

# WOULD PARTY AUTONOMY TRUMP WINDING-UP PETITIONS? AN ANALYSIS OF HONG KONG'S POSITION

*Soo Khim Keoy, Sherlin Tung & Alex Ye\**

## ABSTRACT

*Due to the impact of COVID-19 pandemic on the global economy, an increasing number of companies are facing the risk of being wound up. This article aims to ascertain Hong Kong's position as to whether a petition to wind up a company may be stayed or dismissed in favor of arbitration with a focus on two common grounds on which a winding-up petition is issued, i.e., a just and equitable ground and an insolvency ground. This article argues that, when deciding the issue of stay or dismissal of a winding-up petition in favor of arbitration, Hong Kong courts should adopt a coherent approach in just and equitable petitions and insolvency petitions, focusing on identifying the substance of the dispute in the petition rather than the nature of the relief sought.*

**KEYWORDS:** *winding-up, arbitration, just and equitable, insolvency, Hong Kong, substance of the dispute, nature of the relief sought*

---

\* Soo Khim Keoy is a dispute resolution specialist and a partner at Withers. He heads the litigation and arbitration team in Hong Kong. Sherlin Tung is an international arbitration specialist. She is a partner at Withers in the litigation and arbitration team in Hong Kong. Alex Ye is an international arbitration lawyer at Withers in the litigation and arbitration team in Hong Kong. The views expressed in this article are those of the authors and do not reflect the views of Withers. Email: sookhim.keoy@withersworldwide.com; sherlin.tung@withersworldwide.com; alex.ye@withersworldwide.com.