Agenda

Debt Enforcement in Switzerland

Debt Enforcement in China

Bankruptcy Proceedings in Switzerland

Bankruptcy Proceedings in China
Getting Prepared for Enforcement

PREVENTION
Investigation of credit status
Upfront payment

Initiate Debt Enforcement Process

NEGOTIATION
Possibility of a compromise

DISPUTE RESOLUTION CLAUSE
Litigation
Arbitration
Debt Enforcement in Switzerland
Overview

- Enforcement
  - Seizure
  - Bankruptcy proceedings
  - Enforcement of secured claims
  - Freezing orders
Preliminary enforcement proceedings

- Enforcement request → Payment order
- Payment
  - Provisional removal of the objection
    - Action for the lifting of a debt
  - Objection
    - Definitive removal of the objection
    - Action for the recognition of a claim
- Continuation of the enforcement proceedings
- Seizure
- Bankruptcy proceedings
Debt Enforcement in China
Debt Enforcement Process

Demand Letter
Notification of default

Procedure for Hastening Debt Recovery (Repayment Order)
Payment of pecuniary debt or recovery of negotiable instruments
No other debt disputes between the creditor and the debtor
Order of payment can be served on the debtor

Litigation Procedure
Property preservation
Importance of evidence

Enforcement
Bankruptcy Proceedings in Switzerland
Bankruptcy proceedings

- Bankruptcy warning
  - Request to open bankruptcy proceedings
    - Rejection of the request
      - Suspension of the proceedings in case of an absence of assets
    - Adjournment (moratorium)
    - COVID-19 moratorium
  - Decision on bankruptcy
    - Summary liquidation proceedings
    - Ordinary liquidation proceedings

- Bankruptcy without preliminary enforcement proceedings
  - Overindebtedness
    - Rejection of the request
Ordinary liquidation proceedings

- **Opening of the bankruptcy proceedings**: Call to creditors and debtors
- **First creditors’ meeting**: Bankruptcy administration, Supervisory commission
- **Productions of claims**
- **Schedule of accepted claims**

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- **Second creditors’ meeting**
- **Liquidation of the bankruptcy assets**
- **Distribution plan**
- **Distribution of the available assets**: Certificate of loss established after bankruptcy
Enterprise Bankruptcy

Legal Person Enterprise

No concept of personal bankruptcy

Bankruptcy Liquidation

Reorganization

Compromise Arrangement

Initiation of a Bankruptcy Liquidation

Requirements Applicants
Procedures for Bankruptcy Petition

Application by Creditor

Objection by DE?

Ruling of the Court

Refusing Application

Application by Debtor Enterprise (DE)

Accepting Application

DE submits to Court an Inventory of assets and debts

Notification of known Creditors and Public Announcement

Creditors submit Claims

First Creditors’ Meeting
Procedures for Bankruptcy Liquidation

First Creditors’ Meeting

DE or Third Party fully Repays or provides Security for all due debts of DE

Administrator submits Proposal to convert DE’s assets into cash

Administrator submits Distribution Plan

Creditors’ Meeting

Administrator submits Distribution Plan

Creditors’ Meeting

Administrator submits Distribution Plan

Court

Administrator implements Distribution Plan

Termination of the Bankruptcy Procedure

DE has no Assets or not sufficient to pay Bankruptcy Expenses

Termination of the Bankruptcy Procedure and deregistration of DE
Florian Müller heads the firm’s China Desk. He mainly advises and supports Swiss and international clients in doing business in China and Chinese clients in doing business in Switzerland. Based on his regular stays in China, his familiarity with the Chinese language, culture and legal environment as well as his relevant work experience, he is able to understand and meet the needs of companies and individuals operating in a Swiss-Chinese environment.

Florian Müller’s principal areas of work include direct investments, mergers & acquisitions, trade and dispute resolutions in connection with Switzerland and China. He has particular expertise in advising clients in all corporate matters, including M&A and private equity transactions, commercial transactions and international arbitration procedures.

May-Si Hau is a Senior Associate in the firm’s corporate department and responsible for the China Desk in Geneva.

As a native Chinese speaking Swiss attorney, May-Si Hau strengthens the commercial relationship between Switzerland and China. She advises Swiss companies in restructuring, M&A and private equity transactions as well as in their activities relating to China. She also assists Chinese individuals and companies when investing in Switzerland.

May-Si Hau regularly advises clients in setting up their company, in so-called corporate housekeeping and in corporate governance matters. She advises clients on contract law as well as on immigration law.
Thank you for your time and interest.

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