



E-NEWS

FDRC  金融糾紛調解中心
FINANCIAL DISPUTE RESOLUTION CENTRE



Co-mediation

As financial disputes become increasingly complex and cross-border in nature, mediation practices must evolve to meet the needs of diverse parties. One promising development is co-mediation—the joint conduct of mediation by two or more mediators for a single matter. Although traditionally overshadowed by the sole-mediator model, co-mediation offers unique advantages, particularly in cases involving cultural dynamics, complex emotions, or technical subject matter. This article briefly explores the legal foundations supporting co-mediation and highlights why it might be a valuable addition to the toolbox for financial disputes resolution.

Legal Foundations for Co-mediation

Hong Kong Mediation Ordinance¹

The legal basis for co-mediation already exists in Hong Kong. Under Section 4(1) of the Mediation Ordinance (Cap. 620), mediation is defined as a structured process facilitated by “**one or more impartial individuals**” who assist(s) parties in identifying issues, generating options, communicating, and reaching agreement. This statutory language clearly accommodates the appointment of multiple mediators for a single matter.

Family Mediation Accreditation Requirements²

Hong Kong Mediation Accreditation Association Limited (HKMAAL) recognises co-mediation in its training pathway. Trainee family mediators are required to participate in two live mediations under the supervision of an accredited Family Mediation Supervisor, who will **co-mediate or supervise** only one case with each trainee. Each case must be at least five hours and sufficiently complex to demonstrate the trainee’s competence in managing emotional intensity and addressing financial or child-related matters.

Cross-Border Investment Disputes under CEPA³

Under the Mainland–Hong Kong Closer Economic Partnership Arrangement (CEPA), co-mediation is explicitly embedded. Article 5(1) of the Mediation Rules for Investment Disputes

¹ https://www.elegislation.gov.hk/hk/cap620?xpid=ID_1438403538278_005

² https://www.hkmaal.org.hk/en/HowToBecomeAMediator_F.php

³ https://www.tid.gov.hk/en/our_work/cepa/investment/mechan_disputes/files/HKMediationRule.pdf

provides that **mediation is to be conducted by a Commission of three Designated Mediators**, with each party appointing one mediator and jointly appointing a third to act as the chairperson.

ICSID Mediation Rules (2022)

Internationally, the International Centre for Settlement of Investment Disputes (ICSID) Mediation Rules also accommodate co-mediation. Rule 13(1) provides that mediations may be conducted by one mediator or **two co-mediators**, with all references to “mediator” construed to include co-mediators where applicable.

The Advantages of Co-mediation

Co-mediation enhances the mediation process across multiple dimensions—cultural, interpersonal, and procedural.

1. Enhancing Impartiality and Reducing Bias

Co-mediation creates an internal check against unconscious bias. Mediators can challenge one another’s assumptions, balance differing intervention styles, and provide a safeguard that reinforces both the perception and reality of impartiality.

2. Building Trust Across Cultures and Contexts

A co-mediation team that reflects diversity—whether gender, cultural background, language, or professional expertise—can significantly strengthen party confidence and credibility. Such diversity reduces concerns about institutional or cultural bias and is especially valuable in cross-border or multilingual disputes.

3. Combining Complementary Strengths

Each mediator brings distinct perspectives and skills. Mr. TK IU, an FDRC-mediator, illustrates how co-mediation can involve mediators with different professional backgrounds and approaches in one of his mediation cases in 2021 where he acted as the co-mediator with a barrister. In that process, the two mediators adopted complementary roles, with one focusing more on legal and reality-testing aspects and the other on communication and engagement with the parties.⁴ This synergy enables co-mediators to address both substantive and relational aspects of the dispute more effectively than a sole mediator.

4. Managing Complexity with Greater Flexibility

Co-mediators can divide responsibilities strategically—for example, one focusing on solution-building while another observes emotional shifts or relational tensions. This

⁴ See Queenie Lau, SC “On Mediation” in the *Hong Kong Bar Association 75th Anniversary*, pp. 119 – 122

teamwork enhances resilience during difficult conversations and supports more structured management of multi-party or technically complex disputes.

5. *Bringing expertise to mediation*

Guangdong-Hong Kong-Macao Greater Bay Area (GBA) Mediator Code of Conduct Best Practice (Code)⁵ serves as a reference and basis for mediation institutions of the GBA when developing their respective detailed professional code of conduct. Under the Code, a GBA mediator is required to:

- (a) have the competence to draft an enforceable and valid written mediated settlement agreement, taking into account the enforceability issue in the context of cross-border disputes (Paragraph 5.4 of the Code); and
- (b) play the role of conducting case analysis, including assisting the parties to better understand their strengths and weaknesses in the dispute and making appropriate prediction or assessment on all potential outcomes in the litigation process (Paragraph 6.6 of the Code).

The three jurisdictions in the GBA (the Chinese Mainland, Hong Kong SAR and Macao SAR) have different substantive law as well as litigation and enforcement procedures. With this background, a sole mediator may not be sufficiently equipped with the necessary legal expertise of all the three GBA jurisdictions at the same time to ensure the enforceability of the settlement agreement and to give an accurate legal assessment of the merits of a GBA case. Co-mediation offers an effective means of bridging over and bringing together mediators with complementary legal and jurisdictional knowledge to address these challenges more comprehensively and in accordance with the applicable laws.

Collaborative Dynamics in Co-mediation

Although co-mediation is supported by the existing legal framework, apparently it is not yet routinely considered in practice. A defining feature of co-mediation is that it requires specialised collaborative skills beyond standard mediation techniques, with co-mediators operating as a coordinated team through shared communication methods and real-time awareness of emotional and relational dynamics. These collaborative dynamics, often invisible to parties, distinguish co-mediation as a distinct mediation model that may be considered alongside other ADR options.

Way Forward

Under the current framework of the Financial Dispute Resolution Scheme (FDRS)⁶, the Mediation and Arbitration Rules do not expressly set out arrangements for the appointment of more than one mediator, nor do they provide detailed guidance on matters such as fee-sharing between

⁵

https://www.doj.gov.hk/en/legal_dispute/pdf/the_greater_bay_area_mediator_code_of_conduct_best_practice_en.pdf

⁶ Section 2.1.1 of the Financial Dispute Resolution Scheme Mediation and Arbitration Rules

co-mediators. At the same time, the Rules do not formally disallow the use of co-mediation. This absence of explicit provision reflects regulatory silence rather than prohibition.

Against the backdrop of increasingly complex, cross-border and multi-party financial disputes, co-mediation can enhance neutrality, draw on complementary expertise and support the effective management of complex factual, legal or relational dynamics, while remaining consistent with core mediation principles.



“As financial disputes have become broader in scope and more complex in structure, mediation processes increasingly encounter issues involving multiple factual, legal and relational dimensions. In this context, co-mediation represents one of the existing mediation models recognised in various legal and institutional frameworks, and may be used to address situations where different skills, experience or perspectives are engaged within a single mediation process.” Mr. IU added.

Dated: April 2026
Issue 07

Note:

- i. This newsletter is provided for general information only and does not constitute any advice. No representation whatsoever is made or intended to be made by the FDRC in relation to such information. The FDRC shall not be responsible or liable to any party who relies on the information provided in this newsletter.
- ii. FDRC is a non-profit company limited by guarantee. With the support of the Financial Services and the Treasury Bureau, the Hong Kong Monetary Authority and the Securities and Futures Commission, the FDRC independently and impartially administers the Financial Dispute Resolution Scheme to assist financial institutions and their customers to resolve monetary disputes.