



To Catch a Debtor: Finding the Money

Below is the first of a three-part series on how parties can leverage asset structures in offshore jurisdictions (such as The Cayman Islands or The British Virgin Islands) to enforce and monetize a claim against debtors based in the People's Republic of China. "Finding the Money" refers to offshore discovery techniques. Below our Offshore Asset Recovery team answers some frequently asked questions about this particular type of endeavor.

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For international creditors, monetizing claims against debtors located in the People's Republic of China has proven difficult — particularly when that debtor has complex asset structures in offshore jurisdictions such as The Cayman Islands (Cayman) or The British Virgin Islands (BVI).

The first challenge is finding where the assets are, specifically via offshore discovery.

"I have a claim against a PRC-based debtor, but I don't know where to start."

A good first step to monetize debts is looking for clues in offshore registries. While the information publicly available from the Cayman and BVI registries may be limited, it could still provide important details about the types of entities that are incorporated in either jurisdiction. The information in these registries can be key to understanding who to target to get the information you need.

"Besides offshore registries, where else can I find information about my debtor's assets?"

It is always a good idea to consider third parties as channels for discovery. Both Cayman and BVI have a preaction discovery tool commonly known as "Norwich Pharmacal Order" (NPO), which allows a creditor to target innocent third parties like banks, registered agents, lawyers and other professional service providers who may hold information about the offshore entities, which can then be used to target and freeze assets pending a judgment or award.

"Will I need the debtor's permission to view these documents?"

In Cayman, a recent court decision held that the target of NPO relief no longer needs debtor permission under Cayman's confidentiality laws to produce the documents to the creditor. This decision, in turn, has made NPO relief quicker and more efficient in the quest to find the debtor's money.

"Can these tools be applied to onshore jurisdictions as well?"

Many offshore asset structures typically have opaque relationships with entities in other jurisdictions that may also lead to important sources of recovery. A U.S. statute, for example, allows parties to non-U.S. proceedings (such as those offshore) to bring discovery actions against third parties to obtain documents and testimony. Similarly, in Hong Kong, registers of members can be accessed without court supervision due to the Hong Kong Companies Ordinance.

Once you have "found" the money through discovery actions, you are one step closer to catching your debtor. However, time is of the essence, and "freezing" the money is next.

[Click here to read "Freezing the Money," Part 2 of our "To Catch a Debtor" series.](#)

About Kobre & Kim's International Judgment Enforcement & Offshore Asset Recovery Team

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

Our offshore asset recovery team has an acute focus on complex, cross-border asset tracing and claim monetization. Comprised of English solicitors, barristers, King's Counsel, as well as Hong Kong solicitors, our team has deep experience tracing, freezing and recovering misappropriated assets hidden in offshore structures.

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Our lawyers are qualified in key offshore jurisdictions, including Cayman Islands and the British Virgin Islands, and have been successful in freezing assets through both judicial and non-judicial means to repatriate funds to victims. Frequently, the team works alongside our lawyers based in major onshore jurisdictions such as Hong Kong.

Our work has been featured on the cover of *The Wall Street Journal*, *Forbes* and other leading publications, and we are repeatedly recognized as one of the most highly-regarded offshore asset recovery firms in the world by leading rankings guides.