

**Notice of Guangzhou Intermediate People's Court on
Printing and Distributing the *Opinions for the Promotion of
Speedy Trial of Bankruptcy Cases (for Trial Implementation)***

Sui Zhong Fa [2020] No. 30

To all grass-roots courts and all departments of this court,

With the approval of the leaders of this court, these *Opinions for the Promotion of Speedy Trial of Bankruptcy Cases (for Trial Implementation)* are hereby issued to you. Please implement it in light of your specific case

Guangzhou Intermediate People's Court
February 25, 2020

Opinions for the Promotion of Speedy Trial of Bankruptcy Cases (for Trial Implementation)

These Opinions are formulated in order to improve the quality and effectiveness of bankruptcy trials, give full play to the function of the bankruptcy trial system for the optimization of resource allocation and market clearing, and streamline the handling of bankruptcy cases by separating complicated cases from simple ones, and continuously optimize the business environment in Guangzhou, in accordance with the *Law of the People's Republic of China on Enterprise Bankruptcy* (hereinafter referred to as the "Enterprise Bankruptcy Law") and the *Civil Procedure Law of the People's Republic of China* and relevant judicial interpretations, in combination with the reality of the bankruptcy trial in this municipality.

1. General Requirements and Basic Principles

1.1. In handling bankruptcy liquidation cases, the people's court shall, on the basis of hearing bankruptcy cases according to law, adopt simplified trial methods and new working mechanisms via the Internet, creating new methods of property declaration, verification, take-over, evaluation, auction and distribution and adopting simple service. The court also simplifies creditors' meetings, speed up the work of administrators by adopting the minimum statutory period, so as to reduce the judicial cost of bankruptcy trial and improve the quality and effectiveness of bankruptcy trial.

1.2. The people's court shall liquidate claims and debts fairly and protect the legitimate rights and interests of creditors, debtors and interested parties equally.

1.3. In handling bankruptcy cases, the people's court shall adhere to the principles of convenience, efficiency, handling different cases in a different and coordinated manner and integrating bankruptcy matters as far as possible to shorten the time of procedure and complete all bankruptcy proceedings in a timely and efficient manner.

2. Application Condition

2.1. A bankruptcy case may be tried quickly, if the creditor's right and the debtor's property status are clearly related, and there are no hidden risks and one of the following circumstances exists:

2.1.1. A small number of creditors, and less than 10 creditor's rights;

2.1.2. Total liabilities of the debtor are not more than RMB 10 million;

2.1.3. The debtor's property may not be enough to cover all bankruptcy expenses;

2.1.4. The debtor's accounting books or important documents are lost;

2.1.5. The debtor's accounting books and important documents are complete, simple and easy to audit;

2.1.6. The debtor's property is liable to sell-off or does not need to sell off;

2.1.7. The debtor's assets and liabilities have been confirmed and identified

after compulsory liquidation;

2.1.8. The enforcement department has verified that there is no property available for execution or transfer of bankruptcy case;

2.1.9. Other circumstances that could apply to speedy trial.

2.2. In principle, speedy trial is not applicable to the following bankruptcy cases:

2.2.1. Bankruptcy cases of bankruptcy reorganization and affiliated enterprise merger;

2.2.2. Bankruptcy cases involving the complicated relationship of creditor's rights and debts, the large number of creditors and the difficulty of staff resettlement;

2.2.3. It is difficult for the administrator to take over an enterprise;

2.2.4. The debtor's key officers may have deliberately evaded legal liability;

2.2.5. The debtor's accounting books and important documents are complicated and the audit work is difficult.

2.2.6. The debtor's assets are complex or difficult to realize;

2.2.7. There is a pending lawsuit, arbitration dispute, or derivative lawsuit that may occur after acceptance;

2.2.8. There may be factors of public opinion or maintaining stability;

2.2.9. Other circumstances that do not apply to speedy trial.

For a case in which the speedy trial mechanism is not applicable, its part of proceedings may apply to these Opinions according to the needs of the trial.

3. Requirements for Trial Procedure

3.1. The people's court may decide whether to proceed with a speedy trial on the basis of a written evidence review, or may decide whether to proceed with a speedy trial by hearing.

3.2. If the applicant, the respondent and other major bankrupt participants agree through consultation and apply to the people's court for a speedy trial, the people's court may decide whether to approve or disapprove it according to the specific circumstances of the case.

3.3. If the people's court decides to conduct a speedy trial, it shall make a written decision while making a ruling to accept the bankruptcy application, and shall specify the relevant matters of the speedy trial in the case acceptance notice.

3.4. A case of bankruptcy liquidation for speedy trial shall normally be concluded within six months after ruling acceptance of the case.

3.5. A case of bankruptcy liquidation for speedy trial may be tried by a single qualified judge.

3.6. In the course of a trial, the people's court shall, in time, form a collegial panel to continue the trial according to ordinary procedure, if the bankruptcy participant objects to the speedy trial with sufficient reasons, or if it is not appropriate to continue the speedy trial, and the original bankruptcy proceedings shall remain in force.

The people's court shall serve the notice of the formation of the collegial panel and the decision on the conversion of the trial method to the administrator, who shall inform the creditors, the debtor and the interested parties.

3.7. The people's court trying a bankruptcy case in which the speedy trial is

followed shall make an announcement via the National Enterprise Bankruptcy Information Disclosure Platform, and "Xinhuanet", a network platform where Guangzhou Intermediate People's Court publishes legal documents, while entrusting the administrator to post the announcement in the debtor's domicile.

3.8. The people's court trying a bankruptcy case in which the speedy trial is followed may notify the person concerned and serve legal documents by telephone, SMS, WeChat, e-mail, fax, instant messaging or communication group network application service by which receipt can be confirmed.

Where a people's court or administrator serves legal documents to the debtor, creditors and other interested parties in bankruptcy cases, it shall refer to the relevant provisions of the Guangzhou Intermediate People's Court concerning the confirmation of enterprises for service address of litigation documents.

3.9. When taking over a debtor's property and accepting the declaration of its creditor's rights, the administrator shall require that the debtor or creditor confirm in writing the service address or the electronic service method, and inform that the people's court or the administrator will be deemed to have served according to the confirmed address or service method if the service information provided is inaccurate or the change in relevant service information fails to be promptly notified to the administrator in writing.

4. Work of Administrator

4.1. The people's court may, according to the specific circumstances of the case, simultaneously prepare for the selection of the administrator at the stage of the examination of the acceptance of the bankruptcy application, and shall appoint the administrator when ruling to accept the bankruptcy application. The people's court shall not suspend the examination and acceptance of bankruptcy cases because of the preparation work of selecting the administrator.

4.2. For bankruptcy cases that are suitable for rapid trial, the people's court generally adopts the mode of random waiting to appoint the administrator, and in principle does not select the administrator on a competitive basis.

Where a company is forced to go through liquidation into bankruptcy proceedings, and if the intermediary organization or individual serving as the original liquidation group is on the list of administrators, the people's court may, in accordance with the Enterprise Bankruptcy Law and its judicial interpretation, designate such intermediary institution or individual to continue to serve as the administrator of the bankruptcy case

4.3. The administrator shall, upon receipt of appointment in writing of the people's court, immediately investigate and take over the debtor's property, and register and examine the creditor's rights. The administrator shall also promptly input the case information onto the administrator work platform of the national Enterprise Bankruptcy Information Disclosure Platform and the intelligent bankruptcy trial system of the Guangzhou Intermediate People's Court, and disclose the work progress regularly.

4.4. The administrator shall finish sealing and opening the account within five working days after receipt of the written decision of the administrator appointed by the people's court. If the debtor has no property or other reasons and it is not necessary to open an account, he or she may not apply for opening an administrator account for the time being.

4.5. The administrator shall complete the main work of taking over the debtor before the first creditors' meeting.

4.6. If the administrator needs to entrust the relevant intermediary institution to evaluate and audit the debtor's property, it shall generally agree with the intermediary institution in advance on the time limit for completing the corresponding work within thirty days and its consequences. In accordance with agreement, the administrator shall have the right to entrust separately if the intermediary institution fails to complete on time without justified reasons. The administrator shall promptly report to the people's court and the creditors' meeting on the completion of the corresponding work by the intermediary institution.

4.7. The administrator shall complete the main work of the debtor's property investigation before the first creditors' meeting.

5. Relevant Requirements for Creditors' Meetings

5.1. The first creditors' meeting shall be convened by the people's court within five days upon expiration of the declaration period of creditor's rights.

5.2. No creditors' committee is established in principle for a bankruptcy case in which the speedy trial is followed.

5.3. After notice or announcement made by the people's court in accordance with Article 14 of the Enterprise Bankruptcy Law, the first creditors' meeting may be held offline or online. With the resolution of the creditors' meeting, the subsequent creditors' meeting can also be held by communication group network application system.

5.4. In addition to on-site vote, the creditors' meeting may also adopt such off-site voting methods as written documents, fax, SMS, email, instant messaging, communication group network application services, etc.

If the creditors' meeting is held or voted in off-site ways, the administrator shall keep records of the meeting process, and promptly retrieve the electronic data or other carriers that record the voting contents. Such extraction should be confirmed by the signatures of two relevant staff members.

The administrator shall, within three days after creditors' meeting, inform the known creditors of the voting results.

5.5. For a bankruptcy liquidation case that is subject to speedy trial, the time limit for filing claims shall be 30 days after the date of the people's court issuing the bankruptcy notice for acceptance

The administrator shall, within ten days after receipt of the written decision on administrator by the people's court, notify the known creditors to declare their creditor's rights.

5.6. The administrator shall complete the registration and examination of creditor's rights three days before the first creditors' meeting, and submit the creditor's rights form to the creditors' meeting for examination before the first creditors' meeting, and report it to the people's court for record.

5.7. The first creditors' meeting shall make a verification vote on the declaration of creditor's rights, and the administrator shall generally apply to the people's court for confirmation of the undisputed creditor's rights within twenty days after the creditors' meeting, and the people's court shall, within five days upon receipt of the application, rule to confirm the undisputed creditor's rights.

5.8. The administrator shall, within three days before the first creditors'

meeting, submit to the creditors' meeting for examination of the sell-off and distribution plans of the debtor's existing property, and report them to the people's court for record.

5.9. The first creditors' meeting may conduct a predetermined vote on the sell-off and distribution plans of the debtor's existing property.

The sell-off plan shall include the determination of the starting price, the range and number of price reductions, and the processing after the auction failure when multiple auctions or sell-off is conducted.

The distribution plan may determine the distribution rules for matters such as the distribution order, proportion, method of implementation of distribution and supplementary declaration of creditor's rights after the sell-off of property, and the distribution amount shall be calculated according to the distribution rules approved by the above-mentioned creditors' meeting after the actual sell-off, and shall inform the creditors of it, which calls for no separate vote.

5.10. The administrator shall, within three months from the date on which the people's court rules to accept the case, ask the people's court to declare the debtor bankrupt. According to the application submitted by the administrator, the people's court shall, within ten days after receipt of the application, examine to make sure whether the debtor meets the conditions for declaration of bankruptcy and make a ruling to declare the qualified debtor bankrupt.

6. Property Disposal and Distribution

6.1. Where the bankruptcy property needs to be sold off by auction, priority shall be given to the disposal by network auction, unless otherwise resolved by the creditors' meeting.

Where laws and regulations have special provisions on the disposal of specific property, such provisions shall apply.

6.2. If the distributable property of the bankrupt is non-monetary, the administrator shall, within five days after the people's courts court rules to declare the debtor bankrupt, prepare a plan for a property sell-off and submit it to the creditors' meeting for vote.

6.3. If the distributable property of the bankrupt is monetary, the administrator shall, within five days after the people's court rules to declare the debtor bankrupt, make a property distribution plan and submit it to the creditors' meeting for vote, and shall, within five days after the adoption of the vote, apply to the people's court for a ruling and confirmation.

If the distributable property of the bankrupt is non-monetary, the administrator shall, within five days after the realization of the bankruptcy property, make a property distribution plan and submit it to the creditors' meeting for vote, and shall, within five days after the adoption of the vote, apply to the people's court for a ruling of confirmation.

The people's court shall, within five days after receipt of the said application from the administrator, examine the distribution plan, and rules to approve it if it complies with the laws.

6.4. In the case of distribution in monetary form, the administrator shall, within five working days after the people's court makes a written ruling for the approval of the property distribution plan, and complete the distribution under the written ruling.

The time limit prescribed in the preceding paragraph shall not apply to any other legal circumstances in which the allocation cannot be carried out within the time limit, such as multiple allocations, the amount to be allocated in escrow in accordance with the law, or the non-monetary allocation in which administrative change registration is required

7. Termination Proceedings

7.1. If the bankrupt has no property to distribute after investigation, the administrator shall promptly apply to the people's court for a ruling declaring the debtor bankrupt, and ask the people's court to rule the termination of the bankruptcy proceedings.

7.2. The bankruptcy property shall follow the principles of single distribution liquidation, and the administrator shall, within five days after completion of the distribution of the bankruptcy property, submit a bankruptcy property distribution report to the people's court and submit it to the people's court for a ruling on the termination of the bankruptcy proceedings.

The circumstances, such as placing the distribution amount in escrow required for multiple distributions, administrative change registration procedures required for non-monetary distribution, etc., should not affect the termination of the bankruptcy procedure, and the administrator shall continue to carry out the distribution according to the relevant provisions of the Enterprise Bankruptcy Law.

7.3. The administrator shall, within five days after termination of the bankruptcy proceedings, apply to the registration authority for cancellation of registration with the written ruling of the people's court for the termination of the bankruptcy proceedings, except where there are pending lawsuit, arbitration and other matters which temporarily cannot be deregistered.

8. Supplementary Provisions

8.1. A compulsory liquidation case may be treated alike by making reference to these Opinions.

8.2. These Opinions are to be implemented on a trial basis as of the date of promulgation, and the power to interpret these Opinions shall remain with Guangzhou Intermediate People's Court.

Issued by the General Office of the Guangzhou Intermediate People's Court on February 25, 2020
