



Meet Ogier's new Hong Kong partner Joanne Collett

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A Hong Kong court decision to wind up property developer China Evergrande Group (CEG) has been felt in the market and, for companies able to raise funding, may lead to increased momentum for restructuring deals in the face of impatience from stakeholders who seem increasingly willing to take enforcement action, according to Ogier's new Hong Kong partner Joanne Collett.

In 2018, CEG became the most valuable real estate company in the world. However, the firm collapsed in 2021 and filed for bankruptcy two years later followed by a court ordered liquidation earlier this year.

And Joanne Collett, who joined Ogier's Hong Kong office as a partner on 2 May 2024, believes that the shockwaves from that will lead to an upward trend in restructuring work so long as there is funding.

She said: "The market at the moment seems to be gaining momentum in terms of restructuring deals for some companies and some positivity, but things seem to be moving slowly with certain companies lacking either the appetite or the financial resources to make a deal happen.

"I think the willingness of the Hong Kong Court to wind up China Evergrande Group and the message sent was felt in the market here. Some stakeholders, including those with security, have seemed more willing to take action."

Discussing other potential trends in the restructuring sector, Joanne added that differing decisions made in the Cayman Islands, Hong Kong, BVI and New York Courts regarding the rights of bondholders to take direct action has "added to the uncertainty" although the "background differs in these decisions to some extent".

"There have been positive changes in Cayman for a capital reduction which should help to streamline that process for some companies," she added.

"From the investment funds side, and particularly for those funds with distressed investments, there are enquiries as to the duties and responsibilities of fund managers and directors, and questions from investors regarding their options and I expect those to continue in the near future. Ogier is currently working on the Three Arrows Capital case, and I would query whether other crypto related cases will follow given the market volatility."

A restructuring and insolvency expert, Joanne brings more than 22 years' of insolvency related experience to Ogier. She initially qualified in Australia before moving to New York and then the Cayman Islands before moving to Hong Kong in 2012 where she continued to practise offshore law. Immediately prior to joining Ogier, Joanne had worked at Walkers for around ten years.

She said: "I joined Ogier having seen the team in Hong Kong, led by Oliver Payne, go from strength to strength over many years. I am delighted to join the team which feels like an excellent fit and with complimentary skills to my own. I have worked both with and opposing the Ogier team in the past, and have seen the expertise offered to clients which impressed me."

Joanne offers considerable local and cross-border expertise and regularly advises offshore companies experiencing financial distress. She added that the most interesting cross-border case she has worked on was the MIE Holdings Corporation case, involving a bilateral deal with bank lenders to the company with facilities governed by Hong Kong law.

She said: "The case was particularly interesting because we decided not to pursue a Hong Kong Scheme in parallel - the *Gibbs* rule then arguably applying to the discharge of the New York law governed bonds, which was later queried in other cases from Hong Kong and New York, and at this stage upheld in those other cases in New York.

"We also had provisional liquidators appointed for restructuring purposes, and to save costs the client applied to have those provisional liquidators discharged automatically upon the restructuring effective date rather than requiring an additional hearing which was a first for Cayman, having previously done this successfully in another case in Bermuda. If we were to do this case now one might look at the appointment of restructuring officers, following changes to the law in Cayman to enable officeholders to be appointed for restructuring purposes rather than a 'light touch' appointment of provisional liquidators to give stakeholders the certainty and oversight of a court process.

"The benefit of this process is that depending on how the order is drafted there may not be a need for recognition of the restructuring officers in Hong Kong, which I understand may be difficult, because there is a functioning Board of Directors which remains in place, subject to significant oversight from professional insolvency practitioners."

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