



大灣區專業調解及 風險管理服務實務指南

協助香港企業和調解專業
開拓粵港澳大灣區市場

大灣區調解及風險管理專業人士實務指南

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序

隨著粵港澳大灣區的經濟和專業融合, 區內的商業和生活往來非常頻繁, 各種矛盾和糾紛也日益增多。為了維護社會的和諧穩定, 解決各類糾紛, 有效的風險和糾紛管理方式的重要性日益增加。專業調解作為一種高效的解決糾紛和風險預防程序, 越來越受到人們的重視。特別是在粵港澳大灣區這個具有世界級影響力的城市群中, 因涉及多地域、多文化的活動, 專業調解工作的重要性愈發特顯。因此, 與十三位大灣區的法律、調解、風險管理及營商的專家及學者共同編輯一本關於大灣區調解實務大灣區調解及風險管理專業人士實務的書籍, 可以協助風險管理和專業調解人員熟悉大灣區的市場環境和客戶需求。對於提升從業界的專業素質, 推動大灣區調解事業的發展具有重要意義。

本書旨在為廣大調解專業人員提供一本實用性強、理論與實踐相結合的大灣區調解實務指南。全書共分為十二個章建節:

第一章: 詳細介紹粵港澳大灣區的背景和對調解和風險管理專業人士的影響

第二章: 詳細闡述對大灣區的風險管理專業服務的龐大需求

第三章: 大灣區對環境、社會和治理的關注、專業人員原則、程序和方法

第四章: 討論環境、社會和治理人員的職責與專業道德準則

第五章: 介紹大灣區風險管理專業人員的培訓和認可資歷考試

第六章: 詳細介紹香港的國際爭議及風險管理制度

第七章: 深入剖析調解的理論、原則和專業程序

第八章: 詳細介紹三地政府對大灣區的調解專業發展和工作的支持、參與大灣區調解服務的要點

第九章: 介紹粵港澳大灣區九個廣東城市的調解服務

第十章: 詳細闡述國際公約和國際組織的背景及對粵港澳大灣區調解工作的意義和發展趨勢

大灣區調解及風險管理專業人士實務指南

第十一章：詳細分析大灣區調解工作和人才的未來發展，對大灣區調解和風險管理專業人士提出相應的建議

第十二章：總結本書的內容和觀點

本書的特點如下：

- 1. 理論與實踐相結合。**本書在闡述風調解理論知識的基礎上，重點介紹大灣區風險管理和調解服務的工作和經驗，使讀者在學習理論知識的同時，能夠更好地理解和掌握大灣區的風險管理和調解服務實務操作。
- 2. 系統全面。**本書從大灣區調解工作的背景、原則、程序、方法、常見糾紛及解決方法等多個方面進行全面闡述，為讀者提供了一個系統的大灣區風險管理和調解服務實務知識體系。
- 3. 實用性強。**本書針對大灣區風險管理和調解服務中的熱點問題和難點問題，提出了一系列切實可行的解決方法和建議，具有很強的實用性。
- 4. 經驗豐富。**本書匯聚了十三位參與大灣區風險管理和調解服務及

經商專家和學者的經驗，通過多角度分析，使讀者能夠更加直觀地瞭解大灣區對風險管理和調解服務的期望和實際操作過程和成功經驗。

- 5. 展望未來。**本書對大灣區調解工作的未來發展進行了展望，提出了一系列有針對性的建議和對策，為大灣區調解事業的持續發展提供了有益的參考。

在編寫本書的過程中，我們得到了許多專家和業內人士的大力支持和幫助，他們的熱情參與和寶貴意見使得本書的質量得到了極大的提升。在此，我們向他們表示衷心的感謝！

最後，希望本書能夠為廣大調解專業人員提供一個實用的學習工具，幫助他們更好地開展大灣區風險管理和調解工作，為維護社會和諧穩定，促進大灣區經濟發展做出更大的貢獻！

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粵港澳大灣區規劃

簡介

粵港澳大灣區（大灣區）包括香港、澳門兩個特別行政區，和廣東省廣州、深圳、珠海、佛山、惠州、東莞、中山、江門、肇慶九市，總面積約 5.6 萬平方公里。根據廣東省及香港和澳門特區政府提供的最新數據，2022 年大灣區的總人口已經超過 8 600 萬，地區生產總值超過 13 萬億元人民幣。

大灣區規劃是中國政府的高瞻遠矚的倡議，旨在促進廣東 - 香港 - 澳門大灣區的一體化和發展。大灣區包括廣東省的九個城市，包括廣州、深圳、珠海、佛山、惠州、東莞、中山、江門和肇慶，以及香港和澳門特別行政區。這一全面的規劃旨在增強大灣區的區域合作、經濟增長和創新能力。

香港作為大灣區內高度開放和國際化的城市，是國際金融、航運、貿易中

心和航空樞紐，專業服務享譽全球，加上「一國兩制」的雙重優勢，在大灣區建設擔當重要角色，一方面促進和支持區內經濟發展，提升大灣區在國家雙向發展中的角色和功能，同時便利香港優勢產業在大灣區的發展，以香港所長，服務國家所需。

國家於 2019 年 2 月 18 日正式公布《粵港澳大灣區發展規劃綱要》，標誌著大灣區建設邁上新台階。在中央的大力支持下，香港特區會更加積極主動融入國家發展大局，從而開拓發展新空間、增添發展新動力，為香港社會各界，特別是年輕人，帶來發展新機遇。

粵港澳大灣區規劃的使命

1. 新時代推動形成全面開放新格局的新嘗試
2. 推動「一國兩制」事業發展的新實踐

倡議六個基本原則

- a. 創新驅動，改革引領
- b. 協調發展，統籌兼顧
- c. 綠色發展，保護生態
- d. 開放合作，互利共贏
- e. 共用發展，改善民生
- f. 「一國兩制」，依法辦事

積極推動的七個發展範疇

- a. 建設國際科技創新中心
- b. 加快基礎設施互聯互通
- c. 構建具有國際競爭力的現代產業體系
- d. 推進生態文明建設
- e. 建設宜居宜業宜遊的優質生活圈
- f. 緊密合作共同參與「一帶一路」建設

對調解和風險管理專業人士的影響

大灣區規劃為在該地區運營的調解和風險管理專業人士提供了巨大的機遇。大灣區內的增加的經濟活動、跨境投資和商業合作勢必會導致商業糾

紛的激增，需要有效的爭議解決機制。

調解專業人員可以通過合作和自願的過程，在促進糾紛解決方面發揮重要作用。隨著大灣區對創新和科技的關注，調解者還可以探索使用在綫調解平台和其他數字工具，以提高調解服務的效率和可訪問性。

風險管理專業人員將在幫助企業應對在快速發展和相互關聯的大灣區市場運營的複雜性和不確定性方面起到關鍵作用。他們可以協助組織識別和評估風險，制定風激勵策略，並確保在大灣區的不同轄區內符合相關法律法規的合規性。

在本指南的後續部分，我們將深入探討在大灣區的調解和風險管理實踐的具體方面，為專業人士提供全面的框架和指導，以應對大灣區規劃帶來的獨特挑戰和機遇。

大灣區的風險管理

介紹

有效的風險管理是商業管理的一個關鍵要點，在確保成功的商業營運方面起著至關重要的作用。在大灣區（GBA）的背景下，跨境交易和合作十分普遍，因此風險管理程序對於風險管理專業人員來說至關重要。本節概述了風險管理過程中的關鍵步驟和考慮事項。

風險識別：

- a. 識別潛在風險：風險管理專業人員應進行全面評估，以識別商業營運或交易相關的潛在風險。這包括法律、財務、運營、聲譽和戰略風險。
- b. 分析背景因素：考慮到大灣區的獨特特點，包括法律和監管環境、文化差異和政治環境等，這些因素可能影響風險暴露和管理策略。

風險評估：

- a. 評估風險概率和影響：量化已識別風險的可能性和潛在後果。此評估有助於優先處理風險並分配適當的資源進行緩解影響。
- b. 分析相互依賴關係：認識到風險之間的相互關聯性及其可能的連鎖效應。評估一個領域或管轄區域的風險如何影響大灣區內爭議或交易的其他方面。

風險緩解：

- a. 制定風險緩解策略：制定綜合計劃以減輕已識別的風險。策略可能包括合同保障、保險覆蓋、應急計劃和調解等爭議解決機制。
- b. 實施風險控制：採取措施和控制措施以最小化風險的發生和影響。包括建立內部流程、政策和系統，以有效監控和管理風險。

風險監測和審查：

- a. 定期監測：持續監測已識別的風險，並評估其隨時間的演變。瞭解大灣區的法律、監管和社會政治環境的變化，這可能會影響風險暴露。
- b. 審查和更新風險管理策略：定期審查和更新風險緩解策略，確保其相關性和有效性。根據新興風險或交易的變化需要調整策略。

合規和法律事項：

- a. 法規合規：確保遵守大灣區適用的法律、法規和標準。及時瞭解可能影響風險管理實踐的法律發展和變化。
- b. 遵守道德和職業標準：在風險管理和調解實踐中維護高度的道德標準和職業操守。遵守大灣區專業組織制定的相關行為準則和指南。

跨境考慮因素：

- a. 管轄權差異：瞭解和應對大灣區各個管轄區之間的法律和監管差異。考慮這些差異可能如何影響

風險暴露和管理策略。

- b. 文化敏感性：認識和尊重大灣區內的文化差異，以有效管理與跨境爭議相關的風險。相應地調整溝通和衝突解決方法。

結論

風險管理程序對於在大灣區開展風險管理工作的專業人員至關重要。通過識別、評估、緩解和監測風險，專業人員可以提高調解過程的有效性，並為成功營商結果做出貢獻。根據大灣區的獨特特點，包括跨境考慮因素和遵守法律和道德標準，調整風險管理策略對於確保風險管理在大灣區實踐的長期成功至關重要。

第三章

大灣區對環境、社會和治理的關注

介紹

環境、社會和治理（ESG）關注點在全球範圍內日益重要，因為企業和組織認識到可持續和負責任的實踐的必要性。在大灣區（GBA）的背景下，ESG考慮因素在促進長期經濟增長、社會福祉和環境可持續性方面起著至關重要的作用。本部分探討了大灣區內具體的ESG關注點，並強調了它們與風險管理專業人員的相關性。

瞭解 ESG 關注點：

1. 環境因素：大灣區面臨著包括空氣和水污染、廢物管理和氣候變化在內的各種環境挑戰。調解和風險管理專業人員需要瞭解這些問題，以評估潛在風險並制定促進環境可持續實踐的策略。
2. 社會因素：大灣區的社會關注涵蓋了廣泛的問題，如收入不平等、勞工權益、公共衛生和社會

穩定。風險管理人員應考慮商業活動的社會影響，並力求公平和公正地解決社會問題。

3. 治理因素：治理關注點涉及企業和公共機構的透明度、問責制和廉正。風險管理人員專業人員應密切注意確保遵守道德標準，並在解決爭端中推廣良好的治理實踐。風險管理專業人員還應評估組織的治理框架，以識別與不充分的治理結構相關的潛在風險。

ESG 在大灣區的重要性：

1. 可持續發展：將 ESG 考慮因素納入業務實踐中有助於促進大灣區的可持續發展。通過應對環境和社會挑戰，企業可以為該地區的長期經濟繁榮做出貢獻。
2. 風險緩解：ESG 風險，如環境責任或聲譽損害，對企業可能產生重大的財務影響。風險管理專業

人員應識別和評估這些風險，制定減輕潛在不利影響的策略。

3. 利益相關者期望：包括投資者、客戶和社區在內的利益相關者越來越多地要求負責任和可持續的實踐。風險管理專業人員應意識到這些期望，並幫助企業滿足這些期望，以保持聲譽和競爭力。

將 ESG 關注點融入風險管理實踐：

1. 風險評估：在風險評估過程中，風險管理人員應識別與所在行業和地區相關的 ESG 風險。這包括評估商業活動的潛在環境和社會影響，並考慮相關的治理因素。
2. 衝突解決：調解員應具備處理與 ESG 相關問題引起的爭端的能力。他們應瞭解潛在關切，並努力尋找能夠解決所有相關方利益的相互接受的解決方案。
3. 合規和盡職調查：風險管理專業人員應確保組織遵守 ESG 標準和法規。他們應進行盡職調查，以瞭解潛在合作夥伴或投資項目的 ESG 風險和問題，並確保符

合相關的合規要求。

4. 溝通和報告：風險管理專業人員應協助企業在 ESG 領域進行透明和準確的溝通和報告。這包括與利益相關者分享有關 ESG 實踐和績效的資訊，以增加透明度並建立信任。
5. 利益相關者參與：風險管理專業人員應鼓勵企業與利益相關者進行積極的對話和參與，以瞭解他們的關切和期望，並在決策過程中加以考慮。
6. 協作與參與：風險管理專業人員可以促進利益相關者之間的對話和協作，以解決 ESG 問題。它們可以幫助企業與社區、非政府組織和政府機構合作，制定可持續的解決方案。換言之，風險管理專業人士亦應具備有效的談判技巧或聘請香港的專業談判顧問服務的方式。

結論

在大灣區，ESG 關注點對於促進可持續發展、管理風險和滿足利益相關者期望至關重要。調解和風險管

第四章 ESG 策略師專業操守的一般原則

理專業人員在 ESG 領域發揮著核心作用，需要瞭解和應對與環境、社會和治理相關的挑戰。通過將 ESG 考慮因素納入調解和風險管理實踐中，

可以為企業和組織在大灣區創造長期價值和可持續性做出貢獻。

第四章

ESG 策略師專業操守的一般原則

ESG 策略師的職責和職業道德與行為

- GP1——誠實與正直
- GP2——為客戶的最佳利益行事並公平對待客戶
- GP3——行使關懷、技能和勤勉
- GP4——具備提供諮詢的能力
- GP5——資訊披露
- GP6——建議的適當性
- GP7——利益衝突
- GP8——客戶財產與資產

ESG 策略師的職業道德

A. 誠實與正直 — 以誠實、有道德、正直且真誠的方式行事。

1. 準確的陳述和呈現
2. 合規性
3. 騷擾、脅迫或不當影響
4. 防止賄賂

B. 為客戶的最佳利益行事並公平對待其客戶。

1. 為客戶最佳利益行事，保持公正、客觀和公平
2. 獲取和收集資訊、知識、資料，支援品質並進行驗證。
3. 提供公正無私的受規管建議，符

合客戶的最佳利益

C. 審慎行事，展現技能和勤勉。

1. 達到合理謹慎的 ESG 戰略家所期望的標準
2. 處理客戶的 ESG 相關資訊、資料和記錄
3. 執行客戶的指示
4. 保護客戶的隱私和保密性
5. 記錄保存
6. 協助客戶及其指導委員會和關鍵人員瞭解 ESG 方向和目標
7. 在風險管理問題上提供幫助

D. 具備諮詢能力 — 必須擁有適當的專業 ESG 技能、知識和經驗，以及進行專案管理、合規和風險管理的必要能力。

1. 知識和經驗
2. 清楚瞭解自己知識和實踐經驗的局限性

E. 資訊披露 — 向客戶提供準確充分的資訊，使其能夠做出明智的決策，並說明客戶執行關鍵績效

指標 (KPI) 和 ESG 政策。

1. 關於身份和能力的披露
2. 與 ESG 報告和執行（內部）相關的披露
3. 對協力廠商承擔義務（外部）的披露
4. 與客戶的服務協定和業務條款
5. 與被其他人推薦的客戶有關的披露

F. 建議的適當性 — 考慮到客戶的情況，建議應該適合客戶。

1. 適當性評估
2. 向客戶提出的建議

G. 利益衝突 — 盡最大努力避免利益衝突，當無法避免此類衝突時，應妥善管理並提供適當的披露，確保客戶始終得到公平對待。

1. 通過提供有關報酬的適當披露來避免潛在的利益衝突
2. 解決與可能產生與我們與客戶專案相衝突利益的各方關係的潛在利益衝突

第五章 專業人員的能力建設

3. 避免讓自己的利益影響客戶的決策

H. 客戶財產與資產 — 有足夠的保障措施來保護由 ESG 戰略家接收的或在服務中持有或工作中使用的客戶資訊、財產和資產。

第五章

專業人員的能力建設

環境、社會和治理專業服務在全球範圍內越來越受到重視，特別是在投資者和監管機構日益關注企業的可持續發展和社會責任的背景下。粵港澳大灣區作為中國的一個重要經濟區域，擁有深圳、廣州、香港等大城市，以及眾多製造業和高科技企業，預計在未來十年對 ESG 專業服務的需求將會顯著增長，原因如下：

政策推動：中國政府已經將綠色金融和可持續發展列為國家戰略，並在“十四五”規劃中提出加強生態文明建設和綠色發展。這將促使大灣區內的企業更加重視 ESG 表現。

國際合作與交流：粵港澳大灣區在“一國兩制”的框架下，香港和澳門

的國際金融中心地位有助於引入國際 ESG 標準和最佳實踐，推動地區內 ESG 專業服務的發展。

投資者要求：全球投資者對 ESG 問題的關注不斷增加，這促使大灣區的企業為了滿足國外投資者的要求而提高自身的 ESG 表現。

風險管理：隨著氣候變化和社會責任風險的凸顯，企業需要專業的 ESG 服務來識別、評估和管理這些風險。

市場競爭：為了提升品牌形象和市場份額，企業需要展示其對環境保護、社會責任和良好治理的承諾。

綠色金融機遇：隨著綠色債券、綠色貸款等金融產品的推出，企業需要

第六章 粵港澳大灣區的爭議解決

ESG 專業服務來幫助其抓住這些新的融資機會。

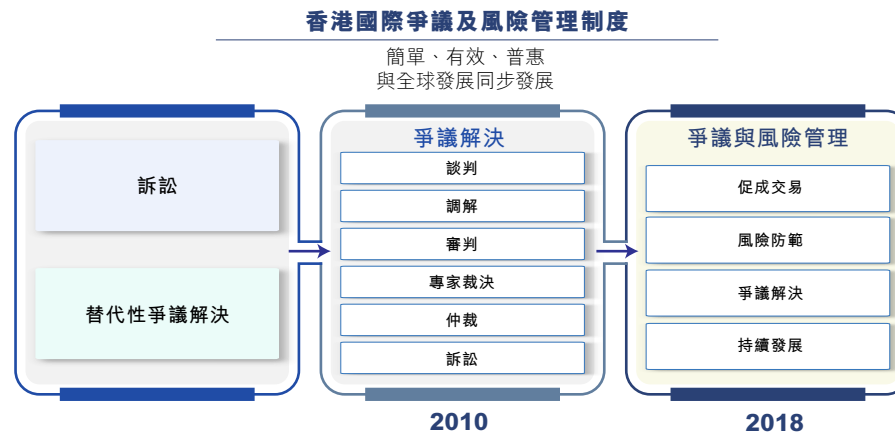
人才吸引與保留：優秀的 ESG 表現有助於企業吸引和保留人才，特別是

對於新一代的求職者，他們越來越關注公司的可持續性和社會責任。

第六章

粵港澳大灣區的爭議解決

香港國際爭議及風險管理制度



第六章 粵港澳大灣區的爭議解決

香港爭議及風險管理制度的發展。

香港一直發展其專業制度，以鞏固其作為國際法律及爭議解決中心的地位。香港於2010年建立了爭議解決制度，該制度以前稱為替代性爭議解決（ADR），即調解、仲裁、談判與一起被納入爭議解決。香港爭議解決系統專注於使用最佳工具解決爭議，而立法成為解決爭議的最終途徑。香港爭議解決制度的實踐表明，最有效的爭議解決方式是將爭議風險降至最低。為配合香港作為國際爭議解決及交易中心的發展，香港於2018年建立了爭議及風險管理系統。新系統包括風險管理和交易機制。

香港的國際爭議和風險管理框架由四個主要領域支援。他們是

1. 專業

精心設計的機制、規則、模型和理論

2. 精確

擅長管理因各種性質和地域差異而產生的風險和糾紛。

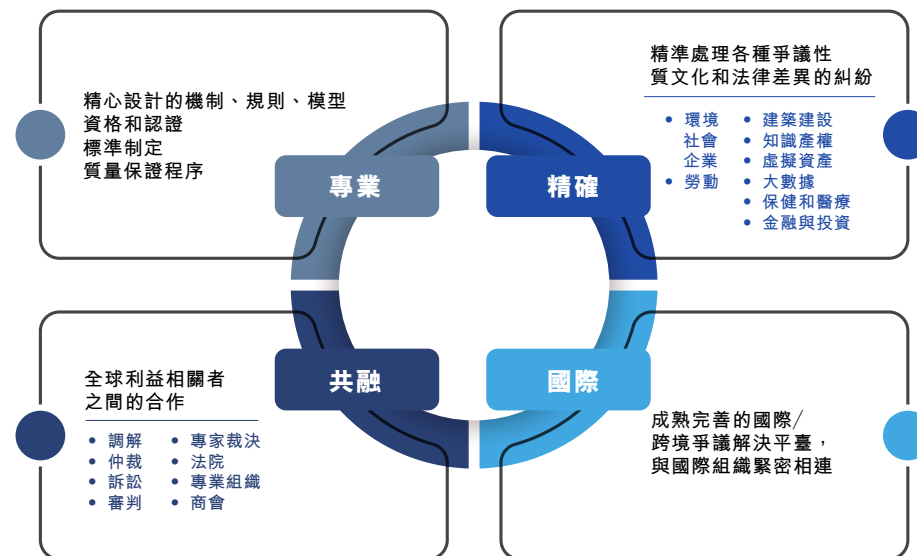
3. 國際

它是一個開放的系統，面向世界。它加強了香港作為超級連系人的角色。

4. 共融

它改變了專業人士的方法。它專注於滿足使用者的需求，因此該系統倡議所有專業、業務和人員之間的協作。

香港的國際爭議及風險管理架構



香港專業調解發展的三個主要階段



國際領先階段 —— 世界標準

- 完善的專業調解系統 —— 立法、專業資歷標準、理論和專業經驗；
- 世界公認的標準
 - 貿易法委員會觀察員
 - 世界貿易組織認可非政府機構

- 500 多個不同地區的专业組織合作
- 經驗豐富 —— 協助亞太地區調解中心和政府發展調解中心、專業調解員和相關專業人員

第七章 調解的理論與原則

香港的調解專業

在國際調解領域擁有世界領先的標準

1. 是法律專業之一部份
2. 擁有成熟的風險管理和爭議解決機制

3. 最有效的爭議解決程序
4. 有助於最大化各方利益及最小化風險

7. 注重滿足當事人的需求和利益；
8. 當事人是當事人的決策者，體現了當事人的自主性和公平性

省了時間，並將與法庭程序相關的行政負擔降至最低。

- c. **創造價值**：在協同效應下（1+1 可能遠大於 2），各方之間的合作將創造額外的價值。在許多案例中，通過合作達成的價值是原始爭議金額的 10 倍甚至更多。例如，在一起航空公司與乘客之間的爭議中，他們通過調解解決了 800 萬美元的爭議。這項和解最終促進了該航空公司美國股票價格的上漲，總價值增加了 90 億美元。
- d. **確定性**：超過 60% 的爭議將達成調解和解，且有 98% 的當事人將遵守協議；
- e. **重建關係**：調解側重於各方之間的合作。調解的合作性質有助於重建夥伴關係，並攜手合作以獲得互惠互利。

第七章

調解的理論與原則

調解作為爭議解決程序的概述

調解是一個自願和保密的過程，在這個過程中，中立的第三方，即調解員，促進爭議各方之間的溝通和談判，以達成雙方都能接受的解決方案。在大灣區，調解是訴訟的有效替代方案，使當事人能夠更好地控制結果並維護關係。這是一個靈活和協作的過程，鼓勵公開對話和創造性地解決問題。

調解的主要理論和方法

先進的專業調解機制

調解是一個精心設計的爭議解決程

序。其中專業團隊將有效地協助作為決策者的各方做出合理的決定，以實現他們的最佳利益。

專業調解機制的特點

1. 精心設計的機制，具有專業的模式、框架；規則和程序；
2. 最有效的非對抗式爭議解決機制
3. 全球認可度高，對跨境爭議有敏感性；
4. 適用於大部分商業糾紛
5. 快速高效
6. 保密

調解的好處

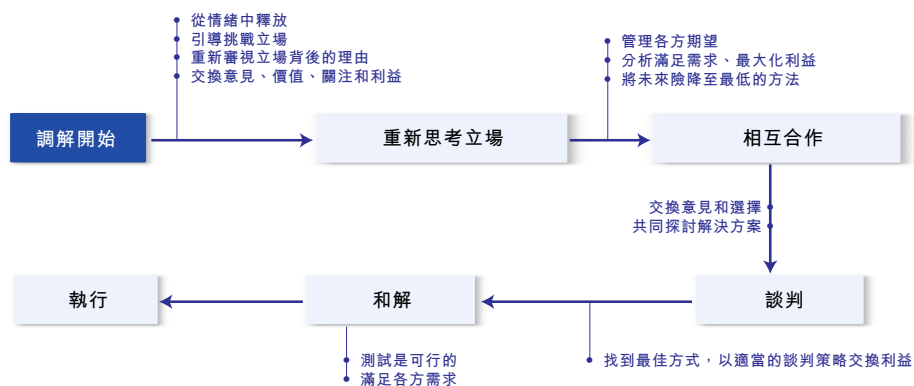
香港調解服務的優勢

調解是一種精心設計的爭議解決程序。在此程序中，專業團隊將有效地協助決策者各方做出明智的決定，以爭取他們的最佳利益。在大灣區及全球範圍內，調解作為最有效的爭議解決方法，為各方提供了對結果更大的控制權並保持了關係。這是一個靈活且協作的過程，鼓勵開放對話和創造性解決問題。調解員運用策略和技能幫助各方爭取最佳利益，並促進所有參與者之間的合作；

- a. **靈活性**：調解提供了一種靈活且協作的爭議解決方法，允許各方根據他們的特定需求和利益制定雙方都能接受的解決方案。
- b. **成本效益**：與訴訟和仲裁相比，調解通常更具成本效益，因為它減少了法律費用，節

第七章 調解的理論與原則

國際爭議解決及專業談判研究院調解模型



國際爭議解決及專業談判研究院《調解模型》解釋了調解的程序。這是一個幫助爭議各方重新考慮自己立場並在決策過程中消除偏見的過程。調解促進各方專注於最大化自身利益和最小化風險。

專業調解團隊之間的協作

通過專業調解團隊間無縫協作，可以為各方取得最佳結果。

專業團隊包括：

- i. 專業調解中心——
 - a. 為專業調解服務設定規則和

指導方針，管理調解程序並進行質量保證；

- b. 設計精良的機制以維持高質量的調解服務。

- ii. 當事人——決策者，希望在專業團隊的協助下做出最有利的決定。
- iii. 合格且經驗豐富的調解案件經理——監督並為所有團隊成員提供指導和支持；
- iv. 合格且經驗豐富的調解員或國際調解員——提供專業的調解/跨境調解服務；

- v. 經驗豐富且合格的調解代理 - 協助並支持其客戶在調解中行使最佳策略；
- vi. 其他專業人士——提供公正獨立的專業參考。

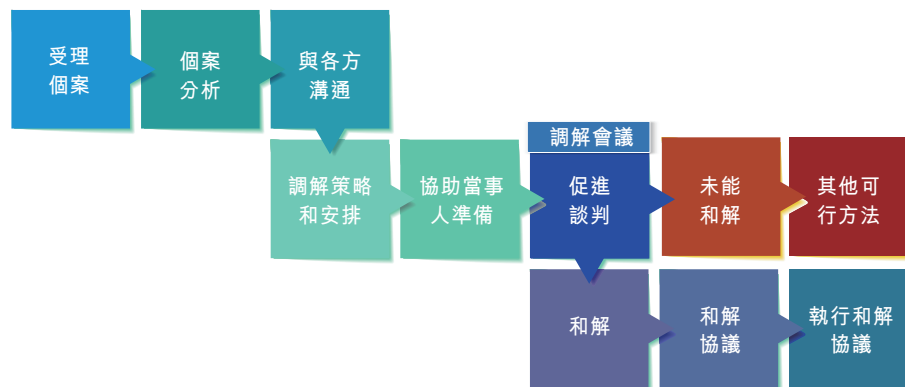
香港專業調解的優點：

- a. 參與者通過彼此協作獲得最佳回報；
- b. 通過各方的貢獻創造價值，獲得協同效應（1+1 可能遠大於 2）；

- c. 許多案例中，通過各方協作創造 10 倍或更多原本爭議金額的價值。例如，一個非常著名的美國航空公司與客戶之間 800 萬美元的爭議中，而通過和解協助當事人創造了 90 億美元市場上的價值。
- d. 我們的統計數據表明，接受重香港的專業調解程序能促成 70% 的個案和解，並且 98% 的當事人會遵守和解協議，讓當事人有極高滿意度。

第七章 調解的理論與原則

專業的調解程序



專業的調解程序

1. 受理個案
2. 調解個案管理
3. 個案分析
4. 委任調解員
5. 個案分析
6. 起草調解協議
7. 場地設施安排
8. 會前會議
9. 進一步個案分析

10. 制定調解策略
11. 心理排練
12. 提示出席會議
13. 調解會議
 - i. 座位安排
 - ii. 促進和干預
 - iii. 和解或終止
14. 後續工作以進行和解或終止
15. 執行和解協議及銜接安排

調解代理

調解代理是訓練有素的協助其客戶在調解程序中爭取保障的專業人士。他們具有促進其客戶在調解中實現最大利益的知識、技巧和能力。就像在訴訟程序中擔任訴訟代理的律師或大律師一樣，調解代理將以熟練的技巧和調解策略協助客戶表達需求和爭取利益。調解代理亦會協助客戶考慮其所有綜合利益，有效儘量減少其在風險。成功的調解代理需要幫助客戶制定高效的調解策略和談判策略，同時善用調解程序、調解員和其他專業人士來達到最佳結果。

認可國際調解代理

Certified International Mediation Advocates (CIMA)

1. 專業調解團隊的重要成員；
2. 協助客戶進行調解；
3. 精通調解規則、程序和應用策略；
4. 有效地促進客戶考慮其綜合利益和需求；
5. 協助客戶運用調解的思考方式和決策；

6. 協助客戶制定最合適的調解和談判策略；
7. 協助客戶在調解中實現最大利益；
8. 與調解員和其他專業人士合作，有效協助客戶實現利益最大化；
9. 為客戶創造附加價值。

律師和調解代理之間的差異

1. 協助客戶辦理不同的程序；
2. 律師訴訟理程序，調解代理處理調解程序；
3. 形成不同的思維方式，設計適當的策略；
4. 采用不同的計劃、策略和談判方法；
5. 調解代理者需要掌握更廣泛、更全面的技能和知識；
6. 調解代理得到客戶的認可和接受；
7. 調解代理者的專業服務將獲得更高的回報；
8. 調解代理者可以將服務擴展到

第八章 大灣區調解專業的發展

國際市場；

調解代理的優勢

1. 減低一般律師面臨的風險；
2. 更高的客戶滿意度；
3. 高度集中和全面性的工作；
4. 更大的市場；
5. 沒有服務邊界；
6. 新興職業；
7. 降低競爭和；
8. 更大的機會

第八章

大灣區調解專業的發展

三地政府對大灣區調解專業發展的大力支持

在 2020 年的第二次粵港澳大灣區法律部門聯席會議，三地法律部門通過設立大灣區調解平台的工作方案。大灣區調解平台將作為粵港澳三地政府法律部門為促進調解工作而設立的權威性、高層次交流和合作平台，致力發揮一個制定基準的角色，以推廣調解在大灣區內廣泛應用。大灣區調解平台探討制定統一的大灣區調解員資格、資歷評審及相關標準，及促進三地各自設立當地的合資格大灣區調解員名冊。大灣區調解平台又研究制定跨境爭議的調解規則最佳做法及調解

員專業操守的最佳準則，增強大眾於大灣區使用調解的信心並有利於合資格的大灣區調解員提供調解服務及推廣調解的使用。

在 2021 年 12 月 10 日第三次粵港澳大灣區法律部門聯席會議上，《粵港澳大灣區調解員資格資歷評審標準》和《粵港澳大灣區調解員專業操守最佳準則》獲得正式通過及於 2021 年 12 月 30 日起施行。

在 2022 年 12 月 16 日第四次粵港澳大灣區法律部門聯席會議上，《粵港澳大灣區跨境爭議調解示範規則》獲得正式通過及於 2022 年 12 月 30 日起施行 (載於以下連結)。

香港法院的實務指示

香港司法機構鼓勵爭議各方使用調解服務，香港法院的實務指示是使用調解代替訴訟的最重要動機。《實務指示》已於 2010 年 1 月 1 日實施。它表明《高等法院規則》和《區域法院規則》的根本目的是促進爭議的解決。《實務指示》適用於所有民事法律程序。它指出，替代性爭議解決是指當事人同意指定第三方協助他們解決或解決爭議的過程，替代性爭議解決的常見模式是調解。它還指示法律代表告知其客戶，如果一方不合理地不進行調解，法院可能會發出不利的費用命令。

與大灣區調解服務的要點

A. 由獨立調解員進行的調解

香港現時約有 2200 名認可調解員。一些調解員選擇以獨立調解員的身份執業。調解員的任命有兩種方法。

1. 當事人或其法定代理人推薦，後經他人同意。
2. 當事人或其法定代理人向調解中心申請調解員的推薦。

但是，在委任獨立調解員時，當事人和法定代理人應考慮以下問題：

1. 獨立調解員不設收費標準，每宗案件的專業收費可能由港幣 10,000 元至港幣 100,000 元不等。
2. 調解員必須自己處理所有問題，從後勤問題到調解過程和調解會議。然而，大部分調解員的培訓和認證安排並不包括專業調解程序，因此，個別調解員必須制定自己的方法。在許多情況下，意向調解員必須聘請其他非調解專業人員的支緩服務。
3. 獨立調解員沒有品質保證機制。因此，沒有關於調解員的表現以及調解員是否遵守調解規則和條例的記錄。
4. 委任獨立調解員可能是最重要的問題。中立和公正是調解服務的關鍵，而當一方推薦調解員時，另一方可能會詢問當事人與調解員之間或法律代表與調解員之間的知識和關係，從而會反對另一方的提議。事實上，在許多

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情況下，在任命調解員時便出現了新的爭議。

B. 機構調解通過提供以下功能，有效地解決獨立調解員方法中的所有問題：

- a. 專業服務收費標準
- b. 為調解員、當事人、法律代表和其他專業人員提供全面的專業支援。
- c. 質量保證機制
- d. 利益衝突規避程序

一些調解中心提供調解案件管理程序，例如，香港調解中心提供調解案件管理程序（MCMP）

香港和解中心已實施調解個案管理程序（MCMP），為各方解決爭議提供最佳設施。經驗豐富且經認可的調解個案經理（調解員）將為各方、調解員和香港和解中心提供專業的管理服務。

MCMP 將重點關注以下 5 個重要方面：

1. 初步案例分析及調解過程諮詢

2. 協助委任最合適的專業人士，包括調解員、調解宣導者和 / 或專家，以準備專家報告。
3. 確保調解按照時程表、調解守則和香港法律完成。
4. 安排調解中的所有設施
5. 在調解中為當事人和專業人士提供行政支援

C. 綜合調解辦事處

為調解而設的專有設施西九龍調解中心於 2018 年 11 月 8 日舉行開幕典禮，調解先導計劃（“先導計劃”）亦同步正式啓動，標志著政府致力推廣調解服務，加強公眾對調解的認識。先導計劃由政府委任的獨立統籌機構聯合調解專綫辦事處負責，於西九龍調解中心運作，為適合調解的小額錢債審裁處案件及其他合適案件的爭議各方提供調解服務。先導計劃成功促使大約半數案件於調解後達成和解。先導計劃於 2022 年 6 月 30 日結束。

為推動更廣泛地使用調解服務解決爭議，司法機構綜合調解辦事處（西九

龍）於 2022 年 7 月 5 日起在西九龍調解中心原址啓用。綜合調解辦事處（西九龍）為司法機構現時位於灣仔法院大樓的司法機構綜合調解辦事處的延伸，旨在協助小額錢債審裁處案件的訴訟雙方通過使用調解來處理糾紛。小額錢債審裁官會將合適的案件轉介給綜合調解辦事處（西九龍）以安排調解服務，而同意參與調解的各方隨後可免費參與調解會議。

可交予調解的案件限於民事糾紛，爭議金額不多於小額錢債審裁處最高司法管轄權限，即 75,000 元。爭議各方只須繳付 200 元申請費，調解費和場地費用則獲豁免。

D. 區域法院調解員輔助的案件和解會議

《區域法院規則》（“《區院規則》”）其中一項基本

目標是利便解決爭議。根據第 1A 號命令，區域法院

（“區院”）須藉積極管理案件以達成該基本目標，而訴訟各方有責任在這方面協助區院。

區院期望訴訟人探討和解的可能性，例如進行另類排解程序。調解是一種常見的另類排解程序。任何一方不合理地不參與另類排解程序是一個施加訟費懲罰的理由。如訴訟各方有意嘗試調解，便須遵從《實務指示 31》所載關於促致調解的程序。

就某些案件而言，區院的協助能提升調解過程的成效。在結合案件和解會議和調解兩者所發揮的協同效應下，案件有較大可能達致整體和解或至少達成部分共識，以致餘下的爭議能以更合乎成本效益的方法解決。為此，區院可指示訴訟各方考慮輔助和解會議，並在他們的同意下於法律程序的合適階段排期進行該會議。另一方面，訴訟各方亦可在法律程序的任何階段，透過呈交同意傳票主動尋求指示，以進行將由訴訟各方及其委任調解員出席的輔助和解會議（即由訴訟各方主動提出的輔助和解會議）。

一般而言，輔助和解會議應在訴訟各方已經參與由委任調解員主持的調解會議後才安排。輔助和解會議須用作該調解的延續進程。

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訴訟各方應在同意傳票的引言載列：——

- a. 他們的委任調解員的身分 連同其通訊地址及電話號碼；
- b. 訴訟各方過去曾參與由委任調解員主持的調解會議的日期及歷時長短；以及
- c. 訴訟各方同意區院可於輔助和解會議之前及期間，在他們不在場的情況下與委任調解員聯絡和進行討論。

同意傳票應同時訂明須遞交由委任調解員擬備的調解員摘記，摘記內容須包括：

- a. 訴訟各方取得共識的事項；
- b. 餘下的爭論議題及；
- c. 關於每項爭論議題，訴訟各方各自的關注點和最新建議。

經考慮調解員的摘記以及在必要時和委任調解員交換意見後，區院在將案件排期進行輔助和解會議時會發出所需的適當指示。按照一般規則，輔助和解會議將排期由

法官在內庭（非公開）聆訊。區院與委任調解員之間的所有溝通，包括調解員的摘記，均屬保密以及無損權利性質。假如輔助和解會議最終沒有促成任何和解，該些溝通將不會在法律程序中被引述。

區院會提供處所設施以便在輔助和解會議的形式下進行調解。輔助和解會議的主理法官如認為訴訟各方在該處所設施繼續進行調解或許能從中受惠，便可在任何階段押後聆訊，而訴訟各方和委任調解員可於進行該調解會議後同日再次在其席前出庭。

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第九章

粵港澳大灣區九個廣東城市的調解服務

在全球商事調解發展浪潮的推動下，中國商事調解發展十分迅速。已很多地區先行先試，先後出台了促進調解發展的條例，包括已經出台的《深圳經濟特區矛盾糾紛多元化解條例》，而《橫琴粵澳深度合作區商事調解條例》也在起草制定中。

大灣區商事調解組織數量不斷增加，主要以民辦非企業單位為開辦。以深圳市為例，深圳市 2022 年商事調解案件總數達到 6895 件，相比前年的 2073 件增長了 232.44%。

現時商事調解發展迅速，但實踐中依然面臨着一些問題，需加以解決。例如：

- 一．要發展健全商事調解法律制度；
- 二．提升商事調解機構的專業和市場價值；
- 三．加強調解員隊伍能力和水平；

四．提升社會對商事調解的接納。

香港的調解專業機構，正協助的內地加快解決以上的問題。香港的調解專業人員勢必在大灣區有極大的發展。

人民法院特邀調解組織名冊和特邀調解員

隨著經濟社會不斷發展，除傳統的人民調解、行政調解外，在一些專業性較強的領域或行業，也逐漸成立了非訴調解機構，如商事調解組織、行業調解組織、民間商會調解組織、社會團體和公益組織下設的調解組織等。這些自治性、專業性的調解組織在化解專業或行業領域的矛盾糾紛、加強行業自律、規範交易行為、維護市場秩序等方面發揮了獨特的作用，與人民調解、行政調解形成了互補，也符合多元化糾紛解決機制的發展趨勢。同時，參與社會經濟活動的各方當事人就矛盾糾紛達成調解協議時，

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也希望能夠賦予調解協議相應的法律效力，從而更加有效地保障自身正當權益。但是目前直接賦予調解協議以強制執行力並不具備現實可行性，並是有必要將行業調解、商事調解等專業化調解組織納入到司法確認制度之中。

根據最高人民法院《關於人民法院進一步深化多元化糾紛解決機制改革的意見》第31條規定，行業和商事調解組織或者調解員被納入到人民法院特邀調解組織名冊和特邀調解員名冊的，當事人在登記立案前由人民法院委派調解達成的協議，可以申請調解組織所在地或者委派調解的基層人民法院進行司法確認；

目前大灣區九個廣東城市的人民法院都有特邀調解員名冊的安排，特邀調解員成功協助當事人和解將會獲得津貼。港籍特邀調解員有較內地高的津貼。廣東內的人民法院除了自行委任港籍特邀調解員外，還會邀請香港的內地-香港聯合調解中心、香港和解中心和香港國際調解中心等三家調解中心推薦港籍特邀調解員。

另一方面，人民法院特邀調解組織都只有內地成立的調解組織。隨著大灣區的融合和三地的司法協作加密，可能很快便有香港的調解中心加入大灣區人民法院特邀調解組織，讓港人和外商都在內地都可以選擇用香港的調解中心和香港的調解專業解決糾紛。

人民調解委員會

人民調解委員會是依法設立的調解民間糾紛的群眾性組織。村民委員會、居民委員會設立人民調解委員會，企業事業單位根據需要設立人民調解委員會。人民調解委員會由委員三至九人組成，設主任一人，必要時，可以設副主任若干人。人民調解是指人民調解委員會通過說服、疏導等方式，促使當事人在平等協商基礎上自願達成協議，解決民間糾紛的活動。人民調解是免費的社會服務。

人民調解員由人民調解委員會委員和人民調解委員會聘任的人員擔任。人民調解員通過說服、疏導等方法，促使當事人在平等協商基礎上自願達成調解協議，解決民間糾紛的活動。人民調解員，屬聘用性質工作人員，一般與第三方人力資源公司簽訂勞務

合同，由第三方人力資源公司委派到政府部門（司法局），一般都是安排在街道、鄉鎮司法所工作。

人民調解委員是調解民間糾紛的群眾性組織，所以很少有港籍的人民調解員。

大灣區跨境調解服務

建設香港作為亞太區主要國際法律及爭議解決服務中心。支持香港成為促成交易及解決「一帶一路」建設項目投資和商業爭議的服務中心。

加強粵港澳司法及法律交流與協作，推動建立共商、共建、共享的多元化糾紛解決機制，為粵港澳大灣區建設提供優質、高效、便捷的司法及法律服務和保障。完善國際商事糾紛解決機制，建設國際仲裁中心，支持粵港澳仲裁及調解機構交流合作，為粵港澳經濟貿易提供仲裁及調解服務。

推動在CEPA下對香港的國際法律及爭議解決服務實行特別開放措施。發揮香港在國際法律及爭議解決服務方面的國際化專業服務優勢，擴展和優化國際服務網絡，為企業提供諮詢和信息支持。

加強法律服務業發展，鼓勵支持法律服務機構為「一帶一路」建設和內地企業走出去提供服務，深化粵港澳合伙聯營律師事務所試點，研究港澳律師在珠三角九市執業資質和業務範圍問題，構建多元化爭議解決機制，聯動香港打造國際法律服務中心和國際商事爭議解決中心。

創新及科技是粵港澳大灣區的重點之一。在這前題下，推動通過非訴訟爭議解決方式調解處理知識產權糾紛。充分發揮香港在知識產權保護及相關專業服務等方面的優勢。

香港在國際爭議和風險管理專業服務的發展成果有目共睹，在上一部份已詳細介紹。Cross-border Mediation services in the GBA 不單就是的解決大灣區兩區九市之間的糾紛，更可以由建設香港作為亞太區主要國際法律及爭議解決服務中心為基礎，進一步推動大灣區發展交易及解決「一帶一路」建設項目投資和商業爭議的服務。香港是中國唯一的普通法司法管轄區，同時擁有經驗豐富的國際法律及國際調解服務的專業人才。加上粵港澳大灣區律師執業考試

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已落實，這將會為前海合作區提供更多熟悉兩地法律的執業律師，這可為粵港澳大灣區的企業提供達到國際水準的法律及爭議解決的服務以配合市場的需求，這將大大增加投資者信心。

專業的國際調解員，除了需要一流的專業調解規則、程序管理和調解人員外、還需設計有效處理不同地方的文

化、習慣、法律的差異以及妥善安排和解協議在跨境及國際的執行機制，並充分瞭解國際商業規則和配合各項國際商業公約的規定。

香港目前以有三家世界知名的國際調解中心，包括內地 - 香港聯合調解中心、香港和解中心和香港國際調解中心。

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雖然我們不會在大灣區的爭議中採用《公約》，但香港可能享有調解《公約》適用國家之間的爭議。這是香港調解專業人士和法律專業人士的又一殊榮和機會。

《聯合國國際商事調解和調解產生的國際和解協定》（《公約》）簡稱《新加坡調解公約》，是一項多邊條約，為執行和援引調解產生的國際和解協定提供了一個統一和有效的框架。它適用於當事人為解決商業糾紛而締結

的調解產生的國際和解協定。

該公約將使爭端各方能夠輕鬆執行和援引跨境和解協定，從而促進國際貿易和商業。在解決跨境爭議時，調解作為訴訟和仲裁的額外爭議解決方式，企業將受益於調解。因此，簽署該公約是一國對貿易、商業和投資承諾的有力聲明，並加強了其在國際貿易法領域的地位。

貿易法委員會工作組

在 2014 年 7 月舉行的第四十七屆會議上，貿易法委員會商定，第二工作組（爭端解決）（“工作組”）應審議調解程序產生的國際和解協定的執行問題，並向委員會 2015 年第四十八屆會議報告該領域的可行性和可能的工作形式。

《公約》是在 2018 年 7 月閉幕的貿易法委員會第五十一屆會議上最終確定的。經修訂的《示範法》（《貿易法委員會關於國際商事調解和調解產生的國際和解協定示範法》（2018 年））也在同一屆會議上獲得通過。

2018 年 12 月，聯合國大會以協商一致方式通過了一項決議，通過了《聯合國調解產生的國際和解協定公約》，並授權於 2019 年 8 月 7 日舉行《公約》的簽字儀式。截至 2024 年 2 月 13 日，《公約》共有 55 個簽署國，其中 8 個是《公約》締約國。

香港有幸參與公約的起草工作。香港調解中心受邀參與 2016 年至 2018 年大會的整個討論。我們自豪地見

證了 46 個國家，包括世界上最大的兩個經濟體——美國和中國——在 2019 年《公約》開放供簽署的那一天簽署了《公約》。

「國際調解院」籌備辦公室和國際調解院總部

外交部與香港特區政府於 2022 年 10 月 21 日簽署《關於在香港特別行政區設立國際調解院籌備辦公室的安排》，發布了在香港設立國際調解院籌備辦公室的具體工作，是為國際調解院就《國際公約》等事項組織開展世界各地政府間談判作準備。特區政府、法律界和商界都十分清楚這安排對香港的每一位市民都有着非凡的意義和重要的利益。

習近平主席在香港回歸二十五周年講話中，明確表達希望香港不斷增強發展動能，中央將全面支持香港抓住國家發展帶來的歷史機遇。國家源源不絕地為注入香港發展動能，支持香港八大中心定位，包括：國際金融中心、國際創新科技中心、中外文化藝術交流中心、國際航運樞紐、國際貿易中心、國際航運中心、亞太區國際

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法律及爭議解決服務中心、區域知識產權貿易中心。

持續強化香港作為亞太區國際法律及爭議解決服務中心是國家和香港的核心定位。事實上建設一個穩固、可信賴以及與時並進的法律制度正是支持香港八大中心定位的必要基礎。一個穩固、可信賴以及與時並進的法律制度，應該包含有效的司法制度、風險管理制度和完善的爭議解決制度。當中訴訟、仲裁和調解的專業發展是最能表現我們香港具有獲世界所推崇公平、公正和高效的法律制度。發展持續強化香港亞太區國際法律及爭議解決服務中心的角色，礙於訴訟的司法區域的局限，仲裁和調解的更是重中之重。香港的仲裁服務成熟，持續是被國際評定為最佳的仲裁地的三甲。而香港的國際調解專業服務更是斐聲國際，被推崇為最先進和高水準。香港不單有完善的國際調解規則、專業資歷評審及完善的調解支援及質量保證系統，同時香港的國際調解機構和服務人員更經常參與國際機構有關國際調解的公約製訂和合作計畫；更重要的是香港在協助各地區建立調解制

度、規則和人才發展經驗非常豐富。香港正是中國最具國際調解專業體系和調解專業人才的特區。

特別引述香港特別行政區行政長官和律政司司長在「2022年香港法律周」的發言。首先，香港行政長官指出：「香港的籌備辦公室將轉型成為國際調解院的秘書處和總部，國際性組織的秘書處和總部設在香港是國家史無前例的創舉，顯示了中央對香港建設為國際法律服務及爭議解決中心的信心和支持，可以說是中央送給香港的一份大禮。我們必須不負所托，盡最大的努力完成使命。」

律政司司長更強調：「我認為爭議解決服務的第二個重點是普及化。爭議解決服務的最終目的，是提供途徑讓人民在面對爭端時能夠依據法律尋求和得到公平和正義。眾所周知，法治其中一個很重要環節，正是尋求司法公義，即英文說的『Access to Justice』；而當中的關鍵是提供便利、有效率、合理成本的解決爭議途徑。我們需要照顧的不僅是跨境國際企業、商業或金融機構，而是不論背景的每一位市民。這解釋了為何我在

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之前不同場合均強調，我的心願是希望把香港打造成法律服務的『美食廣場』，提供不同款式、不同成本的爭議解決服務，只要是有需要的人均能找到他們所需，各適其適。然而，單是建立這樣的『美食廣場』仍然不足夠，更重要是讓市民大眾理解這個『美食廣場』究竟提供怎樣的『美食』，吸引他們光顧。故此，律政司

未來其中一項重要工作，是推廣香港的法治包括我們的法律服務和爭議解決服務，令大家對香港提供的法律服務有更多理解，從而建立他們對使用我們法律制度和服務的信心。」

律政司司長於2024年2月14日宣佈，國際調解組織總部將於2025年在香港前灣仔警署成立。

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調解和專業人才在大灣區的發展

香港認可調解員

香港調解資歷評審協會有限公司認可調解員

序言

香港調解資歷評審協會有限公司（「調評會」）承認成功的調解員的技能與爭議種類的關係不大。調解員如擁有某種爭議的相關專門知識，在若干情況下無疑可以有助達成和解。然而，正常的認可程序中却不一定需要評核準調解員的專門知識。尋求調解的

雙方一般有足夠能力評估專門知識的重要性，並能據此選擇調解員。但家事調解却例外，調解員須對家事法例和家庭的動力關係有專門認識。

基於上述原因，調評會決定設立兩個認可調解員名冊：

- (1) 綜合名冊；
- (2) 家事名冊。

任何人士均可同時擁有上述兩個名冊的資格，但由於預計沒有太多人士會

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同時爭取兩個名冊的認可，因此該兩個名冊有各自的認可程序。接受其中一種調解員類別訓練的人士如欲申請兼獲另一類別的資格，須接受個別的評核。

調評會認可調解員或家事調解員的資格

綜合調解員的認可資格載於這裏，家事調解員的認可資格則載於這裏。

委員會的會員資格

委員會會員名單由調評會編制，並載於調評會網站 (www.hkmaal.org.hk)。

成功的申請人須按表格 MA5 向委員會提供參考履歷。委員會成員資格為期 3 年，會員資格能否更新視乎會員能否向調解評審委員會證明其已符合這裏所載的持續專業發展的規定。

香港調評會第一階段綜合調解培訓課程

課程主辦機構	聯繫方式	2023 年培訓課程
香港和解中心	admin@mediationcentre.org.hk	23
香港青年協會持續進修中心	clc@hkfyg.org.hk	5
香港城市大學 — 法律學院	Tel: 3442 8008	3
香港大學專業進修學院 (英文版)	priscilla.lau@hkuspace.hku.hk	3
香港調解會		2
香港專業調解協會	info@mediatorassociation.org	2
The Accord Group	info@accordgroup.hk	2
Asia Conflict Resolution Institute Limited	adrilhk@gmail.com	1
CEDR	training@cedr.com	1
G2G Mediation Centre Limited	winston@g2g.hk	1
ADR International Limited	-	1
香港地產行政師學會及專業調解顧問中心有限公司	-	1

* 資料來源 <http://www.hkmaal.org.hk/tc/HowToBecomeAMediator.php>

成為國際爭議解決及風險管理協會國際認可調解員

國際爭議解決與風險管理協會 (IDRRMI) 是世界杰出的國際專業爭議與風險管理非政府組織。協會設立的目的是為國際爭議解決和風險管理專業制定標準，為機構及個人的專業資歷及知識產權、物權及產權提供認證。同時為各個地區和「一帶一路」倡議沿綫地區的企業和國際組織以及世界各地的不同貿易和商業提供一站式業務解決方案，包括風險管理、公司治理體系規劃和爭議解決服務。希望促成公平有效的國際商業交易、推廣使用國際爭議解決和風險管理服務。IDRRMI 非常重視培養專業人員，組建各級專家團隊，以促進客

戶業務的成功。IDRRMI 參與全球企業網路，是不同行業的專家（爭議解決專家、風險管理者、金融專家等）和企業和組織的服務平台。IDRRMI 負責管理專業調解團隊所有成員的資格考試。

IDRRMI 在全球擁有 1,600 多名各項專業類別專家。目前，IDRRMI 已在全球設立了 12 個分支機構和 13 個代表處，並與全球 40 多個國家和地區的 450 多個機構、組織、公司和政府部門建立了合作。2021 年起，IDRRMI 被世界貿易組織指定為認可的非政府組織。IDRRMI 將更積極地參與討論，以制定促進公平和自由的國際和國家間貿易以及貿易爭端解決的政策和機制。

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國際認可專業調解員認證程序

1. 正常程序：
 - i. 完成國際專業調解員培訓證書課程；
 - ii. 向 IDRRMI 申請 IAMP 資格考試的第二階段並取得令人滿意的成績。
2. 轉換程序（適用於 40 小時普通調解員培訓課程畢業生）
 - i. 完成 40 小時的一般調解員培訓課程及國際認可專業調解員轉換課程；
 - ii. 向 IDRRMI 申請 IAMP 資格考試的第二階段並取得令人滿意的成績。
3. 高級程序（HKMAAL 認可調解員）
 - i. 完成國際認可專業調解員銜接課程並取得滿意成績；
 - ii. 參加 IDRRMI 進行的選拔面試，並取得滿意結果。

課程主辦機構	聯繫方式
國際爭議解決及專業談判研究院	admin@aidrn.org
理大專業進修學院	ceo@speed-polyu.edu.hk

內地專業調解員

- i. 參加者完成認可專業商業調解員培訓證書課程；
- ii. 通過國際爭議解決及風險管理協會認可專業商事調解員 (CCM) 專業資歷考試後；
- iii. 可獲認證為認可專業商事調解員 (CCM) 和加入專業名冊，服務多家商事調解中心和法院。

課程主辦機構	聯繫方式
國際爭議解決及專業談判研究院	admin@aidrn.org

其他調解專業人員

A. 認可專業調解個案經理

1. 參加者完成認可專業調解個案經理培訓證書課程
 - i. 通過國際爭議解決及風險管理協會認可專業調解個案經理 (CMM) 專業資歷考試後；
 - ii. 可獲認證為認可專業調解個案經理 (CMM) 和加入專業名冊，服務多家商事調解中心。

課程主辦機構	聯繫方式
國際爭議解決及專業談判研究院	admin@aidrn.org
香港和解中心	admin@mediationcentre.org.hk

獲得認可國際調解代理 (CIMA) 的資格

第一階段——專業培訓課程

成功完成 30 小時經認可的國際調解代理培訓課程。

第二階段——資格考試

順利完成「認可國際調解代理 (CIMA)」資格考試。

第三階段——加入認可國際調解代理 (CIMA) 專業團隊

登記在 IPAA 認可國際調解代理 (CIMA) 的名冊並在世界各地提供專業服。

課程主辦機構	聯繫方式
國際爭議解決及專業談判研究院	admin@aidrn.org
國際代理人協會	admin@idraa.com

第十一章 調解和專業人才在大灣區的發展



HKMAAL 認可調解員或 IDRRMI 國際認可專業調解員 IAPM

- 完成國際調解專家課程（12 小時）並取得滿意成績
- 參加 IDRRMI 舉辦的選拔面試，並取得滿意結果。

課程主辦機構	聯繫方式
國際爭議解決及專業談判研究院	admin@aidrn.org
香港和解中心	admin@mediationcentre.org.hk

認可國際專家證人

- 完成認可國際專家證人課程（30 小時）並取得滿意成績
- 參加 IPAA 國際專家證人資格考試，並取得滿意結果。

課程主辦機構	聯繫方式
國際爭議解決及專業談判研究院	admin@aidrn.org
國際代理人協會	admin@idraa.com

Certified Professional Mediation Coach (CPMC) 認可國際專調解導師

- 完成認可國際專家證人課程（30 小時）並取得滿意成績
- 參加 IPAA 國際專家證人資格考試，並取得滿意結果。

課程主辦機構	聯繫方式
國際爭議解決及專業談判研究院	admin@aidrn.org
香港和解中心	admin@mediationcentre.org.hk

認可國際專調解培訓師 (CIMT)

- 認可國際專調解導師 CPMC
- 完成國際專調解培訓師課程（100 小時）並取得滿意成績
- 參加 IDRRMI 舉辦的認可國際調解培訓師資格考試，並取得滿意結果。

課程主辦機構	聯繫方式
國際爭議解決及專業談判研究院	admin@aidrn.org
香港和解中心	admin@mediationcentre.org.hk

第十二章

建議和總結

在本指南中，我們探討了大灣區（GBA）的調解和風險管理的各個方面。我們討論了調解作為一種有效的替代爭議解決方法的重要性，以及其在解決衝突方面提供的潛在好處。

我們強調了調解員所需的關鍵技能和素質，如公正性、積極傾聽和有效溝通。此外，我們強調了在調解過程中理解文化差異和促進包容性的重要性。

此外，我們還探討了風險管理在調解中的作用，以及識別和減輕潛在風險的重要性。我們探討了處理權力失衡、處理高衝突情況以及確保保密和資料保護的策略。

對大灣區調解和風險管理專業人士的建議

基於本指南的討論，我們希望為大灣區的調解和風險管理專業人士提供以下建議：

1. **持續專業發展**：專業人士應進行持續培訓和教育，提升他們的調解技能，瞭解行業趨勢，並深入瞭解文化細微差別。這將使他們能夠提供符合大灣區個人和組織多樣化需求的高品質調解服務。
2. **合作與聯網**：專業人士應積極尋求與大灣區其他調解和風險管理專業人士的合作和建立聯繫的機會。這可以促進知識共用、最佳實踐交流，並建立一個支持性的社區，促進專業成長和發展。
3. **遵守倫理標準**：專業人士應嚴格遵守大灣區調解員行為準則中概述的倫理原則和專業標準。通過保持最高的誠信、專業素養和保密性，調解員和風險管理專業人士可以在客戶和整個社區中建立信任和信譽。
4. **接受技術**：專業人士應接受技術並利用數位工具，以提高調解和

風險管理過程的效率和效果。這可能包括利用線上平台進行虛擬調解會議，使用安全的通信和資料管理系統，並及時瞭解與該領域相關的新興技術。

5. **與機構和組織合作**：專業人士應積極與大灣區的調解機構、專業協會和相關組織合作。這可以提供資源、培訓機會，以及在調解和風險管理社區內獲得專業認可和進步的平台。

通過遵循這些建議，大灣區的調解和風險管理專業人士可以為該領域的發展做出貢獻，促進和平爭議解決，並在該地區建立有效風險管理的文化。

總之，本指南為參與大灣區調解和風險管理的專業人士提供了有價值的見解和建議。通過接受這些原則和實踐，專業人士可以在確保公平和有效的衝突解決過程方面發揮關鍵作用，並為大灣區的整體發展和成功做出貢獻。



Chapter 12

Recommendations and Conclusions

of the field, promote peaceful dispute resolution, and foster a culture of effective risk management in the region.

In conclusion, this guidebook has provided valuable insights and recommendations for professionals in the GBA who are involved in mediation and risk management. By embracing these principles and practices, professionals can play a pivotal role in ensuring fair and effective conflict resolution processes and contribute to the overall development and success of the Greater Bay Area.

- provide high-quality mediation services that are tailored to the diverse needs of individuals and organizations in the GBA.
2. **Collaboration and Networking:** Professionals should actively seek opportunities to collaborate and network with other mediators and risk management professionals in the GBA. This can foster knowledge sharing, exchange of best practices, and the establishment of a supportive community that promotes professional growth and development.
 3. **Adherence to Ethical Standards:** Professionals should strictly adhere to the ethical principles and professional standards outlined in the Code of Conduct for Mediators in the GBA. By upholding the highest standards of integrity, professionalism, and confidentiality, mediators and risk management professionals can build trust and credibility among their clients and the broader community.
 4. **Embrace Technology:** Professionals should embrace technology and leverage digital tools that can enhance the efficiency and effectiveness of the mediation and risk management processes. This may include utilizing online platforms for virtual mediation sessions, employing secure communication and data management systems, and staying updated on emerging technologies relevant to the field.
 5. **Collaboration with Institutions and Organizations:** Professionals should actively engage with mediation institutions, professional associations, and relevant organizations in the GBA. This can provide access to resources, training opportunities, and a platform for professional recognition and advancement within the mediation and risk management community.

By following these recommendations, mediation and risk management professionals in the GBA can contribute to the growth and development

Chapter 12

Recommendations and Conclusions

In this guidebook, we have explored various aspects of mediation and risk management for professionals in the Greater Bay Area (GBA). We have discussed the importance of mediation as an effective alternative dispute resolution method and the potential benefits it offers in resolving conflicts.

We have highlighted the key skills and qualities required for mediators, such as impartiality, active listening, and effective communication. Additionally, we have emphasized the significance of understanding cultural differences and promoting inclusivity during the mediation process.

Furthermore, we have examined the role of risk management in mediation and the importance of identifying and mitigating potential risks. We have explored strategies for managing power imbalances, dealing with high-conflict situations, and ensuring confidentiality and data protection.

Recommendations for Mediation and Risk Management Professionals in the GBA

1. **Continuous Professional Development:** Professionals should engage in ongoing training and education to enhance their mediation skills, stay updated on industry trends, and deepen their understanding of cultural nuances. This will enable them to

Certified International Mediation Trainer (CIMT)

- i. International Professional Mediation coach CPMC
- ii. Completed the International Mediation Trainer Course (100 hours) with satisfactory results
- iii. Participate in the Certified International Mediation Trainer Qualification Examination organized by IDRRMI and achieve satisfactory results.

Course Organizer	Contact information
Academy of International Dispute Resolution and Professional Negotiation	admin@aidrn.org
Hong Kong Mediation Centre	admin@mediationcentre.org.hk

Chapter 11

The development of mediation and professionals in the Greater Bay Area

Certified International Expert Witness CIEW

- i. Completion of the International Mediation Expert Course (12 hours) with satisfactory results
- ii. Attend the professional interview conducted by IDRRMI and achieve satisfactory results.

Course Organizer	Contact information
Academy of International Dispute Resolution and Professional Negotiation	admin@aidrn.org
International Professional Advocate Association	admin@ipdraa.com

Certified Professional Mediation Coach (CPMC)

- i. IAPM of the IDRRMI
- ii. Completed the International Mediation Instructor Course (20 hours) with satisfactory results
- iii. Participated in the Certified International Professional Mediation coach Qualification Examination held by IDRRMI and obtained satisfactory results °

Course Organizer	Contact information
Academy of International Dispute Resolution and Professional Negotiation	admin@aidrn.org
Hong Kong Mediation Centre	admin@mediationcentre.org.hk

B. Certified International Mediation Advocate (CIMA)

| THE FIRST STAGE | Professional training courses

Successful completion of a 30-hour Certified International Mediation Advocate training course

| THE SECOND STAGE | Qualifying examinations

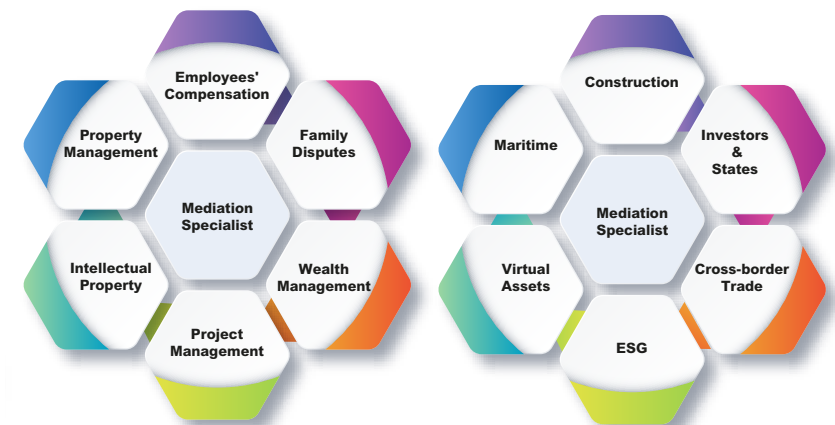
Successfully completed the Certified International Mediation Advocate (CIMA) Qualifying Examination

| THE THIRD STAGE | Join the Professional Team of Certified International Mediation Advocate (CIMA).

Register on the IPAA Panel of Certified International Mediation Advocate (CIMA) and provide professional services around the world

Course Organizer	Contact information
Academy of International Dispute Resolution and Professional Negotiation	admin@aidrn.org
International Professional Advocate Association	admin@ipdraa.com

Mediation Experts



Chapter 11

The development of mediation and professionals in the Greater Bay Area

Professional Mediator in the Mainland

- i. Participants have completed the Certificate Course for Certified Professional Commercial Mediator Training
- ii. Passed the Certified Commercial Mediator (CCM) Professional Qualification Examination of the International Dispute Resolution and Risk Management Institute
- iii. Obtain qualification as a Certified Commercial Mediator (CCM) and join professional boards to serve a number of commercial mediation centres and courts.

Course Organizer	Contact information
Academy of International Dispute Resolution and Professional Negotiation	admin@aidrn.org

Other Mediation Professionals

A. Professional Case Managers

- i. Participants have completed the Certificate in Training for Certified Professional Mediation Case Managers
- ii. Passed the Certified Mediation Case Manager (CMM) Qualification Examination of the International Dispute Resolution and Risk Management Institute
- iii. Certified as a Certified Mediation Case Manager (CMM) and a member of a professional register to serve a number of commercial mediation centres.

Course Organizer	Contact information
Academy of International Dispute Resolution and Professional Negotiation	admin@aidrn.org
Hong Kong Mediation Centre	admin@mediationcentre.org.hk

International Accreditation professional Mediator accreditation process

1. Normal Entry:
 - i. Completed the International Professional Mediator Training Certificate Course accredited by IDRRMI;
 - ii. Apply to IDRRMI for the Stage II of the IAMP qualifying examination and achieving satisfactory results
2. Conversion Entry (for 40-hour General Mediator Training Course graduates)
 - i. Completed the 40-hour General Mediator Training Course and the Conversion Course for International Accredited Professional Mediator;
 - ii. Apply to IDRRMI for the Stage II of the IAMP qualifying examination and achieving satisfactory results
3. Advanced Entry (for HKMAAL Accredited Mediator)
 - i. Completed the Conversion Course for International Accredited Professional Mediator and achieved a satisfactory result
 - ii. Attending the selection interview conducted by IDRRMI and achieved a satisfactory result.

Course Organizer	Contact information
Academy of International Dispute Resolution and Professional Negotiation	admin@aidrn.org
School of Professional and Continuing Education, PolyU	ceo@speed-polyu.edu.hk

Chapter 11

The development of mediation and professionals in the Greater Bay Area

Adjudication, Business Negotiation and DR Advocates. At present, IDRRMI has set up 12 branches and 13 representative offices around the world, and has established cooperation with more than 550 institutions, organizations, companies and government departments in more than 50 countries and regions around the world. IDRRMI administers the qualification examination for all members of the professional mediation team.

Since 2021, IDRRMI has been designated as an accredited NGO by the World Trade Organization. IDRRMI will participate proactively in discussions to develop policies and mechanisms to promote fair and free international and interstate trade and trade dispute resolution.

The HKMAAL List of Panel Members will be maintained by the HKMAAL and the lists will be available on the HKMAAL's website (www.hkmaal.org.hk).

Successful candidates will be required to provide a C.V. as per Form MA5. Panel membership will be for a 1-year period. Renewal of membership will be subject to the annual panel maintenance fee and the panel member demonstrating to the HKMAAL Mediation Accreditation Committee that the panel member in question has undertaken the CPD (continuing professional development) requirements as set out in CPD.

International Mediators

How to become an international Accredited professional Mediator (IAPM)

The International Dispute Resolution and Risk Management Institute (IDRRMI) is the world's preeminent international professional dispute and risk management non-governmental organization. The objectives of the institute is to set standards for the international dispute resolution and risk management profession, to qualify and award professional qualifications and certify intellectual property and property rights of institutions and individuals. At the same time, it provides one-stop business solutions for enterprises and international organizations in various regions and regions along the Belt and Road Initiative, as well as different trade and commerce around the world, including risk management, corporate governance system planning and dispute resolution services. IDRRMI facilitates fair and efficient international business transactions, promote the use of international dispute resolution and risk management services.

IDRRMI has more than 1,800 experts in a variety of professional categories worldwide, including International Mediation, Arbitration,

HKMAAL Stage 1 General Mediation Training Courses

Course Organizer	Contact information	No of training in 2023
Hong Kong Mediation Centre	admin@mediationcentre.org.hk	23
The Hong Kong Federation of Youth Groups Continuous Learning Centre	clc@hkfyg.org.hk	5
City University of Hong Kong - School of Law	Tel: 3442 8008	3
The University of Hong Kong School of Professional and Continuing Education (English version)	priscilla.lau@hkuspace.hku.hk	3
Hong Kong Professional Mediation Association		2
The Accord Group	info@mediatorassociation.org	2
Asia Conflict Resolution Institute Limited	info@accordgroup.hk	2
CEDR		1
G2G Mediation Centre Limited	adrilhk@gmail.com	1
ADR International Limited	training@cedr.com	1
Hong Kong Institute of Real Estate Administrators and Professional Mediation Consultancy Centre Limited	winston@g2g.hk	1

* Source: <http://www.hkmaal.org.hk/tc/HowToBecomeAMediator.php>

Chapter 11 The development of mediation and professionals in the Greater Bay Area

Chapter 10 International Convention and International Organizations in GBA

Chapter 11

The development of mediation and professionals in the Greater Bay Area

Hong Kong Accredited Mediator

Hong Kong Mediator

Accredited Mediator of the Hong Kong Mediation Accreditation Association Limited

Introduction

The Hong Kong Mediation Accreditation Association Limited ("HKMAAL") recognises that the skills of a successful mediator are largely unrelated to the type of dispute. A mediator having specialist knowledge of the type of dispute may however facilitate settlement in some cases. It is not felt to be part of the normal accreditation process to assess the specialist knowledge of potential panel members. Parties seeking mediation are usually well equipped to assess the relevance of specialist knowledge and to select a mediator accordingly. The exception to this rule is in the area of family mediation. In this area, specialist knowledge of family law and dynamics is required.

In light of the above, the HKMAAL maintains two panels of accredited mediators:-

1. General Panel; and
2. Family Panel.

An individual may qualify for both panels but as few people are expected to seek such dual accreditation, the two panels have therefore separate accreditation procedures.

for Hong Kong to develop into an international legal services and dispute resolution centre, and can be said to be a great gift from the Central Government to Hong Kong. We must live up to the trust and do our best to complete the mission.

The Secretary for Justice emphasised, "I think the second priority of dispute resolution services is universalisation. The ultimate purpose of dispute resolution services is to provide a way for people to seek and obtain fairness and justice in accordance with the law in the face of disputes. As we all know, one of the most important aspects of the rule of law is the search for justice, or 'access to justice', and the key is to provide convenient, efficient and reasonable means of resolving disputes. We need to take care of not only cross-border international businesses, businesses or financial institutions, but everyone regardless of their background. This explains why I have stressed on various occasions that my aspiration is to make Hong Kong a 'food court' for legal services, providing different types of dispute resolution services at different costs, as long as everyone in need can find what they need. However, it is not enough to build such a 'food court', it is more important for the public to understand what kind of 'food' is provided by the 'food court' and attract them to visit it. Therefore, one of the important tasks of the Department of Justice in the future is to promote the rule of law in Hong Kong, including our legal services and dispute resolution services, so that people can have a better understanding of the legal services provided in Hong Kong, so as to build their confidence in using our legal system and services.

As announced by The Secretary for Justice on 14 February 2024, the International Organization for Mediation Head Office will be established in the Hong Kong in 2025. The International Organization for Mediation will be located at the former Wan Chai Police office.



Chapter 10 International Convention and International Organizations in GBA

region is the core positioning of the country and Hong Kong. In fact, building a solid, trustworthy and up-to-date legal system is the necessary foundation to support Hong Kong's positioning as one of the eight centres. A solid, trustworthy and up-to-date legal system should include an effective judicial system, a risk management system and a sound dispute resolution system. Among them, the professional development of litigation, arbitration and mediation is the best demonstration of our legal system in Hong Kong, which is respected by the world as a fair, impartial and efficient legal system. The development continues to strengthen Hong Kong's role as a centre for international legal and dispute resolution services in the Asia-Pacific region, with arbitration and mediation being a top priority due to the limited jurisdictions of litigation. Hong Kong's arbitration services are mature and continue to be ranked among the top three best arbitration venues internationally. Hong Kong's international mediation professional services are highly regarded as the most advanced and high-level international mediation services. Hong Kong not only has well-established international mediation rules, professional accreditation and a well-established mediation support and quality assurance system, but also Hong Kong's international mediation institutions and service personnel are more frequently involved in the formulation of conventions and cooperation projects on international mediation by international institutions. Hong Kong is the most international mediation professional system and mediation professionals in China.

In particular, the Chief Executive of the Hong Kong Special Administrative Region and the Secretary for Justice are quoted from their speeches at the 2022 Hong Kong Legal Week. First of all, the Chief Executive of Hong Kong pointed out: "The establishment of the Preparatory Office in Hong Kong into the secretariat and headquarters of the International Organization for Mediation is an unprecedented initiative of the country, which demonstrates the Central Government's confidence and support

On 21 October 2022, the Ministry of Foreign Affairs and the Government of the Hong Kong Special Administrative Region (HKSAR) signed the Arrangement on the Establishment of the Preparatory Office for the International Organization for Mediation in the Hong Kong Special Administrative Region, which promulgated the specific work of the establishment of the Preparatory Office for the International Organization for Mediation in Hong Kong, in preparation for the organization of intergovernmental negotiations around the world on matters such as the International Convention. The HKSAR Government, the legal profession and the business community are well aware of the extraordinary significance and important interests of every citizen of Hong Kong.

As announced by The Secretary for Justice on 14 February 2024, the International Organization for Mediation Head Office will be established in the Hong Kong in 2025. The International Organization for Mediation will be located at the former Wan Chai Police office.

In his speech on the 25th anniversary of Hong Kong's return to the motherland, President Xi Jinping clearly expressed his hope that Hong Kong will continue to strengthen its development momentum, and the central government will fully support Hong Kong in seizing the historic opportunities brought about by the country's development. The country has been continuously injecting momentum into Hong Kong's development and supporting Hong Kong's positioning as an international financial centre, an international innovation and technology centre, an East-meets-West cultural and artistic exchange centre, an international shipping hub, an international trade centre, an international maritime centre, an Asia-Pacific centre for international legal and dispute resolution services, and a regional intellectual property trading centre.

Continuously strengthening Hong Kong's position as a centre for international legal and dispute resolution services in the Asia-Pacific

UNCITRAL WGII

At its forty-seventh session in July 2014, the UNCITRAL Commission agreed that the Working Group II (Dispute Settlement) ("WGII") should consider the issue of enforcement of international settlement agreements resulting from conciliation proceedings, and report to the Commission at its forty-eighth session, in 2015, on the feasibility and possible form of work in that area.

The Convention was finalised at the fifty-first UNCITRAL Commission session, which came to a close in July 2018. The amended Model Law (the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation (2018)) was also adopted at the same session.

In December 2018, the United Nations General Assembly, by consensus, passed a resolution to adopt the United Nations Convention on International Settlement Agreements Resulting from Mediation, and authorised the signing ceremony of the Convention to be held on 7 August 2019. As of 13 February 2024, the Convention has 55 signatories, of which eight are parties to the Convention.

Hong Kong has the privilege to participate in the drafting of the convention. The Hong Kong Mediation Centre has been invited to participate in the entire discussions of the convention from 2016 to 2018. We are proud to witness 46 countries, including the world's two largest economies — the United States and China — signed the Convention on the day it opened for signature in 2019.

Preparatory Office of the International Organization for Mediation & the Head Office of the International Organization for Mediation

Chapter 10

International Convention and International Organizations in GBA

Though we shall not adopt the Convention in the dispute in the GBA, Hong Kong may have the privilege to mediate the disputes among countries where the Convention is applicable. This is another privilege and opportunities for Hong Kong Mediation professional and legal professional.

United Nations Convention on International Settlement Agreements Resulting from Mediation

United Nations Convention on International Settlement Agreements Resulting from Mediation (Convention) as known as the Singapore Convention on Mediation is a multilateral treaty which offers a uniform and efficient framework for the enforcement and invocation of international settlement agreements resulting from mediation. It applies to international settlement agreements resulting from mediation, concluded by parties to resolve a commercial dispute.

The Convention will facilitate international trade and commerce by enabling disputing parties to easily enforce and invoke settlement agreements across borders. Businesses will benefit from mediation as an additional dispute resolution option to litigation and arbitration in settling cross-border disputes. Signing the Convention is therefore a strong statement of a country's commitment to trade, commerce and investment, and strengthens its position in the field of international trade law.



Chapter 9 Mediation Services in the 9 GBA Guangdong Cities

detail in the previous section. Cross-border mediation services in the GBA not only resolve disputes between the two regions and nine cities in the Greater Bay Area, but also provide services to further promote development transactions in the Greater Bay Area and resolve investment and commercial disputes arising from the establishment of Hong Kong as a leading international legal and dispute resolution centre in the Asia-Pacific region. Hong Kong is the only common law jurisdiction in China with experienced international legal and international mediation professionals. Coupled with the implementation of the Guangdong-Hong Kong-Macao Greater Bay Area Legal Professional Examination, this will provide the Qianhai Co-operation Zone with more practising lawyers who are familiar with the laws of both places, which will provide enterprises in the Guangdong-Hong Kong-Macao Greater Bay Area with legal and dispute resolution services of international standards to meet market demand, which will greatly increase investor confidence.

In addition to first-class professional mediation rules, procedure management and mediators, professional international mediators also need to design and effectively deal with the differences in culture, customs and laws in different places, and properly arrange the cross-border and international enforcement mechanisms of settlement agreements, and fully understand international business rules and cooperate with the provisions of various international business conventions. Hong Kong is currently home to three world-renowned international mediation centres, namely the Mainland-Hong Kong Joint Mediation Centre, the Hong Kong Mediation Centre and the Hong Kong International Mediation Centre.

Macao Greater Bay Area. Improve the international commercial dispute resolution mechanism, build an international arbitration center, support exchanges and cooperation between arbitration and mediation institutions in Guangdong, Hong Kong and Macao, and provide arbitration and mediation services for the economy and trade of Guangdong, Hong Kong and Macao.

Promote special measures for Hong Kong's international legal and dispute resolution services under CEPA. Leveraging Hong Kong's advantages in international professional services in international legal and dispute resolution services, we will expand and optimize our international service network to provide consultation and information support to enterprises.

Strengthen the development of the legal service industry, encourage and support legal service institutions to provide services for the Belt and Road Initiative and mainland enterprises going global, deepen the pilot project of Guangdong-Hong Kong-Macao partnership association law firms, study the qualifications and business scope of Hong Kong and Macao lawyers in the nine cities of the Pearl River Delta, build a diversified dispute resolution mechanism, and work with Hong Kong to build an international legal service centre and an international commercial dispute resolution centre.

Innovation and technology (I&T) is one of the priorities of the Guangdong-Hong Kong-Macao Greater Bay Under this premise, promote the mediation of intellectual property disputes through alternative dispute resolution. Give full play to Hong Kong's advantages in intellectual property protection and related professional services.

The development of Hong Kong's professional services in international disputes and risk management is well documented and described in

have several deputy directors. People's mediation refers to the activities of the people's mediation committee to urge the parties to voluntarily reach an agreement on the basis of consultation on an equal footing to resolve civil disputes through persuasion, counseling, and other means. People's mediation is a free social service.

People's mediators are to be members of the people's mediation committee and personnel hired by the people's mediation committee. People's mediators use methods such as persuasion and counseling to urge the parties to voluntarily reach a mediation agreement on the basis of equal consultation to resolve civil disputes. People's mediators are hired staff members, who generally sign labor contracts with third-party human resources companies, and are assigned by third-party human resources companies to government departments (judicial bureaus), and are generally arranged to work in neighborhood and township judicial offices.

The People's Mediation Committee is a mass organization that mediates civil disputes, so there are very few Hong Kong people's mediators.

Cross-border Mediation services in the GBA

To establish Hong Kong as a leading centre for international legal and dispute resolution services in the Asia-Pacific region. Supporting Hong Kong to become a service centre for facilitating transactions and resolving investment and commercial disputes over Belt and Road construction projects.

Strengthen judicial and legal exchanges and co-operation between Guangdong, Hong Kong and Macao, promote the establishment of a diversified dispute resolution mechanism based on extensive consultation, joint contribution and shared benefits, and provide high-quality, efficient and convenient judicial and legal services and guarantees for the development of the Guangdong-Hong Kong-

mediation organizations or specially invited mediators of the people's court, the parties may apply for judicial confirmation of the agreement reached by the people's court appointed by the people's court for mediation before the case is registered and filed;

At present, the people's courts of the nine Guangdong cities in the Greater Bay Area have arranged for the roster of specially invited mediators, and the specially invited mediators who successfully assist the parties in settling will receive a subsidy. Hong Kong invited mediators have a higher allowance than those in the Mainland. In addition to appointing Hong Kong mediators, the people's courts in Guangdong will also invite three mediation centres in Hong Kong, namely the Mainland-Hong Kong Joint Mediation Centre, the Hong Kong Mediation Centre and the Hong Kong International Mediation Centre, to nominate Hong Kong invited.

On the other hand, the only mediation organizations specially invited by the people's courts are those established in the Mainland. With the integration of the Greater Bay Area and the encryption of judicial cooperation among the three places, it is likely that Hong Kong mediation centers will soon join the specially invited mediation organizations of the people's courts in the Greater Bay Area, so that Hong Kong people and foreign businessmen in the mainland can choose to use Hong Kong's mediation centers and Hong Kong's mediation professionals to resolve disputes.

People's Mediation Committee

The people's mediation committee is a mass organization established in accordance with law to mediate civil disputes. Villagers' committees and residents' committees are to establish people's mediation committees, and enterprises and public institutions are to establish people's mediation committees as needed. The people's mediation committee is composed of three to nine members, with one director, and when necessary, may

Hong Kong's mediation professional bodies are helping the Mainland to expedite the resolution of these issues. Hong Kong's mediation professionals are poised to develop significantly in the GBA.

The people's courts of specially invited mediation organizations and specially invited mediators

With the continuous development of the economy and society, in addition to the traditional people's mediation and administrative mediation, non-litigation mediation institutions have gradually been established in some professional fields or industries, such as commercial mediation organizations, industry mediation organizations, civil chamber of commerce mediation organizations, mediation organizations under social groups and public welfare organizations, etc. These autonomous and professional mediation organizations have played a unique role in resolving conflicts and disputes in professional or industrial fields, strengthening industry self-discipline, standardizing trading behaviors, and maintaining market order, which are complementary to people's mediation and administrative mediation, and are also in line with the development trend of diversified dispute resolution mechanisms. At the same time, when the parties involved in social and economic activities reach a mediation agreement on conflicts and disputes, they also hope to give the mediation agreement the corresponding legal effect, so as to more effectively protect their legitimate rights and interests. However, at present, it is not feasible to directly give enforceability to mediation agreements, and it is necessary to include professional mediation organizations such as industry mediation and commercial mediation into the judicial confirmation system.

According to Article 31 of the Opinions of the Supreme People's Court on Further Deepening the Reform of the People's Court's Diversified Dispute Resolution Mechanism, if an industry or commercial mediation organization or mediator is included in the list of specially invited

Chapter 9

Mediation Services in the 9 GBA Guangdong Cities

Driven by the development of global commercial mediation, China's commercial mediation has developed rapidly. Many regions have taken the lead in promulgating regulations to promote the development of mediation, including the Regulations on the Diversified Resolution of Conflicts and Disputes in the Shenzhen Special Economic Zone, which has been promulgated, and the Regulations on Commercial Mediation in the Guangdong-Macao In-Depth Cooperation Zone in Hengqin are also being drafted.

The number of commercial mediation organizations in the Greater Bay Area is increasing, mainly operated by private non-enterprise units. Taking Shenzhen as an example, the total number of commercial mediation cases in Shenzhen in 2022 reached 6,895, an increase of 232.44% compared with 2,073 in the previous year.

At present, commercial mediation is developing rapidly, but there are still some problems in practice that need to be resolved. For example, it is necessary to develop and improve the legal system of commercial mediation;

1. Enhance the professional and market value of commercial mediation institutions
2. Strengthen the capacity and level of the mediator team.
3. Enhance social acceptance of commercial mediation.

Chapter 8 Development of Mediation Profession in the GBA

- undergone before the appointed mediator and its duration; and
- c. the parties' agreement that the Court may liaise and discuss with the appointed mediator in the absence of the parties prior to and during the MCSC.

The consent summons should also provide for the lodgment of a mediator's note

to be prepared by the appointed mediator which shall contain:-

- a. the common grounds agreed by the parties;
- b. the remaining issues in dispute; and(c) in relation to each disputed issue, the concerns and the latest proposal of each party.

The Court will give the necessary and appropriate directions when setting down the case for a MCSC after consideration of the mediator's note and conferring with the appointed mediator if necessary. As a general rule, the MCSC will be listed for hearing before a judge sitting in chambers (not open to the public). All communication between the Court and the appointed mediator, including the mediator's note, shall be confidential and without prejudice in nature. Such communications will not be referred to in the proceedings if the MCSC does not result in any settlement.

The Court shall provide accommodation facilities for mediation to be conducted in the context of a MCSC. The judge presiding at the MCSC may adjourn the hearing at any stage if he or she considers that the parties may benefit from continuing with the mediation to be conducted at such accommodation facilities with liberty to the parties and the appointed mediator to re-appear before him or her on the same date after such mediation.

("RDC") is to facilitate the settlement of disputes. Pursuant to Order 1A, the District Court ("the Court") is to further such underlying objective by active case management and the parties are under a duty to assist the Court in that regard.

[Hong Kong Court expects litigants to explore settlement, such as undergoing.](#)

a process of ADR. A common mode of ADR is mediation. An unreasonable failure by a party to engage in ADR is a ground for costs sanction. If a party wishes to attempt mediation, he or she should follow the procedures set out in Practice Direction 31 in procuring mediation. In some cases, the effectiveness of the mediation process can be enhanced with the assistance of the Court. With synergy facilitated by combining a CSC with mediation, it is more likely to achieve an overall settlement or at least some consensus to enable the remaining issues to be resolved in a more cost-effective way.

To that end, the Court may direct the parties to consider MCSC, and with consent of the parties, fix a MCSC at an appropriate stage of the proceedings. Alternatively, the parties may take the initiative at any stage of the proceedings to seek directions by submitting a consent summons for a MCSC to be attended by the parties and their appointed mediator (i.e. party-driven MCSC).

As a general rule, a MCSC should only be held after the parties have undergone a mediation session with the appointed mediator. The MCSC shall serve as a continuous process with the mediation.¹⁵ The parties should set out in the preamble of the consent summons:-

- a. the identity of their appointed mediator, together with his/her correspondence address and telephone number;
- b. the date of the mediation that the parties have previously

Mediation Scheme ("Pilot Scheme") launched at the same time. The significant project marked the Government's commitment to promote the use of mediation and to enhance public awareness of its benefits. The Pilot Scheme was operated at the WKMC by the Joint Mediation Helpline Office, an independent co-ordinator appointed by the Government, to provide mediation services to litigants of Small Claims Tribunal ("SCT") cases that are suitable for mediation and other suitable cases. The Pilot Scheme was a great success with around 50 percent of cases settled after mediation. It ended on 30 June 2022.

To facilitate the greater use of mediation services for dispute settlement, a new centre named the Integrated Mediation Office (West Kowloon) ("IMO(WK)") of the Judiciary has commenced operation on 5 July 2022 at the premises of the WKMC. The IMO(WK) is an extension of the Judiciary's existing Integrated Mediation Office at the Wanchai Law Court Building for facilitating the greater use of mediation services primarily for cases in the SCT. Adjudicators of the SCT will identify suitable cases for referral to the IMO(WK) for mediation services to be arranged free of charge.

Disputes that do not exceed the Small Claims Tribunal's civil jurisdiction limit of \$75,000 can be handled under the scheme.

If the parties agree to proceed with mediation, then each party is required to pay a nominal, all-inclusive application fee of \$200 which is non-refundable, while the mediation and venue fee are waived.

Mediator Assisted Case Settlement Conference ("MCSC")

One of the underlying objectives of the Rules of the District Court

Case Manager (MCM) will accord professional management services to all parties, mediator(s) and HKMC.

MCMP will focus on the following 5 important aspects:

1. Preliminary case analysis and consultancy of the mediation process
2. Facilitating to appoint the best suitable professionals including Mediator(s), Mediation Advocates and/or Experts to prepare expert reports.
3. Ensure the mediation is completed in accordance with the time schedule, mediation code and Law of Hong Kong.
4. Scheduling all facilities in the mediation
5. Providing administrative support to the parties and professionals in mediation

Institutional Mediation

In the recent decade, quality and professionalism has become the major concerns in professional mediation services. Parties and legal professionals prefer to engage the Institutional Mediation Service. Institutional mediation as discussed is a professional procedure which facilitates parties to reframe their perception of the problem to focus on ways to satisfy their needs. The mediation center will administer the mediation in accordance with the mediation rules and law, it also helps to monitor the compliance of the stick holders and advocates collaboration among all participants.

Integrated Mediation Office

The West Kowloon Mediation Centre ("WKMC"), a unique facility dedicated to mediation, had its opening on 8 November 2018 with a Pilot

the one side may induce the queries from the other side for the knowledge and history between the party and the mediator or between the legal representative and the mediator, and therefore will counter proposal another one. Indeed, in many cases, a new dispute has been arisen at the time of appointment of mediator.

B. Institutional Mediation

In the recent decade, quality and professionalism has become the major concerns in professional mediation services. Parties and legal professionals prefer to engage the Institutional Mediation Service. Institutional mediation as discussed is a professional procedure which facilitates parties to reframe their perception of the problem to focus on ways to satisfy their needs. The mediation center will administer the mediation in accordance with the mediation rules and law, it also helps to monitor the compliance of the stick holders and advocates collaboration among all participants.

Institutional Mediation is efficient to resolve all the concerns in independent mediator approach by providing:

- a. Professional Services Fee standards
- b. Full-fetched professional support to the mediator, parties, legal representatives and other professionals.
- c. Quality assurance mechanism
- d. Conflict of interests avoidance procedure

Some Mediation Centers provide mediation case management process for example, the Hong Kong Mediation Centre provides the Mediation Case Management Process (MCMP)

Hong Kong Mediation Centre has implemented the Mediation Case Management Process (MCMP) to provide the best facilities to the parties in resolving their disputes. An experienced and accredited Mediation

Mediation Practice in the GBA

A. Mediation Services in Hong Kong

Mediation conducted by Independent Mediator

Hong Kong now has around 2200 Accredited Mediator. Some of the mediators choose to practice as an independent mediator. There are two approaches for the appointment of mediators.

1. Recommended by a party or his legal representative and later agreed by others.
2. Party or his legal representatives apply to a Mediation Centre for the recommendation of mediator(s).

However, when appointing independent mediators, parties and legal representatives should consider the following issues:

1. There is no charges standards for independent mediator, the professional charges may vary from HK10,000 to HK100,000 per case.
2. The mediator has to handle all the issues by himself or herself from logistic issue to mediation process and the mediation meetings. However, most of the training and accreditation for mediator arrangement do not include the professional mediation procedure, therefore, individual mediators have to develop their own approach. In many cases, Intendent Mediator has to engage supporting services from other non-mediation professionals.
3. There is no quality assurance mechanism for the independent mediator. Therefore, there is no record on the performance of the mediator and whether the mediator has complied with the rule and regulation of mediation.
4. It may be the most important concern for the appointment of the independent mediator. Neutrality and fairness are the key to the mediation services, while when a mediator is recommended by

the Greater Bay Area, and facilitates the establishment of a local panel of qualified Greater Bay Area mediators in each of the three places. It also studies the formulation of best practices for mediation rules applicable to cross-border disputes and best practices for mediators' code of conduct. These standards and best practices can enhance the confidence of the public to use mediation in the Greater Bay Area, which will facilitate qualified Greater Bay Area mediators to provide mediation services and promote the use of mediation in the Greater Bay Area.

The Greater Bay Area Mediator Accreditation Standards and the Greater Bay Area Mediator Code of Conduct Best Practice were endorsed by the 3rd Guangdong-Hong Kong-Macao Bay Area Legal Departments Joint Conference on 10 December 2021 and came into effect on 30 December 2021.

The Greater Bay Area Cross-boundary Disputes Mediation Model Rules were endorsed by the 4th Guangdong-Hong Kong-Macao Bay Area Legal Departments Joint Conference on 16 December 2022 and came into effect on 30 December 2022.

Practice Direction of Hong Kong Courts

The judiciary of Hong Kong encourage the disputants to use mediation services, the Practice Direction of Hong Kong Courts are the most significant motive for using mediation instead of litigation. The Practice Directions were implemented in 1 Jan 2010. It demonstrated the underlying objective of the Rules of the High Court and the District Court is to facilitate the settlement of disputes. The Practice Directions apply to all civil proceedings. It stated that ADR means a process whereby the parties agree to appoint a third party to assist them to settle or resolve their dispute, a common mode of ADR is Mediation. It also directed legal representatives to advise their clients of the possibility of the Court making an adverse costs order where a party unreasonably fails to engage in mediation.

An Efficient Mediation Advocate will lead to

- a. Highly focus and comprehensive works;
- b. Expansion of services market;
- c. Resolve the limitation on boundary;
- d. Emerging professions;
- e. Reduce competition;
- f. Greater opportunities;
- g. Reducing the risks faced by lawyers and
- h. Higher customer satisfaction

Chapter 8

Development of Mediation Profession in the GBA

Supportive policies and systems to the Mediation Services in the GBA

At the 2nd Guangdong-Hong Kong-Macao Bay Area Legal Departments Joint Conference in 2020, the working proposal of the Greater Bay Area Mediation Platform was endorsed. The Greater Bay Area Mediation Platform is an authoritative platform for high-level exchange and cooperation among the legal departments of the three governments, discharging the role of a standard-setting body with a view to promoting the wider use of mediation within the Greater Bay Area. The Greater Bay Area Mediation Platform explores the promulgation of a set of unified qualification, accreditation and other relevant standards for mediators in

Chapter 7

Theories and Principles of Mediation

4. Efficient in facilitating clients to consider their intergraded interests and needs;
5. Assisting clients in thinking process and decision-making process in mediation proceedings;
6. Assisting clients in formulating the most appropriate mediation and negotiation strategies;
7. Assisting clients to achieve their best interests in mediation;
8. Work with mediators and other professionals to maximize their interests effective;
9. Create additional value for the client

Differences between a Solicitor & Mediation Advocates

- a. Assist clients in different procedures
- b. Lawyer practicing in litigation procedures, mediation advocate practicing in mediation procedures;
- c. Formation of different mindsets and design appropriate strategies;
- d. Apply different planning, strategies and negotiation methods;
- e. Mediation Advocates need to have a broader and more comprehensive sets of skills and knowledge;
- f. The mediation advocates are recognized and accepted by the client;
- g. Mediation advocate will have higher returns on their professional services;
- h. Mediation advocate may extend the services to the international market;

11. Mental rehearsal of the process
12. Preparation for the Mediation Session
13. Mediation Session
 - i. Seating arrangement
 - ii. Facilitation and intervention
 - iii. Settlement or termination
14. Follow up works for Settlement or termination.
15. Enforcement of settlement agreements and conversion arrangements

Collaboration with other professionals in Mediation

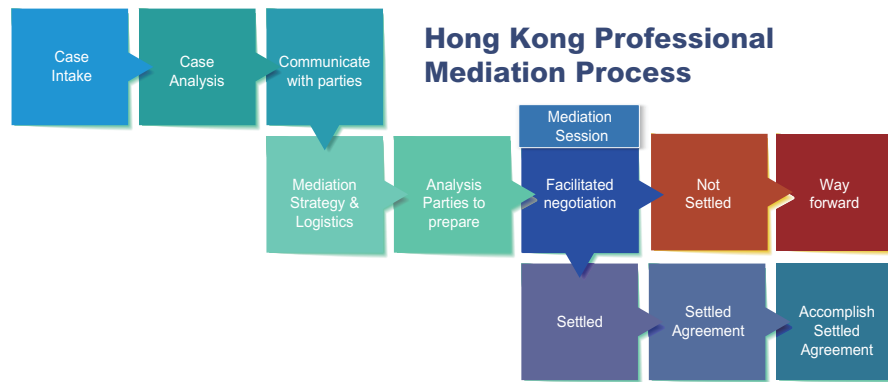
Mediation Advocacy is the important professional services in the mediation process. Mediation Advocates are well trained with the knowledge, skill and ability to facilitate their clients to achieve the best interest and benefit in the mediation. Like the solicitor or barrister serving as the agents of the court in the litigation proceedings, a mediation advocate will proficiently present the party's position, needs and interests in both adversarial and non-adversarial ways. He or she will focus on facilitating parties to identify and achieve their comprehensive interests. The mediation advocate will help their clients, who are the real decision makers in a mediation, to formulate their mediation strategies and best use the mediator and other professionals in a process.

Certified International Mediation Advocate (CIMA)

1. Important member in the professional mediation team;
2. Assisting clients to navigate in mediation;
3. Proficient in mediation rules, procedures and application strategies;

Chapter 7 Theories and Principles of Mediation

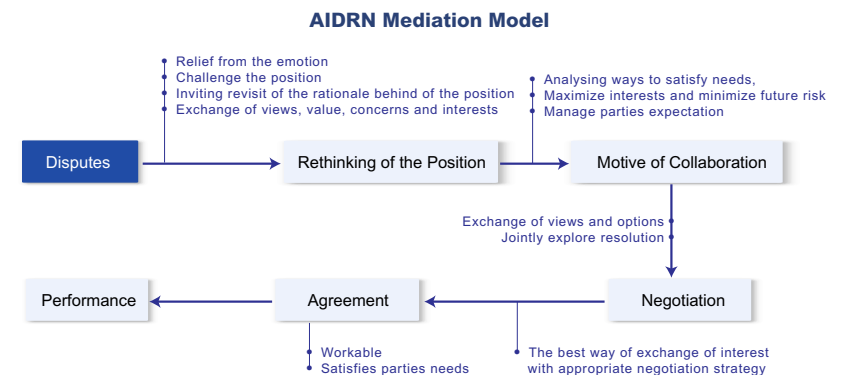
The AIDRN Mediation Model explains the procedures of mediation. It is a process help the parties in dispute to rethink of their positions and eliminate their bias in the process of decision making. Mediation facilitates parties to focus on maximization of their interest and minimizing their risk.



Hong Kong Professional Mediation Process

1. Consultation
2. Case Management
3. In-take
4. Appointment of Mediation Professionals
5. Preparation and Analysis
6. Venue Arrangement
7. Venue facilities
8. Pre-meeting interviews
9. Further preparation and Analysis
10. Formulate the strategy

- v. Experienced and qualified Mediation Advocate — assists and support their clients to adapt the best strategy in mediation
- vi. Other Professionals — provides fair and independent professional reference.
 - a. Participants get the best return through collaboration among them;
 - b. Creation of values through contributions among parties, get synergy effects (1+1 can be much greater than 2)
 - c. Many cases. the value achieved through the collaboration among parties is 10 times or more than the original dispute amount. Say 8 million Us dispute amount of a very famous US airlines with the customer, and the value gain from the settlement agreement is 9 billion US of appreciation in the market value.
 - d. Our statistics indicated trained participants in mediation will contribute to the settlement rate of 70% and the 98% of the parties will comply with the agreement;



- they settled the dispute of US\$ 8 million through mediation. The settlement finally facilitated the rise of the Airline US share prices of US\$ 9 billion in total value.
- d. Certainty: Over 60% of the disputes will reach the mediated settlement and the 98% of the parties will comply with the agreement;
 - e. Rebuilding the relationships: Mediation focuses on cooperation between parties. The collaborative nature of mediation helps to rebuild the partnership relationship and working side-by-side to gain the mutual benefits.

Professional Mediation Procedure

Collaboration among the Professional Mediation Team

The best results for the parties would be achieved through the seamless collaboration among the Professional Mediation Team.

The Professional Team :

- i. Professional Mediation Organization
 - a. Setting Rule and guidelines for professional mediation services, it administrate the mediation process and perform quality assurance;
 - b. Well designed mechanism to maintain the high-quality mediation services .
- ii. Parties — the decision maker, who is desired to make a most favourable decision with the assistance of the professional team
- iii. Qualified and experienced Mediation Case manager - monitor and provide the guidance and support to all the team members;
- iv. Qualified and experienced Mediator or International Mediator — provide the professional mediation / cross-border mediation services;

- 4. Applicable for most of the commercial disputes
- 5. Fast and efficient
- 6. Confidential
- 7. Focus on satisfying parties' needs and interests;
- 8. Parties are the decision makers demonstrating the parties' autonomy and fairness

Benefits of Mediation

Mediation is a well-designed dispute resolution procedure. In which the professional team will effectively assist the parties who is decision maker to make a sound decision to achieve their best interests. In the Greater Bay Area (GBA) and worldwide, mediation serves as the most effective dispute resolution, providing parties with greater control over the outcome and preserving relationships. It is a flexible and collaborative process that encourages open dialogue and creative problem-solving. Mediation Partitioners apply strategies and skill to help parties to achieve their best interests and facilitate collaboration among all participants;

- a. Flexibility: Mediation provides a flexible and collaborative approach to dispute resolution, allowing parties to craft mutually acceptable solutions tailored to their specific needs and interests.
- b. Cost-effectiveness: Compared to litigation and arbitration, mediation is generally more cost-effective, as it reduces legal fees, saves time, and minimizes the administrative burden associated with court proceedings.
- c. Creation of values: Under the Synergy Effects (1+1 can be much more than 2), collaboration among parties will create values. In many cases, the value achieved through the collaboration among parties is 10 times or more than the original dispute amount. For example, in a dispute between an airline and a passenger,

Chapter 7

Theories and Principles of Mediation

Overview of Mediation as a Dispute Resolution Process

Mediation is a voluntary and confidential process in which a neutral third party, the mediator, facilitates communication and negotiation between disputing parties to reach a mutually acceptable resolution. In the Greater Bay Area (GBA), mediation serves as an effective alternative to litigation, providing parties with greater control over the outcome and preserving relationships. It is a flexible and collaborative process that encourages open dialogue and creative problem-solving.

Key Theories and Approaches in Mediation

Advanced Professional Mediation Mechanism

The Mediation is a well-designed dispute resolution procedure. In which the professional team will effectively assist the parties who is decision maker to make a sound decision to achieve their best interests.

The Features of Professional Mediation Mechanism

1. Well-designed mechanism with professional model, framework; rules and procedures;
2. Most effective non-adversarial dispute resolution mechanism
3. Highly recognize worldwide, and applicable for cross-border disputes;

The development of professional mediation in Hong Kong is divided into three main stages



Characteristics of Hong Kong Mediation Professional Mechanism

1. Well-structured Mediation Professiona
 - Legislation, Professional Standards, Theory Framework and Professional development ;
2. World Recognised Standards
 - UNCITRAL Observer
 - WTO accredited Non-Government Organization
 - Over 550 organizations in various regions
3. Assist Mediation Centre and Governments in Asia Pacific to development mediation centers, professional mediator and related professionals

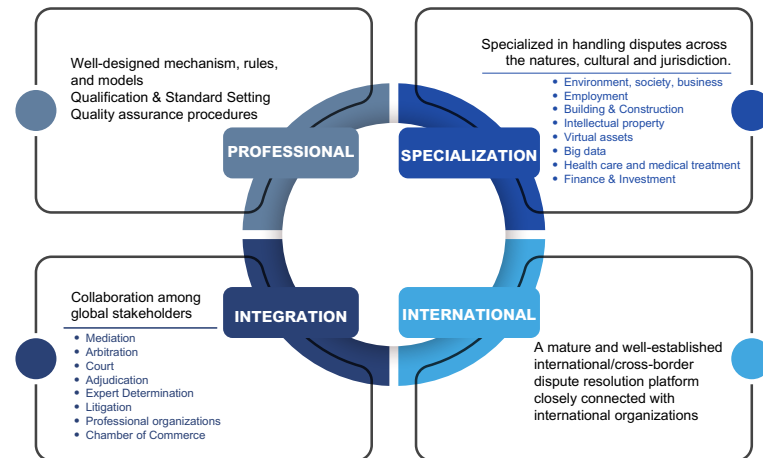
Mediation Profession in Hong Kong

- World leading standards in mediation and international mediation
- One of the Legal professions
- Well-developed Mechanism for risk and dispute management
- Most effective Dispute Resolution Process
- Facilitates maximisation of parties' interests and minimization of risks

4. Integration

It changes the approach of professional. It focuses on meeting the needs of the users, so the system advocate for collaboration among all professions, business and people.

International Dispute and Risk Management Framework in Hong Kong



Advanced Professional Mediation and Cross border Mediation Services of Hong Kong

Over 4 decades development of mediation professional, Hong Kong have been established a world recognized high-quality mediation services mechanism:

The Development of Dispute and Risk Management System of Hong Kong

Hong Kong has been development its professional system in strengthening its position as the international legal and dispute resolution centre. Hong Kong has established its Dispute Resolution System in 2010, under the system all previously name as the Alternative Dispute Resolution (ADR) ie, Mediation, Arbitration and . Negotiation were integrated in the Dispute Resolution together with legislation. The Hong Kong Dispute Resolution System focuses on using the best tools to resolve disputes and legislation became the final way to dispute resolution. The practice of the HKDR system demonstrated that the most effective dispute resolution approach is to minimize the risk of dispute. Coping with the development of Hong Kong as the international dispute resolution and deal making centre, Hong Kong has developed at Dispute and Risk Management system in 2018. The new system encompassed the risk management and deal making mechanism.

International Dispute and Risk Management framework in Hong Kong is supported by four major areas. They are

1. **Professional**
A well-designed mechanism, rules, models and theories
2. **Specialization**
Specialized in manage the risk and disputes arisen from various natures and geographical difference.
3. **Internationalization**
It is an open system and facing the world. It enhances the role of Hong Kong as the Super Connector.

Chapter 6 Dispute Resolution in GBA

Chapter 5 Capacity building for the ESG Professionals

the concept of sustainable development gains traction and corporate social responsibility becomes more emphasized, the need for ESG professional services in the Greater Bay Area is expected to maintain robust growth.

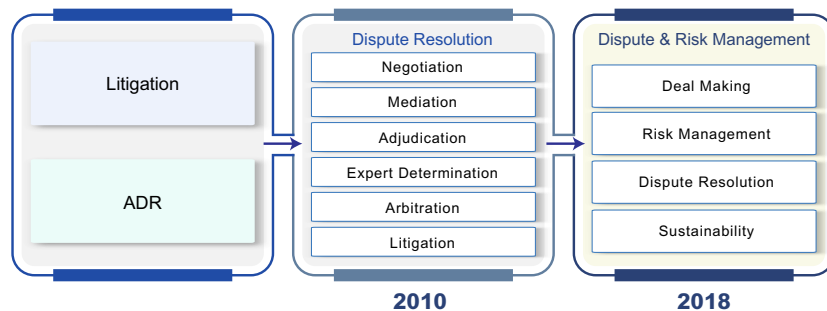
Chapter 6

Dispute Resolution in GBA

The Hong Kong International Dispute and Risk Management System

Development of Hong Kong International Dispute and Risk Management System

Simple, Effective, Inclusive
Keep pace with global developments



closer attention to their ESG performance.

2. **International Collaboration:** Under the "One Country, Two Systems" framework, the international financial center status of Hong Kong and Macao facilitates the introduction of global ESG standards and best practices, propelling the development of local ESG professional services.
3. **Investor Expectations:** As global investors increasingly focus on ESG issues, businesses in the Greater Bay Area will improve their ESG performance to meet the requirements of international investors.
4. **Risk Management:** With the growing prominence of climate change and social responsibility risks, companies will require professional ESG services to identify, assess, and manage these risks.
5. **Market Competition:** To enhance brand image and market share, businesses need to demonstrate their commitment to environmental protection, social responsibility, and sound governance.
6. **Green Finance Opportunities:** With the emergence of financial products like green bonds and loans, companies will need ESG professional services to help them seize new financing opportunities.
7. **Talent Attraction and Retention:** Strong ESG performance aids businesses in attracting and retaining talent, especially for the new generation of job seekers who are increasingly concerned about corporate sustainability and social responsibility.

Considering factors such as policy shifts, market trends, technological advancements, and international collaboration, the demand for ESG professional services in the Greater Bay Area is anticipated to continue its upward trajectory over the next ten years. Overall, as

Chapter 5 Capacity building for the ESG Professionals

ESG Strategists help enterprises to set up and build upon four pillars into their clients' core operation and business development which focuses on environmental, social and governance with sustainability growth.

These pillars: Governance, Integration, Engagement, and Reporting work together in a dynamic manner, providing a foundation for informed decision-making, genuine engagement, transparent communication, and effective governance in order to achieve ESG goals and objectives which set to help Board of Directors and managers in charge who can effectively manage their impact on the environment and society. The Common goals include reducing greenhouse gas emissions, investing in sustainable energy, increasing workplace diversity, increase social and commercial value and providing transparent financial practices.

There is a capacity building system for the Profession of ESG Strategist and qualified at the Certified ESG Strategist (CESGS). Participants have to complete a 60-hour training course qualified by the International Professional Advocates Association IPAA and then pass the stage II qualifying examination for the Certified ESG Strategist administered by the IPAA.

Future Development for CESGS

Over the next decade, the demand for CESGS services is expected to grow significantly within the Guangdong-Hong Kong-Macao Greater Bay Area. This region of China, encompassing major cities such as Shenzhen, Guangzhou, and Hong Kong, along with numerous manufacturing and high-tech enterprises, is poised to see a surge in demand for several reasons:

1. **Policy Initiatives:** The Chinese government has prioritized green finance and sustainable development as national strategies, with an emphasis on ecological progress in its 14th Five-Year Plan. This will compel businesses within the Greater Bay Area to pay

3. Avoid allowing own interests to influence the client's decision
- H. Client property and Assets -have sufficient safeguards in place to protect clients' information, properties, and assets received by ESG Strategist or which are in or during the working possession under service and duty with clients.

Chapter 5

Capacity building for the ESG Professionals

The Profession of ESG Strategist

ESG Strategists are change agents who guide companies on their journey and execution towards sustainable transformation. Equipped with expertise in regulations, standards, compliance, best practices, industrial knowhow, project management, risk management and execution skill, these professionals offer strategic guidance to help businesses integrate ESG principles into their core operations. Life cycle assessment or LCA (also known as life cycle analysis) is a methodology for assessing environmental, social and governance impacts associated with all the stages of the life cycle (internal and external) of a commercial product, process, or service.

The Profession of ESG Strategist provides clarity and insights into the risks and opportunities associated with addressing Environmental, Social and Governance issues for your business. ESG consultants have in-depth knowledge about ESG strategy, program implementation and reporting.

necessary competence for project management, compliance and risks management.

1. knowledge and experience
 2. Being clear about the limits of their knowledge and practical experience
- E. **Disclosure of Information** – Provide clients with accurate and adequate information to enable them to make informed decisions and help to perform execution of KPIs and ESG policies with clients.
1. Disclosure in relation to identity and capacity
 2. Disclosure in relation to ESG reporting and execution (internal)
 3. Disclosure in relation to Third parties under obligations (external)
 4. Servicing agreements and terms of business with clients
 5. Disclosure in relation to a client referred by another person
- F. **Suitability of advice** – Advice should be suitable for the client taking into account the client's circumstances.
1. Suitability assessment
 2. Recommendations suggestion to client
- G. **Conflicts of Interest** – use best endeavors to avoid conflicts of interests and when such conflicts cannot be avoided, we should manage and should provide appropriate disclosure to ensure clients are treated fairly at all times.
1. Avoid potential conflicts of interest by providing appropriate disclosure in relation to remuneration
 2. Address potential conflicts of interest regarding relationships with parties that will create interests that conflict with our project with clients

The professional Ethics of an ESG Strategist

- A. **Honesty and Integrity**-act honestly, ethically, with integrity and in good faith.
1. Accurate representations and presentation
 2. Compliance
 3. Harassment, Coercion or Undue Influence
 4. Prevention of Bribery
- B. **Act in the best interests of clients and treat its clients fairly.**
1. Acting in the client's best interests and being impartial, objective, and fair
 2. Sourcing and collecting information, knowledge, data with support with quality and verification.
 3. Giving fair and impartial regulated advice in the client's best interests
- C. **Act with due care, skill and diligence.**
1. Meeting the standards expected a reasonable and prudent ESG Strategists
 2. Handling of clients' ESG related information, data, and records
 3. Carrying out client's instructions
 4. Protecting a client's privacy and confidentiality
 5. Record Keeping
 6. Assist clients and their steering committee and key personnel to understand the ESG directions and goals
 7. Assistance in relation to risks management issues
- D. **Competence to Advise** – Must possess appropriate levels of professional ESG skill, knowledge and experience with the

Conclusion

ESG concerns are integral to the GBA's development and sustainability. Risk management professionals have a crucial role to play in promoting ESG practices, addressing disputes arising from ESG issues, and assisting businesses in managing associated risks. By incorporating ESG considerations into their practices, professionals can contribute to the overall well-being of the GBA and support its long-term success.

Chapter 4

Duty and Professional Ethics & conducts of ESG strategist

General Principles of Codes of Conduct for professional ESG Strategists

- GP1 - Honesty and Integrity
- GP2 - Acting in the Best Interests of Clients and Treating Clients Fairly
- GP3 - Exercising Care, Skill, and Diligence
- GP4 - Competence to Advise
- GP5 - Disclosure of Information
- GP6 - Suitability of Advice
- GP7 - Conflicts of Interest
- GP8 — Client property and Assets

Integrating ESG Concerns into Mediation and Risk Management Practices

1. Risk Assessment: During the risk assessment process, risk managers should identify ESG risks specific to the industry and region. This includes evaluating the potential environmental and social impacts of business activities and considering relevant governance factors.
2. Conflict Resolution: Risk managers should be equipped to handle disputes arising from ESG-related issues. In particular the best approach to engage mediation as the most effective dispute resolution procedure in ESG-related issues. They should understand the underlying concerns and work towards finding mutually acceptable solutions that address the interests of all parties involved.
3. Compliance and Due Diligence: Risk management professionals should ensure that organizations comply with relevant ESG laws, regulations, and standards. This includes conducting due diligence on potential business partners and suppliers to assess their ESG practices.
4. Collaboration and Engagement: Risk management professionals can facilitate dialogue and collaboration among stakeholders to address ESG concerns. They can help businesses engage with communities, NGOs, and government agencies to develop sustainable solutions. In other words, risk management professionals should also equip with effective negotiation skill or the way to engage professional negotiation consultancy services in Hong Kong.

range of issues such as income inequality, labor rights, public health, and social stability. Risk managers should consider the social impact of business activities and aim to address social issues in a fair and equitable manner.

3. **Governance Factors:** Governance concerns relate to the transparency, accountability, and integrity of businesses and public institutions. Risk management professionals should be vigilant in ensuring compliance with ethical standards and promoting good governance practices in resolving disputes. They should also assess the governance frameworks of organizations to identify potential risks associated with inadequate governance structures.

Importance of ESG in the GBA

1. **Sustainable Development:** Integrating ESG considerations into business practices promotes sustainable development within the GBA. By addressing environmental and social challenges, businesses can contribute to the long-term economic prosperity of the region.
2. **Risk Mitigation:** ESG risks, such as environmental liabilities or reputational harm, can have significant financial implications for businesses. Risk management professionals should identify and assess these risks to develop strategies that mitigate potential adverse impacts.
3. **Stakeholder Expectations:** Stakeholders, including investors, customers, and communities, increasingly demand responsible and sustainable practices. Mediation and risk management professionals should be aware of these expectations and assist businesses in meeting them to maintain their reputation and competitiveness.

commercial and SMEs, contribute to successful business operation. Adapting risk management strategies to the unique characteristics of the GBA, including cross-border considerations and compliance with legal and ethical standards, is crucial for ensuring the long-term success of the risk management practices in the region.

Chapter 3

ESG Concerns in the GBA

Introduction

Environmental, Social, and Governance (ESG) concerns have gained significant importance globally as businesses and organizations recognize the need for sustainable and responsible practices. In the context of the Greater Bay Area (GBA), ESG considerations play a crucial role in promoting long-term economic growth, social well-being, and environmental sustainability. This section explores the specific ESG concerns within the GBA and highlights their relevance to risk management professionals.

Understanding ESG Concerns

1. **Environmental Factors:** The GBA faces various environmental challenges, including air and water pollution, waste management, and climate change. Risk management professionals need to be aware of these issues to assess potential risks and develop strategies that promote environmentally sustainable practices.
2. **Social Factors:** Social concerns in the GBA encompass a wide

- b. Review and Update Risk Management Strategies: Regularly review and update risk mitigation strategies to ensure their relevance and effectiveness. Adjust strategies as needed based on emerging risks or changes in the dispute or transaction.
5. **Compliance and Legal Considerations**
- a. Regulatory Compliance: Ensure adherence to applicable laws, regulations, and standards in the GBA. Stay updated on legal developments and changes that may affect risk management practices.
 - b. Ethical and Professional Standards: Uphold high ethical standards and professional conduct in risk management practices. Comply with relevant codes of conduct and guidelines established by professional organizations in the GBA.
6. **Cross-border Considerations:**
- a. Jurisdictional Differences: Understand and navigate the legal and regulatory differences between jurisdictions within the GBA. Consider how these differences may impact risk exposure and management strategies.
 - b. Cultural Sensitivity: Recognize and respect cultural differences within the GBA to effectively manage risks associated with cross-border disputes. Adapt communication and conflict resolution approaches accordingly.

Conclusion

Risk management procedures are essential for business management operating in the GBA. By identifying, assessing, mitigating, and monitoring risks, professionals can enhance the effectiveness of operation of

- This includes legal, financial, operational, reputational, and strategic risks.
- b. Analyze Contextual Factors: Consider the unique characteristics of the GBA, including the legal and regulatory landscape, cultural differences, and political environment, that may impact risk exposure and management strategies.
2. **Risk Assessment:**
- a. Evaluate Risk Probability and Impact: Quantify the likelihood and potential consequences of identified risks. This assessment helps prioritize risks and allocate appropriate resources for mitigation.
 - b. Analyze Interdependencies: Recognize the interconnectedness of risks and their potential cascading effects. Assess how risks in one area or jurisdiction may affect other aspects transaction within the GBA.
3. **Risk Mitigation:**
- a. Develop Risk Mitigation Strategies: Generate a comprehensive plan to mitigate identified risks. Strategies may include contractual safeguards, insurance coverage, contingency plans, and alternative dispute resolution mechanisms such as mediation.
 - b. Implement Risk Controls: Put in place measures and controls to minimize the occurrence and impact of risks. This includes establishing internal processes, policies, and systems to monitor and manage risks effectively.
4. **Risk Monitoring and Review:**
- a. Regular Monitoring: Continuously monitor identified risks and assess their evolution over time. Stay informed about changes in the GBA's legal, regulatory, and socio-political landscape that may impact risk exposure.

evolving and interconnected GBA market. They can assist organizations in identifying and assessing risks, developing risk mitigation strategies, and ensuring compliance with relevant laws and regulations across different jurisdictions within the GBA.

In the subsequent sections of this guidebook, we will delve into the specific aspects of mediation and risk management practices in the GBA, providing a comprehensive framework and guidelines for professionals to navigate the unique challenges and opportunities presented by the GBA Plan.

Chapter 2

Risk Management in GBA

Introduction

Risk management is a critical aspect for business and plays a vital role in ensuring the protection of the interest of SMEs. In the context of the GBA, where cross-border transactions and collaborations are prevalent, risk management procedures are essential for risk management professionals. This section outlines key steps and considerations in the risk management process.

1. **Risk Identification:**
 - a. **Identify Potential Risks:** risk management professionals should conduct a comprehensive assessment to identify potential risks associated with the specific transaction.

It focuses on seven core areas

1. Developing an international innovation and technology hub
2. Expediting infrastructural connectivity
3. Building a globally competitive modern industrial system
4. Taking forward ecological conservation
5. Developing a quality living circle for living, working and travelling
6. Strengthen cooperation and jointly participating in the Belt and Road Initiative
7. Jointly developing Guangdong-Hong Kong-Macao cooperation platforms

Implications for Mediation and Risk Management Professionals

The GBA Plan presents significant opportunities for mediation and risk management professionals operating within the region. The increased economic activities, cross-border investments, and business collaborations within the GBA will inevitably lead to an upsurge in commercial disputes and the need for effective dispute resolution mechanisms.

Mediation professionals can play a vital role in facilitating the resolution of these disputes through a collaborative and voluntary process. With the GBA's focus on innovation and technology, there is also an opportunity for mediation professionals to explore the use of online mediation platforms and other digital tools to enhance the efficiency and accessibility of mediation services.

Risk management professionals will be essential in helping businesses navigate the complexities and uncertainties of operating in a rapidly

Chapter 1

The development of the Guangdong-Hong Kong-Macao Greater Bay Area

scope of development and generating new impetus for growth to bring new development opportunities to different sectors of the community, especially our young people.

Overview of the GBA Plan

The GBA Plan focuses on four main pillars: infrastructure connectivity, innovation-driven development, coordinated regional development, and deepening cooperation with Hong Kong and Macao. These pillars are designed to create a highly efficient and globally competitive economic hub, leveraging the strengths of each city and promoting cross-border collaboration.

Objectives and Key Features of the GBA Development Plan:

The Mission of GBA Development Plan

1. A new attempt to break new ground in pursuing opening up on all fronts
2. A further step in taking forward the practice of "One Country, Two Systems"

It advocates on 6 principles

1. To be driven by innovation and led by reform
2. To coordinate development and plan holistically
3. To pursue green development and ecological conservation
4. To open up and cooperate and achieve a win-win outcome
5. To share the benefits of development and improve people's livelihood
6. To adhere to "One Country, Two Systems" and act in accordance with the law

Chapter 1

The development of the Guangdong-Hong Kong-Macao Greater Bay Area

Introduction

The Guangdong-Hong Kong-Macao Greater Bay Area (GBA) comprises the two Special Administrative Regions of Hong Kong and Macao, and the nine municipalities of Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing in Guangdong Province. The total area is around 56 000 km². Based on the latest figures provided by the Guangdong Province, the Hong Kong Special Administrative Region Government (SARG) and the Macao SARG, the total population in the Greater Bay Area is over 86 million and the GDP is over RMB 13 trillion in 2022. The GBA Plan is an inclusive plan initiative by the Chinese government aimed at promoting the integration and development of the Guangdong-Hong Kong-Macao Greater Bay Area. The GBA encompasses nine cities in Guangdong Province, including Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen, and Zhaoqing, as well as the Special Administrative Regions of Hong Kong and Macao. This comprehensive plan seeks to enhance regional cooperation, economic growth, and innovation within the GBA.

The promulgation of the Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area on 18 February 2019 signified a new milestone in the development of the Greater Bay Area. With the full support of the Central Government, the Hong Kong SAR will proactively integrate into the overall national development, thereby expanding our

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Practices Guidebook for the Mediation and Risk Management Professionals in the GBA

The characteristics of this book include:

1. **Integration of theory and practice.** This book emphasizes actual cases and experiences in risk management and mediation services in the Greater Bay Area based on the elucidation of theoretical knowledge, enabling readers to better understand and master practical operations while learning theoretical knowledge.
2. **Systematic and comprehensive.** The book discusses various aspects of mediation work in the Greater Bay Area, including background, principles, procedures, methods, and common dispute resolutions, providing readers with a systematic knowledge system for practical risk management and mediation services.
3. **Strong practicality.** The book addresses hot-button and challenging issues in risk management and mediation services in the Greater Bay Area, offering a range of practical solutions and suggestions, thus enhancing its applicability.
4. **Rich experience.** The guidebook compiles the experiences of thirteen experts and academics involved in risk management, mediation services, and business in the Greater Bay Area, allowing readers to more intuitively understand the expectations and actual operational processes and successful experiences of risk management and mediation services through multi-angle analysis.
5. **Future oriented.** The book looks forward to the future development of mediation work in the Greater Bay Area and proposes targeted suggestions and strategies, providing useful references for the continuous development of mediation endeavours.

During the writing of this book, we received strong support and assistance from many experts and industry insiders. Their enthusiastic participation and valuable feedback greatly improved the quality of this book. We hereby express our heartfelt thanks to them. Finally, we hope this book will serve as a practical learning tool for mediation professionals, helping them to better carry out risk management and mediation work in the Greater Bay Area, and to make greater contributions to maintaining social harmony and stability and promoting economic development in the region!

Prof. Dr. Francis Law
Chief Editor

Practices Guidebook for the Mediation and Risk Management Professionals in the GBA

Preface

With the integration of the economy and professional services the Guangdong-Hong Kong-Macao Greater Bay Area (GBA), interactions in business and peoples' daily lives within the region are incredibly frequent. These all attribute to a growing number of conflicts and disputes. To maintain social harmony and stability and to resolve various disputes, the importance of effective risk and dispute management mechanism is increasingly recognized. Professional mediation, as an efficient dispute resolution and risk prevention process, is gaining more attention. This is particularly true in the Greater Bay Area, a city cluster with global influence, where the significance of professional mediation is especially prominent due to its multi-regional and multicultural activities. The editorial board consists of thirteen experts and academics in law, mediation, risk management, business and trades from for practice Guidebook the region was formed with the objective to facilitate the risk management and mediation professionals to familiar with the market environment and customer needs of the Greater Bay Area. It is of great importance for enhancing the professional quality of the industry and promoting the development of mediation in the Greater Bay Area. This book aims to provide mediation professionals with a practical guide to mediation practices in the Greater Bay Area that combines theory with practice.

The guidebook is divided into twelve chapters:

Chapter One introduces the background of the Guangdong-Hong Kong-Macao Greater Bay Area and its impact on mediation and risk management professionals; **Chapter Two** elaborates on the substantial demand for professional risk management services in the Greater Bay Area; **Chapter Three** discusses the Greater Bay Area's focus on environmental, social, and governance issues, professional model, procedures and framework; **Chapter Four** explores the responsibilities and professional ethical standards of environmental, social, and governance personnel; **Chapter Five** introduces training and accreditation examinations for risk management professionals in the Greater Bay Area. **Chapter Six** provides a detailed introduction to Hong Kong's international dispute and risk management systems; **Chapter Seven** delves into the theories, principles, and procedures of the professional mediation; **Chapter Eight** highlights the strong support from the governments of the three regions for the professional development and work of mediation in the Greater Bay Area, the key points of participating in mediation services in the Greater Bay Area; **Chapter Nine** introduces mediation services in the nine Guangdong cities of the Greater Bay Area; **Chapter Ten** elaborately explains the background of international conventions and organizations and their significance and development trends for mediation work in the Greater Bay Area; **Chapter Eleven** analyses the future development of mediation work in the Greater Bay Area; **Chapter Twelve** summarizes the content and viewpoints of the book, and offers corresponding suggestions for mediation and risk management professionals;

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Practices Guidebook for the Mediation and Risk Management Professionals in the GBA

