

Update

# Important trends in claims exposures for professionals in Hong Kong

June 2016

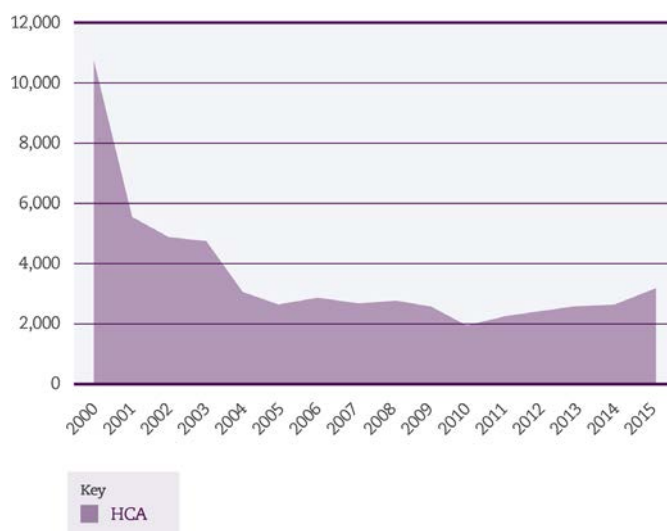


The current litigation landscape for professionals in Hong Kong is relatively benign: but is this the lull before the storm?

Patrick Perry, a specialist in professional liability claims, explores the recent trends in claims against professionals in Hong Kong, and considers what the future may hold. Particular areas of concern for accountants, barristers, brokers, lawyers, surveyors, and construction professionals are considered.

### Litigation Trends – High Court actions

#### Number of High Court Actions (HCA)



Accurate records are kept of all actions commenced in the Hong Kong High Court, which deals with claims of over HK\$1 million. The graph above shows the number of claims begun by writ each year over the last 15 years. This data covers all claims, not just those against professionals, but gives an indication of the general litigation trends.

As can be seen, over the last 15 years, there has been a substantial decrease in the number of claims per year (of over 75%). Over the last 5 years, the number of claims has slowly increased, but remains well below historic levels.



## Mediation in Hong Kong

Mediation is entirely voluntary and it can start before any formal proceedings are commenced or at any stage during the process of litigation.

Under Practice Direction 31 (which came into effect after the Civil Justice Reform 2009), the Court has the duty as part of active case management to encourage parties to engage in alternative dispute resolution procedure, including mediation. This was designed to promote the underlying objective of facilitating early settlement of disputes.

The Court will take into account any unreasonable failure of a party to engage in mediation when exercising its discretion on costs, and can make an adverse costs order.

Mediation is suitable for many claims against professionals as the process is quick, private and confidential, and the terms of settlement can have greater flexibility and practicality (not being bound by the legal remedies that a court can usually grant).

## Statistics

| Number of Mediation related documents filed in the Court of First Instance | 2011  | 2012  | 2013  | 2014  | 2015  |
|--|-------|-------|-------|-------|-------|
| Mediation Certificate  | 2,759 | 2,977 | 2,878 | 3,271 | 3,668 |
| Mediation Notice   | 1,030 | 1,146 | 1,164 | 1,223 | 1,381 |
| Mediation Response   | 949   | 1,062 | 1,031 | 1,078 | 1,258 |
| Mediation Minutes  | 444   | 508   | 541   | 602   | 652   |

\* It only includes cases commenced by the 6 CJR related case types in the Court of First Instance, i.e. Civil Action (HCA), Admiralty Action (HCAJ), Commercial Action (HCCL), Construction and Arbitration Proceedings (HCCT), Miscellaneous Proceedings (HCMP) and Personal Injuries Action (HCPI).

**Source:** Hong Kong Judiciary website

As evident from the statistics, the number of mediations has increased year-on-year. However, it is important to note that the only figures available are for mediations commenced after court proceedings have begun: they do not show the numbers of mediation undertaken at the pre-action stage. According to our experience, however, there is a tendency in Hong Kong for the parties to mediate more as part of the formal litigation process, rather than pre-action. This can be contrasted with the UK, where the Pre-Action Protocols encourage the parties to mediate before court proceedings are issued. We do not consider therefore that an increase in pre-action mediations has had a significant impact upon the number of claims brought in Hong Kong; it will however, have reduced the number of claims that go to trial.

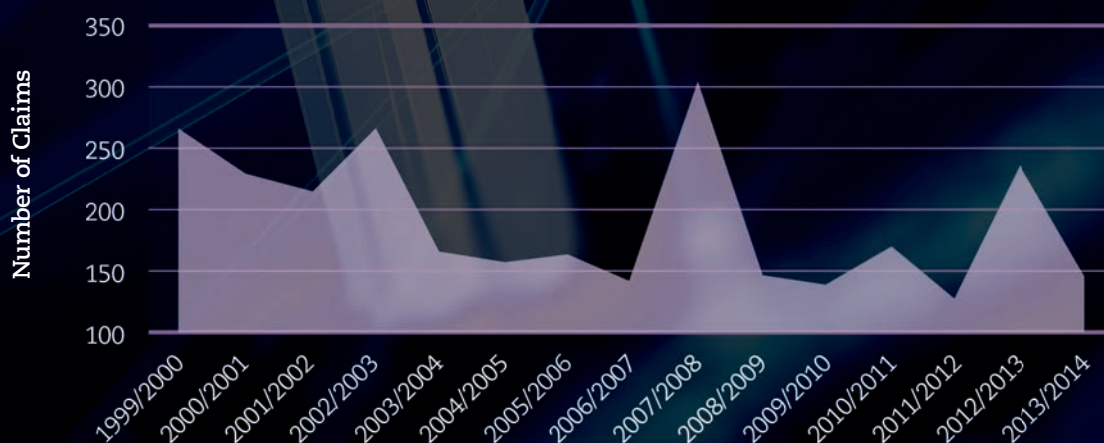


# Claims against Professionals in Hong Kong

When specifically considering the trends in claims against professionals, the statistics published by the Hong Kong Solicitors Indemnity Fund Ltd (“the Fund”) provide a valuable insight.

The chart below shows the number of claims against solicitors registered by the Fund. As can be seen, the figures fluctuate, with 309 claims in indemnity year 2007/2008, falling to a record low of 125 claims in indemnity year 2011/2012 and 147 claims in indemnity year 2013/2014. When considering the trends it is worth noting that, over the last 20 year period, the number of claims (including notifications) brought in 2013/14 was the second lowest.

**Claims against Solicitors in Hong Kong**



Solicitors are often the “canary pigeons” of the professional world in terms of claim trends, and may be the first to experience a change in the litigation climate.

When there is recession in the property market, solicitors are exposed, for example, to claims by purchasers and lenders for inadequate due diligence into the title which have led to losses. An increase in litigation also gives rise to an increase in claims against solicitors for allegedly negligent handling of such claims.

When considering the current claims environment in Hong Kong, the relatively low level of claims against solicitors, in our view, reflects the general trend against other professional practices. As matters currently stand, the litigation climate is relatively stable.



# Accountants

In terms of claims statistics against accountants, there are no centralised figures, but some general trends can be observed from the statistics available.

## Accountants – Persistent Decrease in Exposure to Chinese Reverse Merger Claims

Hong Kong accountants were once heavily hit by class action lawsuits in the US and Canada relating to their audit for Chinese companies involved in Chinese Reverse Mergers (“CRM”).

A CRM is where a private Chinese company obtains a listing on a US or Canadian stock exchange through the “back door”, by acquiring and merging with a US or Canadian public shell company. By way of this back door listing, the Chinese company can avoid all the regulatory difficulties of a traditional IPO and raise funds in the equity market.

Following investigations into the real financial status of these underlying CRM companies, it transpired that many had dishonestly over-stated their assets. This led to a series of financial scandals in 2011 and a regulatory crack down. Hong Kong accountants who had been involved in the audit of these Chinese companies were hit by substantial class action lawsuits in the US and to a lesser extent Canada, for allegedly failing to detect significant accounting deficiencies, deception by management and problems with audit quality and control in China.

The good news for accountants is that CRM claims are becoming a historic problem: the number of class action CRM filings has gone from the peak of 31 in 2011 to only 1 last year.

Annual Number of Class Action CRM Filings



Source: Cornerstone Research

The drop in CRM class action filings can be explained by the new rules from the Securities and Exchange Commission, which make a CRM harder than before, as it requires a company to wait at least a year after a reverse merger before it seeks a listing on an exchange. In addition, Chinese companies are now turning to alternative means of raising funds. In particular, they are more likely, for example, to consider listing on the Hong Kong Stock Exchange instead.

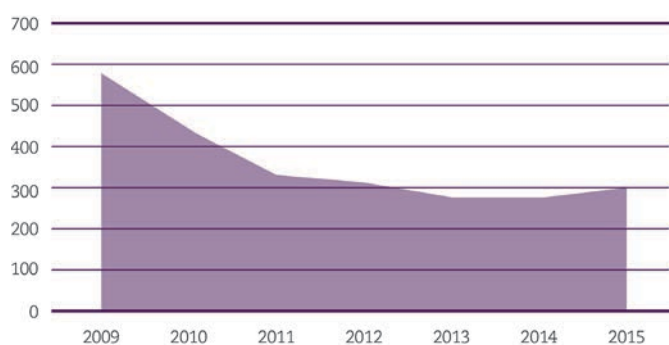


### Accountants: Decreased Exposure to Claims Arising from Liquidations

One of the primary drivers of claims against accountants in particular has been liquidations. A number of Hong Kong companies are closely knit family-run entities. When the company goes bust, and an independent liquidator is appointed, it can reveal malpractice by the directors. This can lead to claims against auditors for failing to detect and report upon the irregularities. Almost all of the “firm-threatening” multi-million dollar claims against auditors in Hong Kong have been brought by liquidators.

As the chart shows, the number of liquidations has generally been decreasing over the last 5 years, with just a slight increase in the last year, which could be linked to the volatility of the stock markets.

#### Number of liquidations



Insolvencies in Hong Kong 2009 - 2015

### New Battlegrounds for Accountants – Increased Regulatory and Disciplinary Investigations

In our experience, accountants are facing increased pressure and scrutiny from regulators and their own disciplinary bodies.

### Securities and Futures Commission (“SFC”)

The SFC regulates the listed markets in Hong Kong. The SFC has always been rigorous in taking public actions against wrongdoers by conducting investigations and enforcement actions. The number of investigations has substantially increased in recent years, as shown by the table below:

#### Number of investigations



**Source:** SFC Annual Reports: Investigations by nature

The increased number of SFC investigations means there is an increased prospect of an accountancy firm being approached by the SFC to assist in their investigations.

From the accountants’ side, dealings with the SFC generally come in the form of a notice to require documents and audit working papers to be produced. The SFC has the power to conduct investigations and request for the production of documents under section 182 of the Securities and Futures Ordinance (Cap. 571). At the request of the SFC, the accountant has the obligation to comply with the statutory notices to produce the relevant documents, and the Court of First Instance, pursuant to section 185 of the SFO, is empowered to make a judgment ordering compliance.

We are seeing increased activity by the SFC in terms of demanding documents from accountants, and this has



led to litigation where accountants have felt caught in the middle. In 2012, the SFC commenced proceedings in the Court of First Instance against Ernst & Young for failing to produce to the SFC specified accounting records. Ernst & Young claimed that the relevant records were held in Mainland China by its joint venture partners and could not be produced because of restrictions under the PRC law. Hence the SFC resorted to the Court. In May 2014, the Court ordered Ernst & Young to produce those records and audit papers. Initially, Ernst & Young appealed against the decision but this has now been discontinued. Following this case, Hong Kong accountants who do not wish to disclose audit papers in Mainland China out of concerns over Chinese State Secrecy laws, may well find it an uphill struggle.

### Hong Kong Institute of Certified Public Accountants (“HKICPA”)

The Hong Kong Institute of Certified Public Accountants is also now bringing more investigations against accountants. The caseload handled by the Disciplinary Committee of the HKICPA has increased by around 40% between 2010 and 2015.

|                 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|-----------------|------|------|------|------|------|------|
| <b>Caseload</b> | 31   | 23   | 27   | 42   | 45   | 44   |

**Source:** HKICPA: Number of disciplinary cases handled

The Council of the HKICPA will appoint an Investigation Committee when it becomes aware of a matter which gives the Council a reasonable suspicion or belief that a member / member practice has not followed professional standards or has committed improper acts. The Investigation Committee will carry out investigations and report back to the Council. Where the Council concludes that a complaint is sufficiently serious to warrant the exercise of its discretion to refer the matter to the Disciplinary Panels, a Disciplinary Committee will be convened to hear the complaint.

The sanctions that the Disciplinary Committee can impose include temporary or permanent removal from membership, reprimand, a penalty of not more than HK\$500,000 and payment of the Committee’s costs and expenses of the proceedings. The latter, in our experience, can heavily outweigh the penalty imposed. In July 2014, the longest running case in the history of the HKICPA was finally resolved. Anthony Wu, Chairman of Ernst & Young from 2000 to 2005, was suspended for a period of 2 years and ordered to pay the HKICPA a penalty of HK\$250,000. However, he was also ordered to pay the costs of the disciplinary and investigation proceedings of HK\$2 million.

### Financial Reporting Council

Following the commencement of operations by the Financial Reporting Council (FRC) in July 2007, responsibility for investigation of matters involving listed entities has been assumed by the FRC. In particular, the FRC aims to conduct independent investigations into possible auditing and/or reporting irregularities, and enquire into possible non-compliance with accounting requirements in relation to listed entities.

Accountants can also expect increased scrutiny from the FRC. The number of investigations brought forward into or initiated by the FRC in 2015 is three times the figure in 2013. We expect even more rigorous activities on the part of the FRC going forwards.

|                                   | 2013 | 2014 | 2015 |
|-----------------------------------|------|------|------|
| <b>Investigations in progress</b> | 10   | 28   | 30   |

**Source:** Financial Reporting Council: Operations Statistics



# Construction professionals

## Building and Construction Industry in Hong Kong

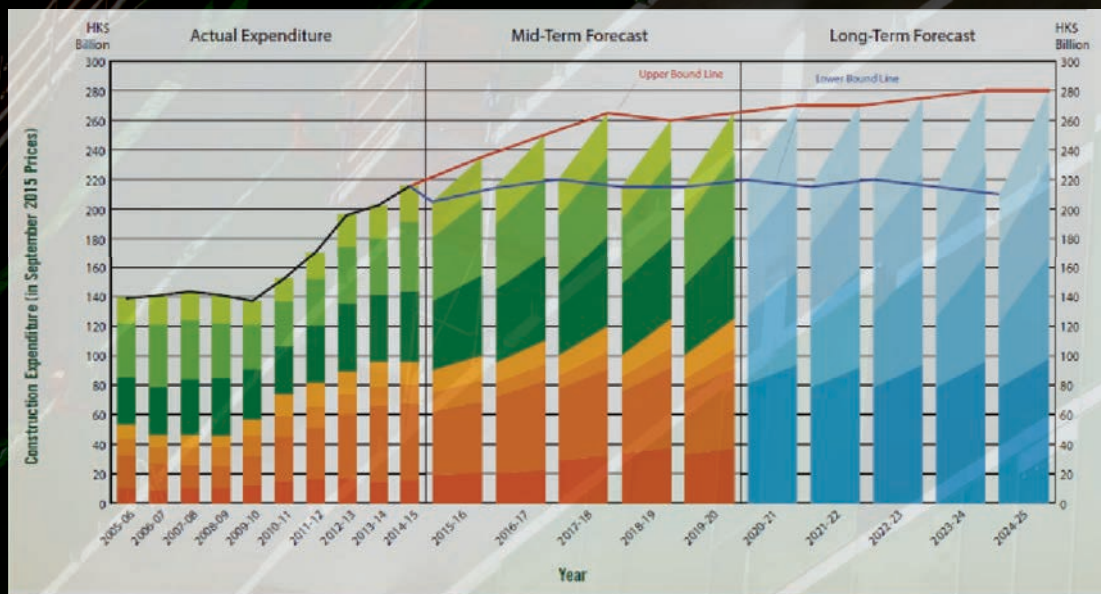
The gross value of construction work performed by main contractors in Hong Kong has been on an upward trend since 2013, and increased by 25% in 2015 to HK\$221.5 million, with a strong growth of 23.7% in the value of the public sector sites.

Many of the ten mega infrastructure projects announced in 2007 are in full swing now and most of them are due to be completed in the next 3 to 5 years. Hence the construction sector in Hong Kong remains strong. In March 2016, China released a Five-Year-Plan outlining the country's intention of further accelerating infrastructure investment. As China is a major export market for Hong Kong's construction services, China's infrastructure initiatives will continue to offer more business opportunities for Hong Kong contractors and professionals.

It is anticipated that the demand for construction services in Hong Kong (in particular demand from the public sector) will remain high. As indicated by the Hong Kong Trade Development Council, the recent rise in public expenditure on infrastructure projects has been driven mainly by transportation projects, including the Hong Kong-Zhuhai-Macau Bridge, Guangzhou-Shenzhen-Hong Kong Express Rail Link, the expansion of railway networks such as the West Island Line and the Shatin to Central Link, new highways such as the Tuen Mun-Chek Lap Kok Link and the Island Eastern Corridor Link.

## Construction expenditure forecast

For public and private sectors (2015/16 to 2024/25)



Source: Construction Industry Council website

## Claims against Construction Professionals

Increased levels of construction activity brings with it an increased risk of claims. Disputes between the client and the main contractor create the potential for knock-on claims against the construction professionals involved. The professional faces the risk of claims arising from delays and errors in design, contract administration and potentially failure to inspect, amongst others. Frequently, these claims come towards the end of the project, when disputes over the final monies owing to the contractor have the potential to create spin-off claims against the professional construction team. As matters currently stand in Hong Kong, we are now coming into a phase where major infrastructure projects should start coming up for completion over the next few years. Construction professionals in Hong Kong have generally been able to avoid getting drawn into major claims with developers and contractors, but it will remain to be seen if this position continues.

## Adjudication in Hong Kong

Adjudication is a process whereby a third party neutral adjudicator makes a binding decision without the formality and delay of court or arbitration proceedings. The decision is binding on both the claimant and respondent unless and until it is challenged in subsequent proceedings.

At present, adjudication has not been commonly used in Hong Kong and there is no statutory right to adjudicate in place. Voluntary adjudication has however been adopted in various Government capital engineering works contracts.

To promote the use of adjudication in the construction industry, the government launched a public consultation in June 2015. Upon receiving enthusiastic responses from the industry sector, the government is now going to introduce a bill on Security of Payment Legislation. When it is brought into force, it is likely to have an impact upon the number of claims against construction professionals.

## The SOPL

The SOPL aims at quickly and cost effectively resolving cash flow problems caused by unfair payment terms, payment delays, and disputes related to the value of work or extensions of time. It may apply where construction works, consultancy services or plants and materials are being supplied for works in Hong Kong.

In the public sector, all construction contracts, consultancy appointments, supply contracts and sub-contracts for Government works will be covered regardless of value. Relevant works will include virtually all construction activities and maintenance, repair and renovation. As for the private sector, the SOPL may only cover construction contracts, consultancy appointments, supply contracts and sub-contracts relating to a “new building” as defined by the Building Ordinance (Cap. 123). The exact private sector coverage remains to be determined by the Development Bureau and to be introduced into the legislation bill.

According to the Report on Public Consultation, the public had divergent views on whether professional services contracts for the provision of services directly related to planned or actual construction activity in Hong Kong should be covered by the SOPL. However, it is likely that the proposed ambit of disputes to be resolved through adjudication will not be as broad as in the UK. Professionals will not be exposed to claims against them for professional negligence being decided by an adjudicator. Instead, the ambit will be restricted to payment delays and disputes related to the value of work or extensions of time. The introduction of adjudication in Hong Kong is still likely, however, to impact upon the volume of claims against construction professionals. As adjudication is a relatively inexpensive method of dispute resolution, its introduction is likely to lead to the contractor bringing adjudicated claims against its client which may otherwise have been resolved through negotiation, or potentially may never have developed at all, due to concerns over legal fees. Adjudication (unlike negotiation or mediation) gives rise to a decision on the merits. Where that decision indicates a failure by the professional design team (delays in producing designs giving rise to an entitlement to more money for the contractor, for example), the client may seek redress from the professional. When adjudication comes in, it could therefore have an impact upon the frequency of claims against architects, and engineers.



### **Building Information Management (BIM)**

Building Information Modelling (BIM) is the process of generating and managing building data during its life cycle. Typically it uses three-dimensional, real-time, dynamic building modelling software to increase productivity in building design and construction. The process produces the Building Information Model (also abbreviated BIM), which encompasses building geometry, spatial relationships, geographic information, and quantities and properties of building components.

As an important technology to facilitate project management, maintenance and planning, reduce and manage costs and to reduce risks in projects, BIM is being adopted in the construction industry on a global scale: as early as 2006, BIM was included as part of the minimum requirements for submissions to the Office of Chief Architect in the United States. In Singapore, all public sector projects were required to use BIM from 2012, and it is a part of China's 12th Five Year Plan (2011 – 2015). BIM is also a requirement in public construction projects in Korea.

The Hong Kong Government first used BIM in its development of public rental housing projects in 2006. More than 19 public housing projects have already adopted BIM technology at various project stages, ranging from feasibility study to construction stage. The Government has also used BIM in public construction projects in 2009 on the Tuen Mun Road Project and the Central-Wan Chai By Pass Project. It is still at a relatively early stage of adaption but this will change.

In order to facilitate the adoption of BIM in the construction industry in a strategic and systematic manner, the Construction Industry Council has set up a Working Group on Roadmap for BIM Implementation. Moreover, the Construction Industry Council has actively launched a number of training workshops, events, industry awards and the BIM Innovation & Development Centre to encourage the use of BIM across the industry.

### **Potential issues arising for Hong Kong Construction Professionals from BIM**

The “Roadmap for Building Information Modelling Strategic Implementation in Hong Kong’s Construction Industry” dated September 2014 has identified key potential legal risks faced by construction professionals with the adoption of BIM in their projects:-

#### **i. Duty of care**

With the use of BIM, employers may have greater expectation on the degree of skill and care delivered by architects or engineers in their delivery of design and professional services.

BIM does create the risk of ambiguity in the responsibilities of consultants over different stages of the development, when all the information is being integrated into the centralised BIM model.

#### **ii. Ownership of design**

BIM technology creates a pool of information, from the initial project design to the later stages of operation and maintenance of the asset. As such, disputes may arise if the various parties that provide input to the design and that have ownership over the piece of information / knowledge are not clearly identified and segregated. This is in contrast to the traditional position whereby the ownership of the design rests solely with the designer, and the designer grants a licence to other users for particular purposes.

#### **iii. Insurance**

Currently, there is no uniform policy language used in insurance policies that adequately deals with the insurable or uninsurable parts of a BIM project. In light of the collaborative nature of BIM, it is anticipated that coverage issues will arise should there be claims against the construction professionals involved in a BIM project.

#### **iv. Intellectual property rights**

The free flow of information and input into a model from different sources can cause concern over intellectual property rights, as the model is being transferred from one party to another.

The ongoing introduction of BIM in Hong Kong may represent a double-edged sword for construction professionals. It should reduce the risk of design clashes,

assist co-ordination, and reduce the cost of remedying errors, as problems can be identified before construction works begin. Conversely, if a claim does arise, BIM can create issues over responsibility lines, and potentially increase the prospects of a consultant being held liable for failing to warn of an error in the designs submitted by another consultant onto the Model.

### **Claims Exposures for Surveyors in Hong Kong**

Compared to the UK, the current claims environment for surveyors in Hong Kong is relatively benign.

The potential exposure areas are similar. Surveyors may face claims for allegedly negligent overvaluation of property or land, investment advice, Facility Management claims, inadequate survey and inspection, agency issues, and planning and development matters, amongst others.

The currently rising house market in Hong Kong has however led to relatively few over-valuation claims. Further, the risk of error in a valuation in Hong Kong is lower than the UK as most domestic property sales are of standard form residential apartments, for which there will be numerous comparables. This can be contrasted with the position in the UK, where there are often bespoke properties, sometimes in remote areas, where the lack of recent comparable sales makes the valuation role more discretionary, and therefore potentially more open to challenge.

The main current areas of claims activity for surveyors in Hong Kong are likely to arise from activities other than valuation, such as property management services. Should, as discussed below, the property market drop, valuation claims will increase. However, Hong Kong is still unlikely to see the flood of claims against surveyors that have been experienced in different jurisdictions, such as the UK. The main reason for this is the different lending practices of the Hong Kong banks, with far greater deposits being required. Accordingly, there would have to be a very significant drop in the property’s value before the lender suffers a loss, and hence the risk of a swathe of “lender claims” against surveyors as experienced elsewhere is more remote.





## Claims against barristers

Traditionally, the claim frequency against barristers in Hong Kong has been relatively low, when compared to other professions. Reasons for this include the tendency of the client to look first to the solicitor involved for redress. Further, barristers in Hong Kong have long enjoyed advocate's immunity, following the UK decision of *Rondel v Worsley* [1969] 1 AC 191. This means that, as a matter of common law precedent, they are immune from any legal action by the client for negligence in their handling of the case at trial, or in any prior intimately connected work.

In 2000, the UK abolished advocate's immunity in a House of Lords decision, *Arthur JS Hall & Co v Simons* [2000] 3 W.L.R. 543. Since then, barristers in the UK can be sued for professional negligence in their conduct of proceedings, in the same way as any other profession. Hong Kong courts have, however, yet to follow this landmark decision. Advocate's immunity still exists in Hong Kong, as has been confirmed in *Lam Chi Kong v Tai Siu Ching & Another* [2007] HKCU 975.

The question is whether the tide will turn. Various Hong Kong judges have expressed their views in post-Arthur cases which could lead to a reform of the current position. In *HKSAR v Hung Chan Wa* [2006] 3 HKLRD 841, although the Chief Justice expressed no view as to whether the common law in Hong Kong on the question of advocate's immunity should be developed along the same lines as in UK, he confirmed that the common law should evolve to meet the changing needs of the society and noted that there have been considerable changes in the law of negligence, the function of the legal profession, the administration of justice and public perceptions ever since the time when *Rondel v Worsley* was decided. Similar opinion was expressed in *Wong Kam Kuen Catherine v Bar Council* [2015] 4 HKLRD 367.

As a number of the common law jurisdictions have already abolished advocate's immunity (including the UK, Canada, and New Zealand), this topic will come under increased scrutiny going forwards. The issue for any Plaintiff in Hong Kong is that the current law confirms that advocate's immunity exists. Accordingly, if the Plaintiff wishes to over-turn this law, he is likely to need to go to (at least) the Court of Appeal. The time and costs this could involve may itself act as a significant deterrent to progressing any claim.

## Claims against insurance brokers

The insurance industry in Hong Kong has seen huge changes in its regulatory landscape since the Hong Kong Government has launched its reforms of the insurance sector. An independent Insurance Authority will be set up to replace the Officer of the Commissioner of Insurance. The Insurance Companies Ordinance (Cap. 41) has been amended and renamed as the Insurance Ordinance, and this will be implemented in stages over the next couple of years.

The reforms will mean insurance intermediaries, including insurance brokers, will face more regulatory challenges and stringent control from the Insurance Authority. The Ordinance imposes several licensing, fitness, and conduct requirements for insurance brokers:

- i. The insurance broker must satisfy minimum requirements specified by the Insurance Authority, including qualifications and experience, and must be a fit and proper person to be an insurance broker;
- ii. Insurance brokers owe a duty to act in the best interests of the policyholder, to exercise reasonable levels of care, skill and diligence, and to avoid conflicts of interest; and
- iii. Insurance brokers who are guilty of misconduct or who are not a fit and proper person may be subject to disciplinary sanctions by the Insurance Authority, including suspension, revocation of license, reprimand or financial penalties.

Furthermore, under the Insurance Ordinance, the Insurance Authority will have powers to conduct inspections, initiate investigations and impose disciplinary sanctions with powers akin to that of the SFC. Nonetheless, the Insurance Authority will have no power to award compensation to policyholders. Policyholders who suffer from negligence of insurance brokers would have to resort to common law remedies to recover their loss and damages (which is expressly permitted under the Ordinance).

The introduction of the new legislation is likely therefore to lead to an increase in legal costs in defending regulatory investigations. It could also have a knock-on effect on the

number of claims; as a broker who is subject to a successful regulatory investigation may find itself the subject of a subsequent negligence claim, if the client has suffered a provable loss. Over the long term, the new regulations will achieve their goal of increasing the quality and standards of the profession, leading to an overall reduction in claims. However, there will inevitably be a period of transition which could lead to exposures for brokers.

### **What will the Future Hold for all Professionals in Hong Kong?**

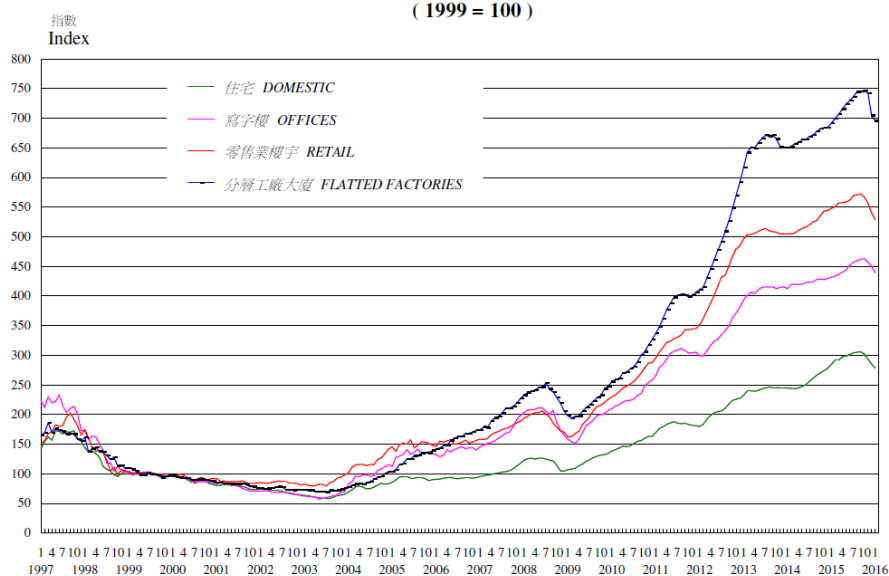
The state of the economy has a significant impact upon the numbers of claims. This is evident from the make-up of any law firm, which often looks to balance a non-contentious practice which thrives when the economy is booming, with a litigation practice, which is counter-cyclical, and generates greater income in a recession.

There is a well-known “lag” between a recession and an increase in the number of claims against professionals. There is generally around 14 to 18 months between a recession and a sudden increase in claims activity. This could be seen from the significant increase in claims against professionals in the UK following its recession (from July 1990 to March 1991) and then again following the second UK financial crisis of 2008. Similarly in Hong Kong, the 1997 Asian Financial Crisis and 2008 Financial Tsunami led to a record number of claims subsequently being brought.

Whether the claim situation against professionals in Hong Kong will remain relatively stable depends upon the future state of the economy and the state of the Hong Kong property market. The property market in Hong Kong contributes around a fifth of Hong Kong's Gross Domestic Product, and a fall in property prices would have a significant impact upon the state of the economy overall, as well as lead to losses for lenders and property owners, which will crystallise claims against valuers, solicitors, and potentially other professionals.



香港物業售價指數  
PRICE INDICES FOR HONG KONG PROPERTY MARKET  
(1999 = 100)



Source: Ratings and Valuation Department, Hong Kong Government

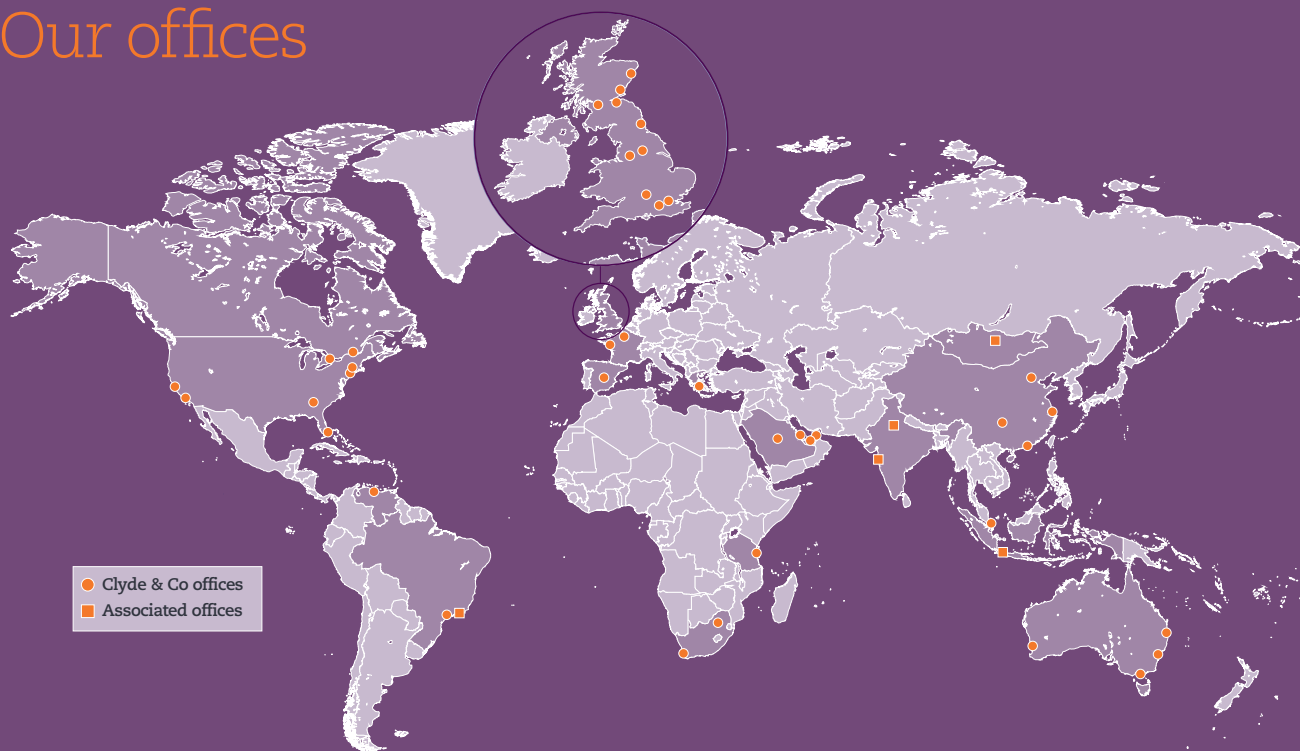
As can be seen from the chart above, Hong Kong's property market has generally defied the property crashes experienced in other jurisdictions. However, since September 2015, prices of domestic property have slumped almost 10%. This might be due to a rising supply of homes, higher short-term interest rates and slowing growth in China. Developers have been slow to make outright price cuts to move real estate while would-be buyers are delaying purchases in anticipation of further price declines, creating a standoff that could put more pressure on prices and drag down the city's economy. The downward trend of property prices is also evident in commercial and industrial properties.

At present, speculation remains rife as to whether Hong Kong will experience another crash. This unfortunately remains very difficult to predict. Historic predictions of "doom and gloom" have proven to be unfounded. In 2012, the IMF flagged a significant risk of a price correction; yet, property prices continued to rise over the next 3 years.

There are also various other factors which could impact upon the state of the Hong Kong economy. Hong Kong is highly dependent upon the performance of other markets, notably China and the US and an adverse correction in one of those markets will have a knock-on effect. The slowing down of the Chinese economy is expected to have a negative effect on the Hong Kong's economy. The other triggers for a potential recession are numerous: increasing inflation, a change in political will, and lack of investment by China amongst others.

In summary, Hong Kong professionals can expect to see increased regulatory and disciplinary activity. There are certain discrete areas of exposure for particular professions, but overall, the claim frequency and severity against professionals in Hong Kong is relatively stable, and benign compared to many other jurisdictions. A drop in the economy, and a drop in property prices, will however exacerbate claims against professionals in all disciplines.

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## Further information

If you would like further information on any issue raised in this update please contact:



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