



Kobre & Kim's Offshore Asset Recovery Contacts



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To Catch a Debtor: Freezing the Money

Below is the second 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. "Freezing the Money" refers to actions such as standalone freezing injunctions. Below our Offshore Asset Recovery team answers some frequently asked questions about this particular type of endeavor.

[Click here to read "Finding the Money," Part 1 of our "To Catch a Debtor" series.](#)

International creditors continue to face significant challenges when monetizing claims against debtors located in the People's Republic of China, yet targeting the debtor's offshore assets offers a potential solution. In our [first communication](#), we covered several creative methods to locate the assets of PRC-based debtors.

However, once you "find the money," the next challenge is to freeze those assets via actions that can legitimately affect the debtor's business operations and create a powerful incentive for them to settle the claim.

"Is there a preferred method to freeze a debtor's assets? What if our claim is in a 'foreign,' or onshore, jurisdiction?"

A standalone freezing injunction can be used in English common law jurisdictions like Cayman and BVI by a creditor to freeze assets that are beneficially owned by the debtor, yet held by a person/entity other than the debtor against whom no wrongdoing is alleged.

The injunction is a fast and effective method, and requires no substantive proceedings as long as the creditor can show that the debtor has either judgment-proofed himself/herself, or is trying to do so, in order to hide the assets in question.

"What if my priority is to gain immediate control over the assets in question?"

In addition to standalone freezing orders, Cayman and BVI courts have also expanded their jurisdiction to grant standalone receiverships over assets owned (or beneficially owned) by a debtor.

A standalone receivership gives control of the asset(s) to the receiver to preserve pending a judgment or award. Therefore, this may be a suitable option if the assets in question a) require managing or b) confer some rights on the debtor (e.g. voting rights attached to shares), which if left in the hands of the debtor may lead to the value of the asset being rendered worthless.

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It's important to note that both of the standalone options can be made without giving notice to the debtor. This feature bestows the "element of surprise" which can be crucial in stopping a debtor's attempts to thwart a legitimate creditor's claim.

However, "seizing" the money reaches a new level of complexity if the creditor and debtor are tied together through a joint venture.

Click here to read "Seizing the Money," Part 3 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.

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.