for eight years or more;
- (2) To have worked as a lawyer for at least eight years;
- (3) He or she has served as a judge for eight years or more;
- (4) To have been engaged in legal research or legal education, possessing a senior professional title; or
- (5) To have acquired the knowledge of law, engaged in the professional work in the field of economy and trade, etc., possessing a senior professional title or having an equivalent professional level.

Strictly Confidential

74

 君泽君律师事务所
JunZeJun Law Offices

 **PART7** | The Opportunities of HK Lawyers in Dispute Resolution in GBA **Act as An Arbitrator**

- **Notes:**

If an Arbitration Agreement contains **no or unclear provisions** concerning the matters for arbitration or the arbitration commission, the parties may reach a **Supplementary Agreement**. If no such Supplementary Agreement can be reached, the Arbitration Agreement shall be **null and void**.

PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



Act as An Arbitrator

Rule: Notice of the General Office of the Supreme People's Court on Determining the First Group of International Commercial Arbitration and Mediation Institutions Included in the "One-Stop" Diversified Mechanisms for Resolving International Commercial Disputes (Fa Ban No.212 [2018])



- According to the declarations of the relevant institutions and by taking into full account such factors as the number of cases involving international commercial disputes earlier accepted by the institutions, international influences, and information-based construction, it is hereby decided that **the China International Economic and Trade Arbitration Commission, the Shanghai International Economic and Trade Arbitration Commission, the Shenzhen Court of International Arbitration, the Beijing Arbitration Commission, the China Maritime Arbitration Commission** as well as the Mediation Center of the China Council for the Promotion of International Trade, and the Shanghai Commercial Mediation Center are selected as the first group of arbitration and mediation institutions included in the "one-stop" diversified settlement mechanism for international commercial disputes.

Strictly Confidential

76

 君泽君律师事务所
JunZeJun Law Offices

PART7 | The Opportunities of HK Lawyers in Dispute Resolution in GBA



Act as An Arbitrator

- South China International Arbitration Center (Hong Kong)
- 华南（香港）国际仲裁院



Strictly Confidential

77

 君泽君律师事务所
JunZeJun Law Offices

■ **PART7** | The Opportunities of HK Lawyers in Dispute Resolution in GBA



■ **Act as An Arbitrator**



Strictly Confidential

78

君泽君律师事务所
JunZeJun Law Offices



Our Team

Founded in 1993, Zhong Lun is one of the largest law firms providing a complete spectrum of legal services in China. Zhong Lun, with over 340 partners and over 2200 professionals working in eighteen offices in Beijing, Shanghai, Shenzhen, Guangzhou, Wuhan, Chengdu, Chongqing, Qingdao, Hangzhou, Nanjing, Haikou, Tokyo, Hong Kong, London, New York, Los Angeles, San Francisco and Almaty is capable of providing our clients with high-quality legal services across a wide range of fields by virtue of appropriate specialization and close teamwork.

Strictly Confidential

79

 君泽君律师事务所
JunZeJun Law Offices

THANK YOU!

Speaker: Patrick Yuan

yuanpeihao@foxmail.com

18823166822



Strictly Confidential

—LEGAL SOLUTIONS FOR CHINA BUSSINESS—

 君泽君律师事务所
JunZeJun Law Offices