# Cross-border Asset Succession under Research into Optimising Foreign-related Legal Services:Comparative Analysis of Domestic and Foreign Trust Systems and Innovations in Legal Practice

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**Abstract:** Against the backdrop of cross-border asset succession demands among China's high-net-worth individuals, this paper systematically compares the differences between civil law and common law trust systems to delve into legal conflicts and practical challenges in international inheritance matters.Addressing practical issues such as the risk of offshore trusts being "pierced" and the dilemma of determining the governing law for intestate succession, it proposes innovative pathways and service optimisation strategies for mainland lawyers handling cross-border inheritance matters. These include solutions such as refining methods for applying applicable law, technology-enabled mediation mechanisms, and coordinated planning involving family trusts and wills. The research aims to establish a specialised, collaborative, and technology-driven legal service system for cross-border asset succession, providing theoretical support and practical guidance for enhancing China's cross-border legal services.

**Keyword:** Trust Law; Cross-border Asset Succession; Family Trust; Dual Ownership

## Introduction

Presently, overseas asset allocation among China's high-net-worth individuals represents a pronounced trend, further catalysing a new normal in family wealth patterns characterised by cross-border flows, asset diversification, and increasingly complex inheritance relationships. Consequently, conflicts in the application of law within international inheritance cases have become increasingly prominent.The recent inheritance dispute over the estate of Wahaha founder Zong Qinghou exemplifies this trend. His three non-marital children—Zong Jichang, Zong Jieli, and Zong Jisheng—initiated separate lawsuits in Hong Kong and Hangzhou, claiming rights to assets within a US$1.8 billion family trust established by Zong Qinghou and a 29.4% stake in Wahaha Group. This has ignited a fierce inheritance conflict with his marital daughter, Zong Fuli.[1] This dispute over the distribution of family wealth, involving substantial trust assets and domestic equity holdings, not only reflects the governance challenges of cross-border asset succession but also places the institutional efficacy of offshore family trusts under scrutiny.Faced with the increasingly complex legal landscape of cross-border asset succession, this paper argues that foreign-related legal services should not be confined to reliance on offshore trust instruments. There is an urgent need to broaden the application of domestic trust supplementation mechanisms while integrating technological means to empower governance throughout the entire inheritance cycle.

## 1. Comparative analysis of domestic and overseas trust systems and identification of practical risks

Originating in Britain and evolving since the Middle Ages, the trust system has consistently centred on achieving efficient and secure property transfers. Through prolonged refinements within the Anglo-American legal tradition, it has matured into a rigorously structured, clearly defined institutional framework.[2] At the turn of the last century, China successfully introduced the trust system, formally enacting the Trust Law of the People's Republic of China (hereinafter referred to as the "Trust Law") in 2001. This marked the commencement of China's standardised process for property trusts. Relying on the institutional framework established by the Trust Law, the trust system has taken root and flourished within China's legal system, with its practical application and operational exploration advancing in an orderly manner.As a core legal instrument for cross-border asset succession, the intrinsic legal structure and functional realisation of trusts exhibit significant variations across different jurisdictions. In practice, there exists a tendency to blindly establish offshore trusts and pursue risk isolation, while overlooking the portability and practicality of domestic trusts. Some even adopt a dismissive attitude towards the domestic trust system.Mainland lawyers handling foreign-related inheritance matters must accurately grasp the practical risks arising from these institutional differences, which is a key prerequisite for constructing effective cross-border succession solutions. The following discussion will begin with an examination of the legal rationale behind domestic and foreign trust systems, culminating in addressing the scepticism towards domestic trusts.

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[1] Xing Tan: "Hong Kong High Court Judgment Reveals Further Details of Zong Qinghou Estate Case," published on The Paper WeChat Official Account, https://mp.weixin.qq.com/s/cOwNoUwdnANQ2I1MX8lxZg (accessed 2 August 2025).

[2] Zhang Shurong and Zheng Junlin: "Legal Issues in Trust Property: An Examination from the Perspective of Ownership," Journal of Taiyuan City Vocational and Technical College, Issue 10, 2024, p. 121.

### 1.1 Fundamental divide in legal foundations and institutional design

As a unique legal construct, the trust system centres on the contractual relationship established between settlor and trustee, achieving a dual separation of management rights over trust assets and beneficial enjoyment rights.Rooted in the Anglo-American legal tradition's dual ownership structure, which coexists with common law and equity, [3] the trust system confers legal title upon the trustee under common law principles, while the beneficiary holds equitable title under the principles of equity.[4] The trustee may fully exercise management authority for the beneficiary's trust interests based on fiduciary duty, while simultaneously ensuring the independent security of trust assets to effectively safeguard beneficiary interests. [5] Within this framework, the trust system renders trust assets legally distinct from both settlor and beneficiary, thereby establishing an effective barrier for risk isolation.[6] To enhance the trust's asset protection function, the Anglo-American legal system specifically grants beneficiaries certain rights. [7] Beneficiaries may not only demand the trustee distribute trust benefits but also actively supervise the trustee's management and disposal of trust assets. Specifically, beneficiaries possess legal rights to access trust-related information, including inspecting trust accounts, requiring the trustee to disclose relevant trust documents, and seeking explanations regarding trust income. [8]

Although China's trust system draws upon Anglo-American legal practices, it has opted to respect the civil law principle of "one thing, one right" while adapting it for localised implementation. This principle emphasises that only one ownership right may exist over a single object. [9] To maintain clarity and stability in property relations and resolve disputes, it precludes the coexistence of multiple ownership rights.[10] Given the prevalence of this principle across civil law jurisdictions, it has emerged as one of the key obstacles to the localisation of the trust system.

Taking Japan—another civil law jurisdiction—as a point of comparison, its legal framework establishes the trustee as the property owner, effectively adopting the concept of "dual ownership" through systematic reception.[11] However, upon transplanting the trust ownership system to China, the dual structure of the Anglo-American dual ownership system has created profound tension with China's single ownership system under the "one property, one right" principle. This has left the attribution of trust property rights in China long mired in theoretical debate and

[3] See Wu Yiming, Anglo-American Property Law (Shanghai: Shanghai People's Publishing House, 2011), p. 74; Zhao Cuicui, Research on the Estate in Anglo-American Property Law (Beijing: China Law Press, 2015), p. 26.
[4] See Wen Shiyang and Feng Xingjun: "On the Ownership of Trust Property: With Reference to the Improvement of Relevant Legislation in China", Journal of Wuhan University (Philosophy and Social Sciences Edition), No. 2, 2005, pp. 203-209.
[5] See He Jinxuan, "Trust Legislation Should Not Be Rushed", in Peking University Law Review, 1998, Vol. 2; He Jinxuan and Li Yingzhi (eds.), Trust Law in Asian Civil Law Countries and Regions, China Law Press, 2020, p. 93;See Ronald J. Scalise, "Some Fundamentals of Trusts: Ownership or Equity in Louisiana?", Tulane Law Review Vol.92 (2017), p.61.
[6] See [Japan] Higuchi Norio, Trusts and Trust Law, translated by Zhu Daming, Beijing: China Legal Publishing House, 2017, p.28.
[7] See Graham Virgo, The Principles of Equity & Trusts (4th ed.), Oxford University Press, 2020, pp.45-46.
[8] See Xu Wei, Research on the Protection Mechanism for Trust Beneficiary Interests, Shanghai Jiao Tong University Press, 2011, pp.73-78;
[9] See Liao Huanguo, "The Dilemma and Solutions of the One Thing, One Right Principle", published in Times Law Review, Issue 1, 2006, pp. 68-72.
[10] See Dou Dongchen, "Constructing Dual Rights in Trust Property from the Perspective of One Thing, One Right", Science, Economy and Society, No. 1, 2019, pp. 99-106.
[11] See Ruiqiao Zhang, "A Comparative Study of the Introduction of Trusts into Civil Law and Its Ownership of Trust Property", Trusts & Trustees Vol.21 (2015), pp.902-922.

practical exploration within an ambiguous zone.Academic perspectives are diverse, encompassing theories such as "the settlor ownership theory," "the beneficiary ownership theory," "the trustee ownership theory," and "the independent property purpose theory."

From a comparative law perspective, Scotland—a traditional civil law jurisdiction—enforces a trust law that strictly adheres to the principle of "statutory property rights" and the unitary ownership system. It stipulates that ownership of trust property vests in the trustee, while the beneficiary holds rights of a creditor nature.[12] This "debt-like" treatment ingeniously circumvents the rigid requirement for public notification of property rights transfers, thereby robustly safeguarding the core value of confidentiality inherent in the trust system.Moreover, having evolved over nearly a century, Japan's trust system has innovatively established a parallel framework where trustees hold formal property rights (ownership) and beneficiaries hold substantive creditor rights (entitlement to benefits), while remaining grounded in civil law theory. This demonstrates remarkable institutional resilience and offers valuable lessons.Specifically, the settlor transfers ownership of trust property to the trustee (typically a trust company). Upon acquiring ownership, the trustee manages and disposes of the trust property, while the beneficiary exclusively holds the right to claim trust benefits. To prevent trustee abuse of ownership rights that could harm beneficiaries, the law grants beneficiaries supervisory powers, creating essential checks on trustee authority. [13]

Drawing upon the experience of civil law jurisdictions, Article 2 of China's Trust Law deliberately employs the term "entrustment" rather than "transfer" to describe property rights. It stipulates that trustees shall "manage and dispose of" trust property in accordance with the trust's intent. This legislative phrasing effectively diminishes the legal finality of property rights transfer.Articles 15-16 of the Trust Law, together with Article 95 of the Ninth Civil Judiciary Guidelines, jointly establish the principle of trust property independence, explicitly requiring trust property to be distinguished from the settlor's non-trust property and the trustee's own property.This institutional design aims to circumvent the "dual ownership" dilemma inherent in Anglo-American legal systems, striving for compatibility with the civil law principle of "one thing, one right". It also represents a significant innovation in China's legislative approach to the trust system.

### 1.2 Challenges and responses to domestic trusts

China's trust system has long faced scrutiny from both academic and practical circles, with challenges primarily crystallising around two focal points: the practical challenges to the independence of trust property; and the rigid constraints of formal requirements for establishment. However, in-depth analysis through empirical research and practical experience indicates that such issues are fundamentally attributable to deviations in practical operations from legal norms, rather than inherent flaws within China's trust system itself.

#### *1.2.1 Substantive controversy over property independence: Legal analysis of piercing grounds*

The enforcement proceedings concerning the property aspects of the criminal judgments against Cui, Zhang, and Chu – the third family trust piercing case in China to

[12] See Yu Haiyong, "On the Attribution of Ownership of Trust Property", Journal of Sun Yat-sen University (Social Sciences Edition) 2010, No. 2, pp. 189-200.
[13] See Yu Haiyong, "On the Localisation of Dual Ownership of Trust Property in Anglo-American Law in China", Modern Law Review, No. 3, 2010, pp. 159-168.

date – are highly illustrative.[14] Public discourse has largely centred on the court's ruling to "seize ¥41.43 million from a family trust fund entrusted to a third-party factoring company under the name of the judgment debtor," with media outlets tending to question whether this disregarded the inherent risk isolation function of trusts. However, a thorough examination of the relevant case details and facts already established by criminal investigation authorities reveals thatthe funds used to establish the trust were in fact illicit proceeds transferred by the suspect. The court's ruling, precisely grounded in Article 64 of the Criminal Law of the People's Republic of China concerning the recovery of illegal gains and coupled with the mandatory provision of Article 11 of the Trust Law that "a trust established with illegal property shall be invalid," effectively pierced the protective shield of trust property independence. This constituted a legitimate and necessary intervention by criminal judicial authority into civil trust relations.Moreover, offshore trusts are not an absolute safeguard, as evidenced by the well-known Zhang Lan case.Given that the dual ownership system itself does not classify the settlor as a statutory rights holder, coupled with the fact that offshore trusts established for wealth succession purposes typically adopt an irrevocable structure—whereby the settlor generally loses direct control over trust assets upon establishment—judicial practice applies exceptionally stringent scrutiny to whether the settlor genuinely relinquished control.Why was the trust in the Zhang Lan case invalidated? Precisely because Zhang Lan retained "apparent unfettered operation" over the trust account. Notably, she frequently executed substantial transfers without supporting documentation after the trust's establishment, with funds directed towards personal purposes (such as purchasing apartments), thereby failing to achieve the core requirement of trust law: the separation of ownership and beneficial rights.The court firmly anchored its ruling on the pivotal fact of "apparent unfettered operation," conclusively establishing that the settlor retained substantive control over the trust assets. Consequently, the court denied the independence of the trust property. A comparable precedent is the Deposit Guaranty National Bank v. McBeath case adjudicated by the Mississippi State Court in the United States.The court ultimately ruled that even though the drafters of the trust agreement (including the trustee) lacked subjective malice and the settlor had not actually withdrawn principal during his lifetime, the settlor retained the right to withdraw principal in excess of the principal amount. Combined with the clear wording of Articles 5 and 9 of the agreement indicating the trust was established for the settlor's benefit, this resulted in the trust losing its independence. Creditors were therefore entitled to obtain the trust property from the estate administrator to discharge debts.[15]

Furthermore, two additional primary scenarios warranting the piercing of offshore trusts exist: unlawful trust purposes and sham trusts, with corresponding legal principles universally recognised within domestic regulations. Firstly, unlawful trust purposes (fraudulent conveyance).Turkish ultra-high-net-worth individual Demirer was accused of deep involvement in a series of financial frauds in the late 1990s, triggering a banking crisis in Turkey. The Turkish government's takeover authority, TMSF, pursued billions of dollars in debts owed by Demirer, targeting assets held in multiple discretionary trusts established in the Cayman Islands.This case involved cross-jurisdictional litigation spanning the Cayman Islands, the United Kingdom, and Australia, encompassing complex legal disputes concerning the recognition of foreign

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[14] See Enforcement Ruling (2023) Su 0602 Zhi 6286-1 of the Chongchuan District People's Court, Nantong City, Jiangsu Province.
[15] Deposit Guaranty National Bank v. McBeath, 204 So. 2d 863 (Miss. 1967).

judgments, trust law, asset protection, and enforcement. Ultimately, the Privy Council of the United Kingdom, acting as the court of final appeal, ruled that TMSF could enforce against Demir's trust assets in the Cayman Islands. The rationale was that the settlor had effectively retained the right to revoke the trust at any time, and the purpose of establishing the trust was manifestly to evade creditor recovery.[16] Secondly, Sham Trust. This case involved allegations that a Russian ultra-high-net-worth individual had illegally transferred hundreds of millions of dollars from a bank he controlled into five discretionary trusts during the 2008 financial crisis. The case was heard in the High Court of Justice of England and Wales, with core disputes centring on trust law, fraud, and conflict of laws.The court's final ruling determined that, given the settlor simultaneously acted as trustee with full control over the trust property and the trusts were established with the intent to mislead third parties and evade creditors, all five trusts constituted sham trusts. As the settlor retained beneficial ownership of the trust property, creditors were granted permission to enforce against such assets. [17]

In summary, the efficacy of the trust system in achieving risk isolation fundamentally hinges upon the parties' adherence to trust regulations. The independent status of trust assets necessitates collaborative maintenance by all parties within the statutory framework.

### *1.2.2 Judicial flexibility regarding formal requirements for establishment: Practical breakthroughs and rule evolution*

Addressing criticisms of rigid establishment formalities, judicial practice has progressively established flexible standards through incremental rulings, demonstrating respect for the essence of trusts.

In the retrial of the inheritance dispute between He and Li et al., the deceased Li W set forth corresponding rights and obligations in his will, detailing the establishment of a public welfare fund, charitable investment plans, and specific funding methods for designated individuals, while appointing an executor.He argued that the will failed to meet statutory requirements for a testamentary trust, constituting instead a legacy that merely clarified post-bequest estate usage, thereby demanding statutory inheritance of the contested assets.The Beijing High Court fully considered the testator Li Wǔ's fervent dedication to public welfare and his intention to care for relatives and friends. It held that the testamentary disposition arrangements—namely, "the testator establishing a trust through his will and making systematic arrangements regarding the operation plan for the public welfare fund and the designation of executors"—should respect the true intentions of the settlor rather than mechanically applying the rules governing legacies.[18] The second case in the Shanghai High Court's third batch of 2023 reference cases (Li v Qin et al. Inheritance Dispute over Testamentary Disposition) took this further. The testator's will did not explicitly establish a trust, and certain provisions presented execution difficulties. The defendants thus argued that the estate should be distributed according to statutory succession on the grounds that the will was unenforceable.Upholding the judicial principle of maximising testamentary effect, the Shanghai High Court innovatively recognised the validity of establishing a trust through a holographic will. The testator, Li Ming, stipulated in his will that a property valued at RMB 6.5 million be incorporated into a "family foundation" for unified

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[16] TMSF v Merrill Lynch Bank [2011] UKPC 17.
[17] Gregor Hogan, "Mezhprom Bank v Pugachev [2017] EWHC 2426 (Ch)", Trusts & Trustees Vol.24 No.2 (2018), pp.212-215.
[18] See the Civil Ruling of the Beijing Higher People's Court (2021) Jing Min Shen No. 5415.

management by an administrator. Employing a systematic interpretation approach, the court stated:The interpretation of a will must seek its true intent and consider its entirety; provided the trust property is lawful, it possesses the basis for execution." [19] The aforementioned cases clearly outline the progressive logic of judicial practice: the former establishes the legal positioning of testamentary trusts as distinct from legacies, while the latter breaks through the strict formal requirements for written trust contracts, demonstrating substantive judicial recognition of flexible forms for trust establishment.

Consequently, onshore trusts retain significant legal value and utility within China's cross-border asset succession framework. Their institutional merit should not be entirely dismissed due to potential piercing risks in specific scenarios, nor should they be excluded from the legal toolkit for cross-border asset succession in favour of offshore trusts alone.

### 1.3 Specific risks of offshore trusts and targeted mitigation through localised approaches

Whilst offshore trusts possess distinct advantages in cross-border asset succession, they harbour inherent risks that demand attention. Consider a typical scenario involving a US beneficiary: the FGT model often stipulates automatic conversion to FNGT upon the settlor's death. This triggers a transfer of control from the settlor to the beneficiary, simultaneously activating US tax reporting obligations on the trust's appreciation.Hong Kong's innovative "dual settlor" mechanism, whilst extending the FGT's duration through committee structures to defer control transfer, carries inherent risks. Such arrangements may exacerbate familial conflicts, potentially triggering intense disputes over control that undermine the trust's stability.When assisting clients in structuring and utilising offshore trusts, mainland lawyers must not only rigorously avoid the aforementioned risk of trust piercing due to excessive settlor control, but also urgently focus on institutional design across two dimensions:

Firstly, establishing a multi-jurisdictional compliance coordination mechanism. The core objective lies in harmonising requirements across different jurisdictions, particularly when trust structures involve US-based beneficiaries. This necessitates meeting the dual compliance demands of both the complex US tax regime (such as FATCA and estate tax) and China's stringent foreign exchange controls (e.g., Article 19 of the Foreign Exchange Administration Regulations) through a look-through approach.This demands that solicitors not only possess deep expertise in relevant substantive laws but also demonstrate the foresight to anticipate and resolve regulatory conflicts, such as effectively managing the tension between cross-border asset transfer reporting and US tax disclosure obligations.

Secondly, embedding a preventive contingency governance framework. This hinges on establishing systematic emergency protocols that transcend mere trustee replacement procedures. Such mechanisms should encompass efficient dispute resolution for beneficiaries—including pre-set arbitration clauses, family council decision-making rules, contingency plans for key personnel absence, and corrective procedures for trust purpose deviation.Such institutional arrangements proactively prevent familial conflicts from escalating into governance crises, ensuring the trust's long-term stability and fulfilment of its objectives through generational transitions and familial changes.

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[19] See Civil Judgment (2022) Hu 0115 Min Te No. 525 of the Pudong New Area People's Court, Shanghai.

## 2. Systematic advancement of mainland lawyers' cross-border inheritance practice

Cross-border asset succession confronts complex challenges arising from multiple jurisdictional conflicts, compelling mainland lawyers to transcend reactive approaches. Service frameworks must be reconfigured across three dimensions: innovation in legal application methodologies, deep integration of intelligent technologies, and structured coordination of succession tools. This paradigm shift in cross-border inheritance expertise will enhance professional efficacy in handling such matters.

### 2.1 Hierarchical construction and operational refinement of legal application strategies

Within the legal application domain of cross-border inheritance, mainland lawyers must transcend the limitations of simplistic application of conflict-of-laws rules, developing multi-tiered, forward-looking legal application strategies.

Regarding intestate succession, Article 31 of China's Law on the Application of Laws to Foreign-Related Civil Relations establishes a "distinctive system" for foreign-related intestate succession: "Intestate succession shall be governed by the law of the decedent's habitual residence at the time of death, except for the succession of immovable property, which shall be governed by the law of the location of the immovable property." This approach, which applies different laws to the succession of movable and immovable property, contrasts sharply with the increasingly prevalent "unitary system" internationally.The unity system, by applying the decedent's personal law uniformly to the entire estate without distinction, better aligns with the personal nature inherent in inheritance relationships. While the distinction system offers greater convenience in judicial practice, it risks creating legal fragmentation in estate disposition. This is particularly pronounced when the decedent's assets are distributed across multiple jurisdictions, significantly increasing procedural complexity and uncertainty in inheritance outcomes.Consequently, in practice, some courts handling cross-border inheritance cases place significant emphasis on the parties' intentions. They may either adopt the fundamental approach of "party autonomy taking precedence over general conflict rules" or entirely abandon conflict rules for cross-border inheritance, directly determining the applicable law based on the "principle of party autonomy". [20] Taking the appeal case of Pei Mou 1 and Pei Mou 2 et al. concerning testamentary inheritance disputes as an example,the court first invoked Article 3 of the Law on the Application of Laws to Foreign-Related Civil Relations to confirm that parties to foreign-related inheritance disputes may expressly choose the applicable law. Subsequently, relying on Article 8 of the Interpretation (I) of the Application Law, it held that all parties in the original trial had invoked Chinese law in presenting their arguments and had raised no objection to the application of Chinese law in adjudicating the case. Thus, it concluded that applying Chinese law was entirely appropriate.[21] This constitutes a misrepresentation. Pursuant to Article 4 of the Supreme People's Court's Interpretation (I) on Several Issues Concerning the

[20] See Civil Ruling No. (2014) Haizhong Min San Zhong Zi No. 56 of the Haikou Intermediate People's Court, Hainan Province, and Civil Judgments Nos. (2013) Fosun Min Jun Min Chu Zi No. 764, (2014) Fosun Min Jun Min Chu Zi No. 56,[2014] Fosun Minjun Minchu No. 160 Civil Judgment, (2014) Fosun Minjun Minchu No. 377 Civil Judgment, [2014] Fosun Minjun Minchu No. 605 Civil Judgment,[2014] Fosun Fajun Minchu No. 658 Civil Judgment, [2014] Fosun Fajun Minchu No. 677 Civil Judgment,[2014] Fosun Court Civil Initial No. 678 Civil Judgment, (2017) Yue 0606 Min Chu No. 19212 Civil Judgment, [2017] Yue 0606 Min Chu No. 19213 Civil Judgment.

[21] See Beijing No. 2 Intermediate People's Court Civil Judgment No. 11660 of 2015.

Application of the Law of the People's Republic of China on the Application of Laws to Foreign-Related Civil Relations, a contractual choice of law must be made under explicit legal guidance; otherwise, the choice is invalid. Yet current Chinese legislation does not permit parties to contractually select the law governing foreign-related inheritance matters.

To circumvent the rigid application of the "distinctive rules" benchmark established under Article 31 of the Law on the Application of Laws to Foreign-Related Civil Relations, the domain of validity confirmation may leverage testamentary instruments. This should harness the "pooling of connecting factors" effect under the Hague Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions—where a will is valid if its form complies with the law of any connecting factor, such as the place of execution or the testator's nationality.This approach innovates a "jurisdictional optimisation for defective wills" technique: guiding clients to select jurisdictions with the broadest connecting factors for will rectification.A typical example involves cross-strait inheritance scenarios: where a Taiwan region resident's oral will meets the requirements of the island's Civil Code and simultaneously satisfies the formal requirements under Article 32 of the Law on the Application of Laws to Foreign-Related Civil Relations, mainland courts may utilise cross-jurisdictional legal validity integration techniques to confirm its validity. This judicial logic provides a conversion pathway for resolving inheritance conflicts across the strait.

### 2.2 Technology-empowered preventive justice and cross-border inheritance dispute resolution system reconstruction

The cross-border enforcement framework established by the Singapore Convention on Mediation is driving profound reforms in foreign-related mediation systems, with consensus emerging on establishing mechanisms for the cross-border enforcement of mediation agreements. Leveraging the unique advantages of "One Country, Two Systems," the Guangdong-Hong Kong-Macao Greater Bay Area has pioneered institutional experimentation. The Hong Kong and Macao Special Administrative Regions, exercising their high degree of autonomy, have developed internationally aligned foreign-related mediation systems. Their role as "super connectors" inherently endows relevant legislation with cross-border compatibility.Hong Kong has further established a bidirectional transmission mechanism of "internalising international rules and exporting local experience," providing a reference for the transformation of mainland China's foreign-related mediation system. Presently, all three regions collectively face the challenge of modernising their mediation systems, and the exploration of cross-border enforcement mechanisms has become a pivotal lever for advancing China's mediation paradigm from regional practice towards international standards.

This institutional evolution must be grounded in a preventive justice philosophy, embodied by the development of "Fengqiao-style People's Courts": leveraging judicial big data to anticipate conflict trends and empower source governance; cultivating grassroots conflict management capabilities through exemplary mediation; and establishing procedural safeguards while performing mediation guidance functions to ensure non-litigious dispute resolution operates within the rule of law.[22] Notably, while expanding the scope for flexible dispute resolution, vigilance is required against the

[22] See Cao Ting: "The Operational Logic and Optimisation Pathways for Building 'Fengqiao-style People's Courts'", published in Law Review, Issue 3, 2025, p. 82.

erosion of parties' procedural rights through jurisdictional expansion. This very challenge provides a balancing point for technological intervention.

Traditional cross-border inheritance procedures have been hampered by high costs and lengthy timelines, yet the integration of digital technology with alternative dispute resolution mechanisms has pioneered new pathways.In 2025, Xuhui District Court pioneered the "Headquarters-to-Headquarters Online Litigation-Mediation Interface Mechanism for Taiwan region-Related Cases" in a "three-region spanning" inheritance case. Integrating resources from the court, Taiwan region Affairs Office, and Justice Bureau, it actively employed online mediation and online applications for judicial confirmation. Leveraging electronic seals and cloud-based evidence storage technology, it achieved a fully digitalised closed-loop process—from paperless case filing and cross-border electronic service to cloud-based signing and enforcement—completed within 45 days.[23] This model proactively responds to the "Opinions of the Central Committee of the Communist Party of China on Strengthening Judicial Work in the New Era," bolstering judicial efforts concerning Taiwan region affairs and deepening cross-strait integration. It innovatively incorporates "age-friendly adaptations," bridging the digital divide for the elderly through large-font interface design and video-assisted guidance, thereby providing a human-centred solution for inheritance matters involving seniors.

Taking this as a blueprint,this paper proposes that mainland lawyers may establish a dispute resolution model combining "blockchain evidence storage + asynchronous mediation + online judicial confirmation": Firstly, blockchain technology fixes key evidence such as the deceased's medical records and will drafts, while biometric verification authenticates cross-border parties' identities. This enhances evidence preservation and identity verification at the dispute's outset. To bolster the validity of cross-border electronic evidence, the Additional Certificate under the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents may be incorporated.Secondly, during dispute proceedings, cross-time-zone "asynchronous negotiations" are conducted via the People's Court mediation platform, permitting parties to submit submissions at staggered intervals. Mediators familiar with local cultural norms are invited to observe proceedings, clarifying jurisdictional and cultural differences when parties disagree on inheritance arrangements. Finally, the model connects to online judicial confirmation channels, conferring enforceability upon mediation agreements to facilitate dispute resolution.This model both inherits the humanistic core of the "Fengqiao Experience"—reinstating family ethics as the foundation for inheritance disputes—and achieves procedural efficiency through technological rigour. It fundamentally resolves the resource constraints of traditional cross-border inheritance, demonstrating the dialectical unity of flexible dispute resolution and procedural justice enabled by technology.

### 2.3 Synergistic planning of family trusts and wills

The fundamental breakthrough in cross-border asset succession lies in transcending the limitations of single instruments. Through synergistic innovation between domestic and offshore trust systems and testamentary tools, systematic optimisation of intergenerational transfers is achieved.Mainland lawyers should spearhead composite solutions combining "offshore trust disposal of overseas assets with onshore

[23] See He Zhongting and Chang Shimeng: "The Judicial Warmth Across the Strait", published on the "Shanghai High Court" WeChat public account, https://mp.weixin.qq.com/s/RGLjFRAYh8DQBvh5SukP6w (accessed 20 July 2025).

testamentary trusts for fixed asset succession." This approach harnesses offshore trusts' institutional advantages in tax planning and transfer efficiency while adhering to mandatory frameworks governing domestic real estate inheritance.

Regarding asset classification and disposition, a refined tool-matching logic must be established: when disposing of domestic real estate via testamentary trusts, Article 1141 of the Civil Code concerning reserved shares must be considered beforehand due to its rigid constraints on disposal rights; offshore financial assets should be placed within offshore trust structures (e.g., FGT/FNGT) to leverage their flexible governance for tax optimisation and cross-border transfers;Succession of family business equity requires the Private Trust Company (PTC) model to establish a dynamic equilibrium between retaining control and facilitating generational transfer; while allocating highly liquid assets to insurance trusts can mitigate inheritance dispute risks through the certainty of statutory payouts.

Selecting offshore trust types demands an artful balancing of values—where clients prioritise flexible asset control and amendable arrangements, the revocable FGT offers adaptability yet requires rigorous safeguards against piercing risks under US Internal Revenue Code anti-avoidance provisions. Conversely, when asset protection and intergenerational stability are paramount, the certainty of an irrevocable FNGT holds greater institutional appeal.Throughout this decision-making process, mainland solicitors should guide the establishment of a "pre-agreed family governance mechanism," embedding mandatory mediation clauses within trust instruments. These require beneficiary disputes to be prioritised for arbitration or mediation, thereby institutionalising conflict resolution through contractual provisions.

The ultimate regulatory coordination challenge lies in reconciling the efficacy of wills and trusts. When employing a revocable FGT trust, testamentary provisions must strictly avoid direct disposition of trust assets, fundamentally preventing the risk of commingling under Article 15 of the Trust Law.Should the trust structure incorporate a "settlor committee" governance model, the will must pre-emptively establish member succession rules. Drawing upon the succession procedures outlined in Section 37 of Hong Kong's Trustee Ordinance, legal techniques can be employed to pre-emptively resolve decision-making deadlocks following the settlor's demise. Only through the seamless integration of trust instruments and testamentary provisions can a truly impregnable legal shield for cross-border succession be forged.

## 3. Conclusion

Innovation in legal services for cross-border asset succession fundamentally constitutes a professional response to the challenges of family wealth governance in the era of globalisation. Mainland lawyers must transcend traditional agency thinking to assume the role of "cross-jurisdictional succession architects". This entails deepening legal understanding through institutional comparison, enhancing service efficacy through tool innovation, and integrating professional resources through ecosystem construction.

Regarding trust applications, domestic and international institutional differences should be viewed dialectically.Although China's principle of trust property independence conflicts with the dual ownership concept of Anglo-American law, the "risk isolation" function established through Articles 15 and 16 of the Trust Law and Article 95 of the Ninth Civil Judiciary Guidelines provides an effective pathway for domestic asset protection. Offshore trusts, meanwhile, offer unique value in family succession involving multi-jurisdictional asset allocation due to their flexibility and maturity.Looking ahead, the deepening Belt and Road Initiative and the integrated development of the Guangdong-Hong Kong-Macao Greater Bay Area will expand service opportunities for mainland lawyers in cross-border inheritance matters. The industry must accelerate the development of standardised, technologically advanced, and human-centred foreign-related legal service systems. This will enable the provision of more professional and efficient succession solutions for the global asset allocation of high-net-worth families, ultimately achieving a service standard where "the warmth of the rule of law is felt from fingertips to heart."