



Loeb Smith

British Virgin Islands | Cayman Islands | Hong Kong

## Legal Insights

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### **Fireside chat with Edmond Fung, Senior Legal Manager (pending registration as a Senior Associate with the Hong Kong Law Society) in Loeb Smith's Hong Kong office advising on Litigation, Commercial Disputes and Insolvency in respect of British Virgin Islands law.**

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**Edmond Fung** is a Senior Legal Manager (pending registration as a Senior Associate with the Hong Kong Law Society) in the firm's Hong Kong office advising on Litigation, Commercial Disputes and Insolvency in respect of British Virgin Islands ("BVI") law. We have invited him to provide some background to himself, his practice, and his insight on recent market developments and trends in the legal market.

**Loeb Smith ("LS"): Edmond, could you provide a brief overview of your current practice?**

**EF:** I advise on international commercial litigation, restructuring and insolvency as well as trust matters. I act for clients from all over the world and they range from onshore law firms, financial institutions, multi-national companies, insolvency practitioners and high-net-worth individuals. With offices in the BVI, the Cayman Islands and Hong Kong, we are strategically placed to meet the demands of our clients wherever they are located in the world.

**LS: Can you share more about your background?**

**EF:** I was born and raised in the UK. My parents are from Hong Kong. I trained and qualified as a solicitor in England and Wales in 2016 and practiced in London until 2022. I then qualified as a solicitor in the BVI and relocated there in 2022 with another offshore law firm. I then moved to Hong Kong in 2024 with Loeb Smith.

**LS: You have lived and practiced in the BVI as a litigator for a number of years before relocating to Hong Kong with Loeb Smith. What is it like practicing litigation in the BVI? What is the civil court system like?**

**EF:** The litigation process in the BVI is efficient and modern. The BVI is a British Overseas Territory which has a legal system based on the English common law and it therefore offers certainty to litigating parties. The BVI is a member state of the Eastern Caribbean Supreme Court ("ECSC"). Civil procedure is governed by the ECSC

Civil Procedure Rules 2023 together with practice directions issued from time to time. The amendments to the Civil Procedure Rules last year modernised and streamlined the litigation process in the BVI. The ECSC E-Litigation Portal also provides a user friendly and efficient system for active management of case files throughout the litigation process.

In terms of court system, there is a dedicated Commercial Division of the High Court (commonly known as the Commercial Court) in the BVI which manages high-value and complex commercial disputes in an expeditious and proportional manner. The Civil Division of the High Court deals with civil litigation that is outside the remit of the Commercial Court. The ECSC Court of Appeal hears appeals from the High Court and Commercial Court. The Judicial Committee of the Privy Council in the UK hears appeals from the ECSC Court of Appeal and acts as the final court of appeal for the BVI.

**LS: What do you like about working at Loeb Smith?**

Loeb Smith's culture makes it a wonderful place to work. The work environment is collaborative, entrepreneurial and friendly. I joined the Hong Kong office earlier this year and everyone has been very welcoming, and I have settled into my role very quickly. We are a close-knit firm with three offices around the world. Even though I am now based in Hong Kong practising BVI law, my colleagues in our other offices are only ever one phone call away and we have already worked successfully together on some matters.

**LS: Now you are based in our Hong Kong office, what are your impressions of living in Hong Kong so far?**

**EF:** Hong Kong is a great city. It was very easy finding my feet in Hong Kong - it is well connected, convenient and efficient. These attributes make it easy to see why Hong Kong is one of the world's premier financial centres and attracts individuals and businesses from all over the world. Whilst Hong Kong is often associated with urbanisation and skyscrapers, the countryside and hiking trails are never too far away or too inconvenient to get to – Hong Kong does have the best of both worlds.

**LS: From those which you can disclose, what do you think are the most challenging client matters that you have worked on?**

**EF:** The most challenging client matters are those which are time sensitive, involve multiple jurisdictions and/or languages and where the client is located in a time zone that is 12 hours ahead of yours. The matters I have dealt with often contain some, if not all, of these elements. The key to overcoming these challenges is responsiveness and communication with the client and colleagues, as well as having a clear strategy in terms of what needs to be achieved.

**LS: You have been successful to date in your ability to earn the confidence of high-profile clients. What do you attribute that to?**

**EF:** Aside from technical ability, it is understanding at the outset what the client's objectives are and having a clear strategy to achieve the objectives. Regular communication with the client and being responsive to questions as and when they arise throughout the matter will manage the client's expectations and will provide them with the client care they would expect from the legal team.

**LS: What types of BVI related commercial disputes and insolvency matters have you recently been asked to advise on?**

**EF:** I have recently been asked to advise on a fairly broad range of BVI related commercial disputes. These range from seeking injunctive relief to setting aside default judgment as well as reviewing loan agreements on behalf of lender clients in relation to enforcement action against defaulting parties. In terms of insolvency matters, I have recently been asked to advise on applying for recognition of BVI proceedings in a foreign

jurisdiction.

What is interesting is that these matters often involve more than one jurisdiction – there is, more often than not, a non-BVI element to the matter and can involve jurisdictions including the Cayman Islands, England and Wales, Hong Kong or mainland China. The work is truly global and it is interesting to work with colleagues and clients in other jurisdictions on these matters.

**LS:** Lastly, are there any other developments and/or trends in the legal market that you see over the next 6 to 12 months?

**EF:** The BVI remains one of the world's leading offshore financial centres and I expect that the amount of commercial litigation in the BVI to remain steady in the next 6 to 12 months. The rising popularity of digital assets has meant that the legal market has seen an increase in digital asset disputes (such as ownership disputes) and it is likely this trend will continue.

The BVI remains a popular jurisdiction for incorporating entities including investment funds and when market conditions tighten there are often disputes between investment funds and some of their investors. These disputes relate to, among other things, illiquidity and suspension of investors' ability to redeem from the funds. The BVI could see more of these disputes in the near future.

In terms of insolvency, the BVI has in recent years dealt with a number of high-profile liquidations of insolvent companies and this trend may continue in the next 6 to 12 months.

In terms of restructuring, the BVI saw an increase in court-supervised restructurings last year. With the slowdown of the global economy and the financial difficulties facing the global real estate market, the BVI could see a further increase in the number of international restructurings originating from the real estate market.

**LS:** Thanks for your time, Edmond.

*This publication is not intended to be a substitute for specific legal advice or a legal opinion. For specific advice on BVI related commercial disputes/litigation matters please contact your usual Loeb Smith attorney or:*

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### About Loeb Smith Attorneys

Loeb Smith is an offshore corporate law firm, with offices in the British Virgin Islands, the Cayman Islands, and Hong Kong, whose Attorneys have an outstanding record of advising on the Cayman Islands' law aspects and BVI law aspects of international corporate, investment, and finance transactions. Our team delivers high quality Partner-led professional legal services at competitive rates and has an excellent track record of advising investment fund managers, in-house counsels, financial institutions, onshore counsels, banks, companies, and

private clients to find successful outcomes and solutions to their day-to-day issues and complex, strategic matters

