Social Sciences and Humanities
ISSN Print: 3104-4328
ISSN Online: 3104-4336
CD ISSN: 3104-4344
https://doi.org/10.63313/SSH.9013

# Substantive Combined Bankruptcy of Individuals and Enterprises: Breakthrough in Judicial Practice and Path of System Construction

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**How to cite this paper:** Hu, X. S. (2025). Substantive Combined Bankruptcy of Individuals and Enterprises: Breakthrough in Judicial Practice and Path of System Construction. Social Sciences and Humanities, 1(2), 14-27. ISSN Print: 3104-4328; ISSN Online: 3104-4336.
https://doi.org/10.63313/SSH.9013
**Published: 2025-08-11**



## Abstract

The systematic study of the consolidated bankruptcy system of individuals and enterprises is carried out in four aspects, namely, the current practice, feasibility, application standard and system construction. In judicial practice, some cases only include specific personal property in the bankruptcy estate or require personal consent for consolidation, while the first consolidated bankruptcy case in Kunshan in 2021 breaks through the restriction and includes all personal property in the program through "reverse personality denial". Although the focus of personal and enterprise bankruptcy systems is different, the ultimate goal is to unify the fair liquidation and maintenance of market order. Substantive consolidation rules integrate assets and liabilities in the procedure, and at the same time solve the problem of the specificity of personal property through the mechanism of property exclusion, exemption and etc. The applicable standard needs to be based on the mixing of subjects. The application standard should be centered on the substance and continuity of the subject mixed together, combined with the difficulty of separating assets, fraud, creditor interests and other auxiliary factors to make a comprehensive judgment. In terms of system construction, the bankruptcy estate adopts expansionism, clarifies the scope of personal exemptions, establishes the principle of multiple application subjects and jurisdiction of the enterprise's domicile in terms of procedure, and safeguards the right of creditors to object through the mechanism of "hearing - reconsideration - litigation", which provides a comprehensive solution to the problem of unfairness in liquidation caused by mixing of properties. It provides a comprehensive path to solve the unfairness of liquidation caused by property mixing.

## Keywords

Individual and Enterprise Combined Bankruptcy; Substantive Consolidation Rules; Scope of Bankruptcy Estate

## 1. Introduction

With the development of market economy and the increasing complexity of business activities, the financial boundaries between individuals and enterprises sometimes become blurred, especially in family-owned enterprises or small enterprises, and the phenomenon of mixing personal property with enterprise assets becomes more and more common. This phenomenon not only poses a potential threat to the rights and interests of creditors, but also challenges the fairness and transparency of the market order. In the face of these problems, it is particularly important to explore and improve the bankruptcy system of personal and enterprise merger. Through systematic research on the substantive consolidated bankruptcy system of individuals and enterprises, this paper discusses four aspects, namely, the current practice, feasibility, applicable standards and system construction, with the aim of providing theoretical support and practical guidance for solving the unfairness in liquidation caused by the mixing of property. In recent years, China's judicial practice has made some progress in the exploration of individual and enterprise merger bankruptcy.2021 In Jiangsu Province, Kunshan City People's Court concluded the "first case of enterprise and shareholder merger bankruptcy", marking an important step in dealing with the complex financial relationship between individuals and enterprises. By introducing the mechanism of "reverse personality denial" and including all of an individual's property in the bankruptcy proceedings, the case broke through the previous restriction of limiting the merger to specific property or requiring the consent of the individual, and provided a valuable example of the practical application of the substantive merger rule. However, although such attempts provide reference for future legislation and judicial practice, they are still facing challenges such as lack of legal norms and ambiguous application standards that need to be resolved.

## 2. Feasibility of Combined Individual and Enterprise Bankruptcy

### 2.1. The Unity of Legislative Purpose and Value Orientation

The personal bankruptcy system and the enterprise bankruptcy system are difficult to be compatible due to the difference in legislative purposes. Enterprise bankruptcy focuses on the optimal allocation of market resources, orderly exit or regeneration of enterprises in difficulty, and on the maintenance of transaction security and market order. Personal bankruptcy, on the other hand, protects the basic right of survival of natural persons, tolerates the "honest and unfortunate" debtors as the value orientation, and emphasizes the rescue of the right to personal development. However, in-depth analysis can be seen, the ultimate goal of the two have internal consistency: they are to clean up the debts and claims in a fair manner as a means to balance the interests of creditors and debtors as the core to maintain the orderly operation of the market economy as the fundamental purpose. From the viewpoint of legal function, enterprise bankruptcy realizes the reconfiguration of assets through liquidation or reorganization, which is essentially the re-adjustment of the qualification of the market subject; personal bankruptcy realizes the re-starting of the natural person's economic life through the mechanism of debt exemption and property distribution. The two are like the "double purifier" of the market economy - the former purifies the market subject, the latter purifies the market individual, and together serve the construction and improvement of the social credit system. Therefore, the so-called "value conflict theory" confuses the superficial difference of system tools with the deep unity of legal value, and the core of substantive merger of individual and enterprise bankruptcy is not to negate the system characteristics, but to realize the higher level of fairness and justice through the procedural synergy.

### 2.2. Procedural Independence of Substantive Consolidation Rules and Subject Qualification Survival

The core of the substantive consolidation rule is the procedural consolidation of assets and liabilities, rather than subject consolidation in the sense of substantive law. The legal effect of this rule is limited to the elimination of the internal creditor-liability relationship between the related subjects in the bankruptcy proceedings, and the consolidation of the assets and liabilities of the subjects into a unified pool of bankruptcy estate to ensure that all the creditors can be fairly compensated according to the legal order in the same proceeding. Whether or not the subjects survive after the bankruptcy proceedings are finalized is essentially a result of the application of the bankruptcy proceedings and is not directly related to the substantive consolidation rule itself.

Taking Article 37 of the Proceedings of the Working Conference of the National Courts on Insolvency Trial as an example, although the article mentions the treatment of subject qualification after substantive consolidation of insolvency, equating "substantive consolidation" with "enterprise consolidation under company law" is in fact a misinterpretation of the essence of the rule. As a matter of fact, in substantive consolidation bankruptcy, the merged individual and enterprise are only temporarily "fictionalized as a single subject" within the bankruptcy proceeding to eliminate unfairness in liquidation due to the mixing of personality and property; after the termination of the proceeding, both of them still regain their independent legal status - - The natural person continues to exist as a civil subject, and the enterprise is canceled according to law if it is liquidated. This design of "procedural merger - entity independence" not only solves the problem of fair liquidation in the insolvency proceedings, but also avoids undue interference with the entity rights of individuals and enterprises, reflecting the respect of the insolvency law for the characteristics of different subjects.

### 2.3. Differentiated adjustment mechanism for the scope of the insolvency estate and institutional compatibility

The core content of the substantive consolidation rules is the consolidation of assets and liabilities, but the specificity of the property in personal bankruptcy can be fully compatible through the refinement of system design:

### 2.3.1. Statutory exclusion mechanism for community property

The property of a natural person is often intertwined with the common property of husband and wife and the common property of the family. Substantive consolidation of bankruptcy only requires that the property independently owned by an individual (such as pre-marital property, property identified as belonging to an individual in a will or a gift contract) be detached from the common property and included in the scope of the bankruptcy property. This process needs to follow the rules of the Civil Code on the division of common property, both to protect the legitimate rights and interests of other co-owners and to avoid unfairness in liquidation due to the mixing of property. For example, in the division of the common property of husband and wife, the common property can be evaluated first, and then the share belonging to the debtor will be included in the scope of consolidation, to ensure that the property rights of non-debtor co-owners are not infringed.

### 2.3.2. Free property exemption reservation system

The personal bankruptcy system in various countries generally establishes the exempt property system, the core of which is to safeguard the basic right of survival and development of the bankrupt natural person and his or her dependent family members. For example, the bankruptcy law of the United States stipulates that the debtor can retain certain value of housing, vehicles, vocational tools and other property; China's Shenzhen Shenzhen Personal Bankruptcy Regulations also make it clear that exempted property includes basic necessities of life, medical supplies, vocationally necessary equipment and so on. In the substantive consolidation of personal and enterprise bankruptcy, reference can be made to the above rules, and the legal exemptions can be removed from the personal property in advance, and then the remaining property can be combined with the enterprise property to settle the debts. This not only conforms to the legislative purpose of personal bankruptcy, but also does not jeopardize the interests of creditors -- because even if separate bankruptcies are implemented, the exempted property does not belong to the scope of liable property, and creditors could not be compensated for that part of the property in the first place, and the consolidation procedure does not reduce the actual rate of their repayment.

### 2.3.3. Rule of subordination and coordination of debt settlement

Differences in the nature of personal debts and enterprise debts may lead to conflicts in the order of satisfaction (e.g. labor claims and claims for personal damages in personal debts and tax and general claims in enterprise debts). In this regard, the nature and ranking of each type of claims can be set out separately in the consolidated bankruptcy proceedings, with priority given to the priority claims stipulated in the law, and then to the ordinary claims proportionally, so as to ensure that the claims of different natures can be treated fairly in accordance with the order stipulated in the law.

## 3. Applicable Criteria for Combined Individual and Enterprise Bankruptcy

### 3.1. Core standard: Substantiality and continuity of mixing of subjects

The standard of mixing presents different manifestations due to the differences in the form of enterprise organization, and needs to satisfy the three major features of prominence, extensiveness and continuity at the same time. For corporate enterprises with independent legal person status, the judgment of mixing needs to review the two dimensions of personality mixing and property mixing at the same time. Personality mixing is mainly manifested in the shareholders' overstepping their authority to manipulate the company's decision-making, so that the company loses its independent will and is reduced to a "puppet on a string" of the shareholders; property mixing is manifested in the mixing of fund accounts, indistinguishable financial books, and unclear ownership of assets, and other circumstances. For example, in the case of Zeng Xiaoming v. Hechang Company, the court, through careful examination of the company's decision-making records, flow of funds, and financial accounts, determined that the shareholders had not only abused their right of control to interfere with the company's operation, but also that the company's and shareholders' properties were highly intermingled, and ultimately applied the rule of denial of personality in accordance with the law, which provided an important reference for the adjudication of similar cases.

As for partnership and sole proprietorship, since they do not have completely independent legal personality, the judgment of mixing mainly focuses on the high degree of mixing of assets. Specifically, it is manifested in the lack of clear records of cash transactions between partners and partnerships, and between investors and sole proprietorships, due to the lack of clear records of cash transactions, account mixing and other circumstances, resulting in the complete disappearance of the boundaries between enterprise property and personal property, forming a de facto indivisible state. Compared to partnerships, the property compartment of a sole proprietorship is even weaker, with the investor having complete dominion over the assets of the enterprise, and in the event of a lack of standardized financial management, the risk of property commingling will increase significantly. It should be emphasized that the "commingling" here is not a slight, occasional state, but needs to reach the degree of significant (can be clearly identified through the existing financial information), extensive (involving a large number of business elements) and continuous (more than a reasonable business cycle), so as to avoid excessive interference in the normal operation of the market entity, affecting the vitality of the market economy.

### 3.2. Subsidiary Criteria: Synergistic Consideration of Multiple Factors

#### 3.2.1. Creditor expectation standard

The creditors' expectation standard centers on the creditors' trust in the transaction, and the core is to provide reference for the application of substantive consolidation rules by comparing the trust benefit of the transaction with the benefit after substantive consolidation of the bankruptcy. However, the standard has obvious limitations in judicial practice, and is difficult to become an independent and universally applicable basis for judgment. Creditors' reliance is essentially a subjective psychological state, and the lack of objective quantitative standards and clear judgment scale leads to the determination process being full of subjectivity, which is not only difficult to operate in practice, but also faces many obstacles in proof. [In practice, the subject of creditor's trust, ultimately still need to rely on the degree of property, business, personnel and other aspects of the mix between individuals and enterprises and other objective evidence, making it difficult to play an independent role in the standard can only be used as an auxiliary reference. In terms of the scope of application, the creditor expectation standard has significant limitations. Based on the voluntariness of claim formation, creditors can be categorized into voluntary and involuntary creditors. For voluntary creditors such as transaction creditors and financial creditors, there is indeed a need for trust protection as they establish a transactional relationship based on their own judgment; however, for involuntary creditors such as tort creditors, their claims are not based on voluntary transactions, and there is no basis for their trust, which makes it impossible for this standard to be applied in insolvency proceedings in which involuntary creditors are involved in . Therefore, compared to being the applicable standard for substantive consolidated insolvency, the creditor expectation standard is more suitable as the basis for creditors to exercise their right to object. When the substantive consolidation rule is proposed to be applied to an individual and a business, creditors may claim that they have conducted the transaction on the basis of the creditworthiness of the single entity and thus object to the consolidation. This mechanism not only provides creditors with a means of redress, but also encourages the court to balance the interests of all parties in a more comprehensive and reasonable manner when making decisions.

#### 3.2.2. Fraud standard

The fraud standard occupies a key position in the application system of substantive consolidation rules. Since the beginning of the establishment of the rule in the United States, fraudulent transactions, improper transfer of property and other acts have been regarded as the core basis for the application of substantive consolidation rules. Fraud" in the context of insolvency law has a specific connotation, referring exclusively to the lack of legitimate business purposes among enterprise group members. Its external manifestations take various forms, such as the enterprise transferring property to affiliated entities in violation of the law in order to preserve its own assets; or maliciously obstructing and delaying the settlement of debts to the detriment of creditors' rights and interests by means of setting up and implementing counterfeit transactions or Ponzi schemes. This standard is equally applicable in determining whether the substantive consolidation rule applies to an individual and an enterprise with an implicated relationship. For one thing, based on practical considerations, in order to maximize their own interests, individuals and enterprises are very likely to neglect creditors' rights and interests, and there is a high risk of illegal benefit transfer. For example, in the first substantive consolidation bankruptcy case in the United States, an individual applied for bankruptcy after transferring property to a "shell" company, which seriously harmed the interests of creditors and highlighted the value of the fraud standard in such scenarios. Secondly, from the jurisprudential level, there is an essential difference between the fraud standard and the high degree of amalgamation standard. The high degree of confusion stems from the objective factors in management and operation, without emphasizing the subjective malice of the subject; while the fraud standard focuses on the subjective malice of the subject's motivation, which is typically characterized by the purpose of individuals setting up enterprises is to implement the transfer of assets, evasion of debt and other improper acts. Thirdly, in the system connection, the fraud standard can effectively make up for the inherent limitations of the bankruptcy avoidance and bankruptcy nullity system. The latter two are difficult to regulate a long time, the scale of malicious fraud, and fraud standard is just to fill this gap, for the rights and interests of creditors to provide more comprehensive protection. As a direct means of punishment for individuals and enterprises subjective malicious illegal behavior, fraud standard has a strong deterrent effect, can be applied as an independent judgment standard. but in judicial practice, the court in the application of the standard need to maintain a prudent attitude, must strictly follow the legal standard of proof, fully confirmed the subjective malice, must not be difficult to prove and lower the threshold of application.

#### 3.2.3. Creditors' Interests Standard

The core essence of the substantive consolidation rule is to ensure that all creditors are fairly compensated, so its application must carefully weigh the advantages and disadvantages for creditors, and it can only be applied as an exception when the overall benefits of consolidation are significantly higher than the damages. It is worth noting that a substantively consolidated insolvency is a judicial decision made by a court based on public authority and not the result of a consensus of creditors. Therefore, factors such as whether the damaged creditors are compensated and whether the merger can be prevented do not constitute the necessary conditions for the application of the substantive consolidation rule, but they will, to a certain extent, influence the court's decision-making considerations. When weighing the damage to interests in individual cases, it is necessary to take into account the specific circumstances of the case and have it assessed by professionals, and this kind of practical issue is more suitable to be handled by the insolvency administrator than to be uniformly stipulated by legislation. From the viewpoint of the logic of application, the insolvency regime for substantive merger of individuals and enterprises does not need to satisfy all the determination criteria at the same time, and there is no necessary dependence between the criteria. The criteria of highly mixed personality and fraud can be applied independently, while the criterion of creditor's proceeds cannot be used alone as a basis for application because it involves the issue of entity independence, and needs to be combined with the criteria of highly mixed personality or fraud to be used as supplementary evidence. The law should respect the independence of the market entity, to avoid just because of the creditors will be in favor of the application of substantive consolidation rules, so as to avoid the impact of the company law and other commercial legal system.

## 4. Specific construction of bankruptcy system for substantive merger of individuals and enterprises in China

### 4.1. The scope of bankruptcy property of individual and enterprise substantive consolidated bankruptcy

#### 4.1.1. Principle of expansionism

The definition of the scope of the bankruptcy estate is the core issue in the construction of the substantive combined individual and enterprise bankruptcy system. Internationally, there are two main legislative modes on the composition of the bankruptcy estate : the fixed doctrine limits the scope of the bankruptcy estate to the property of the debtor existing at the time of commencement of the bankruptcy proceedings; and the inflationary doctrine further encompasses the newly-acquired property of the debtor in the course of the bankruptcy proceedings. The two models have their own advantages and disadvantages: while the expansionist approach helps to increase the proportion of creditors being paid off, it may inhibit the debtor's motivation to regenerate; while the fixed approach protects the debtor's rights and interests in future income, it reduces the level of creditors being paid. Therefore, in legislative practice, countries often balance the potential disadvantages of the chosen model through the design of supporting systems. Article 30 of China's current Enterprise Bankruptcy Law clearly establishes the expansionist legislation, and in the pilot process of personal bankruptcy system, the courts in many places have also continued this principle. In this paper, we believe that this practice is suitable for the actual needs of China and should be continued in the future personal bankruptcy legislation. Firstly, the unification of personal and enterprise bankruptcy legislation principles, help to build a systematic and integrated bankruptcy legal system, and strengthen the consistency of the legislative concept; secondly, expansionism can effectively curb the individual debtor's use of bankruptcy procedures to maliciously evade debts, and defend the core value of the bankruptcy system to maintain a fair order of liquidation; thirdly, affected by the "debt repayment " The traditional concept of influence, China's creditors on personal bankruptcy system generally have resistance, and in practice the natural person applying for bankruptcy is mostly for the group of bankruptcy without property. If the fixed doctrine is adopted, the rate of creditor compensation will be further reduced, and it is very easy to intensify the conflict between the two sides and cause social instability. In contrast, the expansionism will incorporate the newly acquired property of the debtor during the bankruptcy period into the distribution, which can significantly improve the proportion of creditors' compensation, and is more in line with China's social culture and the reality of the national situation. Therefore, when the personal bankruptcy legislation establishes the principle of expansionism, the substantive consolidation of personal and business bankruptcy should naturally follow the principle, and the existing and newly acquired property of the personal and business debtors after the commencement of the bankruptcy procedure should be included in the scope of unified distribution of bankruptcy property.

#### 4.1.2. Determination of exempted property

In the bankruptcy system of substantive consolidation of individuals and enterprises, the exempted property, as the necessary expenses to safeguard the survival and development of individual debtors, needs to be excluded from the consolidated bankruptcy estate, and the determination of its scope is of paramount importance. There are three main ways to determine the scope of exempted property in the legislation of countries around the world: the first is to retain only the minimum standard necessities of life for the debtor and his or her dependent relatives and to set an upper limit on the total value of the property, which is most restrictive for the debtor, focuses on the protection of the interests of the creditors, but tends to inhibit the motivation of the debtor to apply for insolvency; the second is to list the specific types of exempted property and their corresponding limits of value, and the third is to list the types of exempted property and adopt an upper limit on the amount of property. The second is to list the specific types of property that can be exempted and the corresponding value limits, while the third is to list the types of exempted property and adopt general provisions on the amount of property. The latter two ways can retain more property for the debtor and inspire his confidence in making a fresh start. In light of China's national conditions, due to the great differences in the level of regional economic development, it is inappropriate to set a uniform upper limit on the value of exempted property throughout the country, and purely general legislation is prone to lead to abuse of the judge's discretionary power, so it is appropriate for China to adopt the third legislative model at the national level, i.e., listing the types of exempted property and stipulating the amount in general terms, while at the same time authorizing the introduction of personal bankruptcy regulations in each region to specify the upper limit of the value of the exempted property in that region. In terms of specific types, the exempted property can be divided into three major categories: first, the property necessary for the life of the debtor and his or her dependent relatives, including daily necessities (excluding luxury goods; if luxury goods are used before bankruptcy, they need to be included in the bankruptcy estate and reasonable funds need to be expended to purchase ordinary substitutes), the only housing disposed of in accordance with the relevant provisions (with upper limits on the area and value set, and five years' rent retained after sale of those in excess of the standard), and the costs of living (with reference to the following). Foreign countries to set a time limit of no more than one year), the general view that cars do not belong to the necessities of life, but as a means of livelihood, except; second, the debtor's career development of the property required to the limit of career tools, according to the necessity rather than the value of the retention of the measure; third, the property or property rights belonging exclusively to the debtor, including items of great spiritual value (such as medals of honor, wedding bands, etc.) and the personal exclusivity of property (such as allowances, personal injury awards, etc.). such as allowances, personal injury awards, etc.). After determining the scope of the exempted property, the individual and the enterprise substantive consolidation of the bankruptcy need to be retained for the individual debtor, the remaining property and the enterprise property consolidated and unified debt settlement, so as to realize the right to life protection and the balance of the fair settlement.

## 4.2. Procedural rules for substantive combined individual and enterprise bankruptcy

### 4.2.1. Subject of application

The commencement of substantive consolidated bankruptcy proceedings in China follows the principle of "applicationism" established in the Enterprise Bankruptcy Law, i.e., it shall be commenced through the application of qualified subjects, and the court shall not intervene on its own initiative ex officio. Although the Minutes of the Bankruptcy Conference have not made clear provisions on the application subject of substantive consolidated bankruptcy, the judicial practice has formed a multi-application pattern with the participation of the bankruptcy administrator, creditors and debtors, and the three have equal application status in the procedure, which is analyzed as follows:

As the direct administrator of insolvency affairs, the insolvency administrator has unique advantages in substantive consolidation of insolvency applications. It is responsible for examining the assets, debts and legal relationships with related entities of the bankrupt, and has the fullest information on whether there is any mixing of property, business crossover and other key elements of substantive consolidation between individuals and enterprises. At the same time, as a third party independent of creditors and debtors, the neutral character of the administrator enables it to avoid the procedure being dominated by the interests of one party, and it becomes an ideal application subject to balance the interests of all parties. However, such neutrality may also lead to insufficient motivation to perform its duties -- the administrator may, for the sake of reducing workload, avoiding decision-making risks or lack of direct interest, treat the situation where it is appropriate to apply for consolidation negatively, or even slacken in filing the application, thus affecting the timely commencement of the proceedings.

As the core subject of the insolvency proceedings, the debtor has a natural information advantage in respect of its own financial status, the degree of its connection with the enterprise and the feasibility of substantive consolidation. Not all debtors are motivated to evade debts, and there is no lack of honest subjects actively seeking a path to clear debts in practice. When the property of individuals and enterprises is highly mixed, and substantive consolidation of bankruptcy can help consolidate assets and increase the rate of liquidation of all creditors, the debtor may take the initiative to apply for the commencement of the consolidation procedure based on the considerations of reshaping credit and getting out of debt difficulties as early as possible. Allowing the debtor to be the subject of the application not only respects its right to dispose of its own affairs, but also conforms to the value orientation of the bankruptcy system in encouraging honest debtors to realize debt liquidation through statutory procedures.

As the direct bearer of the liquidation result of the bankruptcy procedure, the creditors' right of application is given from the natural concern for their own interests. Under the circumstance that separate bankruptcies of individuals and enterprises may lead to difficulties in property division, prolongation of the liquidation period or reduction of the proportion of compensation, creditors may apply for substantive consolidation of bankruptcy to promote the unified investigation, management and distribution of the mixed property, so as to enhance the efficiency and fairness of the bankruptcy proceedings. In particular, voluntary creditors such as financial creditors and transaction creditors are more motivated to safeguard their own rights and interests by applying for consolidated bankruptcy based on their reasonable expectation for the realization of their claims. Giving creditors the right to apply is both a manifestation of the principle of participation in insolvency proceedings and an important safeguard for their right to relief. The listing of the insolvency administrator, debtor and creditors as concurrent application subjects has significant institutional value: firstly, the multiple subjects complement each other and supervise each other, which can effectively avoid procedural blockage caused by the limitation of interests or lack of motivation of a single subject, e.g., the active application of creditors can make up for the risk of the administrator's negligence in performance of its duties, and the debtor's active participation can reduce the procedural confrontation; secondly, the interests and perspectives of different subjects can help to more comprehensively scrutinize the bankruptcy proceedings and safeguard their rights and interests. Secondly, the differences in the perspectives of different subjects can help to examine the necessity of substantive consolidation more comprehensively, with the neutrality of the administrator guaranteeing procedural fairness, the initiative of the debtor promoting efficiency enhancement, and the supervision of the creditors preventing the abuse of their rights; thirdly, the pattern of diversified subjects enables the rules on substantive consolidation to be more flexibly adapted to the complex scenarios of personal and enterprise bankruptcy, and fully release its systemic efficacy in integrating resources and fair liquidation. Future legislation needs to further clarify the eligibility and procedural rules for the three types of subjects, such as refining the standard of diligent performance of the administrator, standardizing the burden of proof for creditors' applications, and establishing a good faith review mechanism for debtors' applications, etc., so as to safeguard the flexibility of procedural initiation while preventing abuse of rights. By constructing an application system with diversified subjects, clear rights and responsibilities, and effective supervision, the substantive consolidated bankruptcy procedure can realize the balance of fairness and efficiency in individual and enterprise bankruptcy cases, and truly become a powerful tool for solving debt crisis and maintaining market order.

#### 4.2.2. Jurisdiction

In substantively consolidated bankruptcy cases, since multiple consolidated entities are involved and they may be scattered in different regions, it is very easy to cause jurisdictional conflicts. In the field of substantive consolidated bankruptcy of affiliated enterprises, the existing rules mostly determine the competent court by "control", and if the controlling enterprise is not clear, the court in the place where the main property is located shall have jurisdiction. However, this rule exposes obvious limitations when the types of subjects cover both individuals and enterprises. In the bankruptcy scenario of substantive merger of individuals and enterprises, although the "right of control" and the main property are usually held by natural persons, the debts are mostly borne by enterprises. If the "control" standard is applied mechanically, the case will most likely be under the jurisdiction of the court in the natural person's domicile. However, natural persons are highly mobile, with higher risks of property concealment and transfer, and if their main property is no longer in their domicile or usual place of residence at the time of filing for bankruptcy, trial by these courts will not only fail to give full play to their territorial advantages, but will also make it more difficult for the insolvency administrators to investigate the property and push forward the proceedings. In contrast, the insolvent enterprise has a fixed organizational structure, personnel system and financial books, its assets and liabilities are more traceable, and its domicile and assets are relatively stable, and its movable and immovable properties are concentrated in the location of the enterprise, which is convenient for the subsequent realization and auction of the properties. Therefore, taking the court of the enterprise's domicile as the main body of jurisdiction for the bankruptcy case of substantive merger of individuals and enterprises can better guarantee the stability and efficiency of the procedure, and help to systematically clean up the mixed assets and liabilities of individuals and enterprises. In specific operation, the basic principle of jurisdiction of the court of the enterprise's domicile should be established; if the case involves multiple enterprises and individuals, the jurisdictional disputes between enterprises can still be further determined with reference to the rules of attribution of the right of control or the location of the main property, so as to take into account the unity of the rules and the specificity of individual cases.

## 5. Conclusion

The construction and improvement of the bankruptcy system of merging individual and enterprise is not only the real demand to solve the dilemma of property mixing in practice, but also the theoretical proposition to optimize the bankruptcy legal system. From the judicial breakthrough of the first case of consolidated bankruptcy in Kunshan to the theoretical innovation of substantive consolidation rules in terms of procedural independence and substantive compatibility, China has taken a key step from case-by-case exploration to system construction in this field. However, the current practice is still faced with challenges such as lack of legal norms, vague application standards, complex balance of interests, etc., and it is urgent to realize the system breakthrough through legislative integration and judicial refinement. The future development of the system needs to focus on three aspects: firstly, clarifying the legal status of the combined bankruptcy of individuals and enterprises, and upgrading the principle of expansionist property and the practical experience of pluralistic application subjects into legal norms; secondly, refining the operational guidelines of the comprehensive application standards, distinguishing the mixed identification of the elements of the corporate enterprises and unincorporated organizations, and establishing a quantitative assessment system for the difficulties in the separation of fraudulent behaviors and assets; thirdly, improving the closed-loop mechanism for the protection of the rights and interests of creditors, and improving the balance of interests of creditors and enterprises. Thirdly, improve the closed-loop mechanism for the protection of creditors' rights and interests, and balance the value conflict between procedural efficiency and fair settlement. The maturity of the bankruptcy system for individual and enterprise merger is not only related to the exit order of market economy subjects, but also carries the system ethics of "encouraging innovation and tolerating failure". Only through the benign interaction of theoretical innovation and practical exploration can we build a bankruptcy legal system with Chinese characteristics and international vision, and provide solid institutional support for optimizing the business environment and improving the social credit system.

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