

# Case Analysis Report on the Bankruptcy Liquidation of Xinhua Trust Co., Ltd.

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## Abstract

The bankruptcy liquidation case of New China Trust Co., Ltd., as the first nationwide case of a trust institution's bankruptcy liquidation, was accepted by the Chongqing No. 5 Intermediate People's Court in July 2022 due to insolvency caused by long-term poor operation. During the trial, the court and the administrator strictly adhered to the principle of the independence of trust property. By categorically disposing of 34.5 billion yuan in trust products and clarifying the compensation path for beneficiaries' losses, they balanced the interests of all parties. Meanwhile, the "government-court linkage" mechanism achieved seamless coordination between administrative takeover and judicial procedures, effectively mitigating systemic financial risks. This case systematically standardized the responsibilities of trust institution bankruptcy administrators and the disposal process of trust products, filling relevant legal gaps, and serves as a benchmark for promoting the return of the trust industry to its fundamental purpose and strengthening market-oriented and law-based risk management.

## Keywords

Trust Institution Bankruptcy Liquidation; Government-Court Linkage Mechanism; Independence of Trust Property.

## 1. Case Background

Xinhua Trust Co., Ltd. (hereinafter referred to as "Xinhua Trust"), as one of only 68 trust institutions holding a trust license nationwide, has a business network covering more than 20 provinces and cities across the country, and enjoys a certain status and influence in the industry .[1] However, due to long-term mismanagement, the company was taken over by the former China Banking and Insurance Regulatory Commission on July 17, 2020.[2] Unfortunately, the various rescue and rectification measures during the takeover period failed to effectively resolve its deep-seated credit crisis , and the company's operation and financial situation continued to deteriorate. According to the financial audit report, as of December 31, 2021 , Xinhua Trust's net assets had fallen to negative 6.7 billion yuan, falling into a serious insolvency predicament, and it fully met the legal grounds for bankruptcy. Based on this objective fact,[3] the Fifth Intermediate People's Court of Chongqing Municipality (hereinafter referred to as "Chongqing Fifth Court") formally ruled on July 6, 2022 to accept the bankruptcy liquidation application of Xinhua Trust, and at the same time appointed a liquidation team as the administrator, marking the formal commencement of Xinhua Trust's bankruptcy liquidation proceedings at the legal level.

## 2. Case Trial Process

### 2.1. Responsibilities of the Administrator and Disposal of Trust Property

After accepting the case, the Chongqing Fifth Intermediate People's Court immediately guided the administrator to conduct a systematic cleanup and registration of Xinhua Trust's proprietary assets, and to comprehensively verify and confirm related claims. The

administrator's focus was on disposing of the 150 remaining trust products of Xinhua Trust, with a total scale of 34.5 billion yuan.[4] These products not only constituted the core of this asset disposal but also represented the greatest challenge in the entire bankruptcy liquidation process.[5] Although Xinhua Trust had entered bankruptcy proceedings, its statutory duties as trustee did not terminate. To ensure a smooth handover and transition of all trust affairs and maintain the stability of the trust legal relationship, the court legally permitted it to continue operating under the supervision of the administrator. To this end, the administrator issued a separate trust claim declaration announcement, notifying relevant creditors to separately declare their trust claims, and prudently defining the specific scope and amount of ordinary bankruptcy claims based on the specific circumstances of the beneficiaries' actual losses.[6]

In the specific operation of disposing of trust property, the administrator strictly followed relevant laws and regulations such as the Trust Law and the Enterprise Bankruptcy Law, and always adhered to the fundamental principle of complete separation between trust property and Xinhua Trust's own property. According to the disposal plan approved by the court, losses incurred by beneficiaries due to the trust plan should first be compensated by the corresponding trust property; if the value of the trust property itself is insufficient to cover all losses, the shortfall will be prudently determined as ordinary bankruptcy claims in accordance with the proportion of Xinhua Trust's statutory liability and management responsibility as trustee. This clear and reasonable disposal path design effectively safeguards the legitimate property rights of trust beneficiaries and avoids Xinhua Trust bearing unnecessary burdens beyond its statutory responsibilities, fully demonstrating the specific application and practical value of the fundamental legal principle of trust property independence in bankruptcy proceedings.

## **2.2. Roles and Responsibilities of Managers**

In this case, the administrator assumed and fulfilled a crucial and central role. Its responsibilities were broad and specific, encompassing not only the comprehensive clearing, inventory, and registration of Xinhua Trust's proprietary assets, and the meticulous verification and prudent assessment of the source, amount, and authenticity of various claims, but also, and more importantly, the scientific classification and risk assessment of existing trust products, leading to the development of targeted disposal plans. Simultaneously, the administrator promptly issued trust claim declaration announcements, clarifying the declaration deadlines and procedures to protect creditors' rights, and ultimately completed the rigorous review and final confirmation of the legal validity of ordinary bankruptcy claim materials. In fulfilling its duties, the administrator strictly adhered to legal procedures and time requirements, legally organizing beneficiary meetings to submit a complete and transparent trust product disposal plan, including the background, details, expected effects, and potential risks, for review and voting. This mechanism fully guaranteed and genuinely respected each beneficiary's right to know, participate, and make independent decisions, ensuring the openness, fairness, and impartiality of the disposal work both procedurally and substantively.

Furthermore, the administrator actively implemented the spirit and specific requirements of the "government-court collaboration" mechanism, proactively coordinating with relevant government departments and judicial organs. They focused on clarifying complex trust products with intertwined underlying assets and ambiguous responsibilities, meticulously defining legal relationships and responsibilities for each party. This ensured that all trust projects, regardless of their complexity, were handled smoothly and risks mitigated within a stable, orderly, and legal framework. The administrator's professional, prudent, and efficient performance of duties and practical operations not only strictly adhered to legal provisions but also incorporated innovative explorations tailored to specific circumstances, thus successfully advancing the overall progress of the case. This work also provides valuable practical

experience and constructive exploration paths for further clarifying the specific responsibilities and performance standards of trust institution bankruptcy administrators in future legislation and judicial practice, and for systematically improving the standardized and regulated disposal process of trust products in bankruptcy proceedings.

### **2.3. Government-Court Collaboration Mechanism**

The successful conclusion of this case largely benefited from the effective operation and in-depth practice of the "government-court linkage" mechanism. During this process, the People's Court and financial regulatory authorities closely collaborated and cooperated efficiently. Through a clear division of responsibilities and smooth coordination procedures, they successfully achieved a smooth transition and seamless connection between administrative takeover proceedings and judicial bankruptcy proceedings, thereby building and consolidating a positive interactive working model "led by judicial adjudication and strengthened by financial supervision ." Based on this highly efficient institutional framework, both parties reached a consensus and formed synergy in key areas such as real-time information sharing, dynamic risk assessment, precise policy coordination, and professional asset disposal, effectively addressing the complex situation and potential systemic financial risks faced by Xinhua Trust during its bankruptcy liquidation process.

Throughout the case's progress, both parties established a regular and institutionalized communication and coordination channel regarding core information such as key case developments, major risk assessment conclusions, and crucial disposal plans. This ensured timely information transmission and full coordination of decision-making. This deep collaboration enabled both parties to jointly anticipate, address, and resolve various complex issues and operational obstacles that might arise at each stage of bankruptcy liquidation, providing a solid institutional guarantee and strong organizational support for the lawful, orderly, and efficient advancement of the entire liquidation process. Practice has proven that this deeply integrated collaborative mechanism not only played an indispensable and crucial role in the successful conclusion of this case but also provides a proven and widely applicable cross-departmental collaboration model for handling similar major and complex financial risk disposal events in the future.

This innovative collaborative governance model transcends the scope of individual cases. Through institutionalized collaboration, it significantly improves the overall efficiency and professionalism of handling complex bankruptcy cases, saving valuable judicial and administrative resources. Simultaneously, the mechanism's early intervention in risk identification and process control effectively prevents, controls, and mitigates the transmission and spread of potential financial risks. It has significant practical demonstration and long-term guiding significance for effectively maintaining the stability of regional financial markets and continuously optimizing the overall business environment.

### **2.4. Impact on the Trust Industry**

The Xinhua Trust bankruptcy liquidation case has a profound and significant impact on the future development of the trust industry. As the first bankruptcy liquidation case involving a trust institution nationwide, this case systematically standardized the scope of responsibilities, performance standards, and supervisory mechanisms for bankruptcy administrators, and detailed the specific disposal procedures and operational norms for trust products in bankruptcy proceedings. This clarifies and refines, from a legal perspective , the rules for handling key issues such as how to effectively isolate, fairly value, and orderly dispose of trust assets, and what responsibilities trust institutions should bear in bankruptcy situations. It fills a legal gap in China's trust institution bankruptcy adjudication field and provides clear and authoritative judicial guidance for subsequent similar cases.

By legally determining the management responsibilities and legal consequences for the relevant personnel involved in the violations, this case not only strengthened the rigid requirements for internal governance, risk control, and compliant operation of institutions, but also further improved the operational mechanism, functional positioning, and regulatory framework of bankruptcy service trusts through practical exploration. This effectively promoted the business reform and strategic transformation of trust institutions, enabling them to return to their fundamental role of "entrusted management of assets" and achieve sound operation. At the same time, the handling of this case consistently focused on protecting the legitimate rights and interests of all parties, fully safeguarding the legitimate interests of various entities, including creditors and trust investors. It clearly demonstrated China's firm confidence and clear determination to use market-oriented and rule-of-law means to prevent and resolve financial risks, thus providing a solid institutional guarantee and strong confidence support for the future standardized, stable, and healthy development of the trust industry.

### 3. Conclusion

The Xinhua Trust bankruptcy liquidation case, as the first bankruptcy liquidation case of a trust institution in China, has significant typical significance and serves as a benchmark. The successful conclusion of this case not only effectively safeguarded the legitimate rights and interests of creditors, trust investors, and other stakeholders, but also fully demonstrated China's firm confidence and determination to promote bankruptcy proceedings in a market-oriented and rule-of-law manner, thereby effectively preventing and resolving financial risks. During the trial, the court particularly emphasized efficient coordination and close cooperation with financial regulatory authorities, achieving a seamless connection and smooth transition between administrative takeover and bankruptcy proceedings in terms of the handover of responsibilities, information sharing, and risk disposal.

This model of positive interaction and collaborative governance between the government and the courts, characterized by "judicial leadership + strong financial regulation," provides innovative and exemplary practical experience for safeguarding national financial security and market stability in the handling of complex financial risks. Furthermore, this case, as a pioneering exploration of trust institution bankruptcy, systematically standardizes the specific responsibilities and performance requirements of bankruptcy administrators, as well as the professional disposal process for trust products. It clarifies the legal application and operational rules for a series of key issues, such as the isolation and disposal of trust assets and the methods of assuming liability by trust institutions, thereby filling several legal gaps in the field of trust institution bankruptcy adjudication and improving the relevant legal framework. regulating the long-term healthy development of the trust industry through judicial practice, legally determining the management responsibilities and corresponding consequences that relevant entities must bear for their violations, further clarifying and improving the operational mechanism and legal status of bankruptcy service trusts, and effectively promoting the internal reform, business transformation, and risk governance of trust institutions. In conclusion, the conclusion of the Xinhua Trust bankruptcy liquidation case provides important institutional reference and practical lessons for the healthy, orderly, and sustainable development of China's trust industry within the framework of the rule of law, and also accumulates valuable, systematic, and replicable practical experience for the adjudication of similar major financial risk disposal cases in the future.

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