



Neutral Citation Number: [2025] CIGC (FSD) 100

Cause No: FSD 2024-0284 (JAJ)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

IN THE MATTER OF THE EXEMPTED LIMITED PARTNERSHIP ACT (2025 REVISION)
AND IN THE MATTER OF CHINA GEM FUND IX L.P.
AND IN THE MATTER OF A LETTER OF REQUEST TO THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

Appearances: Mr Peter Sherwood and Mr Nigel Smith of Carey Olsen for the joint official liquidators

Before: The Honourable Justice Jalil Asif KC

Heard: On the papers

Judgment: 21 October 2025

Cross-border insolvency—letter of request—whether to use standard form for letter of request in use in Hong Kong or to limit recognition sought

JUDGMENT

1. By a letter dated 25 August 2025, Mr Simon Conway and Mr Jess Shakespeare, as joint official liquidators of China Gem Fund IX LP, apply to the Grand Court for a letter of request to be sent to the High Court of Hong Kong for their recognition by that court and for the High Court to grant them judicial assistance. The letter requests that this court deals with the application on the papers. Ordinarily, such an application would be straightforward and would not generate a judgment. However, in the particular circumstances of this case, I consider it may be of utility to provide a judgment in this matter.
2. The relevant background to the application for the letter of request is that on 7 November 2024, I appointed Mr Conway and Mr Shakespeare as liquidators of China Gem Fund IX LP. Following their appointment, the liquidators identified a securities account in China Gem's name managed by Taiping Securities (HK) Co, which is based in Hong Kong. Through this account, China Gem owns 150,900,000 shares in a company listed on the Hong Kong Stock Exchange, with a market value of approximately HK \$12,072,000 (approximately US \$1.55 million).
3. In response to the liquidators' request for the shares to be transferred to them so that they can realise the shares for the benefit of China Gem's creditors, Taiping has said that it requires the liquidators to obtain recognition of their appointment by the High Court in Hong Kong, and the liquidators have accepted that that is a reasonable request.
4. There are no other known assets of China Gem Fund IX LP in Hong Kong, and it does not appear that the liquidators are likely to need to exercise any other powers in Hong Kong, for example investigatory powers.
5. The issue that arises is that the liquidators' Hong Kong attorneys have recommended that the liquidators ask the Grand Court to send a letter of request in the standard form approved by the judges in the High Court of Hong Kong. This is notwithstanding that that form of letter of request includes wide-ranging powers that these liquidators do not require.

6. The Hong Kong attorneys' advice is that a recognition order can easily be obtained for foreign liquidators from the High Court in Hong Kong by making an application on the papers. They say that there is a line of authorities in Hong Kong that encourages consistency and uniformity for applications for recognition, and they refer to *Re Agritrade Resources Ltd (In Provisional Liquidation in Bermuda)* [2020] HKCFI 1967 and the Corrigendum to *Re Joint and Several Liquidators of Pacific Andes Enterprises (BVI) Ltd* (HCMP 3560/2016, unreported, 27 January 2017), where the standard form of order to be used in Hong Kong is set out.
7. In *Re Agritrade Resources*, Harris J states at [2] that the Hong Kong Companies Court has developed an informal procedure and draft forms of order for recognition and assistance that it is prepared to issue on a written application by foreign liquidators. The learned judge stresses at [5] the importance of using these procedures and standard forms of order. He encourages practitioners in Hong Kong to draw the attention of judges in offshore jurisdictions to his decision in *Re Agritrade* so that they are aware of the High Court's approach. However, Harris J also recognises in [6] of his judgment that there will be cases in which the standard form of order needs to be amended or modified.
8. When the liquidators' application was put before me in Chambers, I noted that Harris J had indicated that the precise form of relief sought may be tailored to the circumstances of the case. My provisional view was that the Grand Court should not ask the High Court of Hong Kong to grant powers which the liquidators do not properly require to complete their task, and which are therefore unnecessary. I considered that for this court to request such unnecessary powers would risk being a trespass upon comity.
9. I therefore indicated to Carey Olsen that, given the very limited purpose for which the liquidators require recognition in Hong Kong, namely so that Taiping can be satisfied that it is appropriate to transfer title to the shares to the liquidators, I would strongly prefer to issue a limited letter of request rather than one in the standard form commonly used in Hong Kong. I invited Carey Olsen to discuss this with the liquidators' Hong Kong counsel and indicated that I also intended to raise this question with Harris J directly, extra-judicially.
10. The response from the liquidators' Hong Kong attorneys was simply to reiterate their view that it was preferable to follow the form endorsed by Harris J, but they did not provide a reasoned explanation

for that view other than that giving the liquidators broad powers now might avoid the need for further applications to extend their powers in Hong Kong in the future. The liquidators have indicated that they would be content with the narrower form of order that I have in mind, if it would be acceptable to the High Court in Hong Kong.

11. In his response to my extrajudicial query, Harris J indicated that the standard form of order used in Hong Kong is preferable where a liquidator seeks a full range of powers, to make the processing of the request as streamlined as possible. However, he agreed that the terms of any request should be tailored to what is actually required, particularly where only narrow relief is needed.
12. In those circumstances, I have adhered to my initial view and will finalise the letter of request with the limited powers that the liquidators actually need in order to take ownership of the shares in question, rather than the wider powers in the standard form of order for recognition of foreign liquidators that is generally used in Hong Kong.
13. I suggest that practitioners in the Cayman Islands who need to seek recognition of liquidators by the High Court of Hong Kong should bear in mind in every case whether it is appropriate to seek the full range of powers and, if not, they should limit the scope of the recognition sought so that it accords with what the liquidators truly need to complete their task.

Dated 21 October 2025



**THE HONOURABLE JUSTICE JALIL ASIF KC
JUDGE OF THE GRAND COURT**