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China: Trends & Developments

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CHINA

Trends and Developments

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Secretariat

Secretariat is a global consultancy firm, headquartered in the US with more than 600 professionals located in the world's key commercial and arbitration hubs. It provides disputes, litigation,

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Accessing Publicly Available Information Trends in China

Introduction

Easy access to publicly available information in China, in support of fraud and/or asset tracing investigations or for other purposes, has become more difficult from outside China over the past few years.

Within China, access to (and subsequent use of) information has been impacted by state secrets, national security, data privacy and cross-border transfer rules as follows.

- The amended Law on Guarding State Secrets, which took effect on 1 May 2024, not only covers state secrets but also introduced the concept of “*work secret*” referring to unclassified information known to government agencies and shared with companies which, if disclosed publicly, could result in an “*adverse impact*”.
- The Personal Information Protection Law, which came into effect on 1 November 2021, protects personally identifiable information (PII) about Chinese nationals, regardless of whether they are based in China or abroad.
- The Data Security Law, which was introduced on 1 September 2021, regulates the use, storage and transfer of data according to various security classifications.
- The Civil Code governs civil matters including property rights, contracts, inheritance and torts and came into effect on 1 January 2021.

However, it is important to emphasise that there is still a wide range of current and historic information publicly available from within China that is relevant to identifying assets and indications of fraud.

Corporate records

Searches of corporate records administered by the State Administration of Market Regulation (the “*SAMR*”) are unusually comprehensive and flexible compared to many other jurisdictions.

Unlike certain states in the USA (such as California, New York and Delaware), company shareholders in the People’s Republic of China (PRC) must be disclosed.

Corporate records also include lists of subsidiaries and investments both locally and overseas. This makes asset tracing on private companies substantially more straightforward than many other jurisdictions, where corporate registries do not make this information so accessible.

Historic information is also catalogued, and includes former shareholders, key principals and registered addresses, usually dating back about five to ten years.

Both reverse shareholder and key principal checks are possible. Therefore, it is easier to identify company equity holdings held by an individual in China than through the Hong Kong Companies Registry, for example, where only reverse directorship checks are possible.

In the PRC, the commonality of surnames makes it challenging to identify which businesses relate to which individuals (ie, eliminating false positives). Corporate data aggregators are helpful in this regard as they aggregate businesses likely associated with particular individuals on the basis of personal identifiers not disclosed to the public (although it has to be noted that they are not consistently correct).

Financial information

While corporate affiliations are often straightforward to identify, financial information publicly disclosed in corporate records is limited.

Companies are required to submit the following financial information to the SAMR:

- total assets;
- total liabilities;
- guarantees provided to third parties;
- total owners' equity;
- total operating revenues;
- primary business revenue;
- total profit;
- net profit;
- total taxes; and
- number of employees.

Most companies elect to keep this financial data private, as they are entitled to under the regulations.

Many do disclose the number of employees they report to the SAMR. This number is a helpful indicator of the size of a company although should not be assumed to be exact, given that it is not uncommon for companies to employ staff on a quasi-informal basis, to avoid paying statutory employer contribution pension and welfare payments.

Shenzhen and Shanghai listed companies are required to disclose their IPO and bond prospectuses, interim and annual reports, consolidated financial statements and material transaction and status updates. The Shenzhen and Shanghai stock exchange websites allow searches to determine if an individual or entity has a substantial equity holding (more than 5% of total shares in a listed company).

Litigation records

From January 2014, judgments issued by all county, district, provincial, city and national courts, numbering approximately 3,500 courts, were required to be published on the Supreme People's Court website within seven days of a decision. Exceptions were provided for cases that referenced state secrets, involved minors or divorce proceedings, were resolved via mediation, or to protect personal privacy on a case-by-case basis.

Judgments include the parties to a dispute or prosecution, as well as sufficient personal identifiers such as age, place of origin and business affiliation to identify them. The background and nature of a case is documented, followed by the decision of the judge and their legal justifications, as well as the penalties issued, such as fines or sentencing terms.

In 2014, approximately seven million judgments were published, as well as 2.5 million historic judgments dating back to 1998 (most heard in 2012–13), according to a review of the Supreme People's Court judgments database. In that year, most judgments related to civil cases (approximately 60%) and the remainder comprised criminal cases (25%), enforcement orders (10%), and “*administrative*” or “*state compensation*” cases involving disputes over government decisions (for example over a patent application by the China National Intellectual Property Administration or a work safety issue on a government worksite).

An increasing number of judgments were released each year until a peak of approximately 23 million judgments in 2020. Over the previous six years the proportion of civil cases published increased to approximately 70% of cases, and the number of criminal cases published dropped

to approximately 6% of cases (with enforcement records comprising most of the remainder).

In 2021, with the introduction of the Civil Code, the Personal Information Protection Law and the Data Security Law, tighter requirements for judicial disclosure were introduced.

As a result, the number of cases released each year has steadily declined again. In 2024, approximately 5.7 million judgments were disclosed. A majority of judgments related to civil cases (60%), and most of the remainder to enforcement judgments (30%).

Sources working in the judiciary interviewed by journalists claimed in response to queries by lawyers that the primary change was that the total number of judgments released by the lower courts had declined, but that authoritative and/or notable cases heard by the higher courts continue to be released.

Since 2022, the names of individuals and entities referenced in most cases are now anonymised, but records prior to 2022 have not been redacted (at least not to date). This change may make litigation checks in China challenging going forward, but the understanding is that certain licensed providers will be able to continue to provide litigation checks on individuals and entities for specific purposes, such as due diligence and investigations.

Indications of financial distress

There is limited value in pursuing an individual or company through the courts if it can be established that they genuinely do not have the means to pay their debts or suitable compensation, or that there is a long list of secured and unsecured creditors also seeking to be repaid.

Court enforcement judgments can be helpful for identifying other creditors. In addition, insolvency records, credit blacklists, restricted consumption lists and dishonest debtor lists are useful for establishing the financial status of individuals and entities in China.

Bankruptcy and insolvency records

Companies subject to insolvency proceedings are included in the National Enterprise Bankruptcy and Restructuring Case Information database, which provides the:

- name of the company;
- result of the proceeding; and
- total debts (but not usually the names of creditors).

China does not have a nationwide personal bankruptcy regime but started piloting systems in various cities from 2019. In March 2021, the Shenzhen Intermediate Court started hearing personal bankruptcy cases against individuals residing in Shenzhen for three consecutive years and by the end of 2024 had settled 350 cases.

Restricted consumption lists

Where individuals have insufficient assets to fulfil an obligation as part of a court-ordered enforcement judgment, they are placed on the restricted consumption list. This means they must not:

- travel first class;
- stay at high-end hotels and resorts;
- purchase real estate or luxury vehicles;
- renovate existing properties;
- rent Grade A office buildings;
- purchase insurance or financial products at a high premium; or
- send their children to private schools.

Credit blacklist

If an individual or entity has the funds, as established by the courts, to comply with an enforcement order but refuses to pay, the individual or legal representative (and sometimes also directors/shareholders) of the enforced company are placed on both the restricted consumption list and the credit blacklist. Their various accounts (at banks, the housing authority, pension funds and payment platforms) are then frozen. Those listed on a credit blacklist are also not able to:

- participate in government procurement tenders;
- apply for administrative approvals, certifications/licences or government subsidies; or
- obtain financing from regulated financial institutions.

They are also not allowed to enrol their children in private schools, make investments or take out loans, travel overseas, apply for a credit card or drive a car registered in their name on expressways.

Dishonest debtors list

Finally, an individual might also be placed on the dishonest debtors list if they have engaged in misconduct or “*subterfuge*” to avoid paying debts, such as:

- obstructing the courts using fraudulent documentation, violence or threatening behaviour;
- engaging in frivolous litigation;
- concealing, dissipating or failing to accurately report assets; or
- violating orders under the restricted consumption or credit blacklists.

Property records

Property records are not made publicly available in the PRC, except in very limited ways.

All land in China is owned by the state. Individuals and companies therefore hold use rights on long-term leases, usually approximately 75 years.

Over the past ten years, records showing the transfer of property use rights to a company have been published by the Ministry of Land and Resources and the websites of its local departments. For most of this time, the data has been difficult to search. Only searches by land plot (not by address or name of the company) have been possible.

These land transfer records have recently been made searchable by company name and as far back as 2010. The records show which company is receiving the land lease, the land use type, location, size, consideration and date of transfer. However, no information about the entity transferring the land or about any property situated on the land is specified.

No information to show land or property transfers to/from individuals has yet been made public. Corporate records, company websites and social media searches can help to identify addresses associated with companies and individuals to at least offer an indication of properties held.

Indications of corruption and fraud

The Central Commission for Disciplinary Inspection (the “CCDI”) publishes notices of selected corruption-related investigations issued against Chinese Communist Party (CCP) members, working at all levels of government and at state-owned enterprises. The member’s name and allegations against them are recorded in the notice.

A small number of the total cases are published. According to CCDI statistics released for 2024, only about 15% of cases involving a CCP member working as a government or CCP official were listed on the CCDI website that year. No information to explain the rationale for publishing particular cases has been given, and it is not obvious from the case descriptions, the seniority of the officials involved or the sentences why they were selected.

Three categories of judgments relating to fraud and corruption are also recorded in the judgments database:

- “*crimes that undermine the socialist market economic order*” ie, selling counterfeit or unsafe products, smuggling, fraudulent contracts and engaging in pyramid schemes;
- crimes relating to property, such as theft and embezzlement; and
- corruption and bribery, involving both those charged with offering bribes and those receiving them.

These judgments include a very small proportion of the total number of judgments. In 2014, 9% of judgments (400,000) appearing in the judgments database related to property-related crimes, 1% to economic crimes (50,000) and 0.5% to corruption and bribery (23,000). The number of judgments published for each type of fraud-related crime in 2024 was less than 1% of the total number of published judgments:

- 55,000 relate to property crimes;
- 8,500 to economic crimes; and
- 1,000 to corruption and bribery.

The CCDI statistics suggest this is a small proportion of the total number of cases heard, and that many are not made public to comply with

data security and privacy laws. However, available information makes it difficult to estimate the actual figures.

Media and financial press

Public comment on certain topics usually relating to the activities of CCP leaders, national security and other matters deemed sensitive are closely monitored by censors operating at the direction of the CCP leadership.

Within these constraints, there are still a wide and diverse range of opinions on policy and regulation published as opinion pieces by academics, industry experts and business leaders. The progress of large commercial transactions, the fortunes of specific businesses and entrepreneurs, the impact of global politics on business and commerce, and industry or market trends are all discussed in the financial press and on blogs and forums.

High-profile scandals and corruption cases sometimes also receive media coverage, within limits set by the CCP. Authoritative media outlets include Caixin, Yicai, Securities Times, the China Securities Journal, Shanghai Securities News, Economic Daily and the 21st Century Business Herald.

There are a large number of forums, blogs and bulletin boards on which ordinary Chinese individuals regularly (and sometimes forcibly) express their opinions on a wide range of social and cultural issues, including commenting on the reputation of companies, and the popularity and functionality of products.

Public WeChat and Sina Weibo accounts allow companies to share corporate announcements and interact with customers and clients. Other popular social media platforms include:

- RedNote: a lifestyle platform for sharing short videos and posts, similar to TikTok (and which is experiencing a surge in popularity among overseas users given the recent travails of TikTok);
- Xueqiu and Tonghuashun: forums for discussing specific interests via keywords and topics similar to Reddit; and
- Zhihu: a question-and-answer platform which is broadly equivalent to Quora.

While these public forums are vibrant, using social media to identify information about particular individuals in China can be challenging. WeChat, the primary social media platform used by individuals for information sharing and maintaining social networks in China, is entirely private.

Until 2021 the international professional networking platform LinkedIn, as well as some local equivalents such as Renren, were widely used in China. There are no longer any similar, widely used public professional networking social media platforms.

In locations where most individuals use international social media accounts such as Facebook, LinkedIn, Instagram and X, deep web searches often allow investigators to identify accounts, email addresses and phone numbers associated with individuals and to identify other people and entities with whom they maintain connections. This is not possible in China.

Other useful sources of information

The Central Government Procurement Centre maintains a database of a large number of government tenders, ranging from requests for medical devices for hospitals, to renovation projects to improve the energy savings and fire protection for local buildings.

Tender documents include the name and price of the winning bidder, which is helpful for understanding the legitimacy and scope of an entity's business operations. For example, in one case a pattern of bids over time that indicated a group of contractors and subcontractors were working together to collude on tenders was identified.

The China National Intellectual Property Administration publishes details of all applications and licences relating to patents, copyrights and trade marks. Searches can be conducted by applicant, owner, inventor as well as associated text or type of intellectual property. These checks are frequently used to help establish the veracity of claims in disputes and the nature and activity of business operations.

The China Customs Bureau does not release shipping records, but it is possible to see bills of lading showing imports and exports to/from China via China's trading partners, such as the United States. US shipping records, for example, disclose the identities of the consignee and the shipper, product description, HS code, quantity, weight and value.

These records help to support or refute claims about the transfer of goods in shipping disputes. For example, it was recently shown that bills of lading provided in an insurance claim were likely falsified because no matching records of goods shipped and delivered were found in the trade data.

Some city governments provide rent subsidies for employees of local enterprises to attract talent. Eligible employees receive payments in addition to their salaries of between approximately RMB1,000 and RMB3,000 (USD140 and USD400) per month. Some cities publish lists of those receiving rent subsidies which include

the full names of the subsidised employees, their partial ID numbers (from which their age and place of birth can be read) and why they qualify for subsidies (eg, education credentials, achievements or previous employment status).

In a recent case, rent subsidy records enabled it to be confirmed that an individual listed as a substantial investor in a listed company was in fact an employee of a Shenzhen-based company. Based on their salary, this individual was unlikely to have the means to invest at the level claimed and indicated they were likely acting as a proxy for another investor.

Accessing digital assets

Transactions relating to cryptocurrencies, non-fungible tokens and other digital assets can be viewed and analysed via their respective blockchains but the specific entities and individuals making the transactions are not publicly known.

In China, all cryptocurrency transactions and exchanges, including via over-the-counter platforms, foreign exchanges accessible to Chinese citizens and peer-to-peer trading, have been banned since September 2021.

Nonetheless, cryptocurrency discussion forums such as 8btc Forum, Bihu and threads on Zhihu, WeChat and Weibo can be helpful for identifying individuals and companies that are interested in digital assets.

Conclusion

The introduction of several laws in China in recent years has had a significant impact on data privacy constraints. It is now more challenging to access information from outside China (and without registering accounts using Chinese identification). It may also become more difficult to identify litigation records associated with specific individuals and entities going forward.

However, in terms of an overall trend, it is important to note that access to information in China has improved considerably over the past decade or so. Corporate records are comprehensive, litigation records can be extremely helpful, and there is now even (limited) information to assess creditworthiness. Insightful commentary on the reputation and background of many companies and individuals can also be found on social media, industry forums and domestic press reports.

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