Navigating U.S. Bankruptcy Proceedings: A Guide for Chinese Creditors

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By: Kelly Curtin, Jenny Zhou

The U.S. witnessed a notable increase in bankruptcy filings in early 2025, with commercial Chapter 11 cases rising by 16% year-over-year in January alone, signaling mounting financial distress across various industries.[1] That pressure continued into 2026, as total overall commercial bankruptcies rose 14% and total commercial Chapter 11 filings rose 37% in the first quarter of 2026 compared with the first quarter of 2025.[2] Faced with increased bankruptcy filings, Chinese vendors that supply goods to insolvent U.S. entities are encountering significant challenges, including unexpected unpaid obligations, procedural hurdles, and limited access to bankruptcy case information. Understanding the U.S. bankruptcy process is therefore critical for Chinese vendors to safeguard recoveries as creditors. This article serves as a guide to navigating these complexities by outlining certain key steps that a foreign creditor can take to protect their rights in U.S. bankruptcy cases.

Analyzing and Classifying Claims

Claims in a bankruptcy generally involve either a right to payment or a right to an equitable remedy for a certain breach.[3] A claim arises and exists whether it is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.[4] The first—and most critical—task for any creditor in a bankruptcy case is to determine the nature and priority of their claims.

The U.S. Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (the Code), generally delineates claims into three primary categories: secured claims, administrative claims, and unsecured claims (which may include certain priority claims). The payment of claims follows a strict hierarchy, often called the "priority waterfall," because payments flow down in a cascading, tiered structure, with higher priority claims being paid in full before any funds flow down to the next tier.

At the top of the priority waterfall, are the claims of secured creditors, whose claims are backed by collateral, and such creditors are entitled to repayment from their collateral before others. Under section 506(a) of the Code, a claim is secured to the extent of the value of the creditor's interest in the debtor's property.[5] Generally, if the collateral's value is less than the debt owed, the remaining portion is treated as an unsecured claim. For instance, if a creditor is owed $100,000 but the collateral is worth only $60,000, then $60,000 is a secured claim, and $40,000 is unsecured. This bifurcation ensures that creditors recover amounts proportionate to the value of their collateral.

Priority unsecured claims are next in line. For many Chinese creditors, whose claims often arise from the sale of goods to U.S. companies, there are two key avenues[6] for obtaining such priority (also referred to as administrative expense priority) for their claims. First, under section 503(b)(1)(A) of the Code, if the debtor received goods or services after the bankruptcy filing and those goods or services provided a tangible benefit to the estate, the seller may be entitled to administrative priority for the value provided.

Second, under section 503(b)(9) of the Code, creditors may assert an administrative claim for the value of goods received by the debtor within the 20 days before the bankruptcy filing, provided the goods were sold in the ordinary course of

business. When asserting a claim under § 503(b)(9), creditors must pay close attention to the date on which the debtor actually received the goods, as this determines whether the delivery falls within the 20-day window preceding the bankruptcy filing. Courts have held that the "receipt" date can vary depending on the method of delivery, particularly between domestic and international shipping. For example, in *In re World Imports, Ltd.,* the Third Circuit held that for goods shipped "FOB" (Free on Board) from overseas, "receipt" under § 503(b)(9) occurs when the buyer physically receives the goods, not when the risk of loss passes or when the goods arrive at a U.S. port.[7] This contrasts with some earlier interpretations, which had relied on the FOB point or delivery to a common carrier. Other courts have followed or distinguished the *In re World Imports, Ltd.* case depending on the facts, such as whether the transaction was domestic or international, or whether the shipping terms included delivery to the debtor's premises versus port of entry. Foreign trade creditors should carefully review their shipping documents and Incoterms to determine when the debtor "received" the goods for § 503(b)(9) purposes. Although the requirements may seem daunting, undertaking an analysis to determine whether a claim qualifies as a § 503(b)(1)(A) claim or a § 503(b)(9) claim is crucial because creditors with qualifying claims are entitled to priority payment in full before any distribution is made to general unsecured claims.

Finally, at the bottom of the priority waterfall of distributions are general unsecured claims, which are debts that are not backed by collateral and do not qualify for any administrative or priority treatment mentioned above under the Code. General unsecured claims are paid only after all secured, administrative, and priority claims have been satisfied. Often, creditors receive only a nominal percentage on account of their general unsecured claims, or none at all, depending on the size of the debtor's estate and amounts available for distribution. As such, general unsecured creditors often face the highest risk of loss in a bankruptcy proceeding.

Participating in the Official Committee of Unsecured Creditors

To enhance their influence and potential recovery, general unsecured creditors may participate in an Official Committee of Unsecured Creditors (UCC). Normally, the U.S. Trustee appoints the UCC shortly after a Chapter 11 filing, and the UCC is typically comprised of three to seven of the largest unsecured creditors willing to serve. Creditors interested in joining the UCC should express their willingness to do so by completing a questionnaire provided by the U.S. Trustee. The UCC acts as a fiduciary body representing all unsecured creditors, and participates meaningfully in the bankruptcy case. The UCC can hire legal and financial professionals at the estate's expense (instead of at the expense of the individual members of the UCC). Often, the UCC will have access to confidential information, consult with the debtor, investigate the debtor's business operations, and participate in formulating a reorganization plan or other bankruptcy case exit strategy. The UCC frequently negotiates more favorable treatment for general unsecured claims and may increase their share of distributions.

Filing a Proof of Claim

Any creditor whose claim is not listed in the debtor's schedules—or whose claim is marked as disputed, contingent, or unliquidated—must file a proof of claim in the requested format to be eligible to receive any distribution or to vote on the bankruptcy plan.[8] The deadline for filing such a claim, known as the "bar date," functions much like a statute of limitations and is strictly enforced.[9] Missing this deadline can result in a claim being disallowed, meaning the creditor may receive nothing from the estate. Whether to file such a proof of claim is, in itself, a consideration that requires legal analysis. For example, foreign creditors should consider the implications of filing a proof of claim in a U.S. bankruptcy case, as some courts view this action as submitting to the jurisdiction of the United States for other related matters and it may result in other repercussions for the entity.

In addition, there are some procedural hurdles in filing claims and ensuring they are allowed on behalf of foreign creditors. For example, all supporting documents, such as invoices, contracts, and other proof of debt, must comply with U.S. court rules, including accurate English translations and, sometimes, notarization or certification. Even if a claim is listed as undisputed, fixed, or liquidated in the debtor's schedules, a properly filed proof of claim serves as *prima facie* evidence of its validity and amount.[10] However, any "party in interest" may object to the claim.[11] Once a substantive objection is made, the burden shifts to the creditor to prove the claim's validity by a preponderance of the evidence.[12] This may require legal

arguments, affidavits, and other evidence to be presented in writing, and a hearing before the court. For these reasons, it is advisable for international creditors to engage U.S. bankruptcy counsel early in the process to facilitate compliance and be prepared to defend their claims if challenged.

Conclusion

Given the complexity and fast pace of U.S. bankruptcy proceedings, and to ensure they are not disadvantaged compared to domestic creditors, Chinese creditors should take proactive steps to safeguard their interests. Retaining experienced U.S. bankruptcy counsel early is essential, as legal advisors can assist with claim classification issues, filings, and compliance with procedural requirements, while also providing updates on key case developments. Additionally, joining the official committee of unsecured creditors can further enhance a creditor's ability to participate meaningfully in negotiations with the debtor. For more insight into recent bankruptcy trends and legal developments, creditors are encouraged to consult with experienced bankruptcy counsel and financial advisors.

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[1]Press Release, Am. Bankr. Inst., January Chapter 11 Commercial Filings Increase 16 Percent Over Last Year (Feb. 5, 2025) (last visited April 13, 2026).

[2] Epiq News, FirstQuarter Subchapter V Small Business Filings Increase 67% Over Previous Year (April 6, 2026) (last visited April 13, 2026).

[3] See 11 U.S.C. § 101(5).

[4] See *In re Stewart Foods, Inc.*, 64 F.3d 141, 146 (4th Cir. 1995); *Chiasson v. J. Louis Matherne & Assocs.* (In re Oxford Mgmt., Inc., 4 F.3d 1329, 1335 n.7 (5th Cir. 1993).

[5] See 11 U.S.C. § 506(a).

[6] In addition, there are certain types of unsecured claims that are entitled to priority treatment, such as employee wage claims, contributions to employee benefit plans, and specific tax obligations, but those are not typically associated with foreign creditors. See 11 U.S.C. § 503; 11 U.S.C. § 507.

[7] *In re World Imports, Ltd*., 862 F.3d 338 (3d Cir. 2017).

[8] See Fed. R. Bankr. P. 3001(a); see Official Form 10 (Rev. 6/91).

[9] *In re Keene Corp.*, 188 B.R. 903, 907 (Bankr. S.D.N.Y. 1995).

[10] Fed. R. Bankr. P. 3001(f); see 11 U.S.C. § 502(a) (claim deemed allowed absent objection); *In re White*, 168 B.R. 825, 828-29 (Bankr. D. Conn. 1994).

[11] 11 U.S.C. § 502.

[12] *In re South Motor Co.*, 161 B.R. 532, 547 (Bankr. S.D. Fla. 1993).