



中华人民共和国商务部反垄断局
Ministry of Commerce of the People's Republic of China
Anti-monopoly Bureau



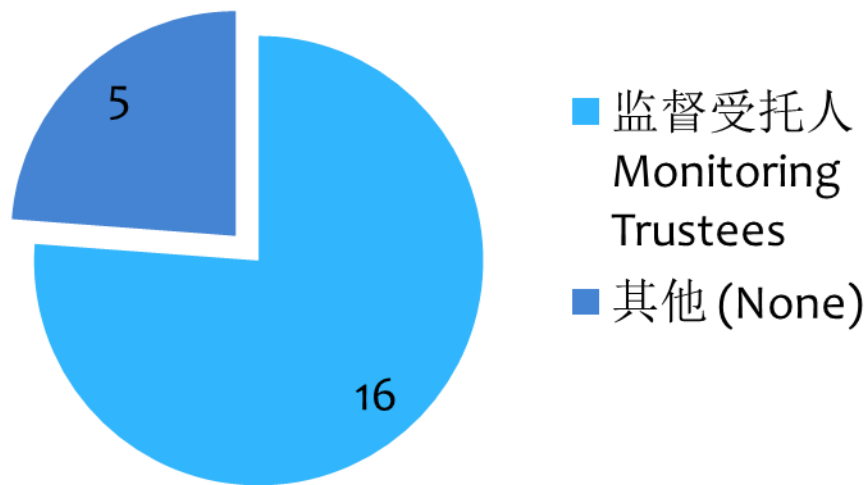
救济措施的受托人及其对救济措施 的监督

Trustees of Merger remedies and Their Roles

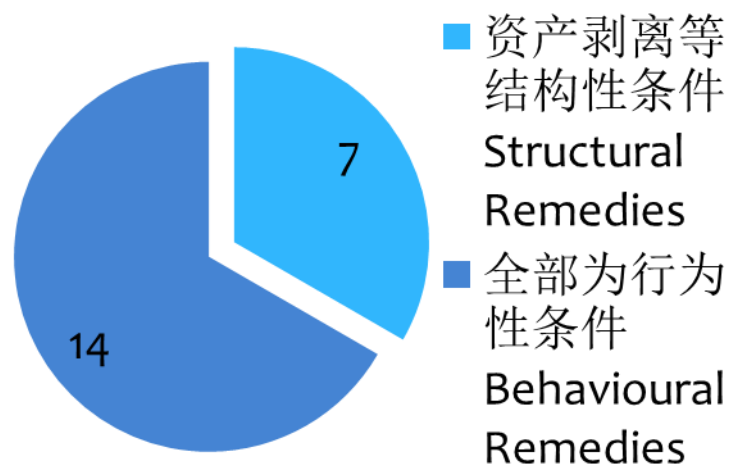
商务部反垄断局

一、总体情况 Overview

附条件批准案件
Cases Approved with Conditions



附条件批准案件
Cases Approved with
Conditions



一、总体情况

Overview

- 监督受托人机构类型 Types of Trustees
 - 投资银行 Investment Bank
 - 会计师事务所 Accounting Firm
 - 律师事务所 Law Firm
 - 经济咨询公司 Consulting Firm
 - 个人 (1) Individual

二、关于受托人的资质要求

Qualifications of Trustees

➤ 基本要求 Basic Requirement

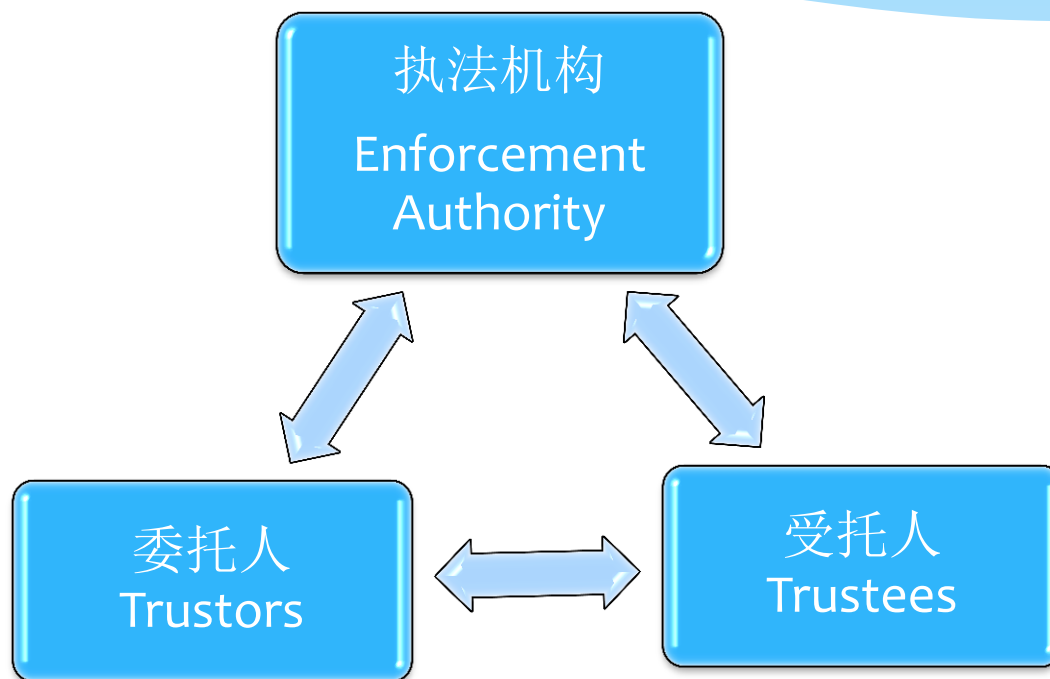
1. 独立性 Independence
 - 机构独立 Independence of the agency
 - 个人独立 Independence of Individuals
 - 财务独立 Financial Independence
2. 专业性 Expertise and Experience
3. 勤勉尽职 Due Diligence

三、监督受托人的机构类型

Types of Trustees

- 监督受托人机构类型 Types of Trustees
 - 投资银行 Investment Bank
 - 会计师事务所 Accounting Firm
 - 律师事务所 Law Firm
 - 经济咨询公司 Consulting Firm
 - 个人 (1) Individual
- 结构性措施 Structural Remedies
 - 会计师事务所、投资银行或经济咨询机构担任监督受托人
Accounting Firm \ Investment Bank \ Consulting Firm
 - 必要时受托人会聘请律师担任法律顾问 Lawyers as legal counsel if necessary
- 行为性措施 Behavioral Remedies
 - 律师事务所 Law Firms
 - 可聘请技术专家等专业人士担任顾问 Technical experts as consultants if necessary

四、执法机构、委托人和受托人的法律关系 Relationships among Enforcement Authority, Trustor and Trustee



五、受托人未适当履行职责的认定和处理

Affirming and Dealing with trustees if they fail to properly perform their duties

➤ 监管方式 Ways of Supervision

- 审阅监督受托人报告 Reviewing the Reports of Trustees
- 当面听取受托人汇报 Meeting and Discussing
- 听取委托任何第三方意见 Hearing of Third Parties' Opinions

➤ 受托人未适当履行职责的处理

How to deal with trustees if they fail to properly perform their duties

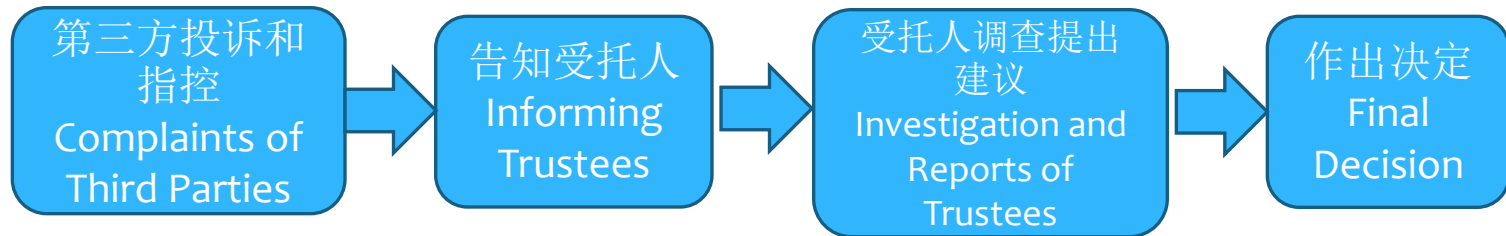
➤ 未来可能采取的监管方式 Possible Ways of Supervision in the Future

- 任命受托人后将该任命及相关委托协议对外披露，接受社会监督和意见反馈 Disclosure of Appointment and Mandate
- 对确有证据表明受托人未适当履行职责时，撤销对受托人的批准并要求委托人重新推荐受托人人选 Revocation and Re-selection of Trustees

六、第三方和义务人之间争议的解决

Disputes Resolutions

➤ 通常做法 General Practice



- 考虑引入仲裁程序，同时在仲裁程序中发挥受托人的作用
Considering Introducing Arbitration Procedure
Producing Trustees' Role in Arbitration