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Enforcing Minority Shareholder Rights in Asia: A Comparative Guide to Just and Equitable Winding Up

Although there are many steps minority shareholders can take to hold majority shareholders and directors to account, they may not achieve the desired result. In this case, a just and equitable winding up can form part of a strategy to maximize pressure on the majority. We look at how this tool can be applied in five key jurisdictions for corporate structures in Asia.

Minority shareholders may decide to respond to majority shareholders or directors acting against the minority shareholder's interests by, for example, pursuing an **unfair prejudice claim** or **derivative action** in the place of the company's incorporation. However, these steps may not achieve the desired result in some instances and the minority shareholder might want to deploy a just and equitable winding up. While the natural outcome of a winding up petition is the liquidation of the company, in the right case, a strategy involving such an application can effectively be used by the minority to exert maximum pressure on the majority with a view to settling the matter on more favorable terms.

In the table below, our Asia-based minority shareholder rights team examines derivative actions (where a shareholder brings the action in the name of the company) across five key jurisdictions. In a dispute involving multiple jurisdictions, it is often important to understand the differences so that an effective cross-border strategy can be devised.

About Kobre & Kim

Kobre & Kim is a conflict-free Am Law 200 law firm focused on disputes and investigations, often involving fraud and misconduct.

This content provides information on legal issues and developments of interest to our clients and friends and should not be construed as legal advice on any matter, specific facts or circumstances. The distribution of our content is not intended to create, and receipt of it does not constitute, an attorney-client relationship.

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Often working closely with lawyers in key markets around the world, our team:

- Has significant experience in corporate governance matters, having led and defended initiatives on the formation and conduct of special investigative committees; organization of steering committees of equity holders to remove incumbent directors outside a regularly formulated election; the serving of statutory notices and pursuit of emergency actions relating to books and records access and related asset-freeze applications; applications for involuntary receiverships and liquidations; and other special strategies to place our clients in a position of strength to negotiate a satisfactory resolution;
- Avoids ongoing client relationships with common industry participants and instead focuses on special-situation engagements, allowing us to offer the most aggressive, creative and independent advocacy even in cases involving numerous, overlapping institutional stakeholders' interests.