John Han, Jason Kang and Gabrielle Liu on New Opportunities from PRC-HK Cross-Border Insolvency Agreement

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By signing a new cross-border insolvency agreement with China, Hong Kong is positioned to become the only jurisdiction outside the mainland where mutual recognition and assistance of insolvency proceedings is allowed, opening new doors for creditors in building a global asset enforcement campaign. Kobre & Kim’s John Han, Jason Kang and Gabrielle Liu explore the implications in an article for *Law.com International*.

The agreement launches a regime between Hong Kong and three pilot areas in China – Shanghai, Shenzhen and Xiamen – that allows for mutual recognition of insolvency proceedings. China, which historically has rarely recognized foreign insolvencies, has now agreed to and adapted certain principles of the UNCITRAL Model Law with Hong Kong, linking the creditor-friendly courts in the financial center to assets in the country.

Foreign liquidators now have more options to monetize any existing claims in China, the authors explain. Parties seeking to enforce against assets in the PRC may first wind up subsidiary companies in Hong Kong before having the insolvency appointment recognized in China. Creditors can also gain access to the discovery tools in both courts, as well as obtain the company seal in China. While a test case has yet to emerge, the agreement is set to cement judicial cooperation between Hong Kong and China.

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