

# Legal 500

## Country Comparative Guides 2026

### China

### Asset Tracing & Recovery

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This country-specific Q&A provides an overview of asset tracing & recovery laws and regulations applicable in China.

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## China: Asset Tracing & Recovery

### 1. What is the legal framework governing civil asset recovery in your jurisdiction, including key statutes, regulations, and international conventions that have been incorporated into domestic law?

In China, the legal framework for civil asset recovery is not contained in a single standalone statute. Rather, it is derived from a hierarchy of laws, administrative regulations, local regulations and departmental rules. The framework is further supplemented in practice by judicial interpretations of the Supreme People's Court, which form an important part of the operative rules in civil and commercial litigation.

At a substantive level, civil asset recovery is closely tied to the underlying cause of action. The principal sources of law are the PRC Civil Code, including its rules on contract, tort, unjust enrichment and property rights, and, where insolvency is involved, the Enterprise Bankruptcy Law, which provides mechanisms for insolvency administrators to recover and dispose of debtor assets and to challenge certain pre-bankruptcy transactions. The specific civil causes of action commonly relied on in asset recovery are addressed further in the response to Question 3.

At a procedural level, the legal framework is governed primarily by the PRC Civil Procedure Law and relevant Supreme People's Court judicial interpretations. These rules allow parties to seek property preservation measures to prevent dissipation of assets during litigation or arbitration, and, once an effective judgment or award has been obtained, to apply for compulsory enforcement through measures such as asset freezing, seizure, sale, and court-supervised execution. In cross-border matters, China recognises and enforces foreign arbitral awards under the New York Convention, to which China acceded in 1987, and also participates in international judicial cooperation through instruments such as the Hague Service Convention and the Hague Evidence Convention. Accordingly, PRC civil asset recovery is best understood as a multi-source regime of substantive, procedural, enforcement and cross-border rules, rather than a self-contained code.

### 2. What types of assets may be subject to civil recovery proceedings (e.g., real property, bank accounts, securities, cryptocurrencies, intellectual property, business interests or other categories of property)?

PRC law permits a broad scope of assets to be targeted in civil recovery proceedings. In principle, any asset with economic value that may lawfully be transferred and that forms part of the debtor's amenable property may be subject to preservation or execution. This includes (1) real property and land-use rights; (2) movable assets such as vehicles, machinery and other valuable chattels; (3) financial assets such as bank deposits, securities, wealth-management products and online funds; (4) equity interests and other business interests; and (5) transferable intellectual property rights, including patents, trade marks and the property element of copyright. PRC enforcement rules expressly contemplate the seizure, detention or freezing of movable and immovable property and "other property rights". The SPC specifically references equity and intellectual property as being assets permitted to be frozen or otherwise controlled.

Cryptocurrencies and similar virtual-currency assets are generally treated separately. Although PRC law recognises that data and online virtual property may receive legal protections where the law so provides, the regulatory position on virtual currencies remains restrictive: Bitcoin, Ether and similar tokens do not have the same legal status as fiat currency, and virtual-currency-related business transactions are regarded as illegal financial activities. Accordingly, their recoverability and enforceability in civil proceedings remain significantly more uncertain in practice than conventional assets.

### 3. What are the primary civil law causes of action and mechanisms available for asset recovery? Please briefly distinguish these from any criminal confiscation or forfeiture regimes.

In China, the principal civil causes of action available in asset recovery proceedings are broad in scope. The appropriate cause or causes of action depend on the underlying facts and the nature of the relief sought. Broadly speaking, such claims may be divided into claims

based on creditor's rights and claims based on property rights.

Claims based on creditor's rights include (1) creditor's revocation right to unwind transactions by which a debtor improperly disposes of assets; (2) creditor's subrogation actions where the debtor fails to enforce its own matured claims against a third party; (3) claims for restitution based on unjust enrichment; (4) tort claims for damages; (5) breach of contract claims; (6) avoidance and claw-back claims in bankruptcy proceedings, including the avoidance of certain gratuitous transfers, transactions at an obviously unreasonable price, waivers of claims, and certain preferential payments made within the relevant period before acceptance of a bankruptcy petition.

Claims based on property rights in the asset recovery context are more limited and chiefly include claims for the return of specific property and, in insolvency, reclamation claims over property that does not properly belong to the debtor's estate.

The principal mechanisms supporting those causes of action are likewise procedural as well as substantive. Most importantly, PRC law provides for preservation measures while proceedings are pending, including property preservation, conduct preservation, and evidence preservation. Parties may also seek the court's assistance in collecting evidence that they cannot obtain themselves; in practice, this is often supplemented by the use of court-issued lawyer investigation orders. In addition, PRC procedure recognises a form of document production order where relevant documentary evidence is shown to be under the opposing party's control. Once a judgment or award is obtained, the claimant may move to compulsory enforcement, where the court may use its online control systems to identify and freeze assets and may then seize, deduct, auction or otherwise dispose of assets to satisfy the judgment. In cross-border cases, these tools may be supplemented by judicial assistance and recognition and enforcement mechanisms.

These civil causes of action and mechanisms should be distinguished from criminal confiscation, recovery and restitution regimes. Under PRC criminal law, the confiscation or recovery of unlawful proceeds is a matter of public law and is pursued by state authorities through the criminal process, including confiscation, recovery of illegal gains, and orders for restitution/compensation to victims. Those measures do not constitute private civil causes of action, even though civil recovery and criminal proceedings may in some cases run in parallel or interact in practice.

#### **4. Who has standing to initiate civil asset recovery proceedings (e.g. private parties, corporations, trustees, insolvency practitioners, receivers, or state agencies)?**

Under Article 122 of the Civil Procedure Law of the People's Republic of China, a civil action may be commenced only where, among other requirements, "the plaintiff is a citizen, legal person, or other organisation having a direct interest in the case." Accordingly, in the ordinary course, persons with standing to initiate civil asset recovery proceedings are the natural persons, companies and other organisations whose proprietary, contractual, tortious or restitution rights have been directly infringed. Foreign parties are not excluded and, in principle, enjoy equal litigation rights in PRC civil proceedings.

In limited situations, PRC law also permits claims to be brought by persons whose own rights are not directly infringed in the narrow sense, but who are authorised by statute to sue in a representative or derivative capacity. Most notably, under the PRC Company Law, eligible shareholders may bring derivative actions in their own names to pursue liability for harm done to the company, with any recovery accruing to the company rather than to the shareholder personally. In addition, under the PRC Trust Law, a trustee manages and disposes of trust property in its own name, and the trustee may therefore bring proceedings to recover or protect trust assets.

In insolvency, the PRC equivalent of an insolvency practitioner is the bankruptcy administrator. Once a bankruptcy petition is accepted, the administrator takes over the debtor's property and affairs and is expressly empowered to represent the debtor in litigation, arbitration and other legal proceedings, including asset-recovery actions. State agencies may also sue where they act as civil subjects and have suffered a civil loss; this is conceptually possible because PRC law recognises certain state organs as organ legal persons capable of engaging in civil actions in their own names. By contrast, PRC law does not generally organise civil asset recovery around a standalone domestic concept equivalent to the common-law receiver; in practice, the more relevant statutory office-holder is the bankruptcy administrator.

#### **5. What is the legal status of foreign states or governmental entities bringing civil asset recovery actions? Are any limitations imposed by sovereign immunity, forum non conveniens, or**

## other doctrines?

A foreign state or governmental entity may act as a plaintiff in civil asset recovery proceedings in China, subject to certain restrictions.

First, the principle of reciprocity. Under Article 5 of the Civil Procedure Law, where a foreign court imposes restrictions on the civil procedure rights of PRC citizens, legal persons or other organisations, the PRC courts will apply the principle of reciprocity in relation to the civil procedure rights of the citizens, enterprises and organizations of that foreign state. Accordingly, if the courts of a foreign state impose restrictions on Chinese parties, the same foreign state may be subject to corresponding restrictions when bringing civil proceedings before the PRC courts.

Secondly, the principle of sovereign immunity. Under Article 5 of the Foreign State Immunity Law, where a foreign state institutes proceedings as a plaintiff before the PRC courts, it is deemed to have accepted the jurisdiction of the PRC courts in respect of that particular matter or case, and it may not invoke jurisdictional immunity against a counterclaim arising out of the same legal relationship or facts. However, under Articles 13 and 14 of the same law, a foreign state continues to enjoy immunity from enforcement in respect of its non-commercial property (unless explicitly waived). By commencing suit, a foreign state waives jurisdictional immunity for the case but retains immunity from enforcement over non-commercial property.

## 6. How are corporate vehicles, trusts, foundations, nominees and other intermediaries treated in civil recovery proceedings when pursuing assets held through layered structures? Are veil-piercing or analogous doctrines available?

Under PRC law, veil-piercing and analogous doctrines are available, although their application depends on the legal nature of the intermediary involved and the factual circumstances of the case.

PRC law recognizes the doctrine of disregard of corporate personality (commonly referred to as piercing the corporate veil) in relation to corporate entities, including joint stock limited companies and limited liability companies. This doctrine encompasses both vertical veil-piercing and horizontal veil-piercing. The doctrine is principally reflected in Article 23 of the PRC Company Law, which provides that where a shareholder abuses the

company's separate legal personality and the limited liability of shareholders in order to evade debts, thereby seriously prejudicing the interests of the company's creditors, that shareholder shall bear joint and several liability for the company's debts. The same provision further provides that where a shareholder uses two or more companies under its control to engage in such conduct, those companies may be held jointly and severally liable for the debts of any one of them. In the case of a single-shareholder company, if the shareholder is unable to prove that the company's assets are independent from the shareholder's own assets, the shareholder shall likewise bear joint and several liability for the company's debts.

PRC law does not expressly recognize reverse veil-piercing (the imposition of liability on a company for the debts of its shareholder), but the concept is recognized in limited Supreme People's Court precedents. For example, in (2020) Zui Gao Fa Min Shen No. 2158, the Supreme People's Court indicated that, where there is a commingling of personality between a shareholder and the company, the company may also be held jointly and severally liable for the shareholder's debts.

A court may directly dispose of subject assets in nominee or entrusted holding arrangements if the nominee holder has issued a written statement confirming that the asset in fact belongs to the judgment debtor. Proof of such arrangements may be established through evidence such as the flow of funds, records of payment, evidence of actual possession, use or control, and evidence showing that the economic benefits of the asset in substance belong to the beneficial owner.

In relation to trusts, PRC law does not use the terminology of "piercing the trust" in the same sense found in some common law jurisdictions. Nonetheless, trust structures may be disregarded or set aside in a number of circumstances. Once a trust structure has been set aside or disregarded, the trust property may be treated as part of the settlor's estate available to creditors and used to satisfy the settlor's debts.

## 7. What are the jurisdictional requirements for bringing civil asset recovery proceedings in the courts of your jurisdiction? How are conflicts of jurisdiction resolved?

Under PRC civil procedure law, jurisdiction in civil proceedings is determined by a combination of statutory jurisdiction and, where permitted, party autonomy.

Statutory jurisdiction requires consideration of both

territorial jurisdiction and hierarchical jurisdiction. As a general rule, territorial jurisdiction follows the principle of actor sequitur forum rei: proceedings are brought in the court of the defendant's domicile. Depending on the type of dispute, special rules may apply, including exclusive jurisdiction and, in some areas, centralised jurisdiction. Hierarchical jurisdiction depends on the significance of the case; in practice, this is often assessed by reference to the amount in dispute, complexity, or foreign-related features. For foreign-related civil and commercial cases, the current PRC approach is that non-major first-instance cases are in principle heard by the basic-level courts, while major foreign-related cases and other specially designated matters fall within the jurisdiction of the intermediate courts or other designated courts.

PRC law also recognises choice-of-court agreements, but only within limits. For domestic civil disputes, an agreement on jurisdiction is generally available only for contract disputes and other property-rights disputes, and the chosen court must be a court in a place that has an actual connection with the dispute; the agreement may not contravene hierarchical jurisdiction or exclusive jurisdiction. For foreign-related civil disputes, the rule is more liberal: parties may agree in writing to submit the dispute to a PRC court without the need for an actual connection to China. However, foreign-related cases may still be affected by the PRC doctrine of forum non conveniens. A defendant may raise a jurisdictional objection under Article 282 of the Civil Procedure Law, in which case the court may dismiss the action and direct the claimant to sue in a more convenient foreign court if the statutory conditions are met, including that the core facts occurred outside China, there is no PRC jurisdiction agreement, the case is not subject to PRC exclusive jurisdiction, no PRC sovereignty, security or public-interest concerns are implicated, and the foreign court would be clearly more convenient.

Conflicts of jurisdiction are resolved mainly through the rules on first acceptance, transfer, and designated jurisdiction. Where two or more PRC courts have jurisdiction, the court that first accepts and docket the case ordinarily takes the case. If a court finds that a case does not fall within its jurisdiction, it must transfer the case to the competent court; the transferee court may not re-transfer the case on its own initiative but must report to the higher court if it disagrees. If a competent court cannot exercise jurisdiction for special reasons, or if courts dispute jurisdiction, the matter is resolved by designation of jurisdiction by the higher court.

## 8. Does your jurisdiction recognize and enforce

### foreign civil judgments and orders relating to asset recovery? What are the procedural requirements and grounds for refusal?

Under PRC law, China may recognise and enforce effective foreign court judgments and rulings, including foreign civil judgments relevant to asset recovery. The legal basis is, first, any applicable international treaty or bilateral judicial assistance treaty between China and the state of origin; failing that, recognition and enforcement may be sought on the basis of reciprocity. China has not joined a general multilateral convention on the recognition and enforcement of foreign court judgments, so in practice applications are commonly assessed under bilateral treaties or the reciprocity framework reflected in the PRC Civil Procedure Law and the Supreme People's Court's 2021 conference minutes. Those minutes recognise reciprocity where, among other things, the foreign state's law would permit recognition of PRC judgments, there is a reciprocal understanding or consensus, or reciprocal commitments have been made through diplomatic channels.

An application for the recognition and enforcement of a foreign court judgment shall be filed with the Intermediate People's Court at the place of the defendant's domicile or where the defendant's property is located. If the defendant has neither a domicile nor property within China, jurisdiction may also lie with the Intermediate People's Court at the place of the applicant's domicile. The limitation period for applying for the recognition and enforcement of a foreign judgment is two years.

To apply for recognition and enforcement, the applicant must submit an application, together with the original judgment or a certified true copy, and a document proving that the judgment has become legally effective. The judgment and other documents that the applicant submits must be accompanied by a Chinese translation bearing the seal of a translation institution. Where the judgment is a default judgment, proof that the foreign court lawfully summoned the respondent must also be submitted, unless this is expressly stated in the judgment or ruling itself. Where the relevant documents originate from outside the PRC, they must also be notarized and legalized, or furnished with an apostille, as applicable. The application must state the basic information of the applicant and respondent, the name of the foreign court and the basic particulars of the judicial instrument, the specific application and grounds, the respondent's property status and the location of the property, and the status of enforcement of the judgment outside the PRC.

Common grounds for refusal of recognition and enforcement include (1) the court of the rendering state lacked jurisdiction over the case; (2) the respondent was not lawfully summoned, or although lawfully summoned was not given a reasonable opportunity to make statements and arguments, or a party lacking litigation capacity was not properly represented; (3) the judgment was obtained by fraud; (4) a PRC court has already rendered a judgment on the same dispute, or has already recognized and enforced a judgment or arbitral award rendered by a court or tribunal of a third state in respect of the same dispute; (5) recognition and enforcement would violate the public interest; (6) where the foreign judgment awards damages and the amount is manifestly in excess of the actual loss, the PRC court will not recognize and enforce the excess portion.

### **9. What mechanisms exist for international cooperation in civil cross-border asset recovery? How can parties obtain evidence or assistance from foreign jurisdictions?**

In China, the mechanisms for international cooperation in civil cross-border asset recovery operate at three levels: international conventions, bilateral treaties, and bilateral arrangements. In particular, the bilateral arrangements between the courts of mainland China and the courts of the Hong Kong Special Administrative Region additionally allow for the mutual enforcement of freezing or preservation orders between the mainland and Hong Kong.

China has signed and acceded to a number of important international treaties relevant to civil cross-border asset recovery, which form the convention-based foundation for China's international cooperation. Among them, the New York Convention is the most important legal basis for the cross-border enforcement of arbitral awards.

China has also entered into bilateral judicial assistance treaties with a number of countries, covering civil and commercial matters such as the recognition and enforcement of judgments, service of process, and taking of evidence. These bilateral treaties complement the above-mentioned international conventions. As noted above, a judgment rendered by a foreign court may be recognized and enforced in China either pursuant to a bilateral judicial assistance treaty concluded between China and the state of the rendering court, or on the basis of the principle of reciprocity. Likewise, a judgment rendered by a PRC court may be submitted by a party to a foreign court for recognition and enforcement pursuant to the relevant bilateral judicial assistance treaty.

China has put in place a series of targeted judicial assistance arrangements to meet the needs of inter-regional judicial assistance as between mainland China and Hong Kong. As between the mainland and Hong Kong, the Supreme People's Court has promulgated a number of relevant arrangements, including the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters between the Courts of the Mainland and of the Hong Kong Special Administrative Region, and the Arrangement on Mutual Taking of Evidence in Civil and Commercial Matters between the Courts of the Mainland and of the Hong Kong Special Administrative Region

In relation to the taking of evidence, China has acceded in 1997 to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. Parties pursuing civil asset recovery proceedings in China may, pursuant to that convention or applicable bilateral judicial assistance treaties, request the PRC courts to obtain evidence through the competent foreign courts.

### **10. What interim measures are available to preserve assets pending resolution (e.g. freezing injunctions, Mareva injunctions, asset preservation orders, saisie conservatoire, attachments)? Please briefly summarise the requirements for obtaining such relief.**

PRC civil procedure expressly provides for interim measures aimed at preventing the dissipation of assets, namely property preservation measures. In PRC judicial practice, creditors in the PRC commonly apply for property preservation when filing suit. Such application is not generally subject to a separate requirement of exigency or exceptional necessity. Once the court has decided to accept the case, it will often grant a property preservation application without conducting a separate hearing specifically for that application. However, the applicant is generally required to identify and provide the relevant asset clues itself, as PRC courts will not usually, at the litigation stage, issue investigation orders or proactively search their internal systems to locate the debtor's assets for preservation.

The costs of applying for property preservation mainly consist of two parts, both of which the applicant should consider in advance. The first is the preservation fee, which is payable to the court and is used to cover the court's expenses in taking the preservation measures; this fee is capped at RMB 5,000. The second is the cost of preservation security/insurance. In property preservation proceedings, the court will usually require the applicant to

provide corresponding security. The purpose of such security is to ensure that, if the preservation measure is ultimately found to have been improperly granted, compensation will be available for any loss thereby caused to the party against whom the measure was taken. Security may take various forms, including cash, a bank guarantee, or any other form accepted by the court. In practice, however, applicants usually choose to purchase preservation insurance from an insurance company. Upon payment of the relevant insurance premium, the insurer issues a letter of guarantee. This approach is generally less costly, more efficient, and therefore more favoured by parties in practice. The premium for preservation insurance is not fixed, but is determined on a case-by-case basis after the insurer reviews the claim materials and assesses the underwriting risk.

In addition, the property to be preserved must also satisfy certain requirements. The property subject to preservation shall be owned by the respondent, or constitute the subject matter of the action, or be property connected with the case. Further, the value of the property preserved must not exceed the scope of the claims sought in the litigation, so as to avoid unnecessary loss to the respondent caused by excessive preservation.

## 11. What disclosure, tracing, and investigative tools are available in civil proceedings to assist claimants in identifying, tracing, and recovering assets (including any pre-action or in-proceedings mechanisms)?

In PRC civil proceedings, there are a number of tools available for asset investigation, tracing, and recovery, for example:

(1) Investigation through PRC lawyers' statutory capacity – lawyers may assist parties in independently investigating certain information, which typically includes the following.

- Corporate registration information. As regards corporate entities, basic registration records maintained by the market regulation authorities are publicly available and record basic company information such as the company name, unified social credit code, legal representative, registered capital, date of establishment, business scope, registered address, directors, supervisors, and senior management. Such information may be

searched by any member of the public through the National Enterprise Credit Information Publicity System. By contrast, the internal company registration file consists of the complete registration and filing materials maintained by the PRC market regulation authorities and is not open to the public. The file includes, among other things, the company's historical articles of association, equity transfer agreements, and investor identity information (including identity card numbers), which a PRC lawyer can search and copy.

- Personal household registration and residence information. Where an individual's identity card number is known, a lawyer may also apply to the PRC public security authorities to obtain that individual's household registration information and residence permit information. Such information may reveal the residential address which can be used to further trace and identify the ownership of the real property with such address.
- Property ownership inquiries after case filing. Once a case has been formally accepted by the court, the attorney may, on the strength of the notice of case acceptance, attend at the PRC real estate registration centre and, based on preliminary information already obtained concerning the defendant's potential real property, inquire whether such property is in fact owned by the defendant. It should be particularly noted that, in practice, PRC real estate registration centres often allow lawyers, on the basis of a lawyer's investigation order or a notice of case acceptance, to conduct an inquiry "from property to person" (i.e., to verify the owner of a specified property), whereas only public authorities such as the public security authorities, procuratorates, and courts may conduct an inquiry "from person to property" (i.e., to search comprehensively for all properties held by a named individual).

(2) Lawyer's investigation orders.

A lawyer's investigation order is predicated upon the commencement of court proceedings. The order is issued by the court to the representing attorney and allows attorneys to collect evidence and asset information from relevant entities or individuals, subject to the scope specified in the order. PRC law does not expressly provide for investigation orders; rather, they are currently governed by local judicial regulations issued by various provincial high courts. As a result, specific procedures

and practice for an investigation order will vary among courts and matters. With an investigation order, attorneys can request access to various types of information, such as bank transactions, real estate, securities, corporate financial records, digital assets, personal social security, etc.

(3) Court inquiry and control mechanisms.

Once the case enters the enforcement stage, the court may, through the "General-to-General" and "Point-to-Point" systems, directly conduct online inquiries nationwide into the judgment debtor's assets, including financial assets, immovable property, and movable property. Once assets available for enforcement are identified, the court will immediately take control measures such as seizure and freezing so as to prevent dissipation or transfer of the assets.

## 12. What proprietary or analogous remedies (e.g., in rem claims, restitutionary claims, vindicatory actions) are available for recovering misappropriated assets?

(1) Proprietary remedies:

a) claim for return of the original property

In principle, the right to make this claim is not subject to any limitation period where it concerns immovable property rights or registered movable property rights. However, where the claim relates to unregistered movable property rights, the ordinary three-year limitation period applies.

Making this claim is premised on the following requirements: the claimant must be the owner of the property or a holder of a proprietary to the property; the respondent must be in possession without lawful title; and the original property and the relevant proprietary rights must still be in existence.

(2) Obligatory remedies

a) Personal remedy: claim for unjust enrichment

The right to make this claim is subject to a limitation period. It is generally applicable where the original property has been destroyed, transferred, or otherwise cannot be recovered through a proprietary claim. The scope of restitution is generally limited to the benefit still existing in the hands of the enriched party. However, where the enriched party is in bad faith, liability may also extend to compensation for losses.

b) Personal remedy: claim for damages in tort

The right to make this claim is likewise subject to a limitation period. It may compete with a claim for restitution based on unjust enrichment. The right holder may require the person who misappropriated or wrongfully occupied the assets to bear tortious liability for damages so as to compensate for the losses suffered due to the tortious conduct.

c) Creditor's right of rescission

This right is subject to a statutory exclusion period (preclusive period). A creditor may request a rescission where the debtor disposes of property by waiving claims, waiving security for claims, transferring without consideration, transferring at a significantly unreasonable low price, acquiring property at a significantly unreasonable high price, or providing security for another's debt, thereby affecting the realization of the creditor's claim. The scope of exercising the right of rescission is limited to the amount of the creditor's claim.

## 13. What are the relevant limitation periods for civil asset recovery claims? Are there extensions or suspensions in cases involving fraud, concealment, or delayed discovery?

The time limits applicable to civil asset recovery claims in the PRC depend on the nature of the claim. In this context, it is important to distinguish between the limitation period and the statutory period of preclusion.

The limitation period applicable to a civil asset recovery claim in the PRC depends on the nature of the claim. For example, claims for return of specific registered immovable/movable property (based on property rights) are not subject to limitation periods; unregistered movable property claims follow the 3-year general limitation. Under PRC law, the limitation period generally begins to run from the date on which the right holder knew or ought to have known both that its rights had been infringed and who the obligor was. Accordingly, in cases involving fraud, concealment, or delayed discovery, the commencement of the limitation period will be postponed until the date on which the claimant knew or ought to have known that its rights had been infringed and who the obligor was. However, if more than twenty years have elapsed from the date on which the rights were infringed and the claimant still failed to discover the infringement, the people's court will generally not afford protection.

Notwithstanding the above three-year time limits, the

limitation period may, under PRC law, be either interrupted or suspended.

Interruption of the limitation period means that, during the running of the limitation period, upon the occurrence of a statutory event—such as the right holder asserting its claim, or the obligor acknowledging the obligation—the time already elapsed is rendered ineffective, and the limitation period will recommence in full once the cause of interruption ceases.

Suspension of the limitation period means that, during the last six months of the limitation period, where the right holder is unable to exercise its claim due to force majeure or other objective obstacles, the running of the limitation period is paused by operation of law; once the cause of suspension is removed, the limitation period will continue to run.

Additionally, certain asset recovery remedies are not governed by the limitation period, but by a statutory period of preclusion. This is particularly relevant where the claimant seeks relief by exercising a right of revocation or rescission. For example, where a creditor seeks to challenge a debtor's transfer of assets at an undervalue, gratuitous disposition, or other act prejudicial to the creditor's right of recovery, the applicable time limit is generally a period of preclusion rather than a limitation period.

The distinction is significant. A limitation period is procedural in nature: upon expiry, the underlying substantive right is not extinguished, but the obligor acquires a limitation defence. By contrast, a statutory period of preclusion is generally substantive in nature: upon expiry, the relevant right itself is extinguished. In principle, a period of preclusion is not subject to interruption or suspension in the same way as a limitation period, unless the law expressly provides otherwise.

Accordingly, in civil asset recovery cases involving fraudulent transfers, concealment of assets, or other transactions susceptible to challenge by way of revocation, particular attention should be paid not only to the general rules on limitation, but also to whether the remedy sought is subject to a statutory period of preclusion, as the consequences of expiry are more severe.

#### **14. What is the applicable standard of proof in civil asset recovery proceedings? How does this compare to the criminal standard, if relevant?**

The standard of proof in civil asset recovery proceedings in China is that of preponderance of evidence. This standard requires only that the facts sought to be proven be shown to be highly probable, which is usually understood to be a probability of more than 50%, and which satisfies the presiding judge.

By contrast, the criminal standard is proof beyond reasonable doubt. This requires the prosecution's evidence to form a complete and exclusive chain of evidence, such that, as to the facts constituting the defendant's offence, there remains no reasonable and well-founded doubt consistent with common sense.

That said, PRC civil procedure recognises certain exceptions in which a higher standard, akin to the criminal standard, applies even in civil proceedings. Under Article 109 of the Supreme People's Court's Interpretation on the Application of the Civil Procedure Law, where a party seeks to prove fraud, duress, or malicious collusion, or the existence of an oral will or gift, the court must be satisfied that the probability of the fact's existence is sufficient to exclude reasonable doubt before that fact may be found established.

This exception is particularly relevant in asset recovery practice. In many civil asset recovery cases, the claimant may need to establish that assets were transferred or concealed through fraudulent arrangements, malicious collusion, or other improper conduct. In such circumstances, although the proceedings remain civil in nature, those specific facts may need to be proven to a heightened standard approaching beyond reasonable doubt, rather than merely by a preponderance of the evidence.

#### **15. Where does the burden of proof lie, and are there any evidential presumptions or burden-shifting mechanisms (e.g. in cases involving unexplained wealth or transactions at an undervalue)?**

In PRC civil litigation, the general principle is that "he who asserts must prove". However, in certain circumstances, PRC law also provides for reversal of the burden of proof or evidential presumptions.

Reversal of the burden of proof generally arises in certain specific tort disputes (for example, disputes concerning damage caused by falling objects from buildings, and medical malpractice disputes), as well as in disputes concerning disregard of the corporate personality of a one-person company. However, this rule does not apply directly in purely contractual disputes or general asset

recovery claims based on tort.

In addition, PRC civil procedure law does provide for certain categories of facts that need not be proved. Specifically, these include: (i) laws of nature, theorems, and laws; (ii) facts that are common knowledge; (iii) facts presumed by law; (iv) other facts inferred from known facts and the rules of daily life experience; (v) facts confirmed by an effective arbitral award; (vi) basic facts confirmed by a legally effective judgment or ruling of a people's court; and (vii) facts proven by a valid notarized instrument.

In some cases, the burden may be placed on the criminal defendant, such as cases involving unexplained wealth. Under the PRC criminal law, a state functionary must rebut the presumption of illegal conduct if they possess substantial wealth far in excess of their lawful income by proving the wealth came from legitimate sources. However, this charge may not be directly applied to civil asset recovery proceedings given the scope of application of this offence is very limited, both as to the persons to whom it applies and the circumstances in which it applies.

In the case of a transaction at an undervalue, the plaintiff may invoke the creditor's right of revocation. Specifically, where a debtor transfers property at a manifestly unreasonable low price, accepts property from another at a manifestly unreasonable high price, or provides security for another person's debt, thereby affecting the realization of the creditor's claim, the creditor may request the court to revoke such act. A "manifestly unreasonable price" means that the transfer price is less than 70% of the market price at the place and time of the transaction, or that the acquisition price is more than 30% higher than the market price. Although this rule substantially reduces the plaintiff's burden of proving that the price was "manifestly unreasonable", it does not amount to a formal shifting of the burden of proof.

#### **16. What defences are available to respondents in civil asset recovery proceedings (e.g., change of position, limitation, laches, good-faith purchaser for value)?**

Under PRC law, the available defences are primarily statutory and cause-of-action specific, rather than organised as equitable defences in the common-law sense. In practice, the principal defences in civil asset recovery proceedings are limitation, good-faith acquisition (bona fide purchase) in proprietary claims and, in unjust enrichment claims, the statutory protection afforded to a good-faith recipient. By contrast, laches is

not recognised as an independent general defence under PRC law; delay is instead addressed through limitation rules, lapse or waiver of rescission rights, and the general principles of good faith and prohibition of abuse of rights.

PRC law does not recognise a defence with respect to change of position. Its closest functional equivalent appears in the law of unjust enrichment. Article 986 of the PRC Civil Code provides that where a recipient is not obligated to return a benefit that it did not know and ought not to have known was obtained illegitimately and the benefit no longer exists. Conversely, under Article 987 of the PRC Civil Code, a recipient who knew or ought to have known that the enrichment lacked legal basis must return the benefit and may also be liable for losses. This means that, in substance, PRC law protects a good-faith recipient who no longer possesses the assets, which performs a function broadly analogous to the common-law change of position defence, albeit in a narrower and more codified form.

For proprietary claims, the closest analogue to a good-faith purchaser for value defence is the doctrine of good-faith acquisition / bona fide purchaser. A defendant may defeat the original owner's claim by showing that the asset was acquired in good faith, for reasonable consideration, and, where applicable, through the required act of registration or delivery. Accordingly, in PRC civil asset recovery practice, the most important respondent-side defences are usually framed not as broad equitable doctrines, but as specific statutory rules concerning limitation, good-faith acquisition, and the restricted restitutionary liability of good-faith recipients.

#### **17. How are third-party rights protected in civil recovery proceedings? What mechanisms exist for innocent parties to assert their interests in assets subject to recovery claims?**

In PRC civil recovery proceedings, the principal mechanisms for protecting third-party rights or enabling innocent parties to assert their interests include the following:

Under the rule of good-faith acquisition / bona fide purchaser a transferee who acquires movable or immovable property from an unauthorized transferor may nevertheless obtain title if the transferee acted in good faith, paid a reasonable price, and the relevant registration or delivery requirements were completed. In that event, the original owner generally loses the right to recover the asset itself and is left to pursue the unauthorized transferor. In addition, in the law of unjust enrichment, a good-faith recipient whose benefit no

longer exists is not obliged to make restitution, whereas a recipient who knew or ought to have known of the lack of legal basis must return the benefit and may also be liable for losses. This provides a functional protection for innocent third parties comparable, in limited circumstances, to a change-of-position defence.

Article 59 of the PRC Civil Procedure Law allows a third party with an independent claim to the subject matter of the dispute to join the proceedings, and also permits a third party without an independent claim to participate where the outcome has a legal interest for that third party. This is the primary procedural mechanism for ensuring that an innocent third party can be heard before a recovery order is made.

The third party's right of revocation, namely the system under which a third party that did not participate in litigation between other parties may, where it has evidence proving that the contents of an effective judgment, ruling, or mediation statement are erroneous and have harmed its civil rights and interests, commence proceedings before the court that rendered the original decision within the statutory time limit, requesting that the original decision be revoked or varied. Separately, at the enforcement stage, a non-party who claims that seized, distrained or frozen property belongs to it may file a written objection to enforcement. If that objection is dismissed, the non-party may pursue the follow-on litigation route provided by law so that the ownership or other substantive entitlement to the property can be fully adjudicated. These mechanisms are the principal means by which innocent third parties resist recovery measures directed at assets that they claim as their own.

## 18. How does your jurisdiction classify cryptocurrencies and other digital assets for civil recovery purposes? Are they capable of being held on trust or subject to proprietary or equivalent claims?

There is no single statutory classification standard for digital assets under current regulations and judicial practice in China. Based on the digital assets commonly seen in practice, they may broadly be divided into decentralized digital assets and centralized digital assets based on reference to their technical architecture.

### (1) Decentralized digital assets

Decentralized digital assets are typically represented by virtual currencies, which are subject to strict regulation in China. Under the Notice on Further Preventing and Dealing with Speculation Risks in Virtual Currency

Trading and other relevant regulations, China characterizes "virtual currency-related business activities" as "illegal financial activities", and prohibits investment in virtual currencies and their derivatives. On the other hand, China has, in substance, recognized the property attributes of virtual currency, and imposes legal liability for acts such as the theft, misappropriation, or unlawful possession of virtual currency. In other words, PRC judicial practice has basically formed an approach of "protecting holding" while "prohibiting trading" (particularly investment-oriented trading) in relation to virtual currency.

Judicial authorities tend to take a qualitative approach to distinguishing between genuine property transfers and illegal financial speculation involving digital assets and to handle these transactions differently from an enforcement perspective depending on the specific purpose of the transaction, performance circumstances, fault of the parties, and whether they endanger the financial order. For example, some courts have held that disputes involving claims relating to virtual currency do not fall within the scope of cases to be accepted by the courts and have therefore ruled not to accept the case or to dismiss the action; however, other courts have ordered the return of virtual currency or awarded compensation by way of value conversion.

At the same time, as noted above, China currently prohibits investment-oriented trading in virtual currencies. Trusts holding decentralized virtual currencies are invalid as a matter of law (violate financial regulations and public order); no valid trust structure is recognized for such assets.

### (2) Centralized digital assets

Centralized digital assets are typically represented by game equipment, game accounts, or other platform-based tokens stored entirely on the servers of the operator or issuer, such as Q Coins issued by Tencent.

Compared with the decentralized digital assets discussed above, China's regulation of centralized digital assets is relatively more relaxed, and there are correspondingly fewer obstacles to taking recovery measures against them. In judicial practice, courts may usually issue a notice of assistance in enforcement directly to the domestic issuer or operating platform, requiring that platform to assist in controlling the relevant digital assets, such as in-game equipment or accounts. Thereafter, the centralized digital assets may be transferred or monetized through means such as delivery of passwords, change of real-name registration information, or judicial auction online, thereby achieving

the recovery of such centralized digital assets.

### 19. What interim relief mechanisms exist for freezing or preserving digital assets (e.g., access to private keys, hardware wallets, exchange-held accounts)?

Given that China has now recognized the property attributes of virtual currency, virtual currency should, in theory, be the subject matter of civil preservation measures. However, as noted above, cases in which preservation measures are granted over virtual currency in civil proceedings remain relatively rare due to the cautious policy attitude of PRC law toward virtual currency trading, together with the technical difficulties involved in preserving virtual currencies. Interim relief measures for digital assets in PRC proceedings may include the following.

(1) As regards virtual currency held on centralized trading platforms, it is theoretically possible to require the trading platform to cooperate in freezing the relevant account to acquire control over the virtual currency. However, since virtual currency trading institutions have been completely abolished within China, the relevant account information is now generally stored only on overseas servers. The special nature of the storage medium and operating platform means that enforcement against such virtual currency will inevitably involve international judicial assistance, and the relevant procedures are relatively complicated, time-consuming, and dependent on the degree of cooperation of the overseas judicial authorities.

(2) As regards virtual currency held in decentralized wallets, the traditional mechanism of "account freezing" similar to bank accounts does not exist. A more realistic path for judicial preservation is indirect control through measures such as seizing hardware wallets, controlling devices, ordering declarations, and requiring transfer to a court-controlled address. However, the effectiveness of such seizure largely depends on the party's cooperation. If the party refuses, judicial authorities may not be able to bypass the private key mechanism to directly obtain control. Actual possession of private keys or mnemonic phrases may not necessarily be obtained even if measures such as searches, seizure of devices, orders to declare, fines, or detention are taken.

### 20. What disclosure and tracing, disclosure and investigative tools are available for identifying and following digital asset transactions, and

#### what practical challenges arise in obtaining information from exchanges or service providers?

For decentralized digital assets (such as Bitcoin, Ether, and USDT), the following tracing methods are available:

(1) The court may request assistance through channels of judicial assistance by sending a letter through the official legal/compliance channels of offshore exchanges (such as Binance and Huobi). However, since virtual currency trading platforms are generally incorporated offshore, investigation is difficult and the success rate is low; accordingly, the practical effectiveness of this conventional method cannot be assured.

(2) The creditor may seek evidence preservation over relevant electronic data where there is a risk that it may be destroyed or become difficult to obtain later. In a digital-asset case, this may include transaction records, wallet information, device data, and in appropriate cases the physical or electronic carrier of a private key or mnemonic.

(3) Through an investigation order, it may be possible to obtain information from the counterparty's WeChat or Telegram groups referring to virtual currency transactions and holdings, so as to identify relevant asset clues.

Since there are currently no lawful virtual currency exchanges or service providers within mainland China, any information to be obtained from exchanges or service providers must be obtained through judicial assistance for evidence-taking. The timeframe for such judicial assistance is very long, generally requiring at least six months. In particular, obtaining information is even more difficult in the case of decentralized exchanges (DEXs). At present, there are almost no readily identifiable successful cases under PRC law involving the tracing of virtual currency. Accordingly, the practical utility of these tools remains to be tested.

As regards centralized digital assets, common examples under PRC law include account-based assets such as online shops, virtual items such as digital collectibles and in-game equipment, virtual currency-type assets such as platform tokens, and other forms of virtual property such as internet domain names.

For the above categories of virtual property, the Guidelines of the Shanghai High People's Court on Regulating the Enforcement of Online Virtual Property (Trial Implementation) provide for a virtual property declaration mechanism. In litigation proceedings, the

court may require the parties to disclose the type and content of their online virtual property, the domain names, platform accounts, and other electronic (data) information relating thereto, as well as the actual status, storage arrangements, and other necessary information. The court may also issue a reward notice, inviting members of the public to submit clues relating to property.

Once asset clues have been obtained, the court may issue a letter of investigation/assistance to the relevant virtual platform, requiring that platform to assist in the investigation. Since online accounts are usually linked to mobile phone numbers, in self-conducted investigation it is possible to search relevant online platforms using the phone number in order to identify the corresponding account and determine whether there are assets capable of monetization. It is also possible, through analysis of the judgment debtor's bank transaction records, chat records, and similar materials, to identify where funds may have flowed, determine the virtual platforms to which such funds may have been transferred, and then investigate asset clues by means of an investigation order or similar measures.

However, the most difficult part of recovering digital assets is the identification of asset clues. In this respect, lawyers and parties must take the initiative to search broadly for relevant clues, and the court is generally unable to conduct such investigation proactively. Since there is no disclosure order or discovery mechanism in PRC legal system, one cannot rely on voluntary disclosure by the other party in order to obtain asset clues. Once asset clues have been obtained, however, tools such as investigation orders may then be used to obtain complete asset information from service providers or to preserve the virtual property.

## 21. How are legal costs allocated in civil asset recovery proceedings? What is the general rule on costs, and what exceptions apply?

In civil asset recovery proceedings, legal costs mainly include court filing fees (or arbitration fees), preservation fees, appraisal fees, legal fees, and preservation security/insurance fees.

Where recovery is pursued through court litigation, court filing fees, preservation fees, and appraisal fees are generally borne by the losing party. Where each party succeeds in part and fails in part, such costs are generally borne proportionately. By contrast, legal fees and preservation security/insurance fees are generally borne by each party respectively, unless the parties have

expressly agreed otherwise in the contract. Even where the contract contains a specific agreement as to the allocation of legal fees or preservation security/insurance fees, the court may still review the reasonableness of such expenses. If the court considers that the legal fees claimed are manifestly excessive, it may refuse to order the opposing party to bear them.

It should be particularly noted that, as regards court filing fees, where the plaintiff prevails, the plaintiff may usually request the court to refund such fees, after which the court will recover them from the losing party. As regards preservation fees, some courts also support refunding such fees to the successful plaintiff, while other courts take the opposite view.

Where recovery is pursued through arbitration, the allocation of arbitration fees, preservation fees, appraisal fees, legal fees, and preservation security/insurance fees is generally determined by the arbitral tribunal in the exercise of its discretion. In most cases, the tribunal will follow the general approach that the losing party must compensate the successful party for its reasonable costs and expenses. Unlike in court litigation, however, in arbitral proceedings the tribunal will not directly refund fees to the successful claimant.

## 22. Are third-party funding, contingency fees, conditional fee arrangements, or damages-based agreements, or other alternative funding mechanisms available? What are the rules on security for costs?

### (1) third-party funding arrangements

In China, third-party litigation funding is still at a nascent stage but is developing, whereas contingency fees (success-based fees) for lawyers are permitted with some restrictions.

In recent years, as large commercial arbitrations and cases have arisen, third-party funding (TPF) has started to appear, especially in arbitration. For litigation in court, TPF remains rare and somewhat sensitive. There have been a few cases and commentaries implying that TPF is not against public policy. For example, PRC courts have not struck down litigation funding agreements that came to light, and indeed in some insolvency cases bankruptcy administrators have used funding. In February 2023, a PRC court (Jiangsu High People's Court) reportedly acknowledged the legality of a TPF arrangement in an arbitration context, signaling a more open attitude.

### (2) contingency fees, conditional fees and damages-

based arrangement

PRC bar rules allow lawyers to charge on a contingency basis in civil cases except where prohibited. Contingency fees are explicitly banned in certain types of matters – notably criminal defense, administrative litigation, group litigation, state compensation cases and matrimonial cases, but in asset recovery or commercial cases, they are allowed. The Ministry of Justice and the All China Lawyers Association have guidelines capping contingency fees (often at around 18% of the amount recovered, depending on the case size) to prevent excessive charges.

In PRC legal practice, the concept of “conditional fee” and “damages-based fees” are often integrated into the regulatory framework of the aforementioned contingency fees.

(3) other alternative funding mechanisms

State-funded legal aid is available for individuals who meet specific financial hardship criteria in certain types of cases. In civil cases such as those involving alimony, child support, spousal maintenance, labor remuneration, damages for work-related injuries, or compensation for traffic accidents, parties who have not retained legal representation due to financial hardship may apply for state-funded legal aid.

(4) rules on security for costs

PRC law does not recognise an independent procedure equivalent to the common-law concept of security for costs. In civil proceedings, court fees are generally prepaid by the plaintiff or appellant. As a matter of ultimate allocation, litigation costs are generally borne by the losing party. Where the plaintiff succeeds, the court will ordinarily refund the prepaid court fees to the plaintiff and then collect them directly from the defendant. If a party refuses to pay, the court may enforce payment compulsorily.

As for legal fees, the PRC position is different from many common-law jurisdictions. Lawyer’s fees are normally borne by each party itself, save where a statute, judicial interpretation, contract, or a recognised category of case expressly allows recovery from the losing party. Accordingly, there is no separate procedural mechanism requiring a party to provide advance security for the opposing party’s prospective legal costs. In practice, this means that although court fees can ultimately be shifted and enforced, PRC law does not provide a general security-for-costs regime to protect a defendant against the risk of being unable to recover its legal costs from an

unsuccessful claimant

### 23. How do insolvency proceedings interact with civil asset recovery actions? Can tracing or proprietary claims be pursued within insolvency, and what priority do such claims receive?

In insolvency proceedings, the property of the bankrupt enterprise is taken over by the administrator in accordance with law and is pursued and recovered in a consolidated manner. At that stage, creditors will submit their proofs of claim to the administrator and may, if dissatisfied with the administrator’s review of their claims, continue to bring litigation or arbitration against the bankrupt enterprise in order to confirm the nature or amount of the claim. The administrator may also proactively commence proceedings and exercise bankruptcy avoidance powers in order to recover assets that have been improperly disposed of.

Pursuant to Articles 31 and 32 of the Enterprise Bankruptcy Law, the administrator has the right to apply to the court to revoke and recover: acts conducted within one year before the court accepted the bankruptcy petition, including gratuitous transfers of property, transactions concluded at a manifestly unreasonable price, and the provision of security for unsecured debts; and preferential repayments made to individual creditors within the six months preceding acceptance of the bankruptcy petition. In addition, the administrator may also recover the relevant property where property has been concealed or transferred, or debts have been fabricated, for the purpose of evading debts.

After the bankruptcy petition has been accepted, in relation to contracts that have not been fully performed by either the bankrupt enterprise or the counterparty, the administrator has the right to decide whether to terminate the contract or continue performance. This right directly affects the interests of the relevant parties. If the administrator decides to terminate the contract, any claim for damages thereby arising in favour of the counterparty shall be filed as an ordinary bankruptcy claim. If the administrator decides to continue performance, the debts arising from such continued performance may constitute common benefit debts, which enjoy priority of payment.

The owner of property enjoys a right of reclamation where the property is in the possession of a bankrupt enterprise. Since the core prerequisite of such right is that the property does not belong to the debtor, the owner may directly assert title to the specific property and require the administrator to return it, without being affected by the

order of distribution in bankruptcy.

In addition, where a creditor holds a security interest over specific property of the bankrupt enterprise, that creditor has a priority right of satisfaction out of that specific property, and such right is likewise not affected by the order of distribution in bankruptcy. However, the priority of the secured claim extends only to the value of the collateral. Any portion exceeding that value, or any portion in respect of which priority is waived, will be treated as an ordinary claim.

#### **24. How are claims for the recovery of misappropriated assets treated in the insolvency of the wrongdoer or intermediary? What is the relationship between civil recovery and insolvency clawback or avoidance provisions?**

Under PRC law, the treatment of claims to recover misappropriated assets in the insolvency of the wrongdoer or an intermediary depends primarily on whether the claimant can assert a proprietary right to a specific asset, or merely a personal monetary claim against the insolvent party. An asset does not form part of the bankruptcy estate if the claimant can prove that the asset in the debtor's possession or control is legally owned by the claimant, and that ownership never passed to the debtor. In such circumstances, the creditor may seek to recover the asset by asserting a right of reclamation against the bankruptcy administrator pursuant to Article 38 of the Enterprise Bankruptcy Law (EBL).

By contrast, if the creditor cannot prove that ownership of any specific asset in the debtor's possession or control still remains vested in the creditor, for example, because the asset has been disposed of, mixed, or transformed, or because the claimant can only establish that the debtor or intermediary is liable to it in damages, unjust enrichment, or contract, but cannot prove that ownership, the creditor cannot therefore maintain a reclamation claim, its remedy is ordinarily reduced to a creditor's claim for payment, which must be treated as a bankruptcy claim and dealt with through the collective insolvency distribution process.

A creditor's recovery of its own property from the bankrupt enterprise by way of a right of reclamation is a proprietary claim for the return of property. While the bankruptcy administrator's recovery of the debtor's assets through the avoidance right is, in substance, a creditor's claim aimed at restoring the debtor's estate.

The relationship between civil asset recovery and

insolvency clawback or avoidance is therefore complementary but conceptually distinct. Civil asset recovery is concerned with maintaining the creditor's own rights to identified assets or to compensation. By contrast, the administrator's avoidance powers under the EBL are designed to restore value to the debtor's estate for the benefit of the general creditors.

#### **25. What are the key practical challenges facing practitioners in asset tracing and recovery (e.g., complex structures, offshore jurisdictions, banking secrecy, non-cooperative intermediaries)?**

(1) Difficulty in obtaining information and evidence about the defendant's assets

The most significant obstacle in China to recovering assets via civil litigation is the difficulty in obtaining information and evidence about the defendant's assets, i.e., the creditor's inability to rapidly and reliably identify, locate, and verify executable assets before they are dissipated. Unlike common-law systems, PRC civil procedure does not offer broad third-party disclosure or robust discovery tools. Victims of corruption or fraud often know funds disappeared into complex channels but, once in China, identifying and tracing those assets through banks, shell companies, or insiders can be extraordinarily challenging in a civil case. Even where preservation is theoretically available, its effectiveness in practice often hinges on the claimant's ability to provide actionable, specific asset identifiers (bank account/real property registration/company equity details). Without those details, an asset freeze is hard to execute, and by the time the case proceeds to enforcement, assets may have moved, been layered through affiliates, or been converted into forms that are difficult to seize.

This evidentiary hurdle is the biggest impediment to asset recovery litigation. For example, in a case in which a state entity tried to recover embezzled funds, we strongly suspected the funds had been invested in various properties and companies in the names of the defendants' relatives. However, we had no way to compel the defendants or third parties to disclose those relationships and our client could only freeze known assets, which consisted of several bank accounts. Defendants will often simply deny having other assets and thus dare the plaintiff to prove otherwise, knowing the plaintiff has no discovery process to discern the truth. PRC courts do have a system post-judgment where enforcement officers can check certain asset registries (bank accounts in major banks, real estate registry, etc.),

but by that time if assets are not found or have been transferred, the judgment may go unsatisfied.

### (2) Complex asset transfer methods

Complex asset transfer methods also make asset tracing and recovery become more difficult. For instance, the opposing party can swiftly convert cash into cryptocurrencies, leveraging their portability, cross-border mobility, and relatively weak regulatory oversight to conceal assets. In civil litigation, applicants often can only provide leads based on publicly available on-chain data, making it difficult to directly link them to real-world identities. If the assets have passed through mixers or similar tools, the technical cost of tracing them increases exponentially, far exceeding the capabilities of ordinary civil litigants. Alternatively, the opposing party may employ complex transactional structures, such as nominee holdings, offshore trusts, or BVI or Cayman Islands companies, to shield the ultimate beneficial owner. In civil proceedings, the applicant would need to apply step by step for court disclosure orders to compel registered agents, banks, or trustees to produce documents. However, cross-border service of process, and the recognition and enforcement of mutual legal assistance requests, are time-consuming, and the relevant intermediary institutions may be uncooperative, passively complying or even actively concealing the information.

### (3) Difficulty in cross-jurisdictional assistance

In the context of cross-border fund flows, asset recovery often relies heavily on international judicial assistance. However, such assistance is typically time-consuming, during which the assets in question may be swiftly transferred once again. Moreover, the smooth progression of international judicial assistance is contingent upon a multitude of factors, including but not limited to the existence of a mutual assistance treaty, the presence of reciprocal relations, and the degree of cooperation from the requested state, all of which have led to the unpredictability of international judicial assistance.

## 26. What strategic considerations arise when choosing between different civil causes of action or pursuing parallel proceedings? Can civil proceedings be stayed pending related criminal or regulatory actions?

When choosing between different civil causes of action or considering parallel proceedings, the core strategic consideration is how to maximize the prospects of

success and the effectiveness of enforcement. A party may face a concurrence of multiple possible causes of action, in which case it is necessary to compare them from several perspectives, including the difficulty of proof, the time limits for exercising the claim, and the scope of recoverable relief. Generally speaking, a tort claim may allow claims for damages to be brought against a wider range of parties, but it usually involves a heavier burden of proof; by contrast, a contract claim may involve a lighter burden of proof but is available only as between the contracting parties.

A more complicated issue arises where multiple causes of action point to the same payment or recovery objective. In such circumstances, attention must be paid to the possible application of the principle of *res judicata*, so as to avoid the loss of rights resulting from an inappropriate procedural choice. In recent years, practice has begun to explore the approach of advancing principal claims and alternative claims in the same proceedings, which reduces the risk of losing the case due to an incorrect choice of cause of action. This strategy is particularly suitable for cases involving complex legal relationships and significant uncertainty in the ascertainment of facts.

Civil proceedings may be stayed pending related criminal or regulatory actions, which will depend upon whether a criminal proceeding is found to take precedence over the civil case. Under current law and judicial practice, only where the adjudication of the civil case must be based on the outcome of the criminal case, or where the civil case and the criminal case are based on the same legal facts (that is, where the civil conduct itself is suspected of constituting a criminal offence), will the court rule to stay the civil proceedings, dismiss the civil action, or decline to docket the civil case. Otherwise, the civil proceedings should not be stayed and should proceed in parallel with the criminal proceedings.

For example, where the debtor under the principal contract is suspected of having committed a criminal offence, or has been found by a criminal judgment to have committed such an offence, and the creditor seeks to hold the guarantor civilly liable, such a claim against the guarantor will generally not be affected by the criminal case involving the debtor under the principal contract.

It should also be noted that, even where the case falls within the scope of "criminal proceedings taking precedence over civil proceedings", if the criminal case remains unresolved for a prolonged period and seriously prejudices the lawful rights and interests of the relevant parties, the court may, on considerations of efficiency and

fairness, resume the hearing of the civil case.

Furthermore, if the substantive issues in a civil case depend on an ongoing administrative penalty, administrative licensing decision, or the outcome of administrative reconsideration/litigation, the people's court may, at its discretion, suspend or halt the hearing of the related matters to avoid duplicate or conflicting judgments.

## 27. What significant recent cases, reforms, or emerging trends have affected asset recovery practice (including developments in sanctions regimes, beneficial ownership transparency, AML rules, or cross-border enforcement)?

Several recent developments are likely to influence asset recovery practice in China.

Firstly, the sanctions-related litigation landscape has become more concrete. On 27 January 2026, the Jiangsu courts released their 2025 annual typical cases, and a Nanjing Maritime Court matter has been widely treated as China's first tort action applying the Anti-Foreign Sanctions Law in this way. In that case, a Chinese shipbuilder sought pre-action seizure of a vessel after a foreign counterparty suspended payment by reference to a third country's sanctions measures. The dispute was then resolved swiftly through court-facilitated settlement, with payment ultimately made from a counter-security lodged with the court. This development is significant because Article 12 of the Anti-Foreign Sanctions Law expressly prohibits organisations and individuals from implementing or assisting in implementing discriminatory restrictive measures taken by a foreign state against PRC citizens or organisations and permits PRC parties to sue for cessation of infringement and damages. For foreign parties, this means that compliance with overseas sanctions measures may, in some circumstances, create tort exposure under PRC law if Chinese counterparties' lawful interests are thereby harmed.

Secondly, beneficial ownership transparency has materially improved. The Measures for the Administration of Beneficial Ownership Information took effect on 1 November 2024. They require companies, partnerships, branches of foreign companies and certain other filing entities to register and update beneficial ownership information through the relevant registration systems; existing entities were required to complete their initial filings by 1 November 2025. The Measures adopt a relatively broad concept of beneficial owner, covering not only persons who ultimately hold, directly or indirectly,

more than 25% of the equity, income rights or voting rights, but also persons who exercise actual control, including through contractual arrangements or closely related persons; where no person clearly meets the criteria, senior management may be identified instead. The filing and sharing regime is designed in part to support anti-money laundering supervision, because competent state authorities, financial institutions and specified non-financial institutions may access the information through the People's Bank of China system when performing AML-related functions. From an asset recovery perspective, this reform may make it easier to identify ultimate controllers, uncover links among affiliated companies, and support arguments based on horizontal veil-piercing, hidden control, or other look-through liability theories. That said, there are still relatively few civil cases applying the new regime, so its full practical impact remains to be seen.

Thirdly, cross-border enforcement may benefit from the new commercial mediation framework. On 31 December 2025, the State Council promulgated the Commercial Mediation Regulation, which will come into force on 1 May 2026. It is China's first national-level legislation specifically dedicated to commercial mediation. The regulation provides that commercial mediation organisations are to be established by non-profit legal persons, rather than being confined to state organs or public institutions, which may help reduce their public-authority character and make outcomes more acceptable in cross-border settings. It also strengthens the interface between mediation and litigation, arbitration and notarisation, while allowing parties to seek judicial confirmation of mediated settlement agreements and, where enforcement is sought outside China, to apply to the competent foreign authority in accordance with applicable international treaties. Taken together, these changes are likely to make mediated outcomes a more practical tool in cross-border recovery strategies.

In terms of recognition and enforcement of civil and commercial judgments, China has strongly promoted international judicial cooperation in civil and commercial matters. In 2025, PRC courts handled 972 cases involving the recognition and enforcement of foreign civil and commercial judgments. Civil and commercial judgments rendered by PRC courts are increasingly being recognized and enforced by an expanding number of countries, including Australia, New Zealand, Germany, South Korea, Singapore, the Netherlands, Israel, the United States, Canada, the British Virgin Islands, and Italy. In 2025, while hearing a dispute involving a Chinese company's cross-border application for preservation and enforcement, the Grand Court of the Cayman Islands recognized a civil

mediation statement issued by a PRC court for the first time, and based on that recognition, granted the Chinese company's applications for extraterritorial service of process, worldwide freezing of assets, and financial disclosure. Cross-border recovery no longer relies solely

on the traditional single path of domestic judgment followed by extraterritorial enforcement; instead, it increasingly combines mediation, arbitration, preservation, reciprocal recognition, and parallel measures across multiple jurisdictions to achieve asset recovery.

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