

The Research of Future-Market-like Supervision of the Exchange of Cultural Products and Artworks

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Abstract—As an innovation of the trade of Cultural products, the Exchange of Cultural Products and Artworks makes the market of cultural products more prosperous, but there are also some problems. Through analysing the characters of the Exchange of Cultural Products and Artworks and the trade model of the cultural product market, this article finds the reasons for the chaos in the market. In order to solve the supervision problems, this paper introduces some improvement from the future market, which will guide the Exchange of Cultural Products and Artworks into a healthy way.

Keywords—the Exchange of Cultural Products and Artworks, chaos, suggestions for supervision

I. Introduction

July 22, 2009, the standing committee of state council adopted the “the culture industry planning”. This is the first special culture industry planning in our country and is another important industry revitalization planning following the revitalization of 10 industries including steel, automobiles and textile. Since then culture industry would no longer be only one of the third industry, but rise to the country’s strategic industry status in the future. Therefore, the governments of all levels promote the development of culture industry to response to the national policy. In this atmosphere, cultural property right exchange enters people’s perspective and becomes a fashionable noun at present.

With the rapid development of the culture industry, the Exchanges of Cultural Products and Artworks have been set up all over the country. Among them, trading in Shanghai, Shenzhen and Tianjin exchange is more active. Other local governments also attempt to set up their own exchanges, such as Zhengzhou, Xiamen and so on. Instead of reaching the expectations of people, the establishment of the Exchange of Cultural Products and Artworks leads to the market mess because the market is not mature and the supervision does not reach the designated position, which makes the investment of cultural products more uncertain. So, this paper analyses the reasons of the chaos objectively and puts forward reasonable suggestion to perfect the supervision and then ensure that the culture industry in our country will develop in a healthy way.

II. Brief introduction of the Exchange of Cultural Products and Artworks

The main function of the Exchange of Cultural Products and Artworks is to organize the trading of cultural products and artworks like financial trading. According to “annual report of Chinese art market in 2009”, issued by the Culture Market Department of the Ministry of Culture, cultural equity exchange is a way to connect the property trading market and art market, and a method to solve the problems that the market is dispersive, irregular and inefficient.

So far, more than 10 exchanges have been established in our country, including Tianjin exchange, Shanghai exchange, Shenzhen exchange, Zhengzhou exchange, Xiamen exchange, Chengdu exchange and so on. At the moment, other local governments attempt to organize their own exchanges in the whole country, including Beijing exchange, Shandong exchange and so on. Based on the function, these exchanges can be generally divided into two categories: one provides a platform for artworks trading, represented by Tianjin exchange and Zhengzhou exchange; another provides a professional comprehensive service platform for property trading, project investment and financing and artworks trading, represented by Shanghai exchange.

To a large extent, Tianjin exchange refers to the transaction mode of A share market. The property of an artwork is divided into some equal shares, and each share can be transacted in the market. By increasing the proportion of shares, and when the proportion reaches a certain number, investors can apply to complete the delivery and get the ownership of the artwork. The price of per share goes up and down with the wave of market. Investors can choose a good opportunity to buy or sell shares, and get profits from price difference.

As the first culture property exchange in China, Shanghai exchange was set up in June, 2009, attached to Shanghai property exchange. Shanghai exchange is a comprehensive service agency for cultural property right trading approved by Shanghai Municipal People’s Government. It is a professional market platform for various culture property rights trading, such as culture real rights, creditor’s rights, stock rights, intellectual property rights, etc. Its function is to act as a

culture industry investment and financing platform, culture property right trading platform, culture enterprise incubation platform and culture property right registration custody platform.

The transaction mode of Shanghai exchange is different from Tianjin exchange, and the difference can be summarized as five points as follows: Firstly, trading in Shanghai exchange is a kind of culture property trading, not the securitization trading of artworks. This is a kind of sub-financial product, and the owners just transfer part of the ownership of the product. In this process, Shanghai exchange acts as a service broker. Secondly, culture product does not divide into stock share, but transacts according to the proportion of the property. Based on the classification of the property right trading way, this property transaction belongs to buying type, rather than holding type and is a kind of real property transaction. Thirdly, absolutely in accordance with the property trading mode, there is publicity before listing the transaction. In general, the publicity period of national assets is 20 work days while non-state-owned assets also a certain period. Consensual dealings or bidding dealings would be started after the publicity period. Then, in Shanghai exchange, it adopts property trading mode, while there is not continuous dealings by bidding. This mode avoids rising or falling suddenly and sharply. Thereby, it benefits the whole market to work steadily. Last, in Shanghai exchange, transactions only go ahead in its members. Cultural products do not issue in public, and only the members of the club have qualification to do a deal when they pay a certain amount of margin. In this way, the threshold rises to ensure the ability to resist risks of members who do a deal.

These two modes have been the main development modes of all exchanges in our country. With the pace of the culture industry development more and more fast, local governments have established or are attempting to establish the Exchanges of Cultural Products and Artworks all over the country. Thus, it can be seen that the Exchange of Cultural Products and Artworks gradually becomes an element of the culture market, and we should pay more attention to this market.

III. The chaos in the market of Tianjin culture property exchange

Innovated by China, with no doubt, the establishment of the Exchange of Cultural Products and Artworks has great innovation value. However, what we can see from the history of the development of culture market is that Europe is the pioneer of this market. So, suggestions about cultural products investment from European investors have great reference value. European investors have two opinions about the Exchange of Cultural Products and Artworks in China: one is that they imitate it actively. For example, A&F Market Company set up an culture property exchange similar to Shenzhen exchange and Shanghai exchange in January, 2011; another is that they take a wait-and-see approach. Some traditional European collectors keep a cautious attitude. They think that only when some investors buy artworks with the motivation of aesthetics and culture can it prove that the transactions make a contribution to art world rather than artworks market. So we can see that everything has two sides,

especially when it is just born. Thereby, we should treat culture property exchanges with a rational view.

In the two domestic trading modes, Shanghai mode always works well, while Tianjin mode causes wide attention from the public and queries from experts because of a variety of chaos in the market. Tjin exchange, which originally wanted to be a pioneer of the development of the culture market, now is an obstacle. This situation makes the market which was not calm more fluctuating. A variety of abnormal market performance can help us learn well about the irregularities of transactions in Tianjin exchange:

Firstly, market prices bounce up and down sharply. During the first 15 days since Tianjin exchange opened up, Roar of The Yellow River and Autumn of Yan Plug hit limit-up with 15 percent in 10 days. On February 23, Roar of The Yellow River started with 7.99yuan and on 23 and 24, it fell by the 15% limit twice. On the following two days, it hit limit-up with 15% twice. In these 4 days, what happened to Autumn of Yan Plug was the same as the situation of Roar of The Yellow River.

Secondly, trading rules are modified at will. On March 7, 2011, Tianjin exchange had issued announcement that it would drop the up and down limitation from 15% to 10%. However, it didn't put the announcement into practice over the following more than 10 days. In addition, before and after the suspension of both Roar of The Yellow River and Autumn of Yan Plug, Tianjin exchange issued three notices about maintaining account system, which resulted in putting off suspending the account application of new investors.

Then, market values in exchange are far higher than that in auctions. The market value of Roar of The Yellow River, drawn by Gengyan Bai who is a landscape painter from Tianjin, rose to one hundred million, while its value of assessment was only six million at first. By contrast, the price of Love Trail Lake, drawn by Daqian Zhang, reached 100.8 million in 2010, which created his personal record. Regrettable Silence, drawn by Baishi Qi, got a price of 95.2 million in the autumn auction of Beijin Baoli International Auction Company in November, 2009, which was the highest price up to that time. It is obvious that the status of Gengyan Bai is much lower than that of the two famous masters: Daqian Zhang and Baishi Qi. So, we can see that the market value of Roar of The Yellow River was far more than its real value.

Last, information disclosure is opaque. Information issued in the website of Tianjin exchange only includes that its registration date is September 17, 2009, that its registration place is Yu Jiabao Financial District in Tianjin Binhai New Area, and that its registration capital is 135 million RMB. However, there is nothing about its nature, even it is disposed to avoid and transfer the attention of the public.

These phenomena prove that Tianjin culture property is not mature. Only when this market improves a lot can it meet the demand of the culture industry development.

IV. Analysis of the chaos in Tianjin culture property exchange

The development of things is a process. So, it needs time for a market from being chaotic to being mature. We must analyse the reasons behind the mess in this market in depth so as to guide the market to a right path. Only in this way can it make changes happen radically.

First of all, the market fixes the unique trading mode of artworks securitization on a wrong position. Since Tianjin exchange was established, shares of artworks are always mistaken to be stocks. Though division of artworks shares takes example by equal splitting of stocks, this form is not real securitization. The stock is the certificate of company equity, and investors can get dividends through it. The dividend is a kind of cash flow got from the share of profits. However, shares of artworks, transacted in the market, can not give investors shares of profits like stocks. Artworks are not like companies, which can make profits through producing and operating. So once artworks are finished, their value can only be determined by the market, not like companies whose value can be realized by discounting for cash of their incomes in the future.

The form of artworks shares, in contrast, is closer to standardization contracts in the futures market. They both have physical delivery of fixed patterns, and before the delivery is finished, there is not cash flow from securitized subject matter. The difference between them is the condition for delivery in the end. The former can be completed only when the proportion of one shares holder reaches a certain number while the latter when it arrived at the stipulated time. In addition, the market expectations of investors are different, which results in the difference between the purposes in the two markets: the former is to get profits by speculating while the latter avoid risks. However in essence, they both are a kind of real property transaction after the entity is divided into shares.

It is because of the wrong comprehension of artworks securitization that many investors haven't realized that the purpose of share transaction is to complete the delivery of the entity to get the ownership of the artwork and achieve profits through appreciation of the artwork value. So, investors usually earn profits by short-term speculation of share transactions, which leads to prices rise and fall sharply in the market and affect the market operation seriously.

Secondly, the uniqueness of artwork adds to the complexity of the market. Artworks are different from general goods, and their values are not used to be some material instruments, but to be something in spirit and culture. As artworks have characters of autonomy, individuality, creativity, nonrepeatability and so on, the value of one artwork is affected not only by factors of supply and demand, but also by the fame of the author, history environment, cultural inheritance and social value orientation and all that. In the process of investment in artworks, evaluation of the value of artworks is an essential and key factor in the whole circulation of artworks. So, a healthy artworks market needs an evaluation system.

As market rules maker, market founder and market participant at the same time, Tianjin cultural property exchange would be subjective to some extent inevitably in the evaluation of the value of artworks. So, it can hardly organize the transactions in the market with justice and objectivity, which leads to that listed artworks are too simple and the value evaluation of them is inaccurate. Resulting from factors mentioned above and investors' following suit and speculation, market price of the artwork is far higher than its real value and there is no way to complete the value evaluation through the market.

Cultural property exchange is an innovation connecting artworks and financial and the establishment of the market value evaluation system is an important link to ensure the market work well. As participants always do deals based on their own interests, there will be chaos in the market if there isn't an individual third-party organization to supervise the market.

Last, the market is not mature and power of all forces is not balanced. Mature market not only needs buyers and sellers, but also requires that they are equal in the market. Only in this situation can the market keeps balance in the game between buyers and sellers. However, cultural property exchange is a new market, where power of all forces is obviously different. This article makes analyses from exchanges, investors and supervisors as follows.

Firstly, the Exchange of Cultural Products and Artworks is too powerful. As the sponsor and organizer of the market, exchange is both market rules maker, and market participant. Therefore, in the market transaction process, exchange has the initiative in many aspects, such as art appraisal, price limit, Margin custody, as well as information disclosure, and other details. So those create conditions for exchange to seek private interests. If only rely on exchange self-discipline may be unable to meet the principle of fair trade of the market.

Secondly, investors are not professional. A market mature performance is the increase of the proportion of investment institutions, but from the situation of account open, the large proportion is some non-professional companies and individuals. This has caused the blindness of market trade, not like specialized investment institutions, who have scientific and reasonable analysis before investment. Therefore, the market is very easy to be affected by irrational behaviors of investors and can't reasonably make price.

Thirdly, the third party independent regulatory department is absent. When buyers and sellers are unable to achieve the balance in the market, it needs independent third-party institutions to join, in order to ensure the fair trading market. As involving the joint supervision of the culture and the financial department, it is difficult to reasonably and appropriately distribute responsibility, resulting in the absence of the supervision in the exchange market. Plus, because as China's first, the exchange has no reference of the supervision system, so the opinion of supervision can't reach a unified situation. In this situation, protecting investors' interests would be unrealistic and the market would go into an unordered situation of "greater fool".

V. Regulatory Proposals

Through the analyses above, we can see that the exchange regulatory system is imperfect, which has become a barrier to restrict the healthy development of this market. So, the most important thing at the moment is to develop an effective regulatory system. The establishment of the regulatory system is not just a simple introduction of an independent third party to participate in market supervision, what is more important is to understand the market characteristics and according to market characteristics to design and arrange regulatory details.

The exchange itself is a kind of financial innovation patterns, so we have to make full use of existing securities market regulatory system, to discover information that would contribute to this emerging market regulatory in the existing regulation, and then integrate and apply the information to the regulatory operation of the exchange market.

In the analysis of exchange chaos cause, we mention that one of the reasons of the current chaos is the wrong location for the market trading patterns. The exchange market is more similar to the futures market, but not same to the futures market. Therefore, we have to learn from the futures market to innovate reasonably and to suit the remedy to the case to allow the regulatory really make the market work well.

Firstly, formulate relevant laws as soon as possible, and make the market have legal bases. At present, the legal basis of the exchange market is just the Property Law, the Securities Act as well as rules of exchanges, and there is not any specialized law. Therefore, it is necessary to speed up the exchange market research at present. Based on its own characteristics, take example by the Futures Trading Act, draw the advantages of the futures market regulatory system and give a clear explanation for similar violations to constrained illegal investment behaviors in the market.

Secondly, strengthen the culture property exchange self-regulation, and curb illegal operations from the source. In the futures market, due to the status and role of exchanges in the futures market, the exchange self-regulation is at the center of the regulatory system. In the culture property exchange market, due to the specific rules between different exchanges and that trading products can not be unified, according to their specific circumstances, the culture property exchanges should implement specific regulatory measures. So the culture property exchange self-regulation should take up the first-line responsibility. Thus, the regulation of culture property exchanges should take example by the futures market regulation. Put self-regulation on the core position, strengthen the transparency of information, examine and verify listed artworks, inform investors of market risks and all that. Management should be strict at source to avoid the exchange use its own advantages to cheat investors. Thus investors' interests can be better protected.

Thirdly, establish industry self-regulation to improve the initiative. The stock market often has their respective industry associations, as well as the futures market. Industry association is an important bridge to contact the operating agency and the government and is an important complement to exchange regulation and national regulation. Industry

association has a greater mandatory and social supervision than exchange regulation, and is more flexible and pertinent than the national regulation. Therefore, the self-regulation of industry associations should play a more active role. Culture property exchanges in different regions should strengthen consultations and communications with each other and organize and establish industry associations to develop uniform rules of the market and actively communicate between the government and exchange. Express the exchange's views and convey instructions from the government in a timely manner. Harmoniously regulate the culture property exchanges from the perspective of the industry overall development.

Fourthly, refer to the supervision of art investment market, and conduct bold innovation. The nature of the culture property exchange is also an art investment market. Therefore, we can innovate on the basis of the art investment market. For example, learn from the escrow mechanism of the art investment market and establish an independent "art banking" to ensure the safety of the art storage and avoid the credit risk of the delivery. Besides, establish specialized art rating agencies to integrate the entire art industry information resources, and establish exchange art value index, and then regulate the entire art investment market to create a good and stable environment for China's cultural industry to take off.

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