

# Trust Claim vs Creditors' Debt Claim in Insolvency – A Practical Sharing

Event code: SCPD23103001

## About the topic

As insolvency practitioners, the dealing of trust claim against certain assets of the company (in liquidation) can be problematic. A successful trust claim may have the effect of “ring-fencing” certain properties against the claims of creditors. In practice, it is not always easy to determine whether a trust arrangement genuinely exists or whether such trust is merely a “sham” with a view to defeating the creditors’ claims.

In this seminar, the speakers will dissect different types of trusts with emphasis on insolvency-specific scenarios. They will illustrate the legal concept with updates on case laws and sharing of their real life cases and own experience. The following issues will be discussed:-

- Revisiting the trust law concept
- Nature of proprietary claim vs creditors' claim
- Priority of debts in insolvency scenario
- What the liquidators/ receivers should do facing a trust claim
- What are the Court's considerations in finding a genuine trust claim vis-a-vis a sham trust claim

## About the programme

<b>Date &amp; Time</b>	<b>Monday, 30 October 2023</b> 1:00 p.m. – 2:00 p.m.
<b>Venue</b>	HKICPA training centre, 27th Floor, Wu Chung House, 213 Queen’s Road East, Wanchai
<b>Fee</b>	HK\$270 per person for RIF members HK\$400 per person for non-RIF members
<b>CPD credit</b>	1 hour (subject to actual attendance)
<b>Law Society CPD credit</b>	Being applied for
<b>Language</b>	English
<b>Competency</b>	Insolvency *
<b>Rating</b>	Intermediate level*
<b>Application Deadline</b>	27 October 2023 (offline enrolment by 25 October 2023)

### Rundown

<b>12:30 pm</b>	Registration (Note)
<b>1:00 pm</b>	Introduction
<b>1:05 pm</b>	Presentation
<b>1:50 pm</b>	Q&A / Discussion
<b>2:00 pm</b>	Closing

*Note: Refreshment or drinks will be provided during the seminar*

### Speakers

<b>Anna Chan</b> Partner, Dispute Resolution and Head of Tax Advisory & Private Client, OLDHAM, LI & NIE (OLN)
<b>Martin Tse</b> Senior Associate, Dispute Resolution, OLN

### Chair

<b>Daniel Chow</b> Deputy Chairman of RIF Executive Committee, and Senior Managing Director, Corporate Finance and Restructuring, FTI Consulting
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\* Please refer [here](#) for descriptions of the various ratings and competencies.



## About the speakers

### **Anna Chan**

**Partner, Dispute Resolution and Head of Tax Advisory & Private Client, OLN**

Anna heads OLN's Tax Advisory & Private Client Departments. She regularly advises on tax issues ranging from tax compliance, planning for tax efficiency and transactional tax structuring. Apart from her tax practice, Anna is also a Dispute Resolution Partner. Her dual qualification in both law and accounting, coupled with her solid financial and banking background, makes her a perfect litigator for complex commercial disputes, especially those requiring forensic accounting and understanding of financials. She has acted in connection with a number of high profile and landmark cases in the High Court and Court of Appeal, involving shareholders' disputes, debt recovery, civil fraud, derivative actions, contentious regulatory matters, intellectual property disputes and complex probate matters.

Her insolvency/ commercial litigation experience includes:-

- Advised and acted for professional liquidators in the realization of assets, claw back, regulatory reporting of a number of listed companies in liquidation
- Obtained Winding Up Order in contested liquidation involving cross claim in different jurisdiction RE AWP GROUP LTD [2021] HKCFI352
- Obtained summary judgment, receivership, garnishee, charging order and other enforcement orders for clients in various debt recovery matters
- Represented administrator of estate in doubtful insolvency

### **Martin Tse**

**Senior Associate, Dispute Resolution, OLN**

Martin is a Senior Associate of OLN. Martin's current practice focuses on commercial litigation and through his practice he has gained a deep understanding of insolvency laws issues. These issues include compulsory winding-up of Hong Kong and foreign companies, injunctions to restrain winding-up, the interplay between winding-up and arbitration clauses, common law recognition and assistance to liquidators and litigation funding.

## Registration

- **Online enrolment by 27 October 2023; offline enrolment by post or e-mail also by 25 October 2023:**

Complete the enrolment form and return it to the Institute by 25 October 2023, together with full payment. Cheque should be made payable to "Hong Kong Institute of Certified Public Accountants" or "HKICPA". E-mail registration will be accepted for payment by any VISA/ Master card or the BOC HKICPA UnionPay card.

**You may consider your registration to be successful unless you receive notification from us to the contrary.**

- **Contact Sophia Lai at 2287-7067 for enquiry.**

## Remarks

- Participants shall maintain good personal hygiene and pay attention to their health condition. If you have any respiratory symptoms, please avoid attending this event and consult a doctor.
- To ensure the health of fellow participants, sanitizing gel is provided for disinfection of hands at the venue.

## **Disclaimer**

- The opinions expressed by external guest speakers are, by their nature, those of the speaker. They are not necessarily endorsed by the Institute or reflect the official policies and views of the Institute or its members.
- The Institute does not endorse or recommend any products or services and is not responsible to any loss or damage arising from using such products or services.
- Participants are reminded that there is a wide range of products or services available in the market. Participants should carry out their own research and obtain independent advice before subscribing any products or services.
- The Institute also takes no responsibility for any loss associated to any person acting or refraining from acting as a result of participation in the event.