

# Hong Kong Passes Ordinance To Facilitate Reciprocal Enforcement of Civil and Commercial Judgments

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On 26 October 2022, the legislature of Hong Kong passed The Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (the **Ordinance**) to implement the 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 signed in 2019 (the **Mutual Arrangement**). The Hong Kong government has indicated that the Ordinance will come into effect in about six to seven months, in the middle of 2023, once all the necessary mechanisms in both jurisdictions are established.

Through a simple and streamlined registration procedure, the Ordinance and the Mutual Arrangement will allow a broader range of civil and commercial judgments of the mainland Chinese courts to be enforced in Hong Kong and vice versa. This represents a major development in reciprocal enforcement of civil and commercial judgments between the two legal jurisdictions, with a significant expansion of the scope of enforceable judgments.

Prior to this expanded reciprocal enforcement regime, only limited types of monetary judgments pursuant to a choice-of-court clause could be enforced between the jurisdictions, and the recognition procedure was used extremely infrequently. Under the expanded regime, subject to limited exceptions, most civil and commercial judgments are enforceable between Hong Kong and mainland China. These include (but are not limited to):

- i. both nonmonetary and monetary civil judgments;
- ii. judgments for civil damages awarded in criminal cases; and
- iii. certain intellectual property judgments (for example, those involving copyright and trademark issues).

Corporate and personal insolvency, matrimonial and family matters are excluded under the expanded regime, as existing arrangements between Hong Kong and mainland China apply to judgments concerning those matters.

The key takeaways for businesses regarding the new policy are: (i) there is no longer a strict delineation between onshore and offshore (HK) assets for the purposes of enforcement; and as a result, (ii) companies may be required to utilize onshore assets to satisfy offshore (HK) judgments and vice versa.