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FRAUD ON THE RISE

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AUSTRIAN TRADE
COMMISSION

FRAUD SCHEMES
WITH HONG
KONG CONTEXT

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FRAUD
PREVENTION

OFFICIAL
COMPANY
INFORMATION

4

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CHINA OFFICES



ADVANTAGE AUSTRIA Hong Kong

- Austria's Official Trade Promotion Organisation
- Headquarters: Austrian Federal Economic Chamber (Wirtschaftskammer Österreich, WKO)
- Services for Austrian Companies and their subsidiaries
- Close cooperation with the Austrian Consulate General, AustroCham
- As Austria's official Trade Promotion Organization, we also assist with contacts to Austrian and Hong Kong Police and authorities if fraud occurs
- INTERPOL: Austria (Innenministerium) and China including Hong Kong SAR + Macao SAR work together to combat transnational crime

2

Examples of Fraud Schemes We Observe (1/2)

Fraud Cases on the Rise

- No. of Cases reported to HK Police is rising
- From Jan – Sep 2022 Police recorded 19,444 fraud cases (+40%!)

https://www.police.gov.hk/ppp_en/04_crime_matters/ccb/fst.php

CEO Fraud

- Urgent large payments requested by CEO
- Only communication between CEO and the person authorized to transfer
- Don't tell others in the company
- Use of private email addresses or WhatsApp messages
- Hacked or spoofed e-mail address (fake sender address)

Suggestion: 4 eyes-principles for larger payments, call CEO

Change of Bank Accounts

- different bank account in the invoice
- change of bank account requests sent only via hacked or spoofed emails
- scheme often by former employees

Suggestion: Also call the accounting department or a known person you know within the company (don't use tel. in the notification)

2

Examples of Fraud Schemes We Observe (2/2)

Online Websites to buy Industrial Products / Chips

- Webpages + communication look professional until payment is made
- Often 2,000 – 15,000 EUR

Suggestion: Verify company info, especially call!
(don't use tel. in the notification)

Too Good to be True

- Potential Buyers for a Hotel, vineyard – meetings in Milan; “small payment” necessary to enable big transaction
- Perfect investment opportunity in funds, to buy company shares; often company names like big names

Suggestion: Verification, ask yourself why are you offered this opportunity?

Identity Misuse

- Fraudster pretends to act on behalf of an Austrian company with similar web pages
- Easy to earn money but have to pay fees first

3

Fraud Prevention - First check

Company Websites

- Language(s) – only English?
- Info, do social media links work?
- ScamAdvisor to check webpages: <https://www.scamadviser.com/>
- WHOIS Search (when was the domain name registered, who registered it)
- Google reverse image search
- Plagiarism: google text elements to see if taken from other sources
- google translate of web pages from Chinese or other languages

Online Presence

- LinkedIn Presence
- Google “**company name**” and “**city**” – more references to this company?
- People, Articles, mentioned by organizations like Hong Kong Trade Development Council <https://home.hktdc.com/en/source-products-services>
- Search engines in Chinese
- Google “**company name**” and “**fraud**” or “**company name**” and “**scam**”

Telephone

- Answered professionally, what company name is used?
- Only international calls answered or also local calls?
- Might use the app to call with a number from overseas like Mobile VOIP <https://www.mobilevoip.com/>
- Area code check: Valid area code for Hong Kong +852 or 00852 (not +00852)
- Only Hong Kong mobile phone number?
- Mobile numbers starting with the digits “4,” “5,” “6,” “7,” “8,” and “9.”
- Websites that list suspicious numbers like <https://hkjunkcall.com/> (in Chinese)

Office & E-Mail Addresses

- Does the E-Mail address correspond with the company name?
- Is the office address complete?
- Check google maps/google street view
- Ask building management
- On-site check – often business centres

3

Fraud Prevention – Useful Links

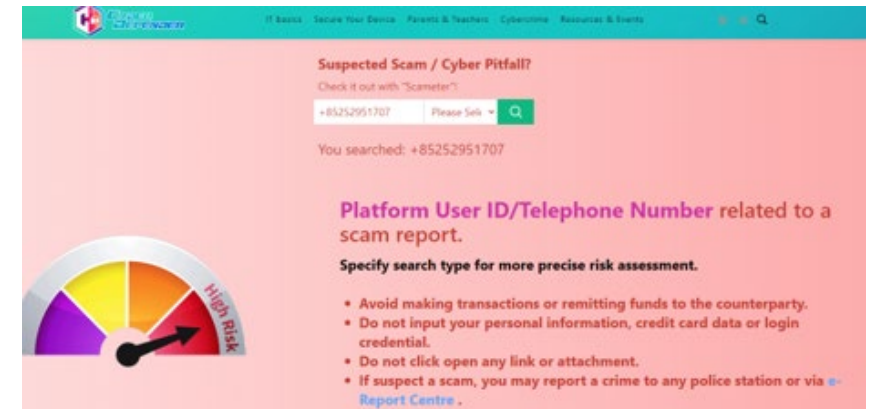
WKO List of Suspicious Companies for China

<https://www.wko.at/service/aussenwirtschaft/Liste-verdaechtiger-chinesischer-Firmen.html#>

Hong Kong Police – Scameter

Previous Fraud Cases, Rating; search for bank account, urls, email addresses, tel.

<https://cyberdefender.hk/en-us/>



4

Company Information – Hong Kong & Macao

HONG KONG SAR

Hong Kong Companies Registry (CR)

<https://www.cr.gov.hk/en/services/obtain-company-info.htm>

- Company Status, Annual Return with detailed info, other submitted documents (e.g. change of directors)

Inland Revenue Department Business Registry

<https://www.ird.gov.hk/eng/tax/bre.htm>

- Compare this official info with correspondence and the company website!

MACAO SAR

Commercial Registry of Macao

(in Chinese and Portuguese)

<https://eservice.dsaj.gov.mo/dsajservice9/commercial-platform/index.xhtml>

- For detailed info “Macao ONE Account” necessary – has to open in person

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HK Companies Registry Sample

Access of HK Company Registry and download “Annual Return”

Company Name Search

Your Search: LEFT PARTIAL match with 'HONG KONG SHANGRUI Co' , CR No.: = 2260824

CR No.:	2260824
Company Name:	HONGKONG SHANGRUI CO., LIMITED 香港尚瑞有限公司
Company Type:	Private company limited by shares
Date of Incorporation:	09-JUL-2015
Active Status:	Live
Remarks:	-
Winding Up Mode:	-
Date of Dissolution / Ceasing to Exist:	-
Register of Charges:	Unavailable
Important Note:	-

Name History

Effective Date	Name Used
09-JUL-2015	HONGKONG SHANGRUI CO., LIMITED 香港尚瑞有限公司

Company Name English	HongKong Shangrui Co., Limited
Company Name Chinese	香港尚瑞有限公司
CR No	2260824
Date of Incorporation	09 JUL 2015
Address of Registered Office	Unit 917B, 9/F., Tower A, New Mandarin Plaza, No. 14 Science Museum Road, Tsim Sha Tsui, Kowloon, Hong Kong
Active Status	Live
Type of Company	Private company limited by share
Directors (including address and ID/Passport number)	Ms. YANG ZhenHao 楊真好 Residential Address: No.1, Bailong Shanxin Village, Bailong, Dongbao District, Jingmen, Hubei, China [REDACTED]
Share Capital	Ordinary [REDACTED] 0
Shareholder	100% owner: Agricultural Valley Industrial Company Limited 農谷實業股份有限公司 in Hong Kong
Date to which Annual Return is made up	09 JUL 2022
Company Secretary	Pak Lee (Hong Kong) Enterprise Registrations Limited 栢利(香港)企業註冊有限公司 Unit 917B, 9/F., Tower A, New Mandarin Plaza, No. 14 Science Museum Road, Tsim Sha Tsui, Kowloon, Hong Kong (zuvor hatte per 7.7. 2022 Die Fa. „Hong Kong HuiFu Enterprise Consultants Limited“ die Funktion des “Company Secretary” zurückgelegt - siehe Resignation of Company Secretary)



Company Information – Mainland China

National Enterprise Credit Information Publicity System

(Chinese ID necessary)

<http://www.gsxt.gov.cn/index.html>

General Administration of Customs (GACC)

Credit Publicity Platform of Import and Export Business

<http://credit.customs.gov.cn/ccppwebserver/pages/ccpp/html/ccppindex.html>

Foreign Trade Operators Registration, Ministry of Commerce (MOFCOM)

<http://english.mofcom.gov.cn/>

National Credit Information Sharing Platform

China Credit Analytics platform 企查查 www.qichacha.com

(needs a WeChat ID to proof your identity)

Tian Yan Cha 天眼查

<https://www.tianyancha.com>

(private platform, can only be used within China)



Credit Reports

Credit Reports Include

- In depth research + Credit Line
- This information usually includes:
 - HK Companies Registry Data
 - information about the management, capital,
 - scope of business, number of employees,
 - turnover, credit line and possibly balance sheet figures.
- not for “letterbox companies”

Austrian Trade Commission Bulk Buying Preferential Pricing

- Credit Report for a company in Hong Kong
EUR 110 (8 days) - EUR 260 (2 days)
- Credit Report for a company in Mainland China
EUR 160 (20 days) – EUR 350 (4 days)

5

YOUR POINTS OF CONTACT

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Austrian Embassy - Commercial Section

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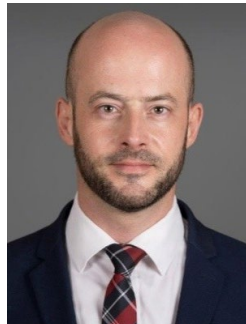
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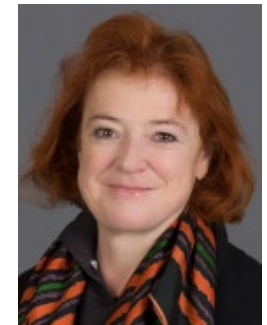
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Ravenscroft & Schmierer





Erica So



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**Legal Action:
Civil, Criminal or Both?**

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Reporting to Police

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Obtaining More Information

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Freezing Bank Accounts

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If they fight back

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Getting Your Money Back

6. Legal Action: Civil, Criminal or Both?

- ❖ Burden of Proof

 - ❖ Balance of Probabilities vs Beyond Reasonable Doubt

- ❖ Speed and Level of Control

- ❖ Outcome

 - ❖ Damages vs Fine and/or Imprisonment



7. Reporting to Police

- ❖ File a report with the financial institutions and/or the Hong Kong Police
 - ❖ Online Report Room is also available
- ❖ Inform your bank and instruct for a reversal of the payment by the recipient bank
 - ❖ File a Suspicious Transaction Report (“STR”) with the Joint Financial Intelligence Unit (“JFIU”), a governmental organization jointly run by officers from the Hong Kong Police Force and the Hong Kong Customs and Excise Department
- ❖ A “No Consent” letter may be issued by the JFIU to the relevant bank(s)
 - ❖ Temporarily freezing the concerned bank account(s)

Note: Validity of the “No Consent” Letter



8. Obtaining More Information

Norwich Pharmacal (Disclosure) Order

❖ WHEN?

- ❖ The identity of and information on fraudsters are **untraceable** OR have been onward transferred to the second or even third level recipients in whole or in part
- ❖ An **exception** to the general rule that only parties to an existing litigation have the duty of disclosure

❖ HOW?

- ❖ No requirement to inform the fraudster
- ❖ Commonly applied against banks or others to whom stolen or misappropriated moneys or proceeds have paid
- ❖ Must show that there is real prospect of success
- ❖ Banks forbidden from informing the fraudsters (“gagging order”)



9. Freezing Bank Accounts

❖ WHEN?

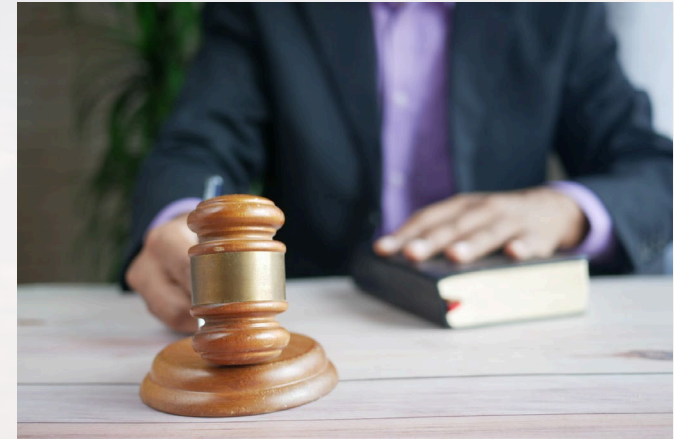
- ❖ Should take place **after** the police freeze is effective

❖ Proprietary Injunction

- ❖ Preserve assets over which the Plaintiff has a proprietary claim
- ❖ Threshold is lower than a Mareva Injunction
 - ❖ the Plaintiff only needs to prove that there is at least “a serious issue to be tried”

❖ Mareva Injunction

- ❖ Restrain the Defendant from dissipating the assets and/or removing them from the jurisdiction
- ❖ Applications are almost always made “ex parte”, under short notice
- ❖ High threshold to be met



10. If they fight back

If fraudsters don't fight back:

- ❖ Automatic Win (“Default Judgment”)

If fraudsters fight back:

- ❖ Any possible defence?

- ❖ Weak / No Defence → Early Judgment (“Summary Judgment”)

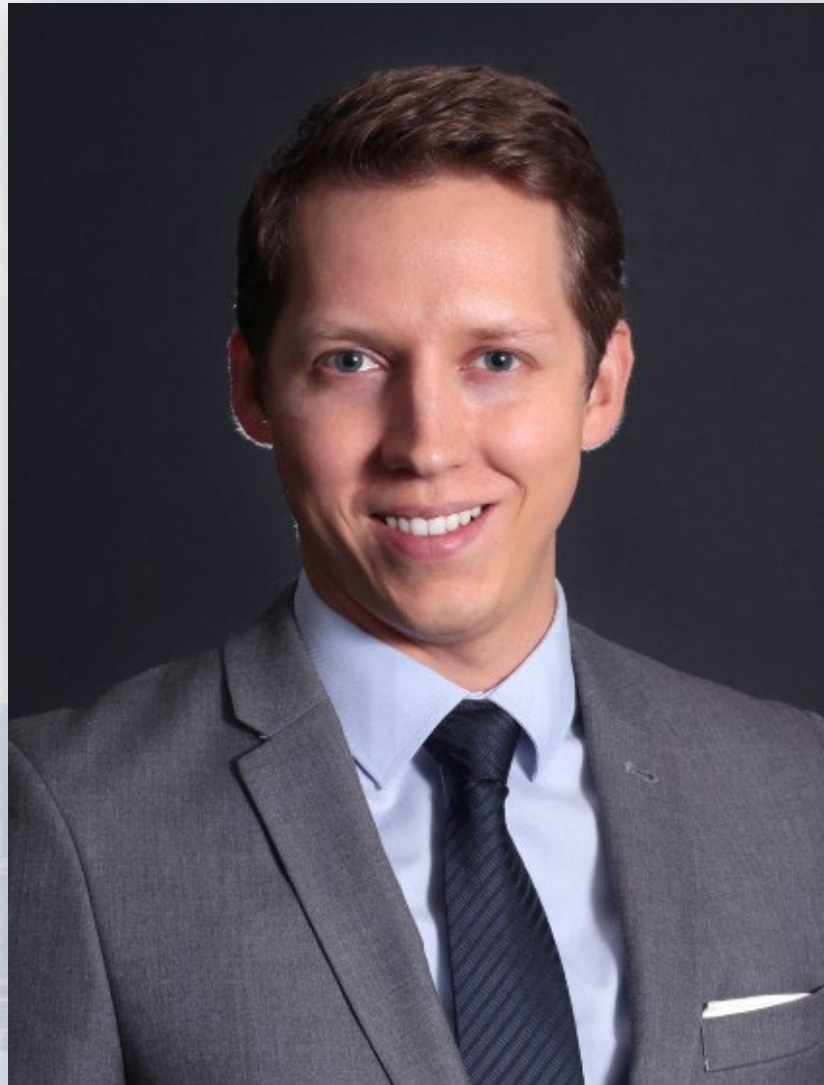


11. Getting Your Money Back

- ❖ Obtaining a court judgment against the other party **DOES NOT** automatically obtain the remedy sought in the legal proceedings
- ❖ Enforceability of foreign judgments in Hong Kong and vice versa
- ❖ Common methods of enforcement
 - ❖ Garnishee proceedings
 - ❖ where a **3rd party**, who owes the **judgment debtor** (the party who is ordered to pay according to that judgment) money, has to pay the money directly to you as the **judgment creditor** (the party who is entitled to enforce execution under the judgment)
 - ❖ Vesting Order
 - ❖ where the judgment creditor is able to trace or identify the funds, instruct the recipient bank for **direct transfer** of the fraudulent proceeds
 - ❖ Charging Order
 - ❖ A **charge** on any **property or securities** owned by the judgment creditor to secure the payment of the judgment debt

Key takeaways

- ❖ Reporting to police is **NOT** enough to get your money back
- ❖ Winning in court may **ALSO NOT** be enough to get your money back
- ❖ You **MUST** also take the initiative to enforce the judgment



Jan-Patrik Reimann, CFE

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**Legal System in
Hong Kong**

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Internet Fraud

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Tips & Examples

RS



One Country, Two Systems



Hong Kong

- ❖ Common Law System – found primarily in court judgments from Hong Kong and other common law jurisdictions; and supplemented by statutes
 - ❖ Examples:
 - ❖ **‘Norwich Pharmacal’ (Disclosure) Order**
 - ❖ **‘Mareva’ Injunction**
 - ❖ Those names come from court judgments, typical for Common Law.

Mainland China

- ❖ Civil Law System – based on statutes

Internet fraud

❖ Internet fraud, including email scams, CEO fraud and phishing, has seen a strong increase over the past years, with billions of damage worldwide.

❖ The bank accounts of fraudsters can be based in many different jurisdictions, and are often in Hong Kong or China.

❖ For more details, please refer to our recent article:

Fraud On The Rise: How to Prevent, Report and Recover

<https://www.rs-lawyers.com.hk/post/fraud-on-the-rise-how-to-prevent-report-and-recover>



4-Eyes Principle

- ❖ We recommend to be extra cautious with foreign bank transfers and employ the “4-eyes principle”, which means that a transaction should always be reviewed and approved by at least two members of staff, who should also be trained and experienced in identifying potential frauds.
- ❖ Moreover, it is advisable to always confirm bank details over the phone. While a risk of fraud remains, this can greatly reduce the risk, as the fraudsters would have to gain access to the phones of your counterparty as well.



Procedures & On-Going Training



- ❖ It is very important to implement sufficiently sophisticated processes and procedures to avoid the risks of fraud, and to provide your staff with on-going training. There may be individuals in your company who are well-trained and highly aware of fraud risks, but there could be others, including new joiners, who lack such skills. You can have staff skilled in anti-fraud procedures train the other employees or engage external specialists to do so.
- ❖ For more details, please refer to our recent article:

Fraud On The Rise: How to Prevent, Report and Recover

<https://www.rs-lawyers.com.hk/post/fraud-on-the-rise-how-to-prevent-report-and-recover>



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