

## HOWARD CHAN

Partner

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### PRACTICE AREAS

DISPUTE RESOLUTION

Howard's practice spans a number of areas including complex commercial disputes before the Hong Kong courts and arbitral tribunals, contentious regulatory and corporate compliance matters, alternative dispute resolution including mediation, and anti-corruption investigations in Chinese mainland, Hong Kong SAR and Taiwan province. Howard also regularly acts as coordinating counsel in cross-border multi-jurisdictional disputes, particularly those involving court proceedings in China. Howard is experienced in acting for corporations, financial institutions, asset management companies, investment funds, and high net worth individuals.

Howard has been recognized by The Legal 500 Asia Pacific and Asialaw for his contentious regulatory and internal investigations practice.

### REPRESENTATIVE MATTERS AND CASES

Howard's experience in complex commercial litigation include:

- Acting for a private equity fund in a HKIAC arbitration against a private PRC enterprise for breaches of an agreement for the sale and purchase of a substantial PRC-based business, and defending a counterclaim valued at over RMB300 million
- Acting for a multinational multi-billion dollar investment holdings and advisory company in proceedings against a State related to the jurisdiction of the arbitral tribunal over a claim for expropriation under international law in a Hong Kong-seated investment treaty arbitration

- Acting for an ultra-high net worth individual concerning the carrying out of a settlement agreement for the distribution of family assets of multi-billions in value, which potentially involves proceedings in Hong Kong and in Jersey
- Acting for a U.S. conglomerate in multi-jurisdictional proceedings commenced for the enforcement of a substantial sum of debt owed pursuant to an HKIAC arbitral award, including the setting aside of fraudulent transactions before Hong Kong court
- Acting for a PRC group of companies in defending proceedings and an application for injunctive relief arising out of a failed asset acquisition, involving myriad interlocutory applications and appeals
- Acting for various companies in obtaining Mareva injunctive relief, freezing the assets of counterparties in aid of Hong Kong or foreign proceedings, or in a 'post-judgment' context, in aid of enforcement of judgments and arbitral awards
- Acting for the directors of various companies in proceedings seeking inspection of company documents, and acting for a listed company in defending similar proceedings brought by its shareholders
- Advising and acting for various multinational corporations, private equity/investment companies in relation to their rights, obligations, remedies and strategies arising out of its joint ventures entered into with Hong Kong and/or PRC entities

#### Financial Markets

- Advising an investment fund in relation to potential claims against a Hong Kong-listed company for having published materially false and/or misleading information in its IPO prospectus
- Advising offshore convertible bondholders in relation to cross-border recovery actions in the context of a PRC court-led reorganization of a former U.S.-listed energy company
- Acting for major investment banks in defending proceedings brought by private clients relating to the sale of retail investment products (which include derivative and structured products and investments into a Madoff feeder fund)

#### Fiduciary Breach

- Acting for a leading medical services group in proceedings against the former directors of a joint venture company for breach of fiduciary duties and against the joint venture partners and various individuals for dishonest assistance

- Acting for liquidators in proceedings against the former directors of a company in liquidation for breach of fiduciary duties
- Acting for individuals and a company in relation to claims based on breaches of fiduciary duties, fidelity and employment terms
- Defending an international accounting firm in proceedings relating to the alleged breach of duties in managing the estate of an influential businessman

#### Restraint of Trade

- Acting for an international accounting firm in PRC proceedings against a former partner
- Acting for a talent agency in the entertainment industry relating to a claim based on the alleged restraint of trade clauses in artist agreements

#### Real Property

- Acting for a major property developer in defending an application for injunctive relief based on an alleged right of way
- Advising entities in relation to issues arising from the Deed of Mutual Covenant, and claims for recovery of possession and arrears of rent

Howard's experience in corporate compliance and contentious regulatory matters include advising and acting for:

- Hong Kong listed companies, investment banks and asset management companies in relation to various enforcement investigations and disciplinary proceedings commenced by the Securities and Futures Commission (SFC) and the Stock Exchange of Hong Kong – these involve allegations of (amongst others) the disclosure or provision of false and misleading information; and allegations of breach of the SFC's Code of Conduct, the Listing Rules and/or other regulations and policies
- The former China chairman of an international investment bank in relation to internal investigations as well as investigations by regulatory authorities in USA and in Hong Kong into the hiring of the offspring of various Chinese government officials and corporate leaders, involving allegations of corrupt practices
- A Hong Kong listed company in the advertising industry in leading its internal investigations in relation to the misappropriation of substantial company funds, the discovery of off-book bank accounts with substantial transactions into and out of the same, and suspect record-keeping and schemes in respect of commission payments – this involved attending key witness interviews in various cities in China and managing the external forensic

accountants for the investigation

- A listed multinational corporation in the software industry in leading its internal investigations in relation to its sales and marketing practices, which included allegations of corrupt practices, kick-back arrangements and other mishandling of corporate funds – this involved attending key witness interviews and managing the review of voluminous documentation in the process
- A multinational corporation in the pharmaceutical industry in leading its internal investigations as well as investigations by the relevant Chinese authorities in relation to the business operations and marketing activities (including advertising, sponsorships and donations) of its Chinese subsidiary, and in the labour claims with its ex-staff arising out of these issues
- Various Hong Kong financial institutions in investigations commenced by the SFC in respect of their sales of ‘minibonds’ linked to the insolvent Lehman Brothers Holdings
- A bank trader in relation to investigations into the possible manipulation of foreign exchange benchmarks by the Hong Kong Monetary Authority

## **OTHER INFORMATION**

### **Education**

- University of London, Bachelor of Laws (LLB)
- University of Hong Kong, Postgraduate Certificate in Laws (PCLL)
- University of Waterloo, Bachelor of Science (with Honours)

### **Professional Qualification**

- Admitted to practice in Hong Kong SAR

### **Work Language**

- English
- Cantonese
- Mandarin

### **Presentations/Speeches**

- Speaker at seminars on corporate fraud risks and best practices for boards and management, co-organized by Fangda Partners and PwC, June 2021 and July 2020.

- Speaker at a seminar on enforcement of arbitral awards in Hong Kong organized by the International Chamber of Commerce – Hong Kong (ICC-HK), October 2020.
- Speaker at a training programme on legal professional privilege organized by The Law Society of Hong, October 2019
- Speaker on internal investigations in China and on Hong Kong regulatory enforcement investigations trends, at a roadshow on financial crime compliance best practices co-organized by Fangda Partners and Ernst & Young, September 2018
- “Simplifying Compliance Policies: The Solution to Combating Fraud, Bribery and Corruption”, speaker at the British Chamber of Commerce in Hong Kong, June 2017
- “Would You Be a Responsible Officer”, repeat seminars to clients, SFC licensed individuals and legal professionals, April to June 2015

### **Publications**

- Co-author of the chapter on the Hong Kong law and practice in respect of all aspects of civil litigation in the Chambers Global Practice Guides (2021 edition).
- Contributor of Asian Dispute Review (April 2020 edition) on setting aside jurisdiction findings by tribunals and the ad hoc admission of counsel in Hong Kong
- Co-author of “Hong Kong Regulatory Enforcement Update for Q1 2020”, dated April 2020
- Co-author of “Hong Kong Regulatory Developments and Outlook on Enforcement Priorities for 2020”, dated January 2020
- Co-author of “A Sign of Things to Come: Securities and Futures Trends Analysis”, a 30-page report on the SFC’s enforcement activities from 2009 to 2015, dated June 2015

### **Honors and Awards**

- Howard was granted higher rights of audience in 2015, a distinction that permits select highly qualified litigators to appear before all levels of Hong Kong’s judicial system.

### **Professional Affiliations**

- Part-time lecturer of the University of Hong Kong PCLL, since 2013.

## **Professional Background**

Before joining Fangda Partners, Howard was an associate at the Hong Kong office of a prominent American law firm for a number of years. Prior to becoming a lawyer, Howard was a consultant in the information technology industry, specializing in information security.