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A study on the mechanisms of shareholders' equity adjustment in bankruptcy reorganization of listed companies

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A STUDY ON THE MECHANISMS OF SHAREHOLDERS' EQUITY ADJUSTMENT IN BANKRUPTCY REORGANIZATION OF LISTED COMPANIES

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I hereby declare that this PhD dissertation is my original work and it has been written by me in its entirety.

I have duly acknowledged all the sources of information which have been used in this dissertation.

This PhD dissertation has also not been submitted for any degree in any university previously.

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Abstract

In recent years, amid cyclical macroeconomic fluctuations, national economic slowdown, economic restructuring, and over-expansion of some enterprises, a number of listed companies have faced serious debt and operational challenges, many of which are worthy of keeping afloat. From June 1, 2007 when the *Enterprise Bankruptcy Law of the People's Republic of China* came into effect, up to the end of 2021, a total of 93 listed companies in China have gone through bankruptcy reorganization, one of the major means to save the listed companies in distress.

The bankruptcy reorganization of listed companies, by its nature, is a process of game and balance among stakeholders. Such game and balance are reflected in almost all aspects including debt adjustment and settlement, shareholders' equity adjustment, and business plans. The adjustment of shareholders' equity is the adjustment and redistribution among creditors, investors and original shareholders of the shares of a reorganized listed company. Since the reorganization of listed companies often requires debt-to-equity swaps to offload huge debts and the introduction of reorganization investors with shares as consideration, the adjustment of shareholders' equity, which can also reflect the contents of debt adjustment and settlement as well as business plans, is the focus of the game and balance of interests of stakeholders in the bankruptcy reorganization. It determines the actual effect of the reorganization.

The bankruptcy reorganization of listed companies in practice shows that due to factors such as inconsistent, conflicting interest claims of all stakeholders at the initial stage, some listed companies have missed the opportunity to get out of trouble through bankruptcy reorganization, exposing themselves to the risk of delisting. This in turn has hurt the employment, taxation, and financial stability of the regions where they locate. In addition, a number of listed companies failed to balance the interests of all stakeholders from the long-term perspectives including financial returns for creditors and investors and the going concern value of listed companies; with such issues as unreasonable pricing of shares, neglected the reorganization value, and failure to avoid the risk of delisting in adjusting shareholders' equity, their reorganization has proven weaker-than-expected.

This dissertation describes the current situation and issues of shareholders' equity adjustment in bankruptcy reorganization of listed companies in practice. The author proposes a shareholders' equity adjustment mechanism, aiming to solve the issues in practice by drawing on successful cases and the author's practical experience. This dissertation argues that an effective shareholders' equity adjustment mechanism should avoid delisting risks, enhance the value of reorganization, and focus on share distribution on a balance of interests basis. Such a mechanism is designed to reasonably distribute reorganization resources of listed companies, maximize the interests of all stakeholders, achieve long-term reorganization effect, and realize the integration of economic and social interests.

Keywords: listed companies, bankruptcy reorganization, shareholders' equity adjustment, and balance of interests

Contents

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Chapter 1 Introduction

1.1 Background

1.1.1 Bankruptcy reorganization cases of listed companies surge due to multiple factors

In recent years, under the influence of multiple factors such as cyclical macroeconomic fluctuations, increasing economic downward pressure, and national economic restructuring, some listed companies have encountered obstacles in their highly leveraged expansion, hindrance in business transformation, and failure in diversification, resulting in the accelerated exposure of their long-accumulated risks. All these lead to high financial costs, declining profitability and drying up of cash flow, and eventually serious debt distress and operational difficulties. In this context, a growing number of distressed listed companies are starting to seek a turnaround through bankruptcy reorganization.

The bankruptcy reorganization system plays a significant role in rescuing enterprises in distress, optimizing market resource allocation, and promoting supply-side structural reform. The bankruptcy reorganization system originated from common law countries.[1] The Enterprise Bankruptcy Law, which was

[1] The origin of the modern company rescue mechanism can be traced back to at least 1926. At that time, South Africa introduced a legal system known as "Judicial Management" through the Companies Amendment Bill for financially distressed companies. Almost at the same time, the Receiver system was set up in the Companies Act in the UK, which stipulated the reorganization procedure of general companies. Since 1930s, the US Congress has formally incorporated the enterprise bankruptcy reorganization system into the framework of bankruptcy law. See Westbrook, J. L., Booth, C. D., Paulus, C.G., & Rajak, H. (2018). *A Global View of Business Insolvency Systems* (Z. Wang, Trans.). China University of Political Science and Law Press. (Original work published 2010)

implemented on June 1, 2007, officially introduced this system, which filled a legal gap in China's market economy and laid the legal foundation for saving enterprises in distress.[2] In traditional bankruptcy liquidation, a company's estate will be distributed to pay off its debts in a certain sequence and the company will be finally disqualified as incorporation. By contrast, a troubled company can retain its qualification as incorporation, reduce its debt burden, improve its operations and thus maintain its survival and development through bankruptcy reorganization. This provides an opportunity to protect creditors' interests while obtaining social benefits.

According to the author's statistics, 93 bankruptcy reorganization cases of listed companies in China have been accepted by the people's courts since the implementation of the Enterprise Bankruptcy Law until the end of 2021. As can be seen from the figure below, bankruptcy reorganization cases of listed companies saw a gradual decline first and then a sudden surge.[3] Between 2007 and 2018, 54 listed companies' bankruptcy reorganization applications were accepted by the people's courts, averaging 4.5 applications per year. Between

[2] Under the planned economy in the past, bankruptcy was regarded as a phenomenon unique to capitalist societies, and China's enterprise bankruptcy system has long been absent. With the deepening of economic system reform, the necessity of a bankruptcy system has been gradually recognized and accepted. The Enterprise Bankruptcy Law promulgated in 2006 and implemented in 2007 has specified the legislative purposes of fairly liquidating claims and debts and protecting the legitimate rights and interests of creditors and debtors, which is of irreplaceable significance for maintaining social interests and normal economic order and improving the competition mechanism of survival of the fittest in the market economy. See Wang, X. (2011). *The Bankruptcy Law (3rd Edition)*. China Renmin University Press; Wang, W. (2007). *The Essence of Bankruptcy Law*. Law Press China.

[3] The higher number of bankruptcy reorganization cases between 2007 and 2010 was related to the disposal of the backlog of cases after the introduction of the Enterprise Bankruptcy Law and the outbreak of the global financial crisis in 2008. Since then, the figure has gradually decreased with gradual economic recovery. See KWM Institute Research Group. (2021, June 4). *An Empirical Analysis of Bankruptcy Reorganization of Listed Companies*. SSE Securities Law Court.

2019 and 2021, however, the number of accepted applications soared to 39, an average of 13 annually, far exceeding the historical average, making the newly accepted bankruptcy reorganization cases of listed companies since 2019 account for 41.94% of the total.

年份	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
受理数量	6	10	7	7	4	4	4	2	2	3	2	2	7	15	17

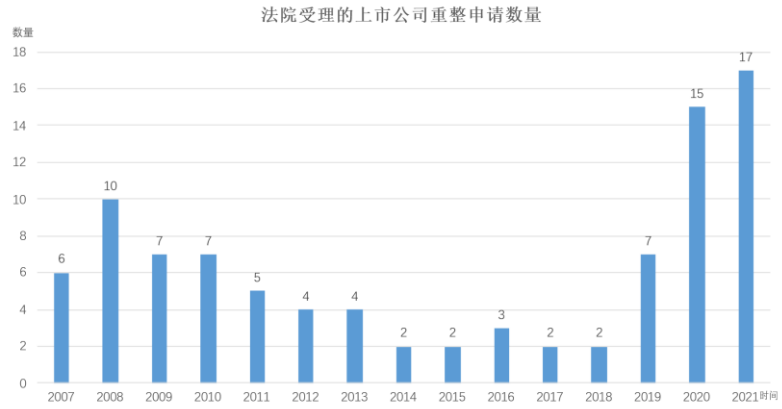

Figure1.1 The number of reorganization applications by listed companies accepted by the court

Another apparent phenomenon is that so many listed companies have gone through bankruptcy reorganization, but none of them have gone into bankruptcy liquidation. By the end of 2021, 92 of the 93 cases mentioned above had been approved by the court, of which 81 listed companies' bankruptcy reorganization plans had been implemented. This fact demonstrates the value of the bankruptcy reorganization in realizing the short-term goal of preventing listed companies from going into liquidation. However, as observed by the author, some listed companies lost their best opportunity to get out of the distress as they failed to go through the bankruptcy reorganization process despite tremendous efforts,

such as Huaxun Fangzhou (000687) and Eastern Gold Jade (600086). Among the listed companies that have completed the bankruptcy reorganization process, still some listed companies, such as Protruly Vision (600074) and Tianxiang Environment (300362) have been delisted after reorganization. In addition, many saw poor performance of share price, making it difficult for creditors and investors to get the expected returns, such as XGMA (600815) and Tianyu Digital Technology (002354),[4] and many others are still under risk warning after reorganization, seeing no substantive improvement in their fundamentals, such as Liyuan Precision Manufacturing (002501) and SMTCL (000410). All these cases show that the current bankruptcy reorganization of listed companies has not yet fully played its proper institutional value, and the long-term reorganization of listed companies is not as effective as expected.

In the author's view, resolving debt risks in the short term is only the first step to completing the reorganization, and the improvement of continuing operations and profitability is the long-term indicator to test the reorganization effect. Otherwise, listed companies cannot really get out of trouble. This is prone to harm existing and new investors once again while wasting judicial and social resources for debt repayment. The current bankruptcy reorganization of listed companies may present divergent long-term and short-term

[4] Some of the listed companies mentioned in this dissertation have changed their stock name abbreviations before or after the bankruptcy reorganization for reasons such as company name change and risk warning. For the ease of identification, this dissertation uses their abbreviated securities names prior to the bankruptcy reorganization when they had not yet been given risk warnings. The same applies below.

reorganization effects, which restricts the bankruptcy reorganization system from giving full play to its role. Only when the long-term and short-term reorganization effects are consistent can the bankruptcy reorganization system better play its role and truly help listed companies get out of trouble.

1.1.2 Shareholders' equity adjustment as the focus of interest determines the success and practical effect of reorganization

Bankruptcy reorganization is a judicial procedure in which the debts and business of a bankrupt enterprise are adjusted under the direction of the people's courts and the engagement of all stakeholders. In accordance with the Enterprise Bankruptcy Law, if an enterprise meets the conditions for bankruptcy reorganization, the enterprise or its creditors may apply to the people's court for bankruptcy reorganization.[5] After accepting the application, the people's court will notify the creditors and appoint the administrator who will mainly lead, among other things, the examination of claims, property investigation and introduction of investor; based on the above and the communications and negotiations with the creditors, investors and original shareholders, the administrator will develop a draft reorganization plan and submit it to the creditors' meeting for consideration and adoption and to the people's court for approval until the implementation of the reorganization plan is completed. In

[5] Article 2 of the Enterprise Bankruptcy Law provides: "Where an enterprise legal person is unable to repay its debts as due, and its assets are insufficient to repay all its debts or where it is clearly insolvent, its debts shall be liquidated in accordance with this Law. An enterprise legal person that falls under any of the circumstance described in the preceding paragraph or may be clearly insolvent may be reorganized in accordance with this Law."

this process, Chen and Hao (2018) point out the people's court mainly acts as a protector and facilitator in this judicial procedure. Li (2012) suggests the bankruptcy reorganization process, by its nature, is a process in which creditors, capital contributors, reorganization investors, and other stakeholders play the game of interests and balance under the limitations of various factors and relatively rigid time constraints.[6] In principle, the people's courts will respect the results of free negotiations and full game achieved by all stakeholders in the open and transparent bankruptcy procedure, and minimize the intervention of public authority.[7] The actual effect of reorganization is essentially determined by the result of the game and the balance of interests of all stakeholders.

The game and the balance of interests in the bankruptcy reorganization process are reflected in almost all aspects including debt adjustment and settlement, shareholders' equity adjustment, and business plans. The adjustment of shareholders' equity is the adjustment and redistribution among creditors, investors and contributors of the shares of a reorganized listed company to pay off its debts, bring in outside investors and optimize the corporate governance structure. Although the adjustment of shareholders' equity is not one of the necessary elements of a draft reorganization plan under the Enterprise

[6] Pursuant to Article 79 of Enterprise Bankruptcy Law, the debtor or the administrator shall submit a draft reorganization plan within six months of the date of the people's court's ruling for reorganization of the debtor, or within an extension of three months in a special circumstance. Where the debtor or the administrator fails to submit a draft reorganization plan within the specified time period, the people's court shall rule on the termination of the reorganization process and declare the debtor bankrupt.

[7] The Supreme People's Court emphasized in the *Minutes of the National Court Work Conference on Bankruptcy Trial* released in March 2018 that "the people's courts should prudently apply Article 87(2) of the Enterprise Bankruptcy Law and should not abuse the power of compulsory approval."

Bankruptcy Law,[8] Lin and Huang (2003) believe it has been widely accepted in the world under the popularization of the "contingent governance" theory, in which the residual claims and control of a company change according to its operating conditions. For listed companies, in particular, almost all listed companies under bankruptcy reorganization have made adjustments to their shareholders' equity. According to the author's statistics, of the 92 bankruptcy reorganization plans of listed companies approved by the court as of the end of 2021, 84 involve the adjustment of shareholders' equity, accounting for 91.30%. All of the 65 listed companies' reorganization plans approved after the end of 2010 have made adjustments to their original shareholders' equity, and only eight listed companies whose reorganization had been accepted before the end of 2010 did not make any adjustments to their shareholders' equity.

Since listed companies often need to offload huge debts by debt-to-equity swaps and bring in reorganization investors with shares as consideration, a shareholders' equity adjustment plan, which can also reflect the core contents of debt adjustment and settlement as well as business plans, presents a full picture of the game and balance of interests of stakeholders in the bankruptcy reorganization process and stands at the focus of the game and balance of interests of all stakeholders (Chen & Li, 2021). A fair and equitable adjustment

[8] In accordance with Article 81 of the Enterprise Bankruptcy Law, a draft plan for reorganization shall contain: (1) the debtor's plan for business operations; (2) classification of the creditors' claims; (3) the plan for the adjustment of the claims; (4) the plan for payment of the claims; (5) the period of time for implementing the reorganization plan; (6) the period of time for supervising the implementation of the reorganization plan; and (7) other plans conducive to the debtor's reorganization. There is no mention of a shareholders' equity adjustment plan.

of shareholders' equity is conducive to striking a balance of interests among creditors, original shareholders, investors and other stakeholders and ensuring a successful reorganization (Cao, 2018).

In other words, the adjustment of shareholders' equity is an excellent window to observe the full picture of the game and the balance of interests of all stakeholders. Therefore, the author intends to study the adjustment of shareholders' equity in the bankruptcy reorganization of listed companies from the perspective of the game and balance of interests, and make practical recommendations on how to improve the long-term effect of reorganization and bring into play the role of bankruptcy reorganization system.

1.2 Literature review

1.2.1 Review of Chinese literature

The adjustment of shareholders' equity is often discussed by the Chinese scholars in their studies on bankruptcy reorganization.

Wen and Li (2010) expound on this issue from perspectives of the necessity, approaches and types, and procedures of shareholders' equity adjustment. In terms of the procedures, in their view, the Enterprise Bankruptcy Law did not specify an explicit voting mechanism for the shareholders' equity adjustment plan; the absolute majority rule common in practice was to the disadvantage of small and medium investors. They proposed to adopt a dual standards approach where the shareholders' equity adjustment plan may be approved by both two-thirds of the votes held by the shareholders present at the meeting, and a

majority of the shareholders present.

Tang (2014) focused on the interests of the minority shareholders in the adjustment of shareholders' equity. He recommended a differentiated equity adjustment approach for minority shareholders in that they should bear the adverse consequences of the reduction of their shareholding ratio resulting from the equity adjustment in inverse proportion to their contribution to net assets. Further, their rights to know and vote should be protected, and to this end, he proposed the adoption of voting by class and voting online when shareholders vote on the plan.

Zhang (2016) discussed the principles that should be applied by the court in its mandatory approval of a reorganization plan. In her view, in the case of a reorganization plan involving adjustment of contributors' equity, if the voting group did not approve the plan and refused to vote again or denied it again, the court should organize a hearing attended by stakeholders when mandatorily approving the plan.

According to Zou (2017), when the court applied the mandatory approval rule in a reorganization process, the shareholders' equity adjustment plan should be subject to the absolute priority rule. Moreover, since the debt-to-equity swap was not a form of debt settlement in the legal sense, this approach to adjust the shareholders' equity must be approved by the voting group of relevant creditors rather than be directly applied in a mandatory reorganization.

Through case analysis, Cao (2018) discussed the necessity of shareholders'

equity adjustment, the problems of existing practices and recommended solutions. He proposed that the principle of priority protection of creditors' interests and inferiority of shareholders' interests should be adhered to in the shareholders' equity, and the reduction ratio of shareholders' equity should not be lower than that of claims; on this basis, the protection of shareholders' interests can be taken into account.

Yang and Wang (2020) pointed out that, in adjusting shareholders' equity in bankruptcy reorganization, there should be a differentiation between controlling shareholders and medium and small shareholders, and the controller should bear additional liabilities based on its control position. So long as it can be proved that the controller abuses its control, different equity adjustment rules should be applied differentiatedly for the controller at fault and medium and small shareholders.

Chen and Li (2021) focused on the equity adjustment value deviation in the reorganization practices of listed companies. They argued that there is a lack of mechanism for shareholder participation under the current institutional arrangement. In this case, due to the discrepancy between the price of equity-for-debt repayment and the market price in the adjustment of shareholders' equity, the opinions of all parties concerned may not be reflected or the recognition and understanding of all parties concerned may not be obtained. Therefore, the information disclosure system in the reorganization shall be improved to promote the interaction between contributors and creditors.

1.2.2 Review of foreign literature

There is little foreign literature with a direct focus on shareholders' equity adjustment in bankruptcy reorganization; most is based on the interpretations and applications of the absolute priority rule.

Trost (1973) pointed out that the original Chapter 10 "Bankruptcy Reorganization" of the US Bankruptcy Code only recognizes the value of shareholders' contributions in a reorganization, but not their significance in the operation and management of the company. This Chapter 10 should allow shareholders to participate to a certain extent in the adjustment and distribution of interests in the bankruptcy plan, in order to better integrate the resources and power of shareholders in the bankruptcy reorganization process.

Adams (1993), after analyzing the historical development and judicial application of the "new value exception" to the absolute priority rule, pointed out that, with some refinements to the "new value exception" rule, shareholders should be allowed to acquire a portion of the company's equity by paying a fair market price before the debtor is paid, which will not prevent a reorganization from achieving the twin goals of "reorganizing the debtor" and "protecting the creditors".

LoPucki and Whitford (1990, 1992-1993) found from their empirical study of the 43 largest public firms between 1979 and 1988 that for insolvent firms, shareholders almost always participate in distributions to the firm despite the absolute priority rule, while for marginally solvent firms, there is an "equitable

sharing" between the firm's shareholders and creditors that deviates from the absolute priority rule. In general, the overall pattern of bankruptcy reorganization is "equitable sharing" of losses between creditors and shareholders.

Jackson and Scott (1989) argue that in a bankruptcy reorganization, a company in distress is a "common disaster" for creditors, shareholders, and other third party stakeholders, and therefore the negotiation of a reorganization plan should not be limited to creditors. Equity adjustments and redistributions should take into account both shareholders and third parties.

According to Nimmer (1987), the central issue in balancing the interests of a company's shareholders and creditors can be summarized as whether losses incurred in a bankruptcy reorganization should be borne by the company's shareholders to protect the interests of creditors, or by creditors to protect the shareholders' ownership of the company. He argues that U.S. bankruptcy reorganization judicial practice often overprotects the company's shareholders, which leads to the detriment of creditors' interests.

1.2.3 Summary of literature review

It can be seen that most of the existing studies are based on the local perspective of creditors and shareholders, but not a global perspective of the game and balance of interests of the stakeholders involved in the equity adjustment. In addition, these studies mostly focus on the issues such as the legal basis, legal principles and specific procedures for shareholders' equity

adjustment, lacking research from the perspective of long-term effects of reorganization and attention to the rationality and optimization of the specific plan for shareholders' equity adjustment in practice. Further, the research on the adjustment of shareholders' equity in bankruptcy reorganization of listed companies should evolve along with the developments in practice. In recent years, with growing bankruptcy reorganizations of listed companies and legislative improvement, the reorganization practices in China show certain new phenomena, which makes some studies relatively outdated.

This prompted the author to conduct a comprehensive and in-depth study on shareholders' equity adjustment in bankruptcy reorganization of listed companies, taking into account the latest reorganization practices. It also highlights the theoretical and practical significance of this empirical study of 92 bankruptcy reorganization cases of listed companies approved by the court up to the end of 2021 and the proposed mechanism of shareholders' equity adjustment.

1.3 Content and significance of this study

1.3.1 Content

The core issue discussed in this dissertation is the adjustment of shareholders' equity in the bankruptcy reorganization of listed companies. This study, based on an empirical study of 92 bankruptcy reorganization cases of listed companies approved by the court by the end of 2021, is intended to build a mechanism for adjusting shareholders' equity that can effectively utilize

reorganization resources, balance the interests of all stakeholders, and achieve long-term reorganization effect. Focusing on such core issue, this dissertation is divided into six chapters. Except for Introduction and Conclusion, Chapters 2 to 5 are the main part whose logical relationship is as follows: First, this dissertation starts with an analysis of the current situation of shareholders' equity adjustment in bankruptcy reorganization of listed companies. By studying the abovementioned 92 bankruptcy reorganization cases of listed companies, the author finds that the existing bankruptcy reorganizations of listed companies are common in using the conversion of capital reserves into share capital as a basic approach and the debt-to-equity swap as a main debt settlement method, seriously considering the role of introducing investors and showing a relatively strong attribute of administrative supervision. These cases also show that some of listed companies failed to start the reorganization process, or after the reorganization, the stakeholders failed to obtain their expected financial returns, the listed companies were still facing operational distress or delisting risks after the reorganization. In the author's view, the fundamental reason for the above problems is that the shareholder equity adjustment mechanism has not yet balanced the interests of all parties, resulting in, among others, unreasonable share pricing, neglect of the reorganization value, and failure to effectively avoid the risk of delisting. Based on the characteristics, problems and causes summarized in the empirical analysis in Chapter 2, and in order to further improve the effectiveness of bankruptcy reorganization and bring into play the value of the bankruptcy reorganization system, the author proposes a systematic mechanism for adjusting shareholders' equity, as a proposal to help improve the existing shareholders' equity

adjustment, following the idea of "retaining the cake - making the cake bigger - cutting the cake properly" in Chapters 3, 4, and 5. That is to say, firstly, the adjustment mechanism should effectively safeguard a listed company against the risk of delisting by adopting temporary commercial remedies, starting preparation for reorganization as early as possible, effectively taking advantage of the pre-reorganization system, and making reasonable arrangements for conversion of capital reserves (i.e. retaining the cake); this is the prerequisite for making adjustments. Secondly, the reorganization value of a listed company must be enhanced as much as possible by optimizing the corporate governance structure, developing a detailed business improvement plan, introducing sufficient incremental capital, injecting business with synergy and matched reorganization investors (i.e. making the cake bigger); this is the cornerstone of the shareholders' equity adjustment; lastly, shares of a listed company must be distributed on a balance of interest basis among stakeholders by means of appropriate concession of creditors' equity, reasonable disposal of former major shareholders' equity and necessary setting of investors' equity (i.e. cutting the cake properly); this is the core to implement the mechanism for adjusting shareholders' equity.

The structure of this dissertation is as follows:

Chapter 1 is the introduction. In this section, the author described how the topic originated and developed and was proposed, and introduced the content, significance, and methodology of this study based on an analysis of the existing research results at home and abroad.

Chapter 2 discusses the current status of shareholders' equity adjustment in bankruptcy reorganization of listed companies and the relevant problems.

Currently, adjustment of shareholders' equity in bankruptcy reorganization of listed companies is common in using conversion of capital reserves into share capital as the basic means, and debt-to-equity swap as the main debt settlement method, considering the role of introducing investors and featuring strong administrative supervision. As seen from the current adjustment practices, some stakeholders failed to obtain the expected financial returns through the reorganization. Some companies did not get rid of operational distress and are still facing the risk of delisting after the reorganization. Some listed companies failed to enter the reorganization process. The core reason for the above problems is that the shareholders' equity adjustment plan has not yet balanced the interests of all parties with unreasonable share pricing, neglect of the reorganization value and failure to effectively avoid the risk of delisting.

Chapter 3 analyzes the premise of the shareholders' equity adjustment mechanism - avoiding the risk of delisting. If such risk cannot be avoided, the reorganized listed company will face irreparable losses, resulting in the reduction of the reorganization value and the slim chance of re-listing. As such, it is necessary to reasonably anticipate the delisting risks faced by listed companies. These risks mainly come from two aspects: first, financial delisting risk; second, trading-based delisting risk. In order to avoid the delisting risk, it is necessary to start preparation for the reorganization early and actively use the pre-reorganization system, as well as to reasonably arrange the conversion of capital reserves into share capital, in addition to the temporary commercialization means.

Chapter 4 analyzes the premise of the shareholders' equity adjustment mechanism - enhancing the reorganization value. Reorganization value is the

basis for reasonably allocation of reorganization resources and the key to achieving the value objectives of the bankruptcy reorganization system. The reorganization value of listed companies is reflected in going concern value, listing status value and social value. In order to enhance the reorganization value of a listed company, it is necessary to prepare a sound business plan, optimize the corporate governance structure, develop a detailed business improvement plan, introduce sufficient incremental capital, inject high-quality business with synergy, and select reorganization investors who can meet the demand of listed companies.

Chapter 5 analyzes the core of the shareholders' equity adjustment mechanism – distributing shares based on the balance of interests. In terms of the principles and methods for the distribution in shareholders' equity adjustment, the shares should be properly allocated on a balance of interests basis among the stakeholders in accordance with the principle of fairness under the Enterprise Bankruptcy Law, taking into account the respective contributions to the reorganization value of all stakeholders. The absolute priority rule applied to creditors should be broken reasonably, with the principles of equity attribution, operational contribution and fault liability considered in disposing the shares of the original major shareholders to fully protect investors' reasonable claims for interests.

Finally, the dissertation is concluded with an overview and derivation of the previous conclusions, and directions for future study.

1.3.2 Significance of this study

This dissertation has great theoretical and practical significance.

Theoretically, as mentioned above, the existing studies focus on either the

legal basis or some specific issues of shareholders' equity adjustment in bankruptcy reorganization of listed companies, with little research on how to build a reasonable shareholders' equity adjustment mechanism from a global perspective of all stakeholders and a long-term view of the reorganization effect. And most of the existing research results discuss the adjustment of shareholders' equity in the context of legal rules or jurisprudence, but rarely touch on the business consideration of shareholders' equity adjustment. From a combined perspective of law and business, this dissertation takes the balance of interests of all parties in the reorganization of listed companies as a thread and proposes a shareholders' equity adjustment mechanism to balance the commercial interests of all parties under the current legal framework and regulatory system. It is believed that this dissertation will shed some light on the theoretical research on shareholders' equity adjustment and long-term reorganization effect. In addition, this dissertation also clearly expresses the author's position on whether a creditor should be entitled to absolute priority or relative priority in bankruptcy reorganization, which is widely discussed in the academic circle. The author believes that in the context of bankruptcy reorganization, the principle of relative priority, rather than the principle of absolute priority, should be adhered to.

This dissertation identifies the general characteristics, common problems and their reasons of shareholders' equity adjustment in bankruptcy reorganization of listed companies by analyzing the bankruptcy reorganization cases of 92 listed companies approved by the court by the end of 2021, which is a summary of practical experience. Secondly, this dissertation proposes targeted solutions to these problems identified. The mechanism of shareholders'

equity adjustment has practical guidance as it is designed to address the problems in practice and help distressed listed companies better recover, protect the rights and interests of creditors to the greatest extent and avoid the debt crisis in a wider range. The author sincerely hopes that by reasonably applying the proposed mechanism of shareholders' equity adjustment, better assistance may be provided for distressed listed companies to help them get out of trouble, promote win-win cooperation among stakeholders, and achieve both economic and social benefits of the bankruptcy reorganization system.

1.4 Methodology

The research methods used in this dissertation are mainly literature analysis, empirical analysis and case study analysis.

1.4.1 Literature analysis

Literature analysis is one of the most basic research methods in social science research. Through the analysis and study of relevant domestic and foreign literature, the author has formed a systematic and systemic knowledge of the research topic of the dissertation. Literature analysis runs throughout the research and drafting of this dissertation. The existing research results on the adjustment of shareholders' equity in bankruptcy reorganization of listed companies at home and abroad not only laid the theoretical foundation and improved the theoretical framework of this dissertation, but also inspired and supported the viewpoints of this dissertation in a large part.

1.4.2 Empirical analysis

The life of law lies not in logic but in experience, and theoretical research should never be divorced from practice. The topic of this dissertation originates

from the author's reflections on the bankruptcy reorganization cases he participated in, with the aim to address practical problems by proposing a mechanism for adjusting shareholders' equity. Therefore, empirical analysis is a key part of this dissertation. Based on the empirical analysis of the bankruptcy reorganization cases of 92 listed companies approved by the court by the end of 2021, this dissertation summarizes the notable features and problems of shareholders' equity adjustment in bankruptcy reorganization of listed companies, and proposes systematic and targeted recommendations, which is the core value of this dissertation.

1.4.3 Case study analysis

In addition to a systematical summary of the bankruptcy reorganization cases of these 92 listed companies, the author also conducts in-depth research on some typical cases involved based on the sub-topics of relevant chapters. The in-depth analysis of the typical cases helps the author to further unearth the underlying motives of the general phenomena summarized from empirical analysis. This has expanded the depth and breadth of this study, making the mechanism of shareholders' equity adjustment proposed in this dissertation more practically meaningful.

Chapter 2 Current Status and Issues of Shareholders' Equity Adjustment in Bankruptcy Reorganization of Listed Companies

Generally speaking, listed companies are characterized by huge scale, a large number of shareholders, complex debt relationships, and wide social influence. They play an important role in maintaining local financial stability, resolving employment issues, increasing taxes, and driving the development of downstream industry chains in relevant industries. In bankruptcy reorganization, listed companies need to coordinate extremely complex interest relationships. Behind the seemingly common shareholder's equity adjustment plan, there are some special deep considerations and also some prominent common issues when a listed company adjusts and allocates the original shareholders' equity among the stakeholders.

2.1 Striking features of shareholders' equity adjustment

By the end of 2021, 92 of the 93 listed company bankruptcy reorganization applications accepted by the people's courts in China had been approved. After systematically examining the relevant listed companies and the terms of their reorganization plans, the author has observed the following general features of the shareholders' equity adjustment in the bankruptcy reorganization of listed companies.

2.1.1 Conversion of capital reserves into share capital as a basic approach

According to the author's statistics, the approaches of listed companies to shareholders' equity adjustment mainly include the transfer of stock shares, conversion of capital reserves into share capital and reduction of shareholding. Transfer of stock shares refers to the direct transfer of part of the shares held by

shareholders of a listed company to creditors without compensation for offsetting debts for the listed company, or to investors with compensation for introducing the investors and funds for the listed company. Conversion of capital reserves into share capital refers to a listed company's conversion of its capital reserves to shares without reducing the number of shares held by the original shareholders, in order to offset debts to creditors or introduce investors with the increased shares. A reverse stock split refers to the reduction of the number of shares held by all shareholders of the listed company in the same proportion, in order to offset debts to creditors or introduce investors with the shares to be reduced.[9] In practice, the above three approaches may also be used in combination.

[9] For example, suppose a listed company has a total share capital of 10 million shares at a reasonable price of RMB1 each (both for debt-to-equity swap and for introduction of investors) and a debt of RMB 5 million to be swapped for equity, and need to introduce RMB 3 million investment funds for reorganization. If the listed company adjusts shareholders' equity by transfer of stock shares, its original shareholders should assign 8 million shares to the creditors and investors. The adjusted equity structure of the listed company would be: 2 million shares (20%) held by the original shareholders, 5 million shares (50%) held by the creditors, and 3 million shares (30%) held by the investors. If the listed company adjusts shareholders' equity by conversion of capital reserves into share capital, it should allocate the increased 40 million shares to the creditors and investors and the share price after the conversion would be RMB 0.2 per share after ex-right and ex-dividend. The adjusted equity structure of the listed company would be: 10 million shares (20%) held by the original shareholders, 25 million shares (50%) held by the creditors, and 15 million shares (30%) held by the investors. If the listed company adjusts shareholders' equity by reverse stock split, the original shareholders of the listed company should reduce their holdings to 2 million shares, and the remaining 8 million shares should be allocated to the creditors and investors. The adjusted equity structure of the listed company would be: 2 million shares (20%) held by the original shareholders, 5 million shares (50%) held by the creditors, and 3 million shares (30%) held by the investors. Regardless of the approaches of shareholders' equity adjustment, the same result can be achieved in theory.

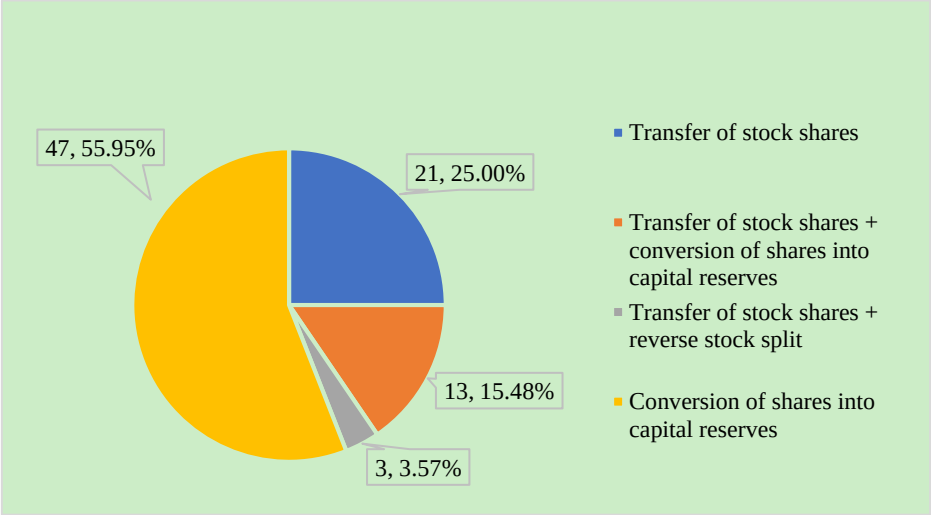

Figure 2.1 Statistics on the approaches of shareholders' equity adjustment under the approved reorganization plans from 2007 to 2021

For the 84 listed companies that adjusted shareholders' equity from 2007 to 2021 in China, conversion of capital reserves into share capital and transfer of shares were the most commonly used approaches, and at least one of these two approaches was used, for equity adjustments in their bankruptcy reorganization. Nevertheless, the approach of transfer of stock shares has been gradually abandoned in practice over these years, even though it still occupies a certain proportion in statistics to date.

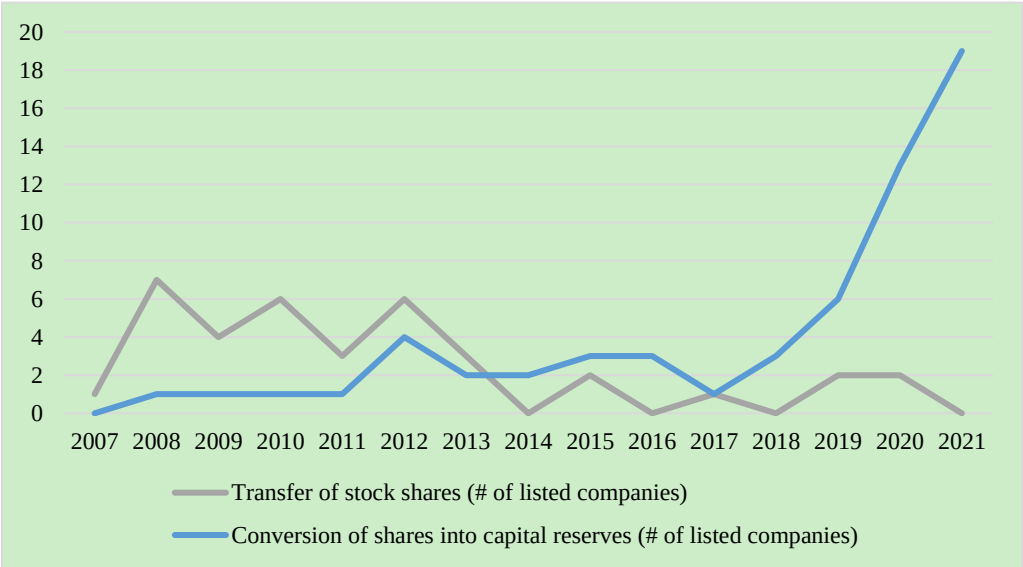

Figure 2.2 Trend of shareholders' equity adjustment under the approved reorganization plans from 2007 to 2021

As shown in the figure above, conversion of capital reserves into share capital has gradually been accepted and widely used as time went by. From 2016 onward, only Pang Da Automobile Trade (601258) and Chongqing Iron & Steel (601005) were seen their controlling shareholders transfer stock shares in addition to the conversion of capital reserves into share capital, and all other reorganized listed companies adjusted their shareholders' equity by the conversion of capital reserves into share capital only. The conversion of capital reserves into share capital has basically become the only approach to adjusting shareholders' equity in the bankruptcy reorganization of listed companies at present. In practice, capital reserve has become the core tool for adjusting the proportion of shareholders' equity among creditors, original shareholders and investors. The amount of capital reserve of a listed company determines the number of incremental shares and the amount of total share capital, and also determines the proportion of creditors' and investors' equity to a certain extent, and even the future control and governance structure of the listed company.

This is because of the inherent advantages of conversion of capital reserves into share capital: first, this approach does not require the reduction of the stock shares of the original shareholders of the listed company, and it is easy to obtain the approval of the original shareholders for the equity adjustment plan; second, shares can be issued without going through the administrative approval procedures, and pricing is flexible, which are more attractive to investors; and third, although the share capital increase may bring about a dilution effect, the increased shares may be issued without ex-rights or with the ex-rights formula adjusted appropriately in current practice (Zha, 2020), which further reduces the resistance to this approach. In contrast, the transfer of stock shares will

directly reduce the interests of the original shareholders. Thus, it is often difficult to operate due to the freezing or pledge of shares. The reverse share split will affect the implementation of the "face value-based delisting" rule and thus has not been recognized by the securities regulators (Kang, 2020).[10]

Notably, in the case of insufficient capital reserves, some listed companies, including Fushun Special Steel (600399), Ningxia Zhongyin Cashmere (000982) and Shenzhen Feima International (002210), increased their capital reserves by cash donations from controlling shareholders, debt waiver by creditors and debt waiver by investors after acquiring debts. The valuable debt payment resources thus created were meaningful for the implementation of shareholders' equity adjustment.

2.1.2 Debt-to-equity swap as the main scheme for debt settlement

According to the author's statistics, listed companies generally use a combination of methods and different schemes for different types of debts since their debts may include secured debt, general debt, employee debt, and tax debt. These schemes include cash payment, debt extension, debt-to-equity swap and debt waiver. To be specific, cash payment means direct cash payment of partial debts, mainly for repayment of employee debt, tax debt and small debts below a specific amount. Debt extension means repayment of partial debts in installments over years after extension, mainly for repayment of secured debt within the security value of the relevant property. Debt-to-equity swap means

[10] The SZSE Appeal Review Committee indicated in its decision on the face value-based delisting of B shares of Dongfeng Sci-tech Group Co., Ltd., "Reverse share split cannot either change the fundamentals of the listed company or effectively enhance its core competitiveness or performance. It is an evasion of the delisting rules. If reverse share split is allowed, the face value-based delisting system will become a dead letter, which is not conducive to building a healthy ecology of the capital markets or protecting the legitimate rights and interests of investors." See Kang, S. (2020). No Exception for Face Value-based Delisting! Reverse Share Split Not Allowed! The First Face Value-based Delisting of B Shares. *China Securities Journal*.

offset of partial debts by shares of the listed company, mainly for repayment of secured debt beyond the security value of the relevant property and general debt. Debt waiver means a waiver of partial debts by creditors in the case of insufficient repayment resources. Debt-to-equity swap has been gradually and commonly used in recent years, assisting listed companies to settle huge debts and becoming an important part of shareholders' equity adjustment plan. A debt-to-equity swap is an exchange of debt for shares. The debt-to-equity swap is the listed company's repayment of the creditor's claim in consideration of its shares from the listed company's perspective, and also the creditor's capital increase to the listed company in consideration of its claims from the creditor's perspective.

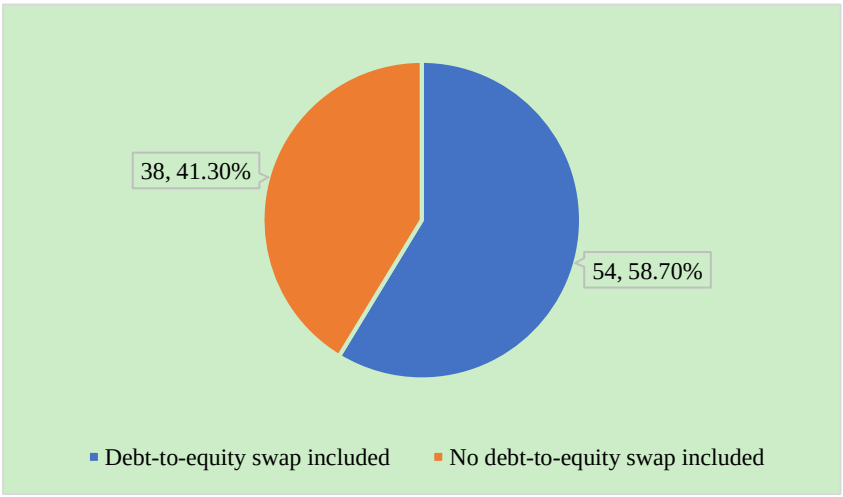

Figure 2.3 Statistics on the debt-to-equity swaps in the approved reorganization plans from 2007 to 2021

From 2007 to 2021, 54 of all the 92 court-approved reorganization plans included an arrangement of debt-to-equity swaps, accounting for 58.70%, a relatively high percentage. Since fewer listed companies adopted this scheme in the early years, this figure does not fully explain the importance of debt-to-equity swaps in the current practice. According to the statistics further collected

on the bankruptcy reorganization practice of listed companies in recent years, the percentage will further increase.

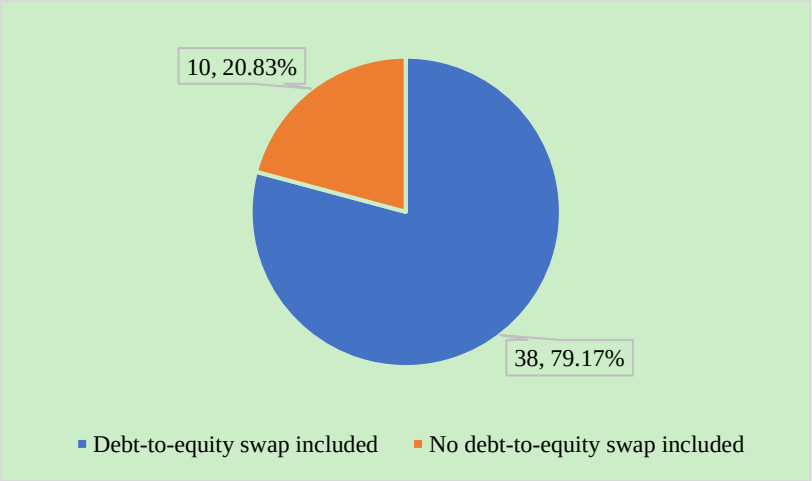

Figure 2.4 Statistics on the debt-to-equity swaps in the approved reorganization plans from 2015 to 2021

As shown in the figure above, 38 of the 48 court-approved reorganization plans from 2015 onwards included an arrangement of debt-to-equity swaps, accounting for up to 79.17%. In fact, a vast majority of the listed companies repaid their debts by debt-to-equity swaps, except for a few listed companies that settled all their debts by cash payment and debt extension because of the small amount of their debts (the total amount of general debts basically not exceeding RMB 2 billion).

In order to further study the importance of debt repayment for debt-to-equity swaps in the practice of bankruptcy reorganization, the author calculates the repayment ratio for debt-to-equity swaps in the reorganization plans of 38 listed companies that have adopted the arrangement for debt-to-equity swaps from 2015 to 2021 (repayment ratio for debt-to-equity swaps = (amount of claims repaid for debt-to-equity swaps/total amount of bankruptcy claims) * 100%). The average repayment ratio for debt-to-equity swaps in the aforesaid

38 reorganization plans is 53%, and the specific distribution of repayment ratio for debt-to-equity swaps is shown below:

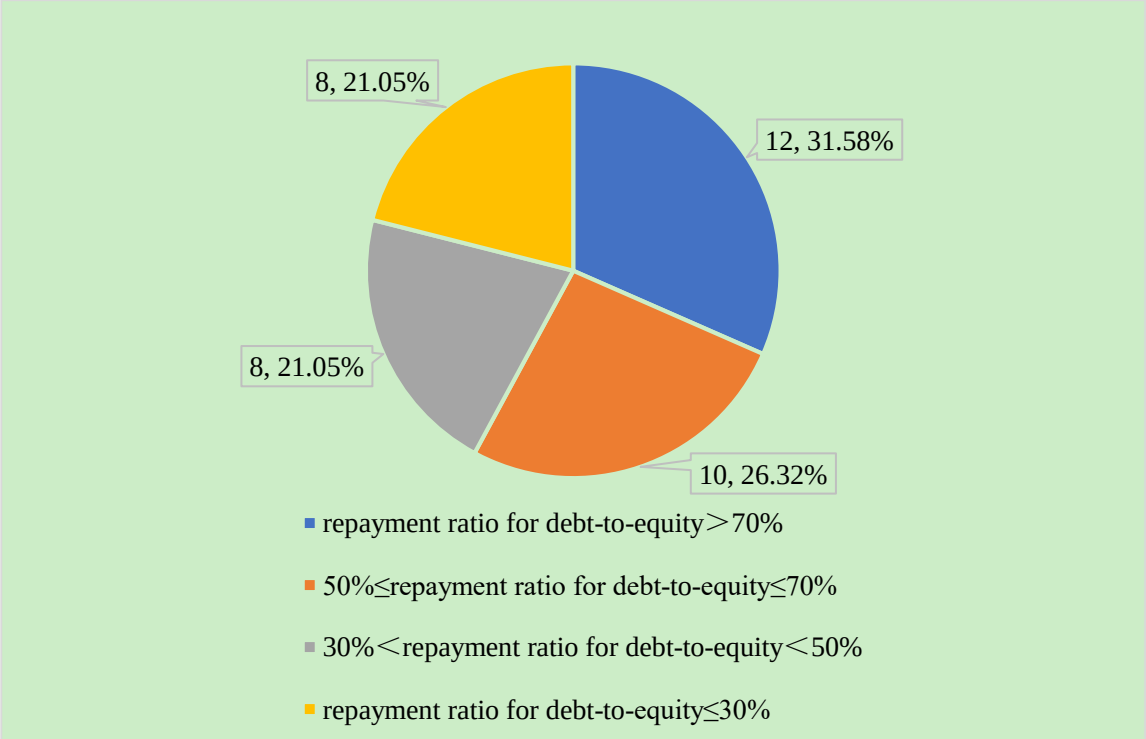

Figure 2.5 Statistics on repayment ratios for debt-to-equity swaps in the approved reorganization plans from 2015 to 2021

As can be seen from the figure, among the 38 reorganization plans containing debt-to-equity arrangements approved from 2015 to 2021, 22 listed companies have a repayment ratio of debt-to-equity swaps higher than 50%, accounting for 57.89%, and 12 have a repayment ratio even higher than 70%, accounting for 31.58%. The importance of the repayment from debt-to-equity swaps is obvious.

The debt-to-equity scheme is generally adopted, in the author's view, for the reasons from the following two perspectives. From the perspective of debtors, most of the listed companies have such a large amount of debts that it is impractical to pay off all of them with valuable cash resources. Debt extension also leaves a heavy burden on cash flow in future operations. Thus, a

debt-to-equity swap is a more feasible choice. From the perspective of creditors, the shares of listed companies are publicly priced and traded in the secondary market, and the exit channel is available. The price of shares may rise if the listed companies improved their operations. Therefore, creditors are also willing to accept the proposed debt-to-equity swap (Wang & Xu, 2007).

2.1.3 Roles of investors introduced

The core condition for the court to accept an application for bankruptcy reorganization of a listed company is that the listed company is insolvent (NPC, 2006).[11] The cash flow of the listed company to be reorganized is generally depleted, and the improved cash flow is also the prerequisite for the rebirth of the reorganized company. In such circumstances, creditors and shareholders of the company are more than willing to bring in investors to increase the debt repayment ratio and ensure that the reorganized company will have sufficient cash to restore its operations. Therefore, it is crucial to introduce suitable investors in the shareholders' equity adjustment of the reorganized listed company, as demonstrated by the author's statistics.

[11] For the conditions for bankruptcy reorganization, the key words in the Article 2 of the Enterprise Bankruptcy Law "unable to repay" "insufficient to repay" "insolvent" and "may be clearly insolvent" are all higly related to cashflow.

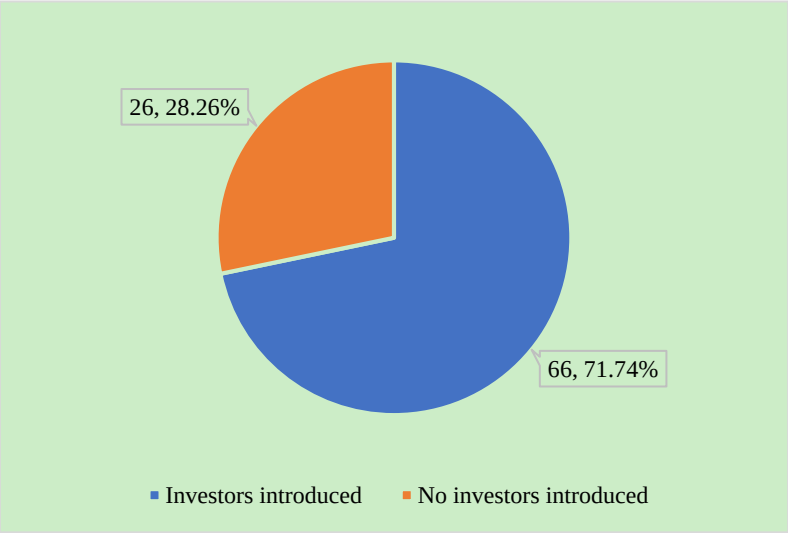

Figure 2.6 Statistics on the introduction of investors in the approved reorganization of listed companies from 2007 to 2021

According to the author's statistics, 66 of the 92 court-approved reorganization plans from 2007 to 2021 included the introduction of investors, accounting for up to 71.74%. In practice, listed companies introduced investors in shareholders' equity adjustment, except for a few listed companies in the resource or infrastructure industry that have a good foundation and strong profit-making capacity, such as Salt Lake (000792), Wintime Energy (600157) and Shandong Hi-speed Road & Bridge Group (000498).

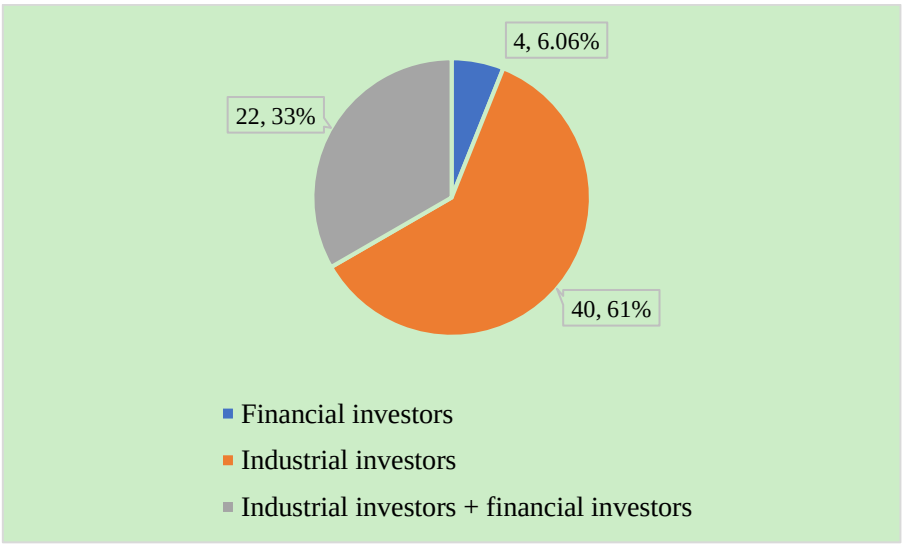

Figure 2.7 Statistics on the types of investors introduced in the approved reorganization of listed companies from 2007 to 2021

The investors introduced by listed companies in their reorganization can be divided by nature into two categories: industrial investors and financial investors. Some companies introduced both industrial and financial investors. Among the 66 listed companies that introduced investors, 40 introduced industrial investors, 22 introduced both industrial and financial investors, and only 4 simply introduced financial investors.

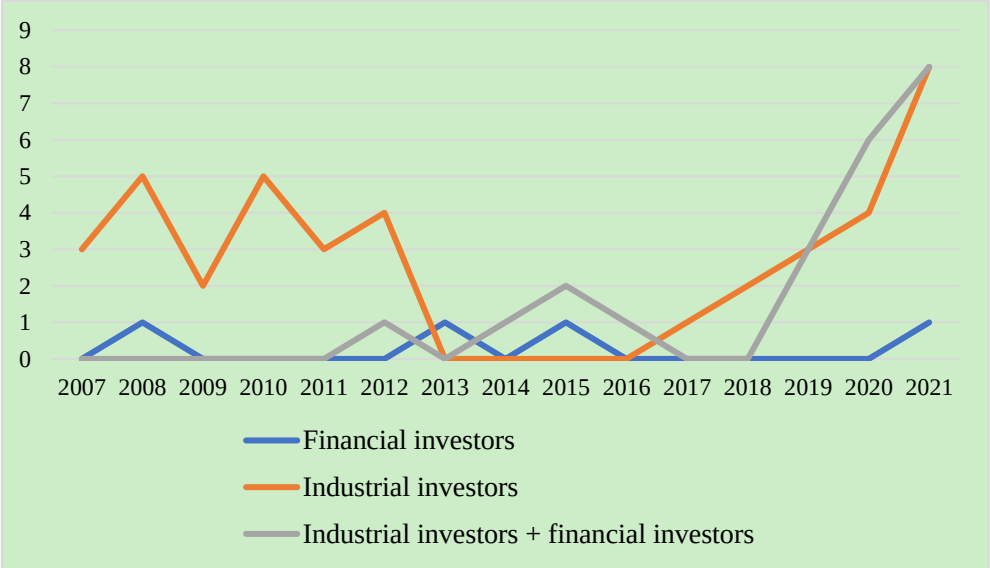

Figure 2.8 Trend of types of investors introduced in the approved reorganization of listed companies from 2007 to 2021

From 2007 to 2021, listed companies introducing financial investors only represent a relatively low percentage while those introducing industrial investors account for a relatively high percentage. Notably, the number of those introducing both types of investors has grown rapidly since 2018.

As consideration for acquiring shares in a listed company, an investor introduced in reorganization typically provided funds to the listed company. These funds were used to pay bankruptcy expenses and common interest debts, settle partial debts and inject liquidity into business operations or quality assets into the listed company so as to improve the listed company's ability to continue

as a going concern and profitability. As shown by more cases in the market, industrial investors generally aim at controlling the listed companies to achieve the strategic objectives of asset securitization and integration of upstream and downstream industrial chains, while financial investors are mostly private equity or venture capital funds that aim at acquiring shares at a lower price to obtain certain investment returns.

2.1.4 Strong administrative regulation

As public companies, listed companies are subject to extensive and strict securities laws and rules in their day-to-day operations, and their bankruptcy reorganization and shareholders' equity adjustment are certainly no exception. In addition to the regular information disclosure requirements, listed companies are also subject to administrative regulation over:

First, issuance of shares. In accordance with the *Administrative Measures for the Issuance of Securities by Listed Companies*, the *Administrative Measures for the Material Assets Restructuring of Listed Companies* and other regulations, listed companies are required to complete the administrative approval or registration (for the board where the registration-based system has implemented) procedures with the China Securities Regulatory Commission (CSRC) before issuing shares.[12] In practice, in order to avoid the inconvenience of administrative approval procedures, listed companies usually adjust shareholders' equity by conversion of capital reserves into share capital. Only

[12] For example, Article 45 of the *Administrative Measures for the Issuance of Securities by Listed Companies* provides: "A listed company applying for a public issuance of securities or private issuance of new shares shall engage a sponsor and submit an application to the CSRC." Article 44 Paragraph 2 of the *Administrative Measures for the Material Assets Restructuring of Listed Companies* provides: "A listed company issuing shares for acquisition of assets shall, in accordance with the provisions of these Measures on material assets restructuring, prepare a plan for acquisition of assets through issuance of shares and a report on acquisition of assets through issuance of shares, and submit an application to the CSRC."

Sainty Marine (002608) adopted a dual scheme of "bankruptcy reorganization + material assets restructuring". In addition to bankruptcy proceedings, the listed company also completed the CSRC administrative approval procedures for material assets restructuring in parallel.

Second, changes in shareholders' equity. In accordance with the *Administrative Measures for the Acquisition of Listed Companies*, if an investor or creditor of a listed company increases its equity by more than 5%, 20% or 30% in the reorganization, the investor or creditor shall, as required by the relevant rules, disclose a simplified report or a detailed report on changes in equity, or complete the procedures for general offer or exemption of general offer.[13] The requirement of making a general offer if the equity in a listed company exceeds 30% in principle imposes certain restrictions on the participation of industrial investors in the reorganization of listed companies. In most cases, the percentage of industrial investors' shareholding in listed companies is kept below 30%.

Third, pricing, ex-right and procedures for shareholders' equity adjustment. The adjustment of shareholders' equity in the bankruptcy reorganization of listed companies has long been relatively unregulated, especially in terms of the pricing of the shares issued by the conversion of capital reserves into share

[13] Article 16 of the *Administrative Measures for the Acquisition of Listed Companies* provides: "If an investor and the persons acting in concert with the investor are not the largest shareholder or actual controller of a listed company, and the shares in which they have interest reach or exceed 5%, but do not reach 20%, of the issued shares of the company, they shall prepare a simplified report on changes in equity containing the following contents..." Article 17 provides: "If the shares in which an investor and the persons acting in concert with the investor have interest reach or exceed 20%, but do not reach 30%, of the issued shares of a listed company, they shall prepare a detailed report on changes in equity containing the following contents..." Article 47 Paragraph 2 provides: "If the acquirer continues the acquisition when the shares in which the acquirer has interest reach 30% of the issued shares of the company, the acquirer shall send out a general offer or partial offer to the shareholders of the listed company in accordance with the law. The acquirer may be exempted from making the offer if under any circumstances prescribed in Chapter 6 of these Measures."

capital and the introduction of investors. Under the two schemes, the prices of shares may vary greatly, in some cases even by tens of times. On March 31, 2022, the Shanghai Stock Exchange (SSE) and the Shenzhen Stock Exchange (SZSE) simultaneously issued the self-regulatory guidelines on the bankruptcy reorganization of listed companies. The guidelines systematically provide for the rules on pricing, ex-right and voting rules of capital contributor groups for conversion of capital reserves into share capital involved in the shareholders' equity adjustment.[14] These rules provide specific regulatory standards and operational guidelines for the shareholders' equity adjustment of listed companies and will have a far-reaching impact on the reorganization of listed companies in the future.

The above administrative regulation is a key constraint throughout the shareholders' equity adjustment of listed companies to be reorganized. It largely contributes to the first two features of the bankruptcy reorganization of listed companies stated above.

2.2 Major issues in the adjustment of shareholders' equity

Based on the analysis of the cases relating to the bankruptcy reorganization of listed companies, the author found that, from the perspective of the long-term effect of reorganization, the adjustment of shareholders' equity in the bankruptcy reorganization of listed companies has given rise to some major,

[14] For example, Article 28 of the SSE Guidelines for Self-regulation of Listed Companies No.13 - Bankruptcy and Reorganization provides: "If the reorganization investment agreement contemplates the transfer of shares converted from capital reserves of listed companies to investors, the price of the relevant transferred shares shall be reasonable and fair, and shall not damage the interests of small and medium investors. If the price of the relevant transferred shares is lower than 80% of the closing price of the shares of the listed company on the date on which the investment agreement is executed (in the case of a non-trading day, the trading day prior to the date on which the investment agreement is executed shall be the benchmark date), the listed company or the administrator shall engage a financial advisor to issue and disclose a special opinion."

common issues. For example, many listed companies in distress and with reorganization value failed to start reorganization due to the absence of a general agreement by all stakeholders at the stage of planning of reorganization, and thus missed the opportunity to get out of trouble; creditors and investors failed to obtain their expected financial returns, and listed companies failed to get out of their predicament, facing the risk of delisting. These issues are undoubtedly related to the unreasonable price of debt repayment, neglect of the reorganization value, and abuse of capital reserves to increase the share capital during the adjustment.

2.2.1 Some listed companies failed to enter the reorganization process

Based on the author's observation, there is a very serious problem in the bankruptcy reorganization of listed companies, that is, only a portion of the listed companies can enter the reorganization process. Many listed companies failed to start their reorganization as they cannot reach a preliminary consensus within the limited time, i.e. at the stage of reorganization planning. Due to the loss of the best opportunity to resolve debts and resume production, these companies found it difficult to get rid of their business difficulties and will often end up being delisted. This causes great damage to the interests of creditors, minority shareholders, and even adversely affects the employment, taxation and financial stability in the region where the companies are located.

Under the "government-court connection" mechanism, [15]a listed company may only launch its reorganization after the people's government at the provincial level where the listed company is located issues a letter to the CSRC to support its reorganization, the CSRC provides a no-objection reply and the Supreme People's Court approves of its reorganization. [16]In addition, the CSRC requires that bankruptcy reorganization of listed companies is based on the premise that at least a solution must be proposed for the illegal appropriation of funds and guarantees, [17]which sets high requirements for listed companies to enter the reorganization process and, to a large extent, procures all parties to be prepared in advance. Generally speaking, a listed company that can enter the bankruptcy reorganization process has already formed a relatively feasible reorganization framework and obtained the approval of its major creditors and intended investors before formally filing a reorganization application. If there

[15] According to the *Several Opinions on Providing Judicial Guarantee for Improving the Business Environment* issued by the Supreme People's Court on August 7, 2017, "a unified coordination mechanism for bankruptcy work by connecting government with the court shall be advocated, and business coordination, information provision, stability maintenance and other work in the bankruptcy proceedings shall be promoted in an overall manner."

[16] According to the *Minutes of the Symposium on the Trial of Cases Involving the Bankruptcy Reorganization of Listed Companies* issued by the Supreme People's Court on October 29, 2012, "The cases concerning the bankruptcy reorganization of listed companies shall generally be heard by the intermediate people's courts at the places where the listed companies are located. Prior to the acceptance of such cases by the relevant intermediate people's courts, the provincial people's governments at the places where the listed companies are located shall issue a letter on supporting the reorganization of the listed companies to the CSRC, and obtain a no-objection reply from the CSRC and the approval from the Supreme People's Court. Where an applicant applies for bankruptcy reorganization of a listed company, it shall, in addition to the materials stipulated in Article 8 of the Enterprise Bankruptcy Law, submit the feasibility report on the reorganization of the listed company, the materials of notification to the securities regulators by the provincial People's Government at the place where the listed company is domiciled, and the opinions of the securities regulators, the stability maintenance plan issued by the People's Government at the place where the listed company is domiciled, among others. A listed company shall also submit a feasible employee placement plan if it applies for bankruptcy reorganization on its own initiative."

[17] According to the *Opinions of the State Council on Further Improving the Quality of Listed Companies* promulgated by the State Council on October 5, 2020, "A listed company carrying out bankruptcy reorganization shall put forward a practical plan to solve the problems of fund occupation and illegal guarantee."

is no preliminary agreement on the adjustment of shareholders' equity, the listed company will not have the basis to start the reorganization process. This means that the reorganization will be declared a failure before it formally starts, a situation that often happens in practice and requires great attention.

Since listed companies that have not formally filed for bankruptcy reorganization will not announce their reorganization intentions, it is difficult to make complete statistics on the companies failing to enter the bankruptcy reorganization process. As far as the author knows, more than 30 listed companies including Shuzhi Technology (300038), Boomsense Technology (300312), The Great Wall (300089), Lead Eastern (000673), Neoglory Prosperity (002147), Shengyun Environment-Protection Group (300090), Jiangsu Dewei Advanced Materials (300325), Whole Easy Internet Technology (002464), Sinoenergy Corporation (600856), Chunghsin Technology (603996) and Great Wall International ACG (000835) have all planned bankruptcy reorganization, but have failed to enter the bankruptcy reorganization process until now or until their delisting. The author also takes a glimpse of the relevant cases in the past two years in which bankruptcy reorganization petitions were rejected by the court. According to the announcement of relevant listed companies, in 2020, there is one listed company, i.,e., Longlive Biotechnology (002604) whose bankruptcy reorganization application has not been accepted by the court, accounting for 6.25% of the total number of applications in 2020. In 2021, 5 listed companies, namely, Tempus Global (300178), Dynavolt Tech

(002684), Sino-Crystal Diamond (300064), Huaxun Fangzhou (000687) and Eastern Gold Jade (600086), were rejected by the court for their bankruptcy reorganization applications, accounting for 22.73% of the total number of applications in 2021. In the past two years, more and more listed companies have chosen to use the pre-reorganization system to rehearse before commencing the reorganization. Nonetheless, the listed companies above have still been rejected by the court for their applications. More applications are expected to be rejected in the future.

2.2.2 The listed companies still face the risk of being delisted after reorganization

The low share price and poor performance of a listed company after the reorganization may be attributed to external factors such as industrial policies and the market environment, which may be improved over a longer period of time. Delisting, however, is unbearable for any listed company, and is the strictest standard to test the effectiveness of reorganization. Delisting will not only leave creditors and investors with no way out, but also cause a serious adverse impact on the business operation, credit standing and team stability of a company, making it difficult to achieve the goal of reorganization.

According to the author's statistics, among the 73 listed companies with reorganization plans approved from 2007 to 2020, as of the end of June 2022, 6 have terminated their listing, 1 has suspended its listing, and 6 have been warned of delisting risks. The proportion of listed companies further subject to delisting

risks or even termination of listing after reorganization reached 16.44%, as shown in the figure below.

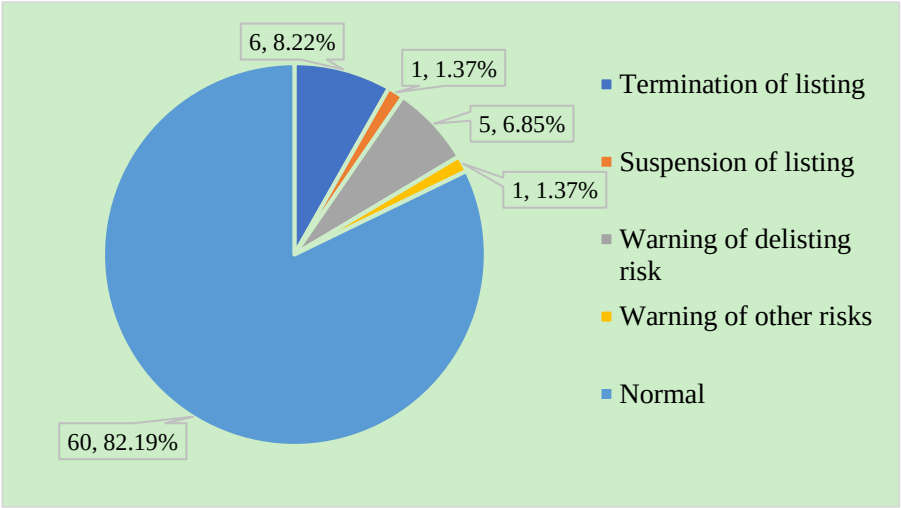

Figure 2.9 Statistics on the current status of listed companies approved for reorganization from 2007 to 2020

Of the 6 companies that have terminated listing, 4 are delisted for financial indicators, 1 for trading below the face value, and 1 for major violations of laws and regulations. Five companies received delisting risk warnings due to financial indicators. In addition, by the end of June 2022, among the remaining 67 listed companies except for the 6 companies whose listing was terminated, 6 have seen a face value lower than RMB 2 per share, accounting for 8.96%; 15 have experienced a face value lower than RMB 3 per share, accounting for 22.39%. This shows that such companies are facing greater risks of being delisted for trading below face value.

The main reason for listed companies delisted or likely to be delisted for substandard financial indicators is that they neglect the enhancement of the company's reorganization value as mentioned above. As for the listed

companies delisted or likely to be delisted for having a face value of less than RMB 1, in addition to the fundamental reasons, there is also a technical reason, i.e., abuse of capital reserves to increase the share capital. Without the fundamental improvement of the listed companies, the more the capital reserve is converted into share capital, the lower the value per share will be. As such, it becomes unavoidable for the share price to fall below RMB 1. This is also an important drawback of converting capital reserves to increase the share capital.

2.2.3 Failure of stakeholders to obtain their expected financial returns after the reorganization

The financial returns of the stakeholders refer to the actual debt repayment ratio of the creditors and the return on investment (ROI) of the investors, which are the most direct indicators to measure the effect of reorganization. In order to verify whether the debt repayment ratio of the creditors after reorganization can reach the level stated in the reorganization plan and whether the ROI of the investors can be realized in the medium and long term, the author analyzed the share price performance of the relevant listed companies in the medium and long term after reorganization.

Creditors generally prefer to exit as soon as possible rather than holding the shares of listed companies for a long time. By sampling 35 listed companies with debt-to-equity repayment arrangements whose reorganization plans had been approved by the end of June 2021, the author tracked their share price

performance one year after the reorganization[18]. Based on such share price performance, the author calculated the debt repayment ratio for debt-to-equity swaps one year after the approval of the reorganization plan (debt repayment ratio of creditors for debt-to-equity swaps one year after the approval of the reorganization plan = (share price one year after the approval of the reorganization plan /conversion price) * 100%).

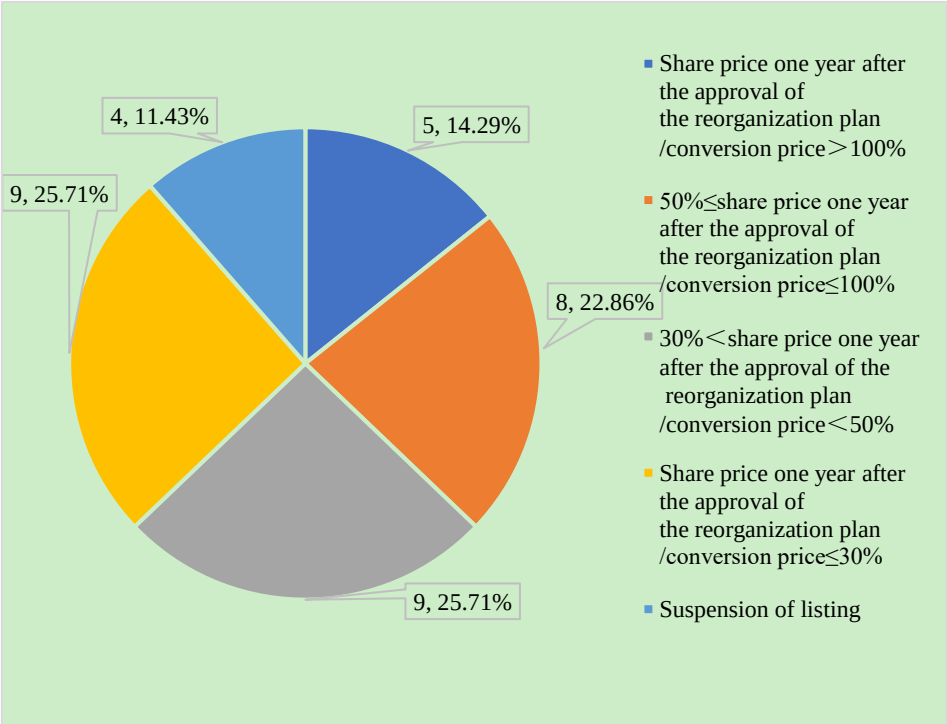

Figure 2.10 Statistics on the debt repayment ratio for debt-to-equity swaps one year after the approval of the reorganization plan from 2007 to June 2021

As shown in the above figure, among the 35 listed companies[19] making debt-to-equity swap arrangements from 2007 to June 2021, only 5 traded above the conversion price one year after the approval of the reorganization plan,

[18] The “share price one year after the approval of the reorganization plan" refers to the share price on the day one year after the date of approval of the reorganization plan. If it is a non-trading day, the share price of the preceding trading day shall be taken. The same applies below.

[19] In order to make the statistics more clearly reflect the proportion, the author removed the cases that cannot be accounted for. The same method applies below.

accounting for 14.29%; 8 traded below the conversion price but not lower than 50% of the conversion price, accounting for 22.86%; 9 traded at a range of 30% to 50% of the conversion price, accounting for 25.71%; 9 traded at and even below 30% of the conversion price, accounting for 25.71%; and 4 suspended their listing, accounting for 11.43%. In conclusion, the latter three cases collectively accounted for 62.86% of the 35 companies.

After further studying the reorganization plan of the above cases, the author found that the creditors' debt repayment ratios in the cases calculated by the author are all higher than those achieved under bankruptcy liquidation. In this sense, the cases all avoid the worst result of bankruptcy liquidation and the debt repayment ratios are all higher than the bottom line standard. The debt repayment ratios of the above cases, however, are mostly lower than those claimed in the reorganization plans.

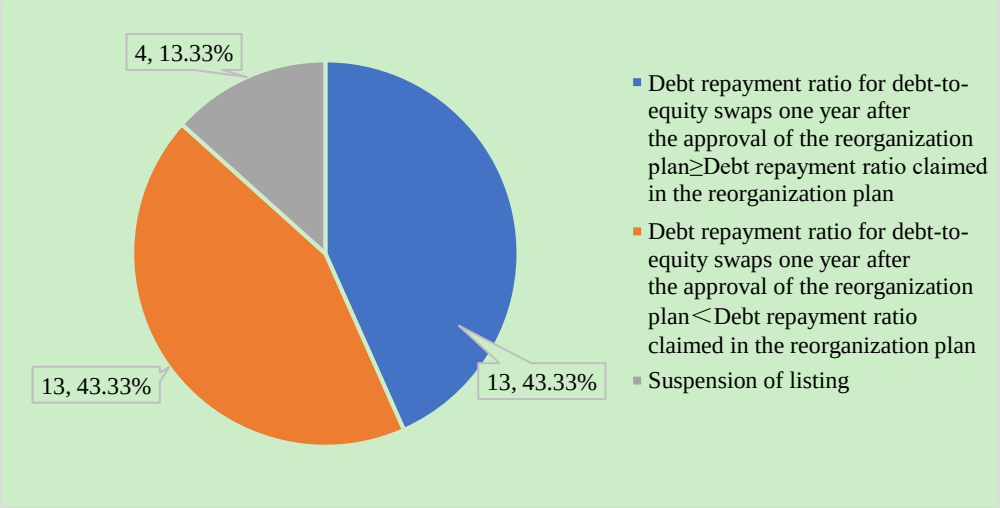

Figure 2.11 Statistics on the debt repayment in the reorganization cases with debt-to-equity swap arrangements approved between 2007 and June 2021

In particular, under the debt-to-equity swap arrangement, as the future share price of listed companies is somewhat resilient, more and more companies

choose to achieve a 100% nominal repayment ratio by increasing the conversion price. However, their actual repayment ratio is far less than that. Among the 30 listed companies with disclosed repayment ratios analyzed by the author, 9 claimed that their repayment ratio reached 100%. According to the author's calculation, however, 6 of them actually achieved a repayment ratio of less than 70% of the nominal ratio. This shows that relevant companies are far from achieving their expected repayment ratio.

As investors are divided into two categories: financial investors and industrial investors, they prefer different periods of investment. Considering this, the author, by sampling 45 listed companies with debt-to-equity swap arrangements and introduction of investors whose reorganization plans had been approved by the end of June 2021, analyzed their share price performance one year and three years after the reorganization respectively, and used the share price at these two points of time as the benchmark to measure the financial returns of investors. Considering that the financing cost and opportunity cost of investors stand at approximately 10%, the author uses 10% for one-year and 30%

for three-year scenarios as the minimum standards to measure the ROI.

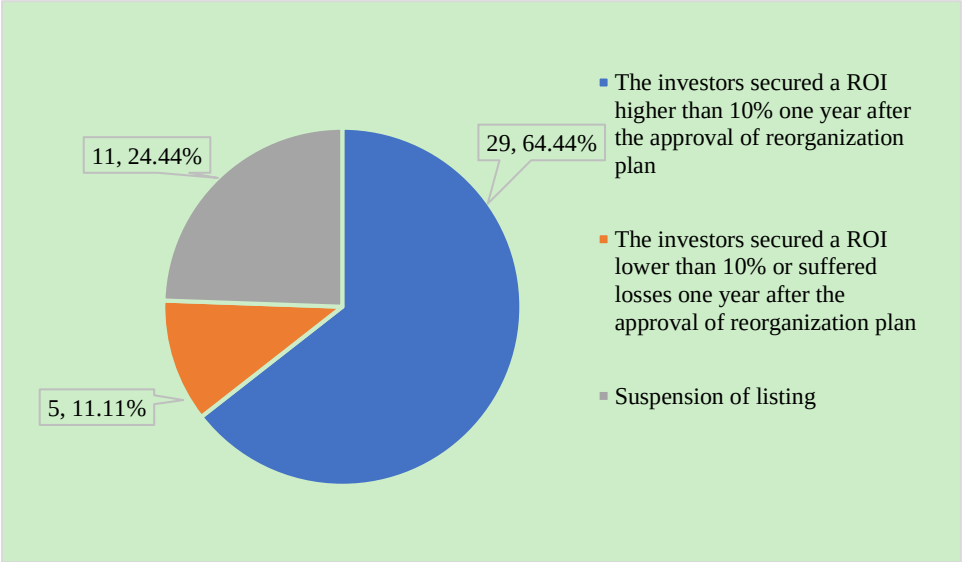

Figure 2.12 Statistics on ROI one year after the approval of the reorganization plan from 2007 to June 2021

As shown in the above figure, among the 45 listed companies, 5 have seen a RIO lower than 10% or investor losses one year after the approval of the reorganization plan, accounting for 11.11%; and 11 have suspended their listing, accounting for 24.44%. These two cases accounted for a combined 35.56%.

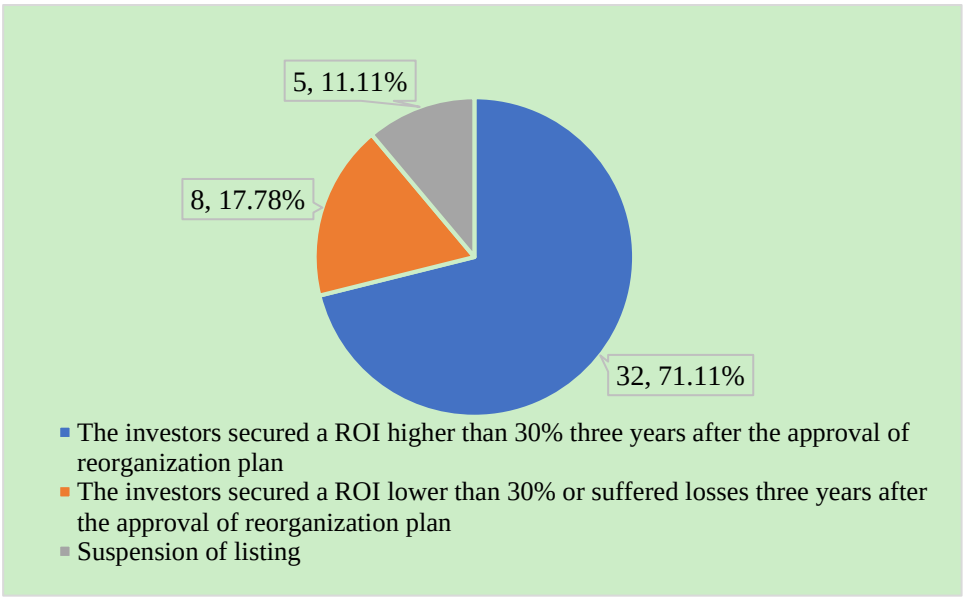

Figure 2.13 Statistics on ROI three years after the approval of the reorganization plan from 2007 to June 2021

As shown in the above figure, in 8 of the 45 listed companies, investors

have seen a RIO lower than 30% or even losses three years after the approval of the reorganization plan, accounting for 17.78%; and 5 have suspended their listing, accounting for 11.11%. These two cases accounted for a combined 28.89%.

The above statistics show that most investors can achieve minimum returns. However, investors in more than 30% of the cases have failed to achieve their expected returns.

It can be seen from the above statistical results that a considerable proportion of creditors and investors have failed to achieve the expected financial returns. By comparing the conversion price with investors' purchase price in the same case, the author further found that from 2007 to June 2021, there are a total of 9 listed companies that were approved for reorganization, involved both debt-to-equity swaps and introduction of investors, and whose share prices are not higher than 50% of the conversion price paid by creditors one year after the reorganization. Seven of the 9 listed companies have seen a positive ROI rate one year after reorganization, with the highest reaching 227.93%. It can be seen that creditors have suffered more losses than investors in these cases. In the author's opinion, this is because (i) the pricing in the adjustment of shareholders' equity tends to be on the higher end (especially for creditors), which prevents creditors and investors from obtaining ideal returns; and (ii) the reorganization value of listed companies has not been effectively enhanced, resulting in the failure of the listed companies to effectively improve

its operating performance, which in turn prevents their share price from rising. If this continues, it will definitely reduce the willingness of creditors and investors, and make it more difficult for other distressed listed companies to conduct reorganization.

2.2.4 Failure of listed companies to get rid of business difficulties after reorganization

The listed companies entering the bankruptcy reorganization process have passed the scrutiny of the local government, the securities regulator, the people's court and other authorities. There should be no doubt that these companies have reorganization value. Then, have these listed companies really brought into play their reorganization value and got out of their trouble after the reorganization? The results warrant no optimism.

In order to verify whether the listed companies have recovered from difficulties after the reorganization, the author makes a comparative analysis based on the business operation and financial performance of the listed companies after the reorganization. Taking 52 listed companies that have completed the reorganization plan by the end of 2018 as examples, the author collected data on their operating revenue and net profit after deduction of non-recurring gains and losses in the year when the reorganization was completed and the three years thereafter to evaluate their financial performance three years after the completion of their reorganization plans. According to the statistics, among the 52 listed companies, 16 experienced a decrease in their operating

revenue three years after the reorganization, accounting for 30.77%; 18 saw a drop in their net profit after deduction of non-recurring gains and losses three years after the reorganization, accounting for 34.62%; and 1 was delisted within 3 years after the completion of the reorganization plan.

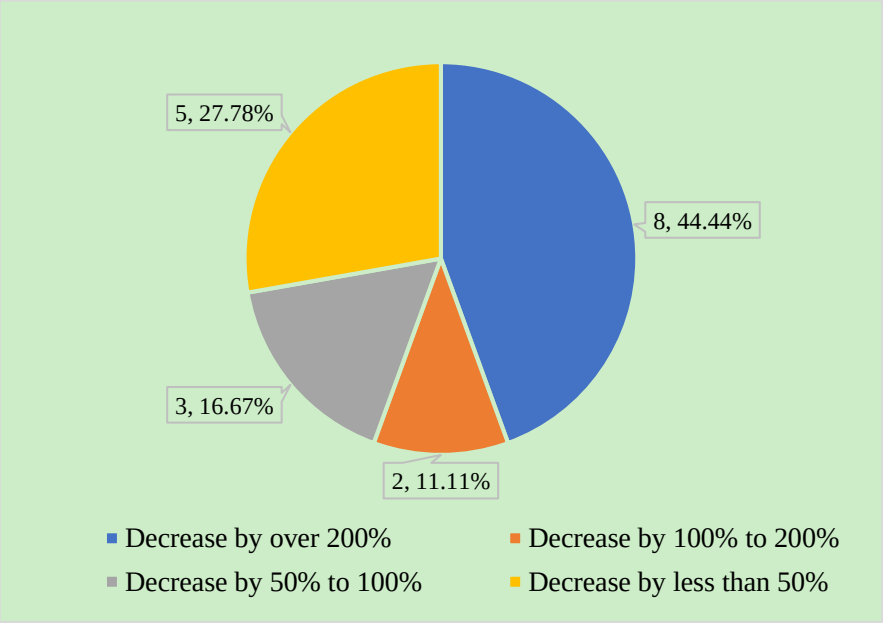

Figure 2.13 Statistics on the decline in net profit after deduction of non-recurring gains and losses for 3 years after the completion of the reorganization plan in 2007-2018

As shown in the above figure, among the 18 listed companies whose net profit has declined, 55.56% have experienced a decline of over 100%. This shows that quite a number of listed companies still have poor financial performance after the implementation of the reorganization plan, and have not been able to recover from difficulties.

A close look at the reorganization plans of these listed companies may help find the causes behind the above problems. Such listed companies with poor financial performance are not clear about their business plans in the reorganization plans. Some companies only mentioned “introducing

reorganizers" or "injecting assets" in their business plans, without providing the criteria or the guidelines for doing so. Some just described the business plans as "stepping up efforts to develop new business growth points and enhance profitability". In short, these companies have no practical business improvement plan, financing plan and asset injection plan, not to mention the real implementation of such plans. Therefore, such companies find it difficult to improve their going concern value. The incomplete business plans also show that all parties involved in the reorganization pay more attention to the advancement of the reorganization process than the future development of the listed companies after the reorganization.

The current bankruptcy reorganization of listed companies has revealed the fact that listed companies pay more attention to the adjustment of creditors' rights and debts than to the quality of operation and profitability (Lin & Su, 2021). Ignoring the improvement of the reorganization value has been preventing the listed companies from getting out of their difficulties in the long run. Under such poor business operation and performance, it is no doubt that the resulting poor share price performance of listed companies makes it hard for the creditors and investors to obtain satisfactory returns.

2.3 Attribution analysis of issues relating to the adjustment of shareholders' equity

Given the limited reorganization resources of distressed listed companies, those seeking reorganizations have to solve the major issue, i.e., how to enhance

the reorganization value with the help of the capabilities and resources of the creditors, investors and original shareholders and allocate the shares on a balance of interests basis among the parties based on the the respective contributions to the reorganization value amid delisting risks, reorganization application acceptance and other regulatory requirements. Many listed companies with poor reorganization results basically failed to properly deal with such issue when adjusting the shareholders' equity, which leads to the failure of the parties to reach an agreement, or the unsustainability of the barely agreed proposal. Bankruptcy reorganization is not a process that can be easily replicated. As the specific circumstances of each listed company vary greatly, the imbalance in their adjustment of shareholders' equity may be reflected in many aspects, including overpricing their shares to offset debts to creditors, neglecting the enhancement of reorganization value, and failing to enter the reorganization process.

It was undeniable that, when adjusting shareholders' equity, the shareholders, creditors, and investors of a listed company are in competition for the shares of the company, resulting in creditors' unwillingness to give up, actual controllers' refusal to release their power, and investors' loss of investment interest. Take a specific case handled by the author as an example. That involves an insolvent listed company. Theoretically, all the shareholders' equity belongs to the creditors of the company. However, the original de facto controller was still unwilling to let go of the control. As a result, the investors

find not many benefits left for them, and the reorganization could not be pushed forward due to the obstruction of the de facto controller. What is the point even if the original de facto controller holds 100% equity in the company when the operation of the company cannot be improved and the reorganization value cannot be increased?

In order to achieve better reorganization results, it is necessary to use the balancing wisdom of game theory when adjusting shareholders' equity. The relationship between creditors, investors and shareholders may be reflected in the scenario of the "prisoner's dilemma" in game theory, in which one may invite a lose-lose situation by unilaterally seeking to maximize its own interests; while another may achieve its expected benefits by respecting the expectations of others and pursuing a win-win outcome. [20]Reorganization is a process of seeking a win-win situation based on mutual benefit. The reorganization system is intended to protect the interests of creditors and other stakeholders and maximize the social benefit by gradually restoring the operating capacity and profitability of the distressed companies (Wang, 2011, p.243-246). [21]Generally speaking, the interests of all stakeholders are consistent, and the success of

[20] Game theory is a theoretical tool to analyze how rational people make decisions in the presence of interdependence, and game playing focuses on the problem of how individuals choose their behavior in a competitive environment in order to maximize their rights. The bankruptcy reorganization process provides a "legal platform" for all stakeholders of a troubled company to negotiate under the supervision of the court, which is essentially a game playing process. Zhang, W. (2013). *Game Playing and Society*. Peking University Press.; Wang, Z. (2014). *Legal Protection for Creditors and Minority Shareholders in the Reorganization of Listed Companies*. China University of Political Science and Law Press.

[21] See also Xu, D. (2015). *A Study on Bankruptcy Law: A Comparative Perspective on Interpretation and Function*. Peking University Press.

reorganization is the common premise for them to obtain their respective interests. While pursuing a cooperative game rather than a zero-sum game, it is possible to achieve a balance among all stakeholders (Zheng & Zhang, 2012, p.114-120).

In summary, based on the above statistics and analysis of the existing listed companies' reorganization and all possible constraints, the author further studies more than 20 listed companies with good long-term reorganization effects that can better protect the interests of creditors and investors and achieve steady improvement of business performance, and summarizes their successful experiences. Upon research, the author believes that an effective mechanism for adjusting shareholders' equity should, on the premise of taking the delisting risk as an external restrictive factor into account, fully enhance the reorganization value and distribute the shares among the parties based on a balance of interests and the the respective contributions to the reorganization value, that is, avoiding the delisting risk, enhancing the reorganization value and distributing the shares on a balance of interests basis. Only in this way can the distressed companies get out of their difficulties, achieve a win-win situation for all stakeholders, and realize both the economic and social benefits. The author will discuss the mechanism for adjustingshareholders' equity in the following parts.

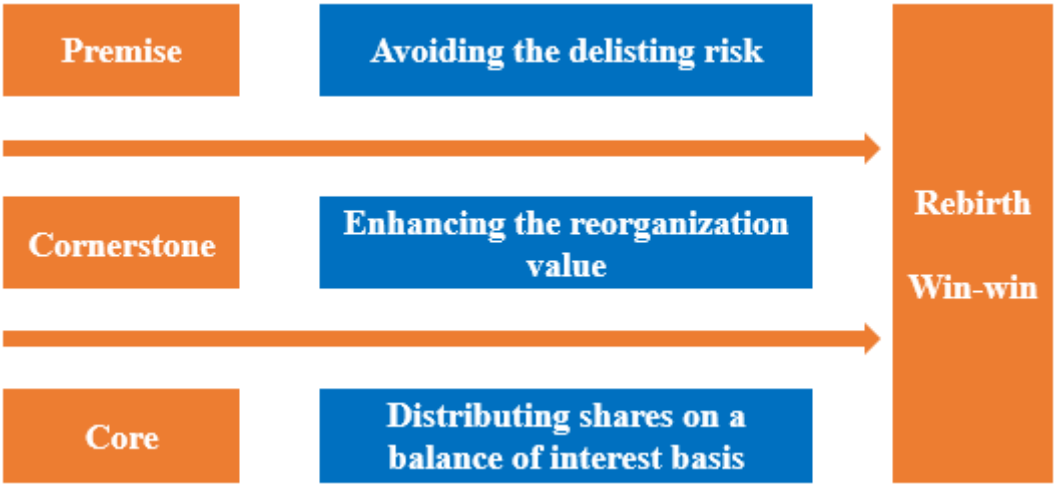

Figure 2.15 Diagram of the mechanism for adjustment of shareholders' equity

Chapter 3 Avoiding the Risk of Delisting - Premise of the Mechanism of Shareholders' Equity Adjustment

Most of the listed companies to be reorganized are already in business difficulties and are therefore very likely to trigger the delisting indicators under the Rules Governing the Listing of Shares on the SSE and SZSE. Against the background of increasingly stringent mandatory delisting rules and significantly simplified mandatory delisting process, many temporarily distressed listed companies will face imminent delisting risks before and after reorganization. Bankruptcy reorganization is also an important means to mitigate delisting risks. After the bankruptcy reorganization, the listed company should resume its production and operation and will no longer face the delisting risk. The listing status is very important to the reorganization of the listed company. Thus, how to avoid the possible risk of delisting before and after the reorganization under the premise of compliance with laws and regulations is the first problem that must be overcome in the reorganization of the listed company.[22]

3.1 Harm of delisting on listed companies to get out of trouble

Delisting does not directly constitute an obstacle to reorganization, and it is common for companies to apply for reorganization after delisting and have its application accepted. Delisting, however, will have a very negative impact on the agreement on, and the implementation effect of, the reorganization plan. Therefore, in practice, it is generally believed that delisting will cause extreme

[22] The author disagree with the practice of "shell" enterprises and "zombie" enterprises without going concern value, which not only hinders the formation of a virtuous cycle mechanism of survival of the fittest in the capital market, but also goes against the protection of the legitimate rights and interests of investors.

harm to listed companies to get out of trouble. In summary, the harm of delisting on listed companies to get out of difficulties mainly lies in the following two aspects.

3.1.1 Reduction of reorganization value after delisting

Listing status can undoubtedly bring a variety of benefits and conveniences to an enterprise. These benefits and conveniences have considerable commercial value, i.e. the value of listed status. This value is reflected in the liquidity of shares, valuation premium on secondary market, brand influence, financing expansion ability, talent attraction, corporate governance level and many other aspects.[23] Therefore, in addition to the regular IPO, some companies often choose to realize asset securitization through M&A and restructuring or expand business through M&A and listing platforms. This is also an important aspect of the resource allocation function of the capital market. In the context of bankruptcy reorganization of listed companies, the liquidity and exit channels brought by listing status to creditors and investors are the most important embodiment of the value of listing status.

The listing status value of listed companies can be quantified and no standard method is available to measure it. It is reflected in the dynamic game between the two sides of the transaction according to the different quality of the listed company. For the developing capital market in China, the registration-

[23] Compared with non-listed companies, listed companies usually have more abundant financing channels and can enjoy the convenience of low-cost financing; have more well-established internal control and governance institutions to effectively improve the operating efficiency; effectively improve the popularity of the company and expand its market influence by virtue of its listing status; and discover the value of the company and increase the liquidity of stocks by virtue of market-oriented evaluation mechanism so as to realize the return on equity investment. See SSE: Benefits of Going Public. (n.d.). Retrived September 3, 2022, from http://www.sse.com.cn/services/list/listedinsse/benefit; SZSE: What Are the Benefits of Public Offerings and Listings for Enterprises?. (2020). Retrived September 3, 2022, from http://www.szse.cn/ipo/problems/summary/t20200228_574567.html

based system has not been fully implemented, the standard of IPO is still strict, the need of enterprises to connect with the capital market through M&A is much more extensive than that of the mature market, and the enterprises are willing to pay a higher price for it. All the above lead to the listing status value of A-share companies at a higher level. Judging from the cases of acquisition of control of listed companies in 2021, the price given by the transaction participants to the listed companies ranges from hundreds of millions of RMB to more than RMB one billion.[24] In contrast, in 9 of the 19 listed companies approved for reorganization in 2021, the total liabilities confirmed upon examination do not exceed RMB 2 billion. It can be seen that the value of their listing status is an important source for all parties to allocate the reorganization value of the listed companies and plays an important role in balancing the interests of all parties.

In short, the value of listing status is an intrinsic part of the reorganization value of listed companies, which is meaningful in the allocation of reorganization resources. Unfortunately, this value is also lost after the delisting of a listed company.

3.1.2 Slim chance of being listed again after delisting

In addition to the loss of listing status, another more fundamental problem caused by delisting is that there is little chance for a delisted company to be listed again. If a delisted company is to be listed again, its creditors and financial

[24] In 2021, there were 128 transfer of control transactions with a disclosed transaction value of about RMB 1 billion on average, of which 47 transactions involved a transaction value of less than RMB 500 million, 56 transactions between RMB 500 million and RMB 1.5 billion, 18 transactions between RMB 1.5 billion and RMB 3 billion, and 7 transactions more than RMB 3 billion. See *Summary of the Market for Control Transactions of Listed Companies in 2021 - Replacing Major Asset Restructuring as the Main Battlefield of A-share M&A and Restructuring*. (2022, January 13). Wenyi Fuxin. Retrived September 3, 2022.

investors need to withdraw from the secondary market in a timely manner, industrial investors need to use the listing platform to achieve their strategic goals, and the original major shareholders need to increase the value of their shares to relieve their debt pressure. Listing is the common goal of all parties in the reorganization. It is almost impossible, however, for a delisted company to respond to the interests and concerns of all parties in relation to listing. According to the Rules Governing the Listing of Shares on the SSE and SZSE, delisted companies theoretically still have the possibility to be re-listed,[25] but the reality is cruel: According to the author's statistics, after eliminating delisting due to merger by absorption and privatization, by the end of June 2022, 153 A-share listed companies have been compulsorily delisted, including 42 in the first half of 2022. However, only three of them have been successfully re-listed, namely, Nanjing Tanker Corporation (601975), Sinomach Heavy Equipment (601399) and Hui Lyu Ecological (001267).[26] The relisting of these three companies are hardly replicable. Loss of the opportunity to be listed again will result in the following consequences: the creditors and the financial investors will not be able to exit from the listed company, the strategic objectives of the industrial investors will not be achieved, the value of the shares held by the original major shareholders will not appreciate and all parties'

[25] In accordance with the relisting provisions of the Rules Governing the Listing of Shares on the SSE and SZSE, delisted companies may apply for relisting if the circumstances for delisting (excluding trading-based delisting) have been eliminated and all conditions, such as financial indicators, corporate governance and sound internal control, are satisfied. In particular, the requirements on financial indicators are as follows: annual positive net profits with an accumulative amount exceeding RMB 30 million in the last three accounting years, calculated based on the lower net profits before and after the deduction of non-recurring gains and losses; accumulative net cash flows from operating activities exceeding RMB 50 million in the last three accounting years; or accumulative business incomes exceeding RMB 300 million in the last three accounting years; and audited net assets at the end of the latest accounting year being positive.

[26] The former names of the three relisted companies were Nanjing Tanker Corporation (600087), Erzhong Heavy (601268) and Huaxin (000765) respectively.

expectations will be frustrated.

There is another impact of losing the opportunity to be listed again. From the perspective of business recovery and development of delisted companies, after losing the opportunity of listing and circulation, delisted companies will be greatly restricted in the improvement of their brand influence and their ability to get financing, expand business and motivate talents. They are likely to encounter bottlenecks in business development and difficult to further improve business performance. In fact, a delisted company will be faced with the unfavorable situation of "Davis double play" caused by the combination of business and valuation factors.

3.2 How to predict the delisting risks of listed companies

On October 9, 2020, the State Council released the *Opinions on Further Improving the Quality of Listed Companies*, proposing to "improve delisting standards, simplify delisting procedures and strengthen delisting supervision". On December 31, 2020, the SSE and SZSE simultaneously released the revised Rules Governing the Listing of Shares. Each of them substantially revises the provisions on the compulsory delisting of shares of listed companies, cancels the suspension and resumption of listing systems, and divides the delisting standards in terms of four aspects, namely, trading, finance, compliance and material violation. If a listed company triggers any of the four categories of delisting indicators, the Exchange shall issue a delisting risk warning, compulsorily delist or directly compulsorily delist the company according to the category.

Among the abovementioned delisting risks, financial delisting risk and trading-based delisting risks have the greatest impact on distressed enterprises.

3.2.1 Financial delisting risk

In accordance with the Rules Governing the Listing of Shares on the SSE and SZSE, there are mainly four circumstances that may trigger financial delisting risk: (i) the audited net profit of the latest accounting year of the company is negative and its business income is less than RMB 100 million; (ii) the audited net assets at the end of the latest accounting year of the company is negative; (iii) an audit report with an adverse opinion or disclaimer of opinion is issued for the financial and accounting report of the latest accounting year of the company; or (iv) an administrative penalty decision of the CSRC indicates that there are false records, misleading statements or material omissions in the audited annual report of the latest accounting year disclosed by the company, resulting that the relevant financial indicators of the current year have actually fallen in the circumstance described in the foregoing (i) or (ii).

The combined indicator of "negative net profit + business income of less than RMB 100 million" is one of the most important changes in the new delisting provisions. It changes the previous single indicator of net profit or business income, and emphasizes that net profit shall be the lower one of the amount before or after the deduction of non-recurring gains and losses, and business income irrelevant to the main business and income without commercial substance shall be deducted. On the one hand, this combined indicator corresponds to the diversified financial listing standards under the registration-based system, avoiding the mistaken delisting of enterprises with temporary poor performance but the ability to operate as a going concern; on the other hand, it also prevents zombie enterprises from maintaining listed by selling assets, signing contracts suddenly, and obtaining proceeds from debt

restructuring. For a listed company to be reorganized, if its main business income can be maintained at more than RMB 100 million, it does not need to worry about this provision; if its main business comes to a standstill, it must actively rescue itself as soon as possible.

The indicator of net assets is closely related to net profit and business income. Net assets are determined by the assets and liabilities of the listed company, and the assets and liabilities of the company are closely related to its operating conditions. From the perspective of assets, listed companies' operating losses will lead to the reduction of assets. And sometimes listed companies will produce at the expense of increasing losses in order to maintain business income above RMB 100 million, which can lead to a further reduction in assets. In addition, when a listed company operates poorly, its assets such as inventory, long-term equity investment and goodwill may suffer impairment, all of which may lead to the decrease of assets. From the perspective of liabilities, when a listed company has overdue debts, it will accrue overdue interests and penalty interest, which will lead to the increase of liabilities. In order to maintain social stability, even if a listed company gets into difficulties, it usually will not conduct excessive layoffs. The salary of employees, taxes and fees will accordingly continue to increase. In this case, the distressed listed company may have negative net assets. Sometimes, this situation comes suddenly – if the listed company has carried out an acquisition at a high premium, there will be a huge amount of goodwill in its books. When the performance of the assets of the acquisition changes suddenly, the listed company needs to make a one-time impairment of the goodwill. This will cause huge losses and sharp reduction of net assets of the listed company in the current

year, and lead to the risk of delisting.[27]

3.2.2 Trading-based delisting risk

In accordance with the Rules Governing the Listing of Shares on the SSE and SZSE, A shares may be compulsorily delisted due to trading indicators under the following circumstances: (i) the cumulative stock turnover of a listed company through the trading system of the Exchange for 120 consecutive trading days is lower than 5 million shares, or the daily closing price of the company's shares is lower than RMB 1 for 20 consecutive trading days; (ii) the number of shareholders of a listed company is lower than 2,000 per day for 20 consecutive trading days (excluding the period of the 20 trading days commencing from the date of the company's initial public offering); (iii) the total closing market value of its shares is less than RMB 300 million for 20 consecutive trading days.

In practice, listed companies are delisted due to the daily closing price of their shares being lower than RMB 1 for 20 consecutive trading days, i.e. the so-called face value-based delisting rule. Due to the current environment of the A-share capital markets, rules other than the face value-based delisting rule have never come into play. Taking the listed company with the smallest market capitalization on the SSE and SZSE by the end of 2021 as an example, Chunghsin Technology (603996) had a closing market capitalization of RMB 620 million, a daily trading volume of 13 million shares, and a daily number of

[27] For example, due to goodwill impairment, as of April 16, 2019, a total of 62 listed companies showed a change in performance from pre-profit to pre-loss. Among them, Zeus Entertainment (002354) with a net loss of over RMB 7.5 billion became the company with the most change. In addition, Zeus Entertainment also suffered the highest loss of stocks on the SSE and SZSE A-share markets in 2018. See Dong, L., & Ma, H. (2019, April 17). *A Change in Performance from Pre-Profit to Pre-Loss of 62 Shares: Zeus Entertainment Suffered the Highest Loss of Stocks*. Beijing Business Today. https://www.bbtnews.com.cn/2019/0417/295993.shtml

shareholders of more than 16,000. These figures are not conform to the other indicators.

By contrast, many listed companies may face the risk of face value-based delisting. In recent years, the number of listed companies delisted for face value below RMB 1 has accounted for half of the total number of compulsory delistings. According to the author's statistics, since Zhonghong Holding (000979) was first delisted for this reason in 2018, by the end of 2021, a total of 22 A-share listed companies have been delisted because their share prices were less than RMB 1. As of the end of June 2022, there are 48 listed companies with a share price of less than RMB 2 and 11 less than RMB 1.5. The share prices of these companies are approaching the red line of RMB 1.[28]

The fundamental reason for the low share price of listed companies is their poor business performance and bleak business prospect. But in the A-share markets, the low share prices of many listed companies are caused by the previous bonus issue or conversion of capital reserves into share capital at a high percentage ("high percentage BI or CCR") (Dong, 2020). In order to cater to the preference of investors, before 2017, a large number of listed companies expanded share capital to enhance the liquidity of their shares and manage the market value by these two means.[29] When the market environment deteriorates and the company's growth in performance falls short of expectations, the power of face value-based delisting rule will emerge. Taking two listed companies at

[28] Listed companies proposed to be delisted that have entered the delisting arrangement period have been excluded from the statistics herein.

[29] From 2010 to 2015, the high percentage BI or CCR heated up year by year in the market. A significantly rising number of companies disclosed high percentage BI or CCR in their interim reports and annual reports, with the highest number of nearly 500 in 2015 (i.e. 150 in 2015 interim reports, and 343 in 2015 annual reports). See Yan, X. (2017). Historical Performance of the High Percentage BI or CCR. *Guosen Securities Research Report*.

face value-based delisting risk as examples, at the end of June 2022, Ronghua Industry (600311) had a share price of RMB 1.38 per share, with a market capitalization of RMB 919 million, while CCOOP Group (000564) had a share price of RMB 1.03 per share, with a market capitalization of RMB 19.547 billion. If Ccoop Group did not carry out the conversion of every 10 shares to 22 shares at the end of 2021, the company should not face the risk of face value-based delisting. There is no essential difference between conversion of capital reserves into share capital and high percentage BI or CCR in terms of share capital increase, which may lead to the risk of face value-based delisting. This shall be noted in the reorganization of a listed company.

In 2021, the first effective year of the new delisting rules, a total of 23 A-share companies were compulsorily delisted, making a record high and accounting for 13.61% of the total number of delisted companies since the first delisting in 1999. In the first half of 2022, 42 A-share companies were delisted compulsorily, far exceeding the annual level of 2021. It could be seen that the normal channels for exit from listed companies were being made available, and a virtuous cycle of survival of the fittest in the capital market was gradually taking shape. Therefore, listed companies must reasonably predict delisting risks and proactively take remedial actions.

3.3 How to avoid delisting risks of listed companies

If the delisting risk is imminent, listed companies have to take various measures to avoid the delisting crisis. These measures may be roughly divided into business measures and judicial measures. Business measures include purchase and sale of assets, repurchase of shares, debt waiver by creditors, and additional shareholding by shareholders. They rely on the input of external

resources, and distressed listed companies are often unable to obtain sufficient external resources. Therefore, business measures can only be temporary measures but not fundamental ways to get rid of trouble for listed companies under the pressure of imminent delisting. In addition, listed companies should also employ judicial measures, if practical, to apply for bankruptcy reorganization and pre-reorganization in a timely manner, so as to improve their fundamentals and avoid the delisting risks.

3.3.1 Taking temporary business measures

In order to prevent financial delisting risks, a listed company should endeavor to maintain the main business revenue above RMB 100 million and avoid a negative closing net asset value. The financial data of the listed company is largely continuous and predictable. The management should make timely forecasts of the financial performance of the listed company in the next one to two years based on its operating conditions, and develop tailored response plans based on the above financial indicators. If the main business temporarily comes to a halt, it is necessary for the listed company to raise funds by disposing assets, borrowing from shareholders, etc. to resume production. It is alternatively necessary to maintain a certain scale of production and sales by acquiring small assets in the same industry. The above measures are intended to ensure that the actual operating income from the main business reaches more than RMB 100 million. Net asset value is calculated by the ending date of a fiscal year. In extreme cases, a negative net asset value can be temporarily avoided by receiving donation of assets from third parties and debt waiver from creditors prior to the balance sheet date. Of course, these measures depend on the support of creditors, shareholders or “white knights”. Notably, regardless of

the indicators of operating income or net assets, the measures taken should comply with the applicable laws and regulations. The listed company should not “reconcile the statements” by such means of increasing operating income falsely or not providing for impairment when it should be provided for. Otherwise, not only may the accountant not issue a qualified audit opinion, but it may also trigger audit by the regulators. If so, retroactive adjustments will have to be made, ultimately rendering the “statement reconciliation” futile. For example, Firstar Panel Technology (300256) was given a delisting risk warning due to a negative audited net asset value in 2020. In order to avoid another such warning in 2021, the controlling shareholder of Firstar Panel Technology unconditionally waived its debt of RMB 2.542 billion. The debt waiver enabled Firstar Panel Technology to achieve a positive net asset value and thus avoid delisting despite the negative net profit and cash flow values in 2021. For another example, Dynavolt Tech (002684) was similarly issued a delisting risk warning due to a negative audited net asset value in 2020. At the end of 2021, its creditors forgave a total of RMB 4.03 billion in debts owed by the company. In the subsequent audit process, however, the accounting firm engaged by the company concluded that it was unable to obtain adequate and appropriate evidence for the debt forgiveness, and thus issued a disclaimer of opinion report. As a result, Dynavolt Tech failed to achieve a positive net asset value and directly led to compliance with the delisting criteria, thus triggering the delisting process.

As for the face value-based delisting risk, triggering conditions for delisting will directly result in delisting. There will be no delisting arrangement period and no room for maneuver. This requires the distressed listed company

to make an appropriate estimate of its share price based on the performance of the capital market and its own operating conditions. If the company is under pressure in maintaining its share price in the short term due to many negative factors, but has a positive outlook in the long term, it is necessary to temporarily navigate the crisis by repurchasing and writing off public shares, increasing the shareholding of shareholders and management, and making partial offers by investors. Again, these measures require investment and a consensus of all stakeholders to overcome the difficulties together, which are not easy for the distressed listed company. For example, facing the face value-based delisting risk, Kingswood Enterprise (600255) stabilized its share price and addressed the delisting crisis when a relief fund jointly initiated by the local government, the management of the company and the local AMC increased its shareholding in the secondary market and made a partial offer.

3.3.2 Making early preparation for reorganization

Bankruptcy reorganization is a fundamental approach for listed companies to get out of trouble and avoid the delisting risk. The new delisting rules leave a very narrow window for listed companies to reorganize, while bankruptcy reorganization requires a long period of time from the initiation to completion of the process and then to the effect of reorganization. The specified time limit and the actually required period are likely to be mismatched. If a listed company fails to get prepared as early as possible, it may miss the valuable window for reorganization, resulting in delisting.

According to the author’s statistics, among the 83 listed company bankruptcy reorganization applications accepted by the courts by the end of

2021,[30] it took more than three months for 46 applications to be accepted and for 55 applications to be approved, representing 55.42% and 59.14% respectively.

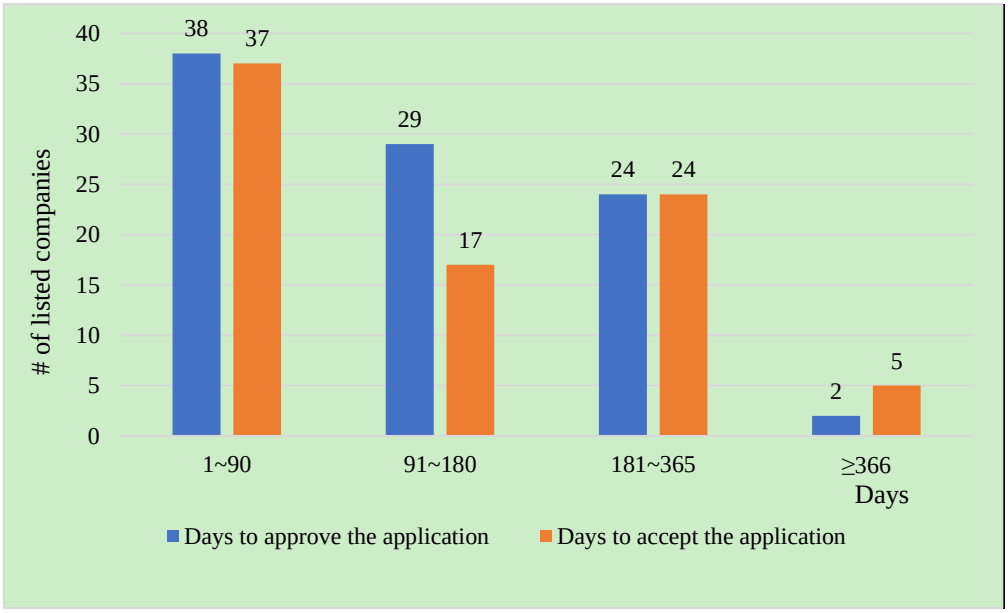

Figure 3.14 Days for courts to accept/approve the listed company bankruptcy reorganization applications from 2007 to 2021

As shown in the above figure, it generally takes more than six months for listed companies to complete the bankruptcy reorganization proceedings. In addition, before submitting the application officially, listed companies generally spent at least more than three months, or even one to two years in large complex cases, in preparing for the reorganization. In general, it will take more than one year for a listed company to complete the reorganization.

The preparation is crucial to the whole process as it lays a foundation for the subsequent reorganization. In the preparation stage, it is necessary to identify the assets and liabilities of the listed company to determine whether it is insolvent or may be clearly insolvent. More importantly, the listed company

[30] The other 10 applications are not considered here since their filing time was not disclosed.

should focus on restoring sustainable profitability to explore the reorganization value. Based on this, the listed company should develop debt settlement schemes, general plan of business operation, preliminary plan of introducing investors and solutions of special problems such as capital occupation or illegal guarantees. With the support of the local government, the listed company should negotiate with the major creditors or debt committee and discuss with potential investors in advance to form a preliminarily agreed framework plan for reorganization. Early and full preparation will ease the pressure in the reorganization proceedings, facilitate the process, save a large amount of time in the subsequent stage and create favorable conditions for maintaining listed.

3.3.3 Making use of the pre-reorganization system

Pre-reorganization refers to a system under which the parties negotiate and agree on a reorganization plan out of court before the listed company enters into bankruptcy reorganization proceedings, and then make it legally effective in judicial proceedings. In essence, the system moves the core steps of the reorganization process ahead of the judicial proceedings (Wang, 2021). Unlike a typical out-of-court agreed restructuring, pre-reorganization is subject to a limited degree of court oversight during the out-of-court negotiations, and the reorganization plan agreed on will be ultimately rendered binding on all creditors through a judicial decision. Also unlike a typical bankruptcy reorganization, what is done and the reorganization plan agreed on during the pre-reorganization period will also be effective in the judicial proceedings. The process may be significantly simplified within the reorganization proceedings. Pre-reorganization is a bridge between out-of-court restructuring and judicial reorganization, combing the flexibility of the former with the rigidity of the

latter. The system helps improve the success rate of reorganization and plays a prominent role in improving the reorganization efficiency of bankrupt enterprises and saving judicial resources (Xu, 2021).

Considering the large number of distressed enterprises and the necessity to improve the efficiency of reorganization, the single in-court reorganization procedure under China's Enterprise Bankruptcy Law can no longer meet the actual needs. Driven by the SPC and relevant ministries and commissions, more than 10 local courts in Beijing, Shenzhen, Nanjing, Suzhou, Xiamen and some other places of the country have issued working guidelines on pre-reorganization, providing detailed rules on the pre-reorganization system. In this context, more and more listed companies have turned to the system for rescue. According to the author's statistics, by the end of June 2022, 34 listed companies, including Poten Environment (603603), Ideal (002740) and Bluedon (300297), have initiated the pre-reorganization procedure.

Pre-reorganization is especially meaningful for listed companies. First, as stated above, the court's acceptance of a listed company bankruptcy reorganization application may be subject to the reviews of the local government, the CSRC and the people's court. It is difficult to initiate the reorganization proceedings and pre-reorganization can mitigate the pressure. Second, listed companies may be under urgent pressure to maintain its listing. Pre-reorganization can facilitate the negotiation and reorganization process, securing valuable time for listed companies. Finally, pre-reorganization is not an irreversible process. Even if the parties fail to agree on a plan in the pre-reorganization process, it will not lead to bankruptcy liquidation. Listed companies still have the opportunity for reorganization, which can minimize the

impact on local employment, taxation, people's livelihood and financial stability.

3.3.4 Reasonably arranging conversion of capital reserves into share capital

As mentioned in Chapter 2, due to its inherent advantages, conversion of capital reserves into share capital is the single mainstream scheme for shareholders' equity adjustment in the bankruptcy reorganization of listed companies. If a listed company failed to convert capital reserves into share capital as the actualities allowed, the conversion of capital reserves into share capital would, like a high percentage BI or CCR, give rise to the face value-based delisting risk and cause irreparable loss to all stakeholders. As stated in Chapter 2, by the end of June 2022, one listed company has been delisted for a face value related reason and dozens of listed companies are facing the risk of delisting as their share price remains below RMB 2 per share after reorganization. In order to avoid the delisting risk in the future, a listed company should appropriately select the price-to-earnings ratio, price-to-book ratio and other reference indicators of comparable listed companies based on multiple assumptions when adjusting its shareholders' equity. In consideration of market fluctuations, the listed company should reasonably forecast its future operating performance and share price performance, and based on the relatively conservative forecasts, determine whether there may be a risk of face value-based delisting in the future. In addition, the listed company should also design a reasonable scale of share capitals and set aside an adequate margin of safety. Only in this way can the listed company effectively avoid a face value-based delisting like Dongfeng Sci-tech Group (200160).

What should the listed company do if the scale of conversion of capital

reserves into share capital is reduced, resulting in insufficient shares being allocated to its creditors and investors? In the author's opinion, the following two solutions may be considered. Solution A: The original actual controller transfers part of its equity. In recent years, few original actual controllers have transferred their equities for two reasons, possibly: (i) the original actual controllers did not want to reduce their shareholding; and (ii) most of the shares held by the original actual controllers were pledged or frozen, and the transfer may be hindered by the pledgees or the creditors. From the perspective of the percentage of equity held, the author considers that the first reason is not justified. Even if the number of shares held by the actual controller remains unchanged, its shareholding ratio will also be diluted after the conversion of capital reserves into share capital. Transfer and conversion are actually two different schemes that bring about the same result. The pledge and freezing measures may cause some difficulties to the implementation of the transfer. In the implementation of the reorganization plan, the pledgee is usually reluctant due to its own interest to cooperate with the debtors in completing the formalities for removal of the pledge with the equity registration authority for the shares to be transferred. Similarly, the applicant of the freezing measure is unwilling to cooperate in applying to the relevant authority for removal of the freezing measures. Their non-cooperation makes it difficult to implement the reorganization plan smoothly. These obstacles, however, may be eliminated if the original actual controller provides alternative guarantees, the investor offers additional compensation to the pledgee, or the debt payment scheme of the reorganization contemplates debt payment arrangement (Zheng & Zhang, 2012, p.153-157). For example, in the cases of Pang Da Automobile Trade (601258)

and Chongqing Iron & Steel (601005), the original controlling shareholders both transferred part of their equity although there has been an increasingly obvious trend for listed companies to adopt the single scheme of conversion of capital reserves into share capital in recent years.

Solution B: The minority and majority shareholders, if necessary, jointly make concession. In practice, in order to protect the rights and interests of minority shareholders, most listed companies will give priority to the majority shareholders when shares are to be transferred. Such an arrangement is certainly fair and reasonable when the majority shareholders are obligated to make compensation unilaterally due to fund appropriation, illegal guarantee, performance compensation, etc. There is no reason for the minority shareholders to bear the obligation to the listed company for the majority shareholders. In general, however, will the transfer of shares jointly by the minority and majority shareholders definitely damage the rights and interests of the minority shareholders? In the author's opinion, the answer is no. Minority shareholders certainly do not participate in the business management of the listed company. Investors, however, should bear the consequences of their purchase of securities in accordance with the doctrine of caveat emptor if the listed company has duly complied with the obligation of information disclosure, or the doctrine of caveat venditor, under China's Securities Law.[31] The joint transfer of certain equity to the creditors and investors by all shareholders is to contribute to the rescue of the listed company, which is in the common interest

[31] On the contrary, if a listed company violates laws and regulations in information disclosure or otherwise, an action may be initiated on the ground of securities misrepresentation. The investors may claim legal liability for damages against the listed company in accordance with law.

of all shareholders (Yang, 2022). If the minority shareholders hold different opinions, they may, at their option, sell their shares in the most extreme case. The real protection of the rights and interests of minority shareholders is to safeguard their right to information and rights of voting, litigation and voting with their feet, rather than to provide one-sided preferential benefits (Zhou, 2014). Even if all shareholders are required to jointly make concessionto the creditors and investors, in practice, listed companies often make differential arrangements to protect the minority shareholders. The major shareholders are required to transfer a relatively high ratio of their equity while the minority shareholders at a relatively low ratio. For example, Hebei Baoshuo (600155), Cang Zhou Chemical Industry (600722) and some other listed companies developed the scheme of joint transfer of equity by all shareholders at differential ratios, which was accepted by the minority shareholders.

Whether the conversion of capital reserves into share capital is “moderate” is a judgment relative to the company’s fundamentals. It is meaningless to discuss the size of share capital without considering the fundamentals. The measures taken to avoid the delisting risk also require the company’s ability to continue as a going concern. This is related to the going concern value of the company. A detailed discussion will be provided in the next Chapter.

Chapter 4 Enhancing the Reorganization Value - Cornerstone for the Mechanism of Shareholders' Equity Adjustment

The essence of reorganization is the distribution of reorganization value (He, 2012). The reorganization value is understood as the difference between what creditors can be expected to recover their claims through reorganization than via liquidation (Luan et al., 2011, p.23). It is limited reorganization value that puts creditors, shareholders, and investors into a difficult game. Generally speaking, to make the cake bigger first, then to divide it properly. A core issue before all stakeholders in the reorganization, therefore, is how to enhance the reorganization value of the listed company (Ding, 2014). The empirical analysis in Chapter 2 leads to the finding that listed companies with declining performance after reorganization generally paid insufficient attention to the improvement of the reorganization value. Only by basing the reorganization plan on the listed company's enhanced ability to continue as a going concern can it improve its operating performance after reorganization and completely get rid of operating difficulties. In this way, creditors and investors can obtain their expected economic benefits from the sufficient value created, thus realizing the value objectives of the bankruptcy reorganization system and avoiding as much as possible the undesired situations mentioned in Chapter 2, i.e. the stakeholders failing to realize the expected economic benefits and the listed company unable to get rid of its operating difficulties after reorganization.

To maximize creditors' interests, rescue distressed company, and protect the public interests are the triple objectives of the bankruptcy reorganization system (He, 2021, October 31). Maximizing creditors' interests, as the top

objective, comes first. With the goal of maximizing creditors' interests, the company in crisis may survive as a going concern through the bankruptcy reorganization system, thereby maximizing both the enterprise value and the interests of creditors. Restoring the company's ability to continue as a going concern will maximize not only creditors' interests but also the interests of the society as a whole. The triple value objectives of the bankruptcy reorganization system, as an organic whole, are interconnected and cannot be divided or overlooked. Each of these objectives reveals the critical role of reorganization value in achieving the relevant value objectives.

4.1 Connotation of the reorganization value of listed companies

4.1.1 Going concern value of listed companies

Going concern value is defined as the value of a company that is expected to continue operating as an organic whole into the future. A firm, therefore, consists of the system of relationships which comes into existence when the direction of resources is dependent on an entrepreneur. A firm becomes competitive and sustainable when an entrepreneur may get costs of transactions at a lower price than the market transactions through allocation of resources (Coase, 1937, p. 386-405). A listed company's factors of production, when operating in form of a complete production system, deliver far greater value as a whole than the simple addition of their individual value.

Going concern value forms the basis of the bankruptcy reorganization system. A listed company, even in insolvency, may not necessarily lose its going concern value. In a market economy, the true value of an enterprise is not solely determined by the ratio of its assets to liabilities, but more by its profitability and its comprehensive resource possession in the market (Tang,

2014). The debt to asset ratio of JD Logistics, for example, stood at 103.22%, 105.21%, and 105.29% respectively from 2018 to 2020, remaining insolvent for consecutive years. Despite this fact, JD Logistics was successfully listed on the Main Board of the Hong Kong Stock Exchange in May 2021, with its market capitalization exceeding HK$270 billion on the first day of trading.

Putting aside how many assets or liabilities a listed company has, the going concern value of the company may be reflected in the following aspects: first, industry status and industry prospects, including whether the company operates in an emerging or strategic industry, its market recognition and technological advancement in the industry; second, operation status, including the maturity of business model, the stability of the management team and the operation of management and governance; third, qualification value, including the capital value, franchise and production qualification; and fourth, brand value, including the marketing network, client relationship, brand effect and goodwill. The above values cannot be reflected in a simple calculation of assets and liabilities, but require a more professional judgment using scientific valuation methods based on an in-depth understanding of the business operations.

4.1.2 The value of a listed company's listing status

The value of listing status is a must-discuss question when it comes to the reorganization value of listed companies. Chapter 3 already discusses the value of listing status of a listed company when analyzing the harm of delisting for a listed company to get out of trouble and survive, so the author will not go into too much detail here. The value of a listed company's listing status is significant to the bankruptcy reorganization. On the one hand, the listed company's listing status itself represents hundreds of millions to billions of yuan of economic

value; on the other hand, it can also empower and amplify the listed company's going concern value.

The value of listing status of a listed company cannot exist separately from its going concern value. It hardly can be valued separately in practice. If the main business of a listed company has experienced an overall shrink without any possibility of recovery, discussing the value of listing status in the reorganization would be ill-timed. The bankruptcy reorganization system should not be reduced to a tool for zombie enterprises to save their shells. This goes against the original purpose why the reorganization system is designed and is a misuse of the valuable judicial resources.

In the long run, with the registration-based system in full swing, the value of listing status is bound to showcase a trend of gradual reduction. The value of listing status of A-share companies, however, can still maintain a relatively high level in the long term. Taking the relatively mature Hong Kong capital market as an example, in the past three years, there are still about 20 listed companies in Hong Kong annually that have given rise to full-scale tender offers for control. The transaction prices mostly remain between HK$200-300 million.

Giving proper consideration to the value of listing status is the basis of proper judgment of the listed company's reorganization value and a well-designed adjustment plan of shareholders' equity. In arguing that a listed company entering the bankruptcy reorganization process still has certain shareholders' equity, one of the most important arguments in academic circles

is that there exists the value of listing status (He, 2012, p.165).[32] If that value is not considered, the adjustment of shareholders' equity will inevitably encounter resistance from the original shareholders, resulting in unnecessary disputes with creditors and investors and delaying the process of reorganization.

4.1.3 Social value of listed companies

The above values of going concern and listing status of listed companies are both economic values that can relatively be quantified. In addition to economic value, social benefits are also an important consideration in determining whether a listed company has reorganization value in many bankruptcy cases (Luan & Hou, 2017). Many listed companies are leading players in the region where they operate, which not only contribute significantly to local economic development and financial income, but also affect the employment of thousands of people. In view of their implications on people's livelihood, local economy and even social stability, the social value of listed companies is in particular a major consideration of local governments who thus have become an important participant in the reorganization of listed companies.

Listed companies in distress can easily lead to mass incidents and incidents affecting social stability as they often present a large number of problems, such as delinquent payment to suppliers, delayed delivery to customers and back pay, and involve the interests of a large number of minority shareholders. This is especially eminent in some industries with long upstream and downstream industrial chains and implications on the national economy and the people's

[32] See also Chen, L. (2018), A Study on the Regulation of Special Forms of Adjustment of Contributors' Equity in the Bankruptcy Reorganization of Listed Companies. *Securities Law Review, Vol. 24*; Cao, W. (2018). Analysis and Improvement of the Adjustment of Contributors' Equity in the Reorganization of Listed Companies: An Empirical Analysis Based on 51 Bankruptcy Reorganization Cases of Listed Companies. *Journal of Law Application, Issue 17*.

livelihood, such as construction and real estate industries. If a listed company can maintain and develop related industries through bankruptcy reorganization, it will help safeguard the interests of suppliers and customers, retain a large number of employees' jobs, and protect local social stability to a large extent. An example is the bankruptcy reorganization of Wintime Energy (600157), the first reorganization case of a listed company in Shanxi province. In 2021, Wintime Energy, through bankruptcy reorganization, settled RMB 80 billion of debts, maintained the jobs of over 20,000 employees, and safeguarded the interests of more than 320,000 minority shareholders, realizing its social benefits.

The author believes that the social benefits of listed companies should not exist separately from the economic benefits. If a listed company does not have any going concern value substantially, the reorganization only for maintaining stability and other social interests will not be a long-term solution; means other than reorganization should be considered to maintain social interests.

4.2 How to judge the reorganization value of listed companies

In the bankruptcy reorganization of a listed company, there are two stages to consider whether and how the listed company has reorganization value, namely the stages of accepting reorganization application and negotiating reorganization plan. The reorganization value judgment at the acceptance stage is broader in scope, covering the listing status value, going concern value and social value of the listed company; judgment at this stage focuses on quantitative analysis. During negotiation of the reorganization plan, the going concern value is the main focus in determining the reorganization value of the listed company. It requires a combination of valuation methods to quantitatively

measure the value of the listed company, which will serve as the basis for the adjustment and distribution of shareholders' equity.

4.2.1 Judgment on the reorganization value before acceptance of reorganization application

The main purpose of judging the reorganization value at this stage is to analyze whether the listed company is eligible for bankruptcy reorganization. Based on the Enterprise Bankruptcy Law, the Supreme People's Court issued the *Minutes of the National Court Work Conference on Bankruptcy Trials* in March 2018 to specify that "Bankruptcy reorganization should target troubled enterprises which have the value and possibility for rescue. Zombie enterprises should be cleared out of market determinately through bankruptcy liquidation." In this process, the creditor or the debtor who files the reorganization application, the local government, the CSRC, the people's court, etc. are all involved to a greater or lesser extent in judging the reorganization value of the company. The result of the judgment will be either acceptance or rejection of the application.

How can the judgment be made as to whether a listed company has reorganization value at this stage? In accordance with the *Trial Guidelines on Regulating the Application of Reorganization Procedures to Enhance the Effectiveness of Enterprise Rescue* issued by Nanjing Intermediate People's Court in January 2020, Article 3 provides that a debtor having reorganization value means that its going concern value outweighs its liquidation value. To determine the reorganization value of a debtor, the economic and social benefits, respectively in the cases of reorganization and liquidation, should be measured and compared based on a comprehensive assessment of factors including the

company's operating conditions, asset quality, debt burden, solvency, industrial policies, technology and process, industry prospects, and employment.

The value of reorganization is established when the value of going concern exceeds that of liquidation; this is the bottom-line standard of reorganization value. In other words, what creditors can be expected to recover of their claims through reorganization should be greater than that through liquidation; otherwise, reorganization will become pointless. However, as a careful comparison between the values of reorganization and liquidation is not required at this stage, there lacks clear criteria for judgment. In bankruptcy reorganization cases of listed companies, analysis of the reorganization value is often easy to ignore at this stage.

In the author's opinion, the judgment of whether there is reorganization value should be analyzed based on the internal and external factors as discussed above, combined with the reasons leading the listed company to crisis. In the priority of these factors, the prospects of the industry where the company operates should come first, then the quality of the company, and finally the social considerations. For example, if a listed company operating in the industries with high energy consumption, high pollution and overcapacity or the industries with backward production capacity falls into crisis as a result of industrial restructuring, there will not be much value for reorganization, regardless of the quality of the company itself. For a listed company in a sunrise industry that has a relatively complete industrial chain, strong competitive advantages and a high market share, if it is in difficulty due to excessive diversification or the impact of macroeconomic cycles, the reorganization value will be high.

4.2.2 Judgment on the reorganization value during reorganization process

During the reorganization process, the reorganization value of the listed company is generally reflected in the appraisal report issued by the appraisal agency engaged by the administrator and compared with the solvency analysis report issued by the appraisal agency in the case of bankruptcy liquidation. Creditors, original shareholders, and investors will carry out fierce game on the appraisal report. The key to resolving the conflict of interests and balancing interests in bankruptcy proceedings lies in how to fairly and impartially examine the value of the company and finally reach a “balanced price” that is accepted by all parties (Chi, 2019, September 12).

The solvency analysis report in a simulated case of bankruptcy liquidation is intended to determine the liquidation value of the listed company. The solvency analysis is an important part of the draft reorganization plan. The core of that analysis is to assess the liquidation value of the assets involved in the reorganization process under the assumption of bankruptcy liquidation and, from this, to measure the proportion of general claims after priority settlement of secured claims, bankruptcy expenses, common interest claims, employee claims and tax claims. Based on this, the listed company or the insolvency administrator has an “anchor value” for the percentage of general claims to be paid when creating the reorganization plan, so that creditors can have a general idea of the level of the worst-case scenario.

The appraisal report in a simulated going concern scenario is intended to determine the reorganization value of the listed company. With the maturity of value appraisal theory, three primary methods, i.e. cost approach, income approach and market approach, have been developed to value a company, with

the latter two more commonly used in bankruptcy reorganization cases of listed companies. Value assessment in bankruptcy reorganization of listed companies, however, is different from that in normal state in that it has unique evaluation perspectives and contents. For a company in its normal state, its historical data can be used to predict the future financial data and make value assessment accordingly since, during its continuous operations, there will not be any fundamental changes to its operation and profitability. In the case of a company to be reorganized, considering its situation before reorganization, in addition to the basic going concern assumptions, the valuation of the company must also include the assumption that the reorganization plan could be adopted and implemented, such as the business improvement plan, the asset divestiture or injection plan, and the financing plan can be successfully completed. This is equal to the valuation of a brand new company. In general, the reorganization value assessment of a listed company to be reorganized has a higher uncertainty than the general asset assessment (Lin & Qin, 2020). Even professional asset appraisers may make different judgments on the reorganization value of the same listed company, thus making it more prone to challenges from relevant stakeholders such as creditors and investors.

The above uncertainty of the reorganization value assessment also reflects that the reorganization value is determined through negotiation, the final amount of which actually depends on the bargaining of the stakeholders. The business plan which each party is willing to take through their own actions will have certain implications on the reorganization value of the listed company. Whether or not the original shareholders quit and the investors are suitable, changes in any of these factors may change the reorganization value.

4.3 How to improve the reorganization value of listed companies

Lying at the core of the reorganization value is the going concern value. A listing company's listing status value and social value cannot exist separately from the going concern value. Therefore, the key to improving reorganization value lies in improving the going concern value of listed companies. Only by fully enhancing the going concern value of listed companies can we promote the steady improvement of the operating performance of listed companies after reorganization, lay the foundation for creditors and investors to obtain the expected financial returns, and thus bring into full play the economic and social value of the reorganization system.

Increasing a listed company's going concern value requires a sound business plan. In the 92 bankruptcy reorganization cases of listed companies mentioned in Chapter 2, all of their reorganization plans have set up business plan sections, though greatly different in contents and details. A business plan covers business adjustment measures taken to save the debtor, change the debtor's state of loss, and restore its business capacity, such as transferring part of business or property, adjusting business scope, reformulating production and operation plans, restructuring business organization, changing the management, merging or separating the enterprise, introducing foreign investment, laying off employees, and borrowing (Ding, 2014, p.90). The business plans of each listed company vary with the actual situation. The most important contents, however, are common, focusing mainly on optimizing the corporate governance structure, formulating detailed business improvement plans, introducing sufficient incremental funds, injecting quality business with synergies, and selecting matching reorganization investors. These are also the common features of the

business plans of approximately 20 listed companies, including Jingui Silver Industry (002716), Salt Lake (000792), Antong Holdings (600179), Chaori Solar (002506), Changjiang Publishing & Media (600757), and Fushun Special Steel (600399), which have achieved better reorganization results in certain aspects as the author observed in his empirical analysis. In the author's opinion, a reasonable business plan should be a practical one supported by industry data and verifiable through financial analysis, rather than a generalized one. Based on these cases with better reorganization results, the author believes that the following aspects should be focused on to enhance the value of reorganization.

4.3.1 Optimizing corporate governance structure

In practice, many listed companies have fallen into difficulties due to the dominance of one majority shareholder or defects in their corporate governance structure. As a result, mistakes in their strategic decision-making, excessive leveraged expansion and even financial fraud, illegal guarantees, and capital appropriation came to the fore. A good corporate governance structure will help reduce the agency costs of operators, improve the management decisions of listed companies, avoid the recurrence of circumstances where majorirty shareholders harm the interests of listed companies and minority shareholders, and ultimately serve to improve the operation quality and efficiency of listed companies.

After becoming shareholders of a listed company, creditors and investors can (1) participate in the deliberation and decision-making of major issues at the shareholders' general meeting, and have a say in matters such as related-party transactions in particular; (2) nominate directors and supervisors to the board of directors and the board of supervisors, and participate in the business

decision-making of the board of directors and the supervision and inspection of the board of supervisors; (3) nominate officers including general manager, deputy general manager, and CFO, help the listed company to bring in management professionals, improve the day-to-day operating management, and assist with the overall optimization and upgrading of the governance structure of the listed company.

In addition to the supervision of the management, corporate governance has another role to play - it offers incentives to the management. Listed companies should establish a comprehensive incentive system. The use of a variety of tools including salary incentives, honor incentives, and equity incentives in particular makes it possible for the management to participate in the company's decision-making, share profits and assume risks in the capacity of shareholders, and take into account the company's short-term and long-term interests in decision-making, contribute to the long-term development of the company, reduce agency costs and improve governance efficiency.

Take Jingui Silver Industry (002716) as an example. Before reorganization, there were violations such as controlling shareholders' illegal occupation of the company's funds, reflecting that its corporate governance was in disorder. Therefore, the company's reorganization plan explicitly makes the optimization of the corporate governance structure a key element of the company's future business plan, putting forward specific requirements such as optimizing the professional configuration of its members, ensuring the scientific effectiveness of strategic decision-making, strengthening the division of functions and assessment mechanisms corresponding to responsibilities and authorities, and

improving the internal control management system.[33] The introduction of investors and the implementation of the reorganization plan have fully changed Jingui Silver Industry's members of the board of directors and the board of Supervisors. The investors and creditors have nominated their respective directors and supervisors to participate in the management and supervision of the listed company. Meanwhile, the company improved its internal control management system and established a pricing committee, a procurement evaluation committee, and a bid evaluation committee. All these measures have played an important role in fundamentally eliminating violations, preventing operational and financial risks, and safeguarding shareholders' interests after the reorganization. The final result shows that the committed nominal repayment rate of common claims in Jingui Silver Industry's reorganization plan is 46.09-90.18%. According to the author's calculation, the creditors' repayment rate will reach 53.15% one year after the approval of the reorganization plan, which meets that committed in the reorganization plan. The ROI will reach 152.76% one year after the approval of the reorganization plan. Another example is Salt Lake (000792). The company pointed out in its reorganization plan that it will establish an effective and flexible decision-making mechanism and a rigorous system of independent directors, give full play to mutual supervision, and establish a regulated, efficient and sustainable governance mechanism. It will also strengthen talent recruitment and development, improve staff incentive mechanisms, raise the salaries of R&D staff, and enhance the engagement of R&D talents in major corporate planning

[33] See *Reorganization Plan of Chenzhou Jingui Silver Industry Co., Ltd*. (December 16, 2020).

and processes. After the implementation of the reorganization plan, Salt Lake's net profit growth rate after deduction of non-recurring gains and losses in the following year reached 108.57%. Similarly, Chongqing Iron & Steel (601005), among others, has laid a sound foundation for its smooth development after reorganization through corporate governance structure optimization plan.

4.3.2 Developing a detailed business improvement plan

The first step in developing a management improvement plan is to conduct an in-depth analysis of why a company is in trouble. In practice, enterprises fall into bankruptcy reorganization for various reasons, such as blind expansion, business transformation failure, high-interest loans, poor operation and management, guarantee for other enterprises, and sudden investigations and other black swan events. Only by identifying the root causes of bankruptcy can we know where the most important improvements should be made and have an objective picture of an enterprise's future business plan.

Developing a business improvement plan requires a rational analysis of the industry in which enterprises operate. What is the size of the industry, and is there a broad enough market space? What is the growth rate of the industry and is it a blue ocean market or a red ocean one? What about the competition in the industry? And has an oligopoly been formed? These industry attributes determine the ceiling and future development space of a company within an industry, and whether a company should adopt a defensive or aggressive strategy, or break new ground.

Developing a business improvement plan also requires a comparative analysis of key competitors. What are the differences between your competitors' R&D direction, raw material supply, product production, and sales channels and

yours? Are their gross profit margin, net interest rate, cash flow, and capital structure better? Are their management and talent teams superior? A comparative analysis of competitors helps enterprises to know themselves and their competitors, and develop targeted improvement plans by taking account of their weakness. For example, if a company has a low net profit rate, it needs to strengthen cost control; if restricted by channels, then it needs to diversify its sales channels further.

All in all, when it comes to the reorganization of listed companies, it is advisable to analyze the industry, competitors, and the situation of listed companies based on their business layout, asset structure, human resources, and management level, and improve their production capacity, profitability and market competitiveness through measures such as adjusting business layout and asset structure and making good use of resources, so as to improve the companies' going concern value.

In this regard, Salt Lake (000792) has clearly proposed in its reorganization plan specific and feasible business improvement schemes, including (1) investing 1%-3% of annual sales in R&D, focusing on the development of potassium, lithium, and other related technologies, and actively exploring lithium metal and lithium alloy technologies to enhance product competitiveness; (2) building a lithium metal project in steps to form 3,000 tons/year lithium metal product capacity, and expanding 10,000 + 20,000 + 30,000 tons (60,000 tons in total) of lithium carbonate and lithium hydroxide product capacity in steps within five years. Chongqing Iron & Steel (601005) has proposed the near-term/medium-term/long-term development strategy and development path based on market analysis and judgment, forming a program

of "stanching bleeding in the near term", "building blood in the medium term" and "upgrading in the long term".[34] On the contrary, ST Geoway (600462), in its reorganization plan, provided a slightly rigid and simple scheme for the company's future business improvement, which is only limited to divesting its loss-making business and maintaining the non-loss-making business, without further analyzing and assessing the prospects of its non-loss-making business. It turns out that its non-loss-making business faced an industry-wide continuous decline in the year following the approval of the reorganization plan, which led to a decline in its operating revenues, net profit, and other key indicators for two consecutive years after the reorganization.

4.3.3 Bringing in sufficient incremental capital

For distressed listed companies whose cash flow has dried up, incremental capital is the key to solving funding constraints. In practice, restricted by the very limited access to financing, reorganizing listed companies generally raise incremental capital by (1) selling some of its assets; and (2) bringing in reorganization investors.

If a listed company intends to raise capital by selling some of its assets, the listed company should have reasonable expectations about the true value and marketability of the assets as such assets to be sold are generally not the core assets necessary for the listed company to maintain and increase its going concern value. Some reorganizing listed companies have made inefficient asset divestiture plans, while many others have fallen into the dilemma of selling such assets and ending up with no deal. To the author's knowledge, a listed company

[34] See *Reorganization Plan of Qinghai Salt Lake Industry Co., Ltd*. (January 17, 2020).

in Jiangsu province determined the sale plan of a number of its real estate projects under construction as early as 2019, but failed to find a buyer up till now as the listed company does not want to exit at a loss.

Another feasible option is to bring in reorganization investors to solve the cash flow problems. Most of the current reorganizing listed companies bring in reorganization investors by soliciting eligible reorganization investors publicly. The final selected investors are determined in accordance with the prescribed process and bidding rules. It is important to note that a reorganizing listed company should have a clear understanding of the recruitment of investors. Although brought in by unsolicited "recruitment", investors still have the absolute power to determine where they will invest or not. The listed company should actively contact the interested investors, carry out recruitment and communication in advance, and fully introduce the general situation of the company, the proposed requirements for investors, the materials to be submitted, the registration matters, the follow-up screening procedures and other information, so that the interested parties will have a clear picture of the brand value, assets, operations and market prospect of the company at the soonest time possible (Mo, 2019).

Antong Holdings (600179), which completed its reorganization in late 2020, is one of the strong cases that confirm the author's view. Antong Holdings is a publicly traded company listed on the SSE. As a shareholding platform, the company specializes in ship leasing and domestic logistics multimodal transportation business through its two core subsidiaries, Ansheng Shipping and Antong Logistics. According to its reorganization plan, the total book assets of the two subsidiaries account for 81.87% of the total assets of the listed

company.[35] In order to completely resolve the delisting risk of Antong Holdings and to maintain and enhance its ability as a going concern, the administrator needs to simultaneously resolve the debt distress of its two core subsidiaries as a whole. Therefore, it's necessary for the two subsidiaries to raise sufficient resources to settle their debts and resolve the debt risks, and keep their major operating assets to ensure the continued stability of their production and operations. Therefore, such operating assets cannot be cashed out to raise debt-servicing funds. In this context, the administrator introduced an industrial investor, Zhaohang Logistics, and a financial investor as reorganization investors for Antong Holdings, injecting a total of RMB 4.527 billion. With part of the injected funds from the reorganization investors and debt-to-equity swaps, the reorganization plan helped settle the debts of Antong Holdings and its two core subsidiaries without affecting the normal operations of the two subsidiaries. According to the author's statistics, one year after the reorganization, Antong Holdings' operating revenues reached RMB 7.794 billion, up 61.21% year-on-year; net profit after deduction of non-recurring gains and losses reached RMB 1.636 billion, an increase of up to 346.18% year-on-year. As can be seen, the introduction of sufficient incremental capital from the reorganization investors not only helps the debtor to resolve its debts, capital occupation, and other legacy problems, but also helps the debtor with a good industrial base to maintain its production and operation capacity, bringing greater value to the reorganization investors.

[35] See *Reorganization Plan of Antong Holdings Co., Ltd*. (November 5, 2020).

4.3.4 Bringing in business with synergies

If there is not enough space for a listed company's original business to develop, or if it remains far from the goal that the stakeholders intend to achieve in the reorganization, it is imperative to further expand the incremental business. Relying on its listing status and existing business resources, the listed company can acquire new business from industrial investors by paying shares or cash consideration during or after the reorganization, to promote the adjustment and optimization of its industrial structure, integrate the upstream and downstream industrial chains, expand the scale of operation and obtain the synergies brought by the acquisition. In this process, industrial investors can also make use of their industrial background to provide further resources in talent and management for the listed company and enhance its reorganization value.

Given the limited business volume of listed companies, many have made plans to introduce quality business in the reorganization to enhance their reorganization value. According to the author's statistics, more than 20 reorganizing listed companies have completed asset swaps in practice. A typical example is Chaori Solar (002506). In 2014 when the reorganization was completed, Chaori Solar's solar module capacity was only 150MW. In 2015, however, after acquiring the module business from the reorganization investor GCL through a major asset restructuring and building supporting module capacity, Chaori Solar's solar module capacity was increased to over 4GW, which significantly enhanced the company's market position and competitiveness. In 2015, Chaori Solar achieved operating revenues of RMB 6.284 billion, up 132.8% year-on-year, and a net profit of RMB 635 million, up 335% year-on-year.

A noteworthy issue is that the above-mentioned listed companies with asset injection plans just introduced the planned quality asset injection in their business plans in a few words, without any reference to what industry assets will be injected, how profitable they are, who will make the injection, how the injection price will be determined, how the synergies will be played out, and other related issues. Since such so-called asset injection plans are just a preliminary intention, which are not legally binding and will not lead to a practical plan, they easily fall apart following the reorganization. In the author's opinion, if the incremental business is an important part of the reorganization value of a listed company, this value should have been taken into consideration while negotiating the reorganization plan by all stakeholders. Moreover, this value should also be clear, definite, and expectable. Only in this way can the listed company's reorganization value be truly enhanced.

4.3.5 Selecting matched reorganization investors

The above-mentioned aspects of improving the reorganization value, be it optimizing the corporate governance structure, formulating detailed business improvement plans, introducing sufficient incremental funds, or injecting business with synergies, can all get resources and support from reorganization investors. Therefore, it is extremely important to select the matched reorganization investors that can meet the needs of listed companies in the process of reorganization.

Take Shaanxi J&R Optimum Energy (300116) as an example. Shaanxi J&R Optimum Energy is one of the earliest enterprises engaged in the R&D of power batteries for new energy vehicles and their mass production and application in China. However, due to a single product mix, insufficient market

share, and declining state subsidies for the relevant power battery products, the company was struggling in its operations. During the bankruptcy reorganization process, the administrator chose Changde Zhongxing Investment Management Center (Limited Partnership) as the reorganization investor, whose actual controller Gao Baoqing was the former general manager of Hunan Chinaly New Materials Co., Ltd. (later acquired by listed company Changyuan Group (600525)). His team has many years of experience in the lithium battery industry, which is exactly what the distressed Shaanxi J&R Optimum Energy needs.[36] According to the company's 2021 annual report, after reorganizing the board of directors and being taken over by the new management team, Shaanxi J&R Optimum Energy has increased its efforts in market development, improved its management level, and won orders from a number of leading electric two-wheelers clients. The company's operating conditions gradually recovered for the better.[37] According to the author's statistics, one year after the implementation of the reorganization plan, Blivex's operating revenues increased slightly, from RMB 141 million to RMB 164 million, up 16.37% year-on-year. The loss was greatly reduced, however. The net profit after deduction of non-recurring gains and losses was narrowed from a loss of RMB 207 million to RMB 134 million, down by 35.34% year-on-year. As the investor's industry background matches the debtor's needs, its efforts to improve the debtor's operations with its industry resources and management experience began to pay off.

Whether a listed company's reorganization can attract matching investors

[36] See the *2021 Annual Report of Blivex Energy Technology Co., Ltd*. (April 27, 2022).
[37] See the *Reorganizaiton Plan of Shaanxi J&R Optimum Energy Co., Ltd*. (December 30, 2019).

requires the listed company to make out a practical reorganization plan for its own situation. A reasonable and feasible reorganization plan is the basis for introducing investors. A listed company has to consider whether it has a solid industrial foundation in the industry, whether it has an excellent management team, and whether it has sufficient financing channels before choosing an investor. When choosing an investor, it is not just about the money invested and acquisition price, so the rule of "the highest bidder wins" should not be simply applied. More importantly, an investor's capital scale, industrial resources, investment experience in the same industry and other factors should all be considered to maximize the going concern value of the listed company.

In summary, enhancing the reorganization value is the basis for the distribution of shares among the parties. Tapping and enhancing the reorganization value of a listed company is a step before distribution of shares among creditors, investors and original shareholders. The distribution of shares is the objective, and also the final result, of the game among the parties.

Chapter 5 Distributing Shares on a Balance of Interests Basis - Core of the Mechanism of Shareholders' Equity Adjustment

The unreasonable share pricing in the adjustment of shareholders' equity in the reorganization discussed in Chapter 2 is the last issue to be dealt with in the adjustment. It concerns how to allocate the reorganization value of the company among all the stakeholders, i.e., the rules of allocating shareholders' equity.

In terms of the specific distribution method of shareholders' equity, as mentioned in Chapter 2, in practice, it is generally adopted to keep the stock shares of the listed company unchanged, increase new shares through the transfer of capital reserves, and distribute new shares to creditors and investors, to realize the adjustment of the rights and interests of creditors, investors and original shareholders. On the premise that the reorganization value of the listed company can be effectively enriched and increase of the share capital would not lead to cause the risk of delisting at the face value, the above approach is the most simple and effective one. All relevant parties will play games on key factors such as the quantity of shares converted from capital reserves, the price and quantity of the converted shares to repay debts to creditors, the price and quantity of the converted shares sold to investors, and the valuation of the listed company after the reorganization. The adjustment of these variables achieves the result of the adjustment of shareholders' equity that all parties accede to. During this adjustment process, if a single capital reserve conversion cannot meet the needs of shareholders' equity adjustment, it may be necessary to further consider whether to adjust the existing shares, that is, the original major

shareholders transfer part of the shares to creditors or investors. At the same time, although minority shareholders generally do not participate directly in the game process of shareholders' equity adjustment, but choose whether to accept the results of shareholders' equity adjustment, due to the minority shareholders' right to veto the reorganization plan under certain conditions and to avoid the attention of securities regulators or the market media, the parties generally take the interests of minority shareholders as the bottom line and do not make adjustments to the shares held by minority shareholders.

In the bankruptcy reorganization, the creditors anticipate the highest possible repayment ratio; the original shareholders expect more debt reduction from the creditors and preservation of the equity value; and the investors seek to obtain the maximum returns with the minimum investment. Therefore, the parties have diversified demands in pursuing their interests. The distribution rules of shareholders' equity are designed to realize a reasonable distribution of the distressed enterprise's reorganization value among the creditors, original shareholders and new investors so as to balance the interests of all parties (Zheng, 2011, p.90). In the absence of a balanced distribution rule, the interests of a party will be damaged as described in Chapter 2.

However, the Enterprise Bankruptcy Law only provides that "It shall be fair and equitable in adjusting the equity of capital contributors", without specific and clear guidance. This has led to extensive discussions in the academic community on the rules on distribution of shareholders' equity. The principle of creditor priority has been established since the inception of the bankruptcy reorganization system. However, the connotation and boundary of the principle are changing and there has long been a debate between the absolute

priority rule and the relative priority rule (Si, 2021). In the reorganization practice of listed companies, the original major shareholders still retain certain equity in the companies, which has aroused criticism from academic community based on the principle of creditor priority. Such act is viewed as the manifestation of "supremacy of shareholders" doctrine in practice (He, 2012, p. 158-162).

As mentioned in the previous chapter, the key to a successful reorganization is the improvement of the going concern value and sustainable profitability of listed companies. Only by improving their reorganization value can the listed companies maximize the interests of creditors, get out of difficulties and safeguard social interests as contemplated under the bankruptcy reorganization system. Therefore, in the author's view, when considering the specific rules for the adjustment and distribution of shareholders' equity, the companies should, adhering to the relative priority rule for creditors, distribute the shares among the parties based on a balance of interests and the respective contributions of reorganization value. This will substantially ensure the fairness as required by the Enterprise Bankruptcy Law.

5.1 Appropriate concession of creditors in equity distribution

The appropriate concession of creditors in equity distribution is actually reflected in the relative priority rule. In the distribution of shareholders' equity, creditors should appropriately leave certain reorganization resources for distribution to other related parties instead of taking everything based on their

priority status. Unilaterally emphasizing the absolute priority of creditors will dampen the enthusiasm of shareholders and investors to participate in the reorganization. It does not work most favorably for creditors on the whole.

5.1.1 Breaking the absolute priority rule

The absolute priority rule for creditors has been viewed as "the core of enterprise bankruptcy theory". According to the rule, "the order of repayment of the parties under substantive law shall be followed, indicating that the order of repayment in bankruptcy proceedings shall be consistent with that under the substantive law. Claims of a class of creditors must be paid in full before any junior class of creditors may receive or retain any property in satisfaction of their claims" (Xu, 2015, p.486).

If the absolute priority rule is strictly implemented in the reorganization, however, the reorganization procedure will in fact be regarded as a debt settlement procedure same as the liquidation proceedings. It will obliterate the function of the reorganization proceedings to achieve rebirth as compared to the liquidation proceedings, and will ultimately be disadvantageous to the creditors (Chen & Li, 2021). The reorganization system is intended to actively rescue the financially distressed company by integrating the efforts of all parties in order to maintain and enhance its going concern value, and resume the production and operation. It is not meant to achieve the purpose of fair settlement of claims by liquidating the company’s assets.

Considering the above purpose, the author believes that the requirement of

"fairness and equity" under the Enterprise Bankruptcy Law can be better reflected in the relative priority rule. Enterprise Bankruptcy Law explicitly provides that enterprises enjoy protective treatments such as ceasing to accrue interest, lifting preservation, and suspending lawsuit, which serves as certain restrictions on creditors' equity. Compared to the absolute priority rule, the relative priority rule, on the premise of respecting the principle of priority of creditors and the best interest principle (Wang, 2012),[38] allows a junior party in the repayment rank to obtain repayment no higher than that of a senior class under certain conditions. Therefore, they may obtain certain shareholders' equity, which motivated them to participate in the reorganization and rescue the company. This is sufficiently shown in the bankruptcy reorganization practices in that all the listed companies have more or less retained the equity of the original shareholders.

5.1.2 Focusing on the long-term value of shares in the future

Debt-to-equity swaps involve both the debt repayment and the capital contribution by credit. In practice, the former receives more attention from creditors who seek to obtain a higher degree of repayment through reorganization and exit immediately, regardless of the long-term benefits brought by the reorganization. From the perspective of the capital contribution by credit, after debt-to-equity swaps, the creditors become the shareholders of

[38] The best interest principle means that any stakeholder (creditor or shareholder) who opposes the reorganization plan can receive the benefit that it would have received in the bankruptcy liquidation proceedings pursuant to the reorganization plan.

the reorganized enterprise, and what they held is no longer creditor's rights with fixed income, but equity with long-term potential of appreciation. How to hold equity properly and be a good shareholder is something that creditors need to learn from other private equity investors.

With an intention to exit immediately, creditors will pay less attention to the protection of share value, priority of exit, restrictions on and incentives to major shareholders, participation in the operation and management of the company, the profit distribution policy of the company, etc., and the arrangements involving such issues also find no place in the reorganization plan of the listed company. The author is of the view that, whether it is to attract investors or to reward the original shareholders, the ultimate purpose of creditors' concession in equity distribution is to obtain the long-term value of shares. Therefore, the above-mentioned arrangements on shares are actually very important, which can reduce the difficulty of the all parties in game of interests and reasonably protect the interests of creditors (Liao, 2018).[39]

The creditors may accept a relatively high conversion price based on the blueprint of the company described by the original shareholders or the investors. When the business objectives proposed by the original shareholders or the investors are achieved, the creditors can get an expected conversion price. However, whether such business objectives can be achieved faces high

[39] See also Ding, Y. (2018). A Legal and Economic Analysis of the Implementation of Debt to Equity Arrangement in the Bankruptcy Reorganization of Enterprises. *Economic Law Review (Vol. 18), Issue 1*.

uncertainties and will take a long time to verify. In this case, it is advisable to establish a dynamic share adjustment mechanism between creditors and original shareholders or investors. If the listed company fails to achieve the original target after the reorganization, the original shareholders or the investors shall compensate the creditors with shares or cash, which can, to a certain extent, solve the creditors' concerns about the value of the reorganized listed company and protect their legitimate rights and interests. Creditors may exit by reducing their shareholdings in the secondary market. In addition, companies may ensure creditors' exit by setting agreement transfer with certain conditions or making relevant arrangement for bulk transaction. Companies may also impose corresponding restrictions on the reduction of shares held by original shareholders, pledge financing and other acts, so as to ensure that creditors can have priority in exiting their shares. In addition, creditors should actively exercise their rights and perform their obligations as shareholders, participate in the operation and management of the company, and provide recommendations for the improvement of the company's operation.

In short, creditors need to realize that just-in-time exit strategy is only suitable for debt financing, and it requires a long-term planning for exit in the equity financing. After the debt-to-equity swap, the creditors, in their new role, should focus more on how to enhance the long-term value of the shares, and obtain the returns from long-term appreciation of the shares. After studying the top ten shareholders disclosed in the periodical report of the relevant listed

companies, the author finds that most of the creditors will reduce their shares in time after completing the debt-to-equity swap, and only a small proportion of creditors hold the shares for three years, regardless of the success of the cases, not to mention the protection mechanism of shareholders' equity mentioned above. In some cases, however, the creditors may get better returns by holding the shares for a long time. Take Fushun Special Steel (600399) as an example. In its reorganization plan, the debt-to-equity conversion price is agreed as RMB 7.92 per share. If the creditors choose to sell their shares upon approval of the reorganization plan, the actual repayment ratio for the debt-to-equity swap is only 30%. However, if the creditors choose to sell their shares after three years, the ratio can reach 318%.

5.1.3 Taking the reorganization value as the focus in the game of interests

The second principle for the creditors' concession in equity distribution is that there must be a bottom line for concession. In other words, each creditor should obtain a repayment not lower than that may be achieved in the case of liquidation. However, if only the bottom line is used as the reasonable standard for the concession, the principle of priority of the creditor will be breached, which may constitutes the infringement of the interests of the creditors. The appropriate concession of creditors does not mean that any degree of concession can be fair as long as the creditors acquire interests higher than those achieved under liquidation. The concession should be based on the reorganization value, taking into account the status in the game of interests. In the case of Yinyi

(000981), although the conversion price agreed in the reorganization plan was 174.45% of the share price on the approval date of the bankruptcy reorganization plan, where creditors gave up more benefits, the repayment ratio one year after creditors chose the debt-to-equity swap was as high as 94.19%.

In practice, given a large number of creditors of a listed company with varying amounts of repayment, principal debtor, guarantee and risk tolerance, the game of interests between the original shareholders and the creditors over the reorganization value and debt-to-equity conversion price of a listed company is one of the most important steps in the reorganization process. As mentioned in Chapter 4, judgment and evaluation of the reorganization value of a listed company are subject to uncertainties. Even the most professional evaluation institution or financial consultant finds it difficult to satisfy the creditors, the investors and the original shareholders at the same time through their evaluation report. All parties need to consider the business development plan, amount of remaining debt, funds or resources of investors and other important variables in the ongoing game of interests. The original shareholders prefer a higher valuation, so that they can retain the most equity. In contrast, the creditors and the investors expect a lower valuation, as it may increase the actual repayment ratio of the creditors and safeguard the investment returns. In practice, as the listed company under reorganization is operated by original shareholders, its valuation is more likely to be influenced by them. As such, the valuation tends to be higher. Investors are generally indifferent to this, since

they can choose to exit anytime. Creditors are often more reluctant, as they may face the risk of liquidation of the company. Such a risk also applies to original shareholders.

In practice, the conversion price for creditors, the share purchase price for investors and the listed company's secondary market price may all be different, representing varied judgments on the value of the company. The author analyzes the relationship between the conversion price, the share purchase price and the share price of the listed company on the date before the court's acceptance of the reorganization application by sampling 18 cases which involve both debt-to-equity swaps and introduction of investors as of the end of 2021.[40]

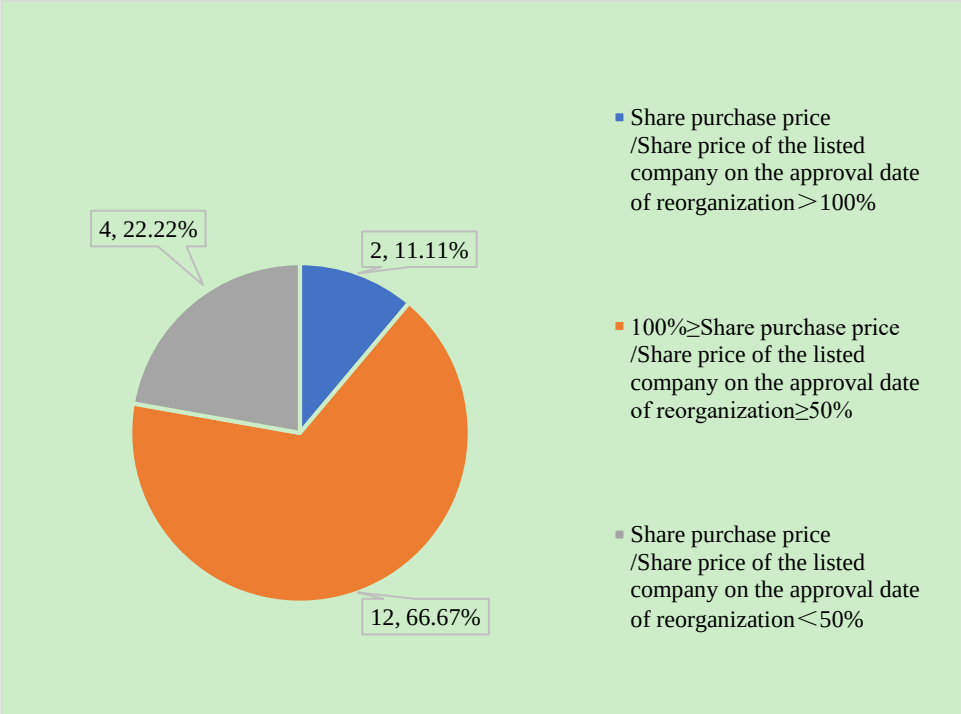

Figure 5.1 Statistical chart of conversion price in the reorganization cases involving debt-to-equity swaps and introduction of investors approved from 2007 to 2021

[40] If the day before the acceptance of the reorganization plan of the listed company is a non-trading day, the share price of the preceding trading day shall be taken.

a. The relationship between the conversion price and the share price of the listed company on the date before the court's acceptance of the reorganization application. In all of the above cases, 50% have a conversion price higher than 200% of the share price of the listed companies on such date, while 33.33% have a conversion price standing between 100% and 200% of the share price on such date; these two account for 83.33% of all these cases.

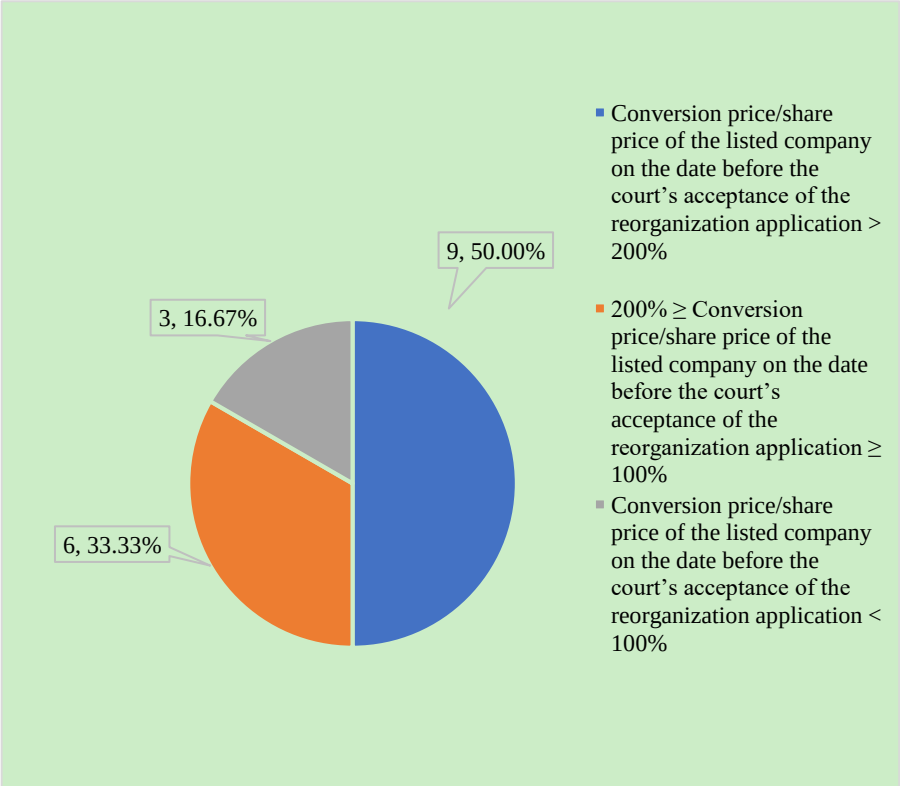

Figure 5.2 Statistical chart of the share purchase price of investors in the reorganization cases involving debt-to-equity swaps and introduction of investors approved from 2007 to 2021

b. The relationship between the share purchase price of investors and the share price of the listed company on the date before the court's application of the reorganization application. In the above cases, the share purchase price is basically lower than the share price of the listed company on such date. 22.22% of these cases have a share purchase price lower than 50% of the share price of

the listed company, and 66.67% have a share purchase price not higher than 100% but not lower than 50% of the share price on such date. Cases in which the share purchase price is lower than the share price of the listed company on such date account for 88.89% of total. There is only two cases in which the share purchase price is higher than the share price of the listed company on such date.

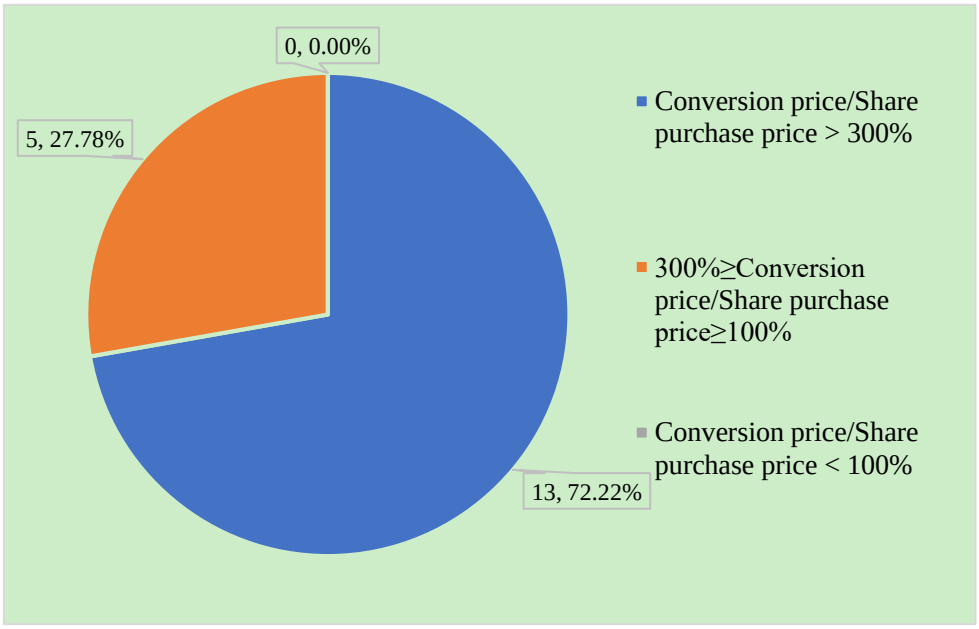

Figure 5.3 Statistical chart of comparison between conversion price and share purchase price in the reorganization cases approved from 2007 to 2021

c. The relationship between the conversion price and the share purchase price. In the above cases, the difference between the two prices is mostly above 300%, accounting for 72.22%. There are only 5 cases in which the difference is within 3 times.

Since the sample size is limited, the author is not saying that the above price relationship is necessarily correct. The situation of each listed company is not the same, and the share price or market value of a listed company does not necessarily reflect the value of the listed company implied by the reorganization

plan. However, the above price relationship can reflect the current status of the game between the parties in the bankruptcy reorganization of listed companies, and to some extent represents the acceptable pricing range of the parties, which can provide some reference for other projects to start the game based on the market experience and the case situation.

In order to study the relationship between the above-mentioned price relationship and the effect of reorganization, the author further analyzed the above 18 cases by comprehensively comparing the net profit, actual repayment of creditors and returns of investors after the implementation of the reorganization. The author found that 9 listed companies have performed relatively poorly after the implementation of the reorganization plan, with an average value of 631.74%, a median value of 598% for debt-to-equity conversion price/the share purchase price. For the remaining 9 listed companies with relatively good performance after the implementation of the reorganization plan, the average value amounts to 315.06%, the median value is 342.77%, after excluding the extreme data of 1 listed company.

This difference is also evident despite the fact that the sample size of 17 valid cases is not large.[41] And what are the reasons for this difference? The

[41] In the nine cases with relatively poor performance, the average and median liquidation rate of transfer creditors one year after the reorganization decision is 31.51% and 35.61%, and the average and median return for investors is 71.36% and 27.22%; in the eight cases with relatively good performance, the average and median liquidation rate of transfer creditors one year after the reorganization decision is 66.87% and 64.88%, and the average and median return for investors is 87.87% and 63.85%. Among the eight cases with relatively good performance, the average and median rates of payoffs that could be achieved by the transferring creditors one year after the reorganization decision were 66.87% and 64.88%, and the average and median rates of return that could be achieved by the investors were 87.87% and 63.85%. The data was not considered in the statistics due to an anomaly caused by one listed

author went on to examine the data in question.

In terms of the relationship between the creditors' transfer price and the share price of the listed company, the premium of the creditors' transfer price to the closing price of the shares of the listed company on the trading day before the reorganization was accepted in the relatively poorly performing cases was significantly higher than that in the relatively well performing cases, with a difference of 126.6% in averge and 75.15% in median. In terms of the relationship between the investors' share price and the listed company's share price, the discount between the investors' share price and the closing price of the listed company's shares on the trading day before the reorganization was accepted was slightly higher in the relatively poor performing cases than in the relatively good performing cases, with a difference of 11.66% in average and 11.43% in median. That is, the creditors in the underperforming reorganization cases clearly ceded more equity and the investors received a lower entry price. So why did the reorganization of these listed companies remain relatively ineffective even after the creditors gave up more equity and the investors received a larger discount? The author believes that some answers to this question can be found in the liquidation rates disclosed in the above cases. The average and median rates of general claims in liquidation for the poorly performing cases are only 9.63% and 11.20%, while the average and median

company where the investor's entry price was lower than the par value of the stock.

rates of general claims in liquidation for the better performing cases are 20.23% and 16.01%, which are significantly higher than those of the poorly performing cases. Without considering the incremental value injected by investors, the liquidation rate can reflect the reorganization value of the reorganized companies to a certain extent. It can be seen that the underlying reason why the relatively poorly performing cases are so is the lack of their reorganization value.

The above analysis further supports the author's view that the effective enhancement of reorganization value is the cornerstone of a good bankruptcy reorganization. The game between the parties regarding the ratio of shareholders' equity is not only about the quantity and ration of shares, but also about the inherent value of the shares. Therefore, the parties must play the game on the basis of effective enhancement of the reorganization value of the listed company, according to the extent of each party's contribution to the reorganization value and whether it can further enhance the reorganization value of the listed company.

5.2 Necessary protection for the rights and interests of investors

Investors in reorganization is crucial to the rehabilitation of listed companies, but unfortunately, China lacks legislative and practical systems for protecting their rights and interests (Zhou, 2019). The Enterprise Bankruptcy Law and relevant judicial interpretations are silent on the rules on the introduction of reorganization investors. In practice, most listed companies only focus on the form of public recruitment of investors during the reorganization

and but not the protection of their legitimate rights and interests. The recent SSE and the SZSE self-regulatory guidelines, on the contrary, impose certain requirements and restrictions on investors to protect the rights and interests of listed companies and their general investors.

According to the author's observations, the bottlenecks listed companies may encounter in reorganization mostly are related to introduction of investors. They either cannot find a suitable investor or are declined after the potential investor expresses an interest in investing. Investing in enterprises to be reorganized will expose investors to higher risks in aspects including information disclosure, contingent liability, failure rate of reorganization, and post-reorganization operation. Lack of protection for their rights and interests will be a further discouragement to investment, which is not conducive to the rehabilitation of those enterprises. In the author's opinion, the legitimate rights and interests of investors in reorganization, including their rights to information and due diligence, should receive duly protection. In the adjustment of shareholders' equity, protection should be provided based on the types of investors with particular consideration and protection given to the financial returns of financial investors and the intention of industrial investors to obtain control.

5.2.1 Protecting investors' rights to information

Either for financial investors or industrial investors, knowledge and due diligence of the target company are necessary prerequisites for their investment.

In practice, investors will be publicly selected in most bankruptcy reorganization proceedings of listed companies. Such selection process includes registration of investors, payment of deposits and review of qualifications, due diligence of investors and reverse due diligence, submission and assessment of investment plans, and signing and closing of investment agreements to be completed in the sequence of pre-released procedures.

On the surface, the above selection process appears to be open, fair and impartial. According to the author's observations, however, in most cases this is a mere one-sided emphasis on procedural openness and fairness, but lacks any equal and fair discussions with investors to protect their rights to information and due diligence. For example, the unreasonable investor registration thresholds prevent some potential investors from investing in the reorganization. The excessively tight timetables for selection and due diligence leave investors with insufficient time for rigorous due diligence and funds preparation. The very limited access to due diligence database prevents investors from understanding all aspects of the target company. In turn, the listed company may encounter difficulties in the investor selection stage, such as failure to recruit investors, and even default by the investors recruted. For example, Yinyi (000981) suffered defaults by the investor in reorganization. Due to the investor's repeated delays in payment of the committed investment amounts, Yinyi nearly failed in the reorganization. Thanks to thorough communications among all parties concerned, Yinyi successfully received the

investment, finally achieving a favorable result in the reorganization.

The listed company to be reorganized and its administrator, the local court and the local government each should fully understand the key role of investors in the rehabilitation and review the overall arrangement of the reorganization from the perspective of investors. Instead of being anxious to introduce investors to complete the reorganization proceedings, they should allow interested investors a reasonable amount of time, disclose the actual situation of the listed companies to investors, and listen to the investors' recommendations on the future development of the companies. Only in this way can they find the most suitable investors for listed companies to be reorganized.

5.2.2 Securing the financial returns of financial investors

Financial investors focus on the financial returns of their investment. Considering the opportunity cost, the financial return target of financial investors is probably not the risk-free interest rate, but the returns they may obtain by investing in another low-risk enterprise. In order to attract financial investors, listed companies to be reorganized are thus required to provide a reasonable margin of safety and retain some flexibility in the price of the shares transferred. The recent SSE and SZSE self-regulatory guidelines set a reference standard of no less than 80% of the closing price on the date of the investment agreement, which will have an unexpectedly negative impact on the introduction of investors in the reorganization.

In the author's opinion, it is unadvisable to impose too many restrictions

on the price of shares to be transferred to an investor under the relevant laws and regulations and investor recruitment rules. The introduction of investors into a listed company in reorganization is more of a game among the parties as equal market players for their respective business interests until a balance is reached. The legislative rules should create an open and transparent environment for the parties to reach a price that is acceptable by all. In the draft reorganization plan released by Firstar Panel Technology (300256) recently, the regulators leave some space for the prescribed reference standard of 80% in practice. This echoes the author's opinion above. According to the draft bankruptcy reorganization plan of Firstar Panel Technology, the industrial investors and the financial investors will contribute an aggregate of RMB 705 million to acquire 775 million shares at the average price of RMB 0.91 per share, lower than 80% of the closing price of RMB 3.01 per share on the trading day immediately prior to the execution of the investment agreement on reorganization.[42] According to the special opinion of the financial advisor, in addition to payment of considerations in cash, the investors provide additional resources conducive to enhancing the company's shareholders' equity and the company's value and also perform the lock-up obligation. Therefore, the price is reasonable although it is lower than the reference standard.[43] As long as the

[42] See the *Reorganization Plan of Jiangxi Firstar Panel Technology Co., Ltd.* (Draft, July 13, 2022).
[43] See the *Special Opinions of the Pacific Securities Co., Ltd. on the Price of Shares Converted from Capital Reserves and Transferred to Investors in the Reorganization of Jiangxi Firstar Panel Technology Co., Ltd.* (July 13, 2022).

interests of small and medium-sized investors and creditors are not harmed, the pricing of reorganization investment, as a business practice, should be market-oriented. This is conducive to broadening the margin of safety of investors and increasing their motivation, and should be recognized by the regulators.

5.2.3 Respecting the intention of industrial investors to obtain control

Industrial investors focus on whether they can achieve their strategic objectives with the platform of listed companies. The shareholding percentage, rather than the price of the shares to be transferred, is often the core of their focus. If an industrial investor's shareholding percentage in a listed company is too low, it is hard to imagine that it will inject its core business into the listed company and share the operating results with other shareholders.

The shareholding percentage of an industrial investor in a listed company, however, is subject to the restrictions set forth in the *Administrative Measures for the Acquisition of Listed Companies*. Once the figure exceeds 30%, the industrial investor should make a general offer to acquire the shares held by all shareholders of the listed company, unless the conditions for exemption from increasing shareholding by means of tender offer are satisfied. Under the *Administrative Measures for the Acquisition of Listed Companies*, these conditions are as follows: "The listed company is facing severe financial

difficulties,[44] the reorganization plan proposed by the acquirer to rescue the company has been approved at the shareholders' meeting of the company, and the acquirer undertakes not to transfer its equity in the company within the next three years." The above provisions facilitate industrial investors to achieve their strategic objectives. For instance, in the bankruptcy reorganization of Jinhua Chemical (000818), the investor, Liaoning Fangda Group Industrial Co., Ltd. was exempted under the above provisions from its tender offer obligation arising from its acquisition of over 30% shares of Jinhua Chemical as a result of its investment in the reorganization.[45]

In practice, however, many companies to be reorganized do not meet the above conditions, which imposes certain restrictions on the introduction of industrial investors. Isn't it clear that a listed company is facing severe financial difficulties when it is already in the bankruptcy reorganization proceedings? In the author's opinion, in order to facilitate the introduction of industrial investors to a listed company to be reorganized, the criteria for determining whether the listed company is facing severe financial difficulties should be further adjusted so as to encourage industrial investors to contribute resources to the rehabilitation of the company.

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[44] The CSRC further provides in the *Opinions on the Application of Article 62 of the Administrative Measures for the Acquisition of Listed Companies Concerning Severe Financial Difficulties of Listed Companies - Opinions on the Application of Securities and Futures Laws No. 7*: "A listed company may be deemed to be facing severe financial difficulties if it is under any of the following circumstances: i) losses in the last two years consecutively; ii) negative shareholders' equity at the end of the latest year; iii) losses in the latest year and its main business suspended for more than six months; or iv) other circumstances as determined by the CSRC.

[45] See the *Financial Advisor's Report of China Great Wall Securities Co., Ltd. on Liaoning Fangda Group Industry Co., Ltd.'s Acquisition and Exemption from Tender Offer* (October 11, 2011).

5.3 Reasonable disposal of original major shareholders' equity

It is rather challenging to dispose of original major shareholders' equity. Generally, the original major shareholders of a listed company refer to the controlling shareholders and the de facto controllers of the listed company. They, as parties controlling the business operation of the listed company under reorganization, may have made considerable contributions to the listed company. They may also be largely responsible for the predicament of the listed company, serve as the main driving force for the listed company to enter into the bankruptcy reorganization process, or continue to play a crucial role in the operation and management of the listed company in the future. They may put forward constructive opinions on the reorganization plan, support the revival of the company by lending to the company, increasing investment or transferring shares to new investors, or may become active participants in the rescue of the company (Wang, 2007, p.253).[46]

Professor Dan He pointed out that the control of shareholders, especially the controlling shareholders, over the reorganization process is one of the factors leading to the supremacy of shareholders in the reorganization (He, 2012, p.166-167). This is true in practice. The shareholders' equity distribution plan

[46] In practice, minority shareholders of a listed company generally do not participate in the communications and negotiations among creditors, investors and original majority shareholders. In order to avoid the minority shareholders' denial of the reorganization plan under certain circumstances and the attention of securities regulators, the market or media, the parties will take the bottom line of not harming the rights and interests of minority shareholders, and basically will not engage in the game of interests with minority shareholders. Therefore, this dissertation focuses on the former majority shareholders who are involved in the game.

may intentionally or unintentionally be in favor of the original shareholders as they are the main driver behind the application for reorganization and the reorganization process. The author is of the opinion that, when disposing of the original major shareholders' equity, whether their equity should be deprived or retained should be based on such factors as their equity ownership, contribution to future business operation, and liability for historical fault. On this basis, if a listed company needs to introduce reorganization investors, the creditors and the original shareholders shall jointly bear the cost of introducing the investors in proportion to their respective equity, that is, giving up part of their equity.

5.3.1 Shareholder's equity ownership

According to the general repayment principle that creditor's rights take precedence over equity under the modern corporate system, in the event of insolvency, all the assets of a company shall be used to compensate the creditors first, and the shareholders are unable to retain any equity. In the bankruptcy reorganization of listed companies, however, this is not the case. First, in accordance with the Enterprise Bankruptcy Law, a listed company may apply for reorganization for three reasons.[47] Not all the listed companies under reorganization are insolvent. Some may seek protection through bankruptcy proceedings due to a lack of liquidity of assets, in which case the listed companies still retain certain shareholders' equity. Second, a listed company

[47] In accordance with Article 2 of the Enterprise Bankruptcy Law, where an enterprise legal person cannot pay off his debts due and his assets are not enough for paying off all the debts, or he apparently lacks the ability to pay off his debts, the debts shall be liquidated according to the provisions of this Law.

still has the value as a public company, which is also a part of the intrinsic value of the listed company, and should not be ignored. Third, reorganization is different from liquidation. Compared to the value received under liquidation, a listed company may get a higher going concern value through reorganization even if it is insolvent. The debtor still has its value, and shareholders' equity should not be regarded as zero (Chen, 2018).

Based on the abovementioned reasons, when disposing of original major shareholders' equity, it is necessary to first judge whether the listed company still has shareholders' equity and how much has left, and then determine the equity that may be retained by the shareholders based on the debts owed to creditors. If the listed company still has shareholders' equity, then the original shareholders should enjoy the corresponding proportion of the equity. Without considering the going concern value of the company and other factors, if a listed company has a debt of RMB 2.5 billion, net asset of RMB 0.1 billion, and market value of RMB 0.8 billion, its creditors should hold 73.53% shares in the company, and original shareholders hold 26.47%, provided that the market capitalization is used as the value of listing in the calculation. Among the 92 listed companies under bankruptcy reorganization analyzed by the author, none of them deprived the original shareholders of all their equity even when the companies are insolvent. This shows that shareholders will get the shares they should get.

5.3.2 Contribution to future business operation

Even in the U.S., which insists on the absolute priority rule, it has also developed a “new value exception” to the principle, which provides the legal basis for the shareholders to retain their equity. Under the US Bankruptcy Code, the new value provided by the shareholders must meet the following conditions: (1) the new value must be in the form of cash or cash equivalents; (2) the contribution from shareholders or other secondary interests holders must be “necessary”; and (3) the contribution must be bona fide, or sometimes, as a rule, it must be equal to or greater than the continuing value of the company (Harris, 1991).

However, in the author’s opinion, the principle is still incomplete. It only addresses the issue of the original shareholders’ continuous investment in the reorganized enterprise, neglecting, to some extent, their potential great contribution to the future operation of the enterprise (Trost, 1973). The survival and development of an enterprise rely on the valuable resources of entrepreneurs. Even if the creditors should be entitled to all the shareholders’ equity, they are unable to operate and develop the enterprise. When a listed company still focuses on its previous main business after reorganization, the operation and management team led by the original major shareholders still plays a key role in the production and operation of the listed company by virtue of its own rich experiences in the industry and established customer and supplier network. From this perspective, if the original major shareholders do not have

a certain proportion of shareholders' equity or even a considerable proportion of control, why don't they just leave the company and start anew?

Even if the creditors engage a professional manager from the market (regardless of whether such talents are available in China where the market for professional managers is still immature) to lead the operation and management of the enterprise, the professional manager should be given certain equity incentives. Therefore, it is reasonable to give the original shareholders a certain proportion of shareholders' equity based on their contribution to the future business operation. The author holds that, under such circumstances, the equity enjoyed by the original major shareholders may be regarded as equity incentives. Moreover, a company may, by following the equity incentive rules of listed companies, set a "valuation adjustment mechanism" based on shareholders' contributions, reserving the rights to adjust the equity previously granted to the original major shareholders. This may both comply with the business rules and maximize the interests of creditors. Take Lutianhua (000912) as an example. The listed company's controlling shareholder Lutianhua (Group) Co., Ltd., participated in the public bidding for selecting the investors for the reorganization, and won the bid together with two other joint bidders to become the reorganization investors. Finally, Lutianhua (Group) Co., Ltd. acquired 286 million shares of the listed company at the price of RMB 3.5 per share, and made a commitment to the listed company on the 3-year net profit performance. The final result shows that the controlling shareholder has successfully led the

listed company to fulfill the aforesaid commitment.[48] In addition, the repayment ratio for debt-to-equity swaps reached 60.74% and the rate of ROI reached 124.07% one year after the approval of Lutianhua's reorganization plan.

5.3.3 The liability for historical fault

Both theories and judicial practice support that the controlling shareholder who is at fault for the bankruptcy reorganization of a listed company shall bear more liabilities. This has been reflected in the *Minutes of the Symposium on the Trial of Cases Involving the Bankruptcy Reorganization of Listed Companies* issued by the Supreme People's Court in 2012. The Minutes expressly provides that: "Where the controlling shareholder, the de factor controller or any of its related parties causes any damage to the listed company due to illegal occupation or guarantee prior to the bankruptcy reorganization of the company, the equity held by the controlling shareholder and the de factor controller shall be adjusted according to their faults in the formulation of the draft reorganization plan."

There are various reasons leading to the bankruptcy reorganization of

[48] According to the announcement made by Lutianhua (000912), Lutianhua (Group) Co., Ltd. undertakes that the net profits in the audited consolidated financial statements of Lutianhua for 2018, 2019 and 2020 are no less than RMB310 million, RMB340 million and RMB350 million respectively, or the aggregate net profit in the consolidated financial statements of Lutianhua for 2018, 2019 and 2020 reaches RMB1 billion. If the aggregate net profit is less than RMB1 billion, the bidder shall, within one month (i.e. 30 calendar days) from the date of issuance of the audit report for the last fiscal year (i.e. 2020), make up the deficiency in cash and assume the corresponding liability in a way that meets the requirements of the regulatory authorities. If the net profit of Lutianhua fails to meet the aforesaid standards, the amount of cash compensation shall be calculated according to the following formula: Amount of cash compensation = RMB1 billion - (Net profit in consolidated financial statements for 2018 + Net profit in consolidated financial statements for 2019 + Net profit in consolidated financial statements for 2020). According to the 2020 annual report disclosed by Lutianhua, the total net profit of the company from 2018 to 2020 is RMB1,015,718,300.

listed companies. As such, it is necessary to fully consider the degree of fault or liability of each shareholder for the difficulties in the operation of the company when adjusting the shareholders' equity. Under any bankruptcy reorganization caused by the macro-economic environment or business decisions, there is no reason for the original major shareholders to bear more risks than the minority shareholders when adjusting the shareholders' equity. However, if the original major shareholders illegally occupy the company's funds, take advantage of the company to provide guarantees for others in violation of regulations, transfer assets through improper related-party transactions or otherwise infringe upon the company's interests, which leads to difficulties in the company's operation, such shareholders should bear a higher reduction of their equity. For shareholders who are not at fault or liable for the company's troubles, they should face a lower reduction of their equity so as to reflect the relevance of powers, responsibilities and interests. This philosophy is widely reflected in many of the 92 bankruptcy reorganization cases analyzed by the author, including Antong Holdings (600179), Hainan Airport Infrastructure (600515) and Kangmei Pharmaceutical (600518).

In summary, creditors, investors and original majority shareholders are the three main parties involved in the adjustment of shareholders' equity in the listed company and the game among them determines whether the adjustment of shareholders' equity can achieve a relative balance of interests. According to the basic principles of share distribution mentioned above, on the premise of the

parties' general agreement on the reorganization value of the listed company, the parties should be able to make a basic judgment on the size of contribution to the reorganization value and negotiate the proportion of equity that each party should receive from the reorganized listed company accordingly. Only in this way can the result of the shareholders' equity adjustment be in line with the common interests of creditors, investors and original majority shareholders to the greatest extent possible, without obvious damage to the interests of any party, or obvious bias in favor of any party.

Chapter 6 Conclusion

To sum up, avoiding the delisting risk, enhancing the reorganization value and distributing shares on a balance of interests basis are indispensable to the adjustment of shareholders' equity, which together form a systematic mechanism for adjusting shareholders' equity. Firstly, an effective mechanism for adjusting shareholders' equity signifies that listed companies should avoid the delisting risk by starting the reorganization preparation as early as possible, actively using the pre-reorganization system and appropriately converting capital reserves into share capital so as to prepare for the adjustment of shareholders' equity. Secondly, the reorganization value should be enhanced by developing detailed operation improvement plans, introducing adequate incremental funds, and injecting quality business with synergies to lay the foundation for the distribution of shareholders' equity. Thirdly, in terms of the specific principles and methods for the distribution of shareholders' equity, the relative priority rule for creditors shall be followed, and the shares shall be distributed among all stakeholders based on a balance of interests and their respective contributions to the reorganization value, so as to ensure fairness and impartiality. Creditors should, based on the relative priority rule, appropriately make concessions in the distribution of shareholders' equity with the reorganization value as the key. For original major shareholders, the company should retain or deprive their equity based on their entitlement to shareholders' equity, contribution to future business operations, and compensation for past liabilities. For financial investors or industrial investors, their equity should be reasonably protected accordingly.

It should be noted that the mechanism for adjusting shareholders' equity proposed by the author focuses on the principle and method for the adjustment. There is no perfect solution for the adjustment of shareholder's equity in the reorganization of listed companies due to the differences in the reality of listed companies, the debt burden of the original major shareholders, the value judgment of the creditors, and the resources and capacities of the investors. The proportion of shareholders' equity of each party is a balance of interests gradually achieved based on their understanding and recognition of various elements of the mechanism of the equity adjustment, their respective responsibilities to the debtors and their contribution to the reorganization value.

This dissertation mainly focuses on the relevant game of interests relating to the adjustment of shareholders' equity in the bankruptcy reorganization of listed companies, leaving little space to make an in-depth discussion on other special issues in the adjustment and bankruptcy reorganization, such as the standards of administrative supervision, corporate governance, information disclosure, which are to be further studied in the future.

The establishment and perfection of the bankruptcy reorganization system of listed companies is related to the order of capital market and social stability, and is of great significance to the sound development of our market economy. The author expects to apply the findings of this dissertation to the bankruptcy reorganization of listed companies in order to better serve such companies and bring the bankruptcy reorganization system into full play. Amid macroeconomic downward pressure, advancement of supply-side reform and repeated waves of the pandemic, relevant authorities should consider the functions of the bankruptcy reorganization system more seriously, remove the

hidden obstacles for listed companies on legislative, judicial and administrative levels, create an open, fair and transparent environment, and respect the game of relevant market players on an equal basis to promote the recovery of listed companies in distress. The author believes that with the guidance of national policy, the improvement of the judicial environment and the legal system, the bankruptcy reorganization of listed companies will focus more on the fundamentals, clearing the way for them to make a turnaround.

References

References from Chinese literature (Books):

Ding, Y. (2014). *Research on the Legal Aspects of Bankruptcy Reorganization Plans of Listed Companies: Concepts, Rules and Empirical Evidence*. Law Press China.

Guo, Y. (2010). A New Vision for the Revival of Distressed Listed Companies in Bankruptcy Reorganization: A Study Focusing on Trial Practice. People's Court Press.

He, D. (2010). Legal Allocation of the Right of Control in Bankruptcy Reorganization. China Procuratorial Press.

He, Dan. (2012). Reorganization of Listed Companies: An Empirical Analysis and Theoretical Study. Beijing Normal University Publishing Group.

Li, S., & Zheng Z. (2011). Law Review of Corporate Reorganization & Restructuring (Vol. 1). Law Press China.

Li, Z. (2015). A Study on the Equilibrium System for Creditors' Interests in Corporate Reorganization in China. China University of Political Science and Law Press.

Liu, Y., & Zhao, K. (2017). An Analysis of Reorganization Cases of Listed Companies. Law Press China.

Luan, F., et al. (2011). Evaluation Research of Enterprise Bankruptcy Reorganization. Lixin Accounting Publishing House.

Wang, W. (2007). The Essence of Bankruptcy Law. Law Press China.

Wang, X. (2011). The Bankruptcy Law (3rd Edition). China Renmin University Press.

Wang, Z. (2014). Legal Protection for Creditors and Minority Shareholders in the Reorganization of Listed Companies. China University of Political Science and Law Press.

Westbrook, J. L., Booth, C. D., Paulus, C.G., & Rajak, H. (2018). A Global View of Business Insolvency Systems (Z. Wang, Trans.). China University of Political Science and Law Press. (Original work published 2010)

Xu, D. (2015). A Study on Bankruptcy Law: A Comparative Perspective on Interpretation and Function. Peking University Press.

Zhang, W. (2013). Game Playing and Society. Peking University Press.

Zheng, Z., & Zhang, T. (2012). Shareholders' Equity Issues in the Corporate Reorganization System. Peking University Press.

References from Chinese literature:

Cao, W. (2018). Analysis and Improvement of the Adjustment of Contributors' Equity in the Reorganization of Listed Companies: An Empirical Analysis Based on 51 Bankruptcy Reorganization Cases of Listed Companies. Journal of Law Application, Issue 17.

Chen J., & Li, W. (2021). Improvement of the Mechanism for Adjustment of Contributors' Equity in the Bankruptcy Reorganization of Listed Companies. Journal of Shanghai University of Political Science and Law, Issue 4.

Chen, L. (2018), A Study on the Regulation of Special Forms of Adjustment of Contributors' Equity in the Bankruptcy Reorganization of Listed Companies. Securities Law

Review, Vol. 24.

Chen, X., & Hao, Z. (2018). On the Functions and Roles of Courts in the Bankruptcy Reorganization Process - Against the Background of Bankruptcy Reorganization Marketization. Wujiang Court.

Chi, W. (2019, September 12). Adjustment of Shareholders' Equity and the Absolute Priority Rule in Reorganization Proceedings. Tiantong Litigation Circle.

Ding, Y. (2014). Improvement of the Execution System of Reorganization Plans of Listed Companies - Analysis of Samples of Listed Companies in China. Political Science and Law, Issue 9.

Ding, Y. (2018). A Legal and Economic Analysis of the Implementation of Debt to Equity Arrangement in the Bankruptcy Reorganization of Enterprises. Economic Law Review (Vol. 18), Issue 1.

Ding, Y. (2018). Protection of Interests of Reorganization Investors from the Perspective of Contract Law. Journal of Law Application, Issue 7.

Dong, L., & Ma, H. (2019, April 17). A Change in Performance from Pre-Profit to Pre-Loss of 62 Shares: Zeus Entertainment Suffered the Highest Loss of Stocks. Beijing Business Today. https://www.bbtnews.com.cn/2019/0417/295993.shtmlD

Dong, T. (2020). Face Value-based Delisting at a Result of high percentage BI or CCR. China Securities Journal.

He, W. (2021, October 31). Reacquainting the Bankruptcy Reorganization System: Value Objectives, Basic Principles and Design Concepts. On Bankruptcy Reorganization.

Kang, S. (2020). No Exception for Face Value-based Delisting! Reverse Share Split Not Allowed! The First Face Value-based Delisting of B Shares. China Securities Journal.

KWM Institute Research Group. (2021, June 4). An Empirical Analysis of Bankruptcy Reorganization of Listed Companies. SSE Securities Law Court.

Li, S. (2012, February 8). Bankruptcy reorganization is actually a game and negotiations. CB.

Liao, S. (2018). The Settlement of Debts with Shares in Reorganization: A Perspective on the Protection of Creditors' Equity. Journal of China University of Political Science and Law, Issue 6.

Lin, A., & Qin, Y. (2020). The Reorganization Value and Its Judgment Criteria. Fujian Quality Management, Issue 13.

Lin, J., & Huang, Z. (2003). The Transfer and Evolution of Control in Contingent Governance. Finance and Economics Journal of Zhejiang University of Finance & Economics, Issue 1.

Lin, Y., & Su, L. (2021). Evaluation of the Effect of Bankruptcy Reorganization of Companies Listed on the SZSE and Suggestions for Supervision. Securities Market Herald.

Luan, F., & Hou, J. (2017). Discussion on the Judgment System of Bankruptcy Reorganization Value of Listed Companies. Journal of Beijing University of Technology (Social Sciences Edition), Issue 4.

Mo, R. (2019). Chaos and Order: Building a Recruitment Mechanism for Bankruptcy

Proceedings - Based on the Samples of 463 Recruitment Announcements on the National Enterprise Bankruptcy and Reorganization Case Information Network of the Supreme People's Court. Rule of Law Forum, Issue 4.

Qi, M. (2017). Misunderstanding and Solutions to the Mandatory Adjustment of Contributors' Interests in the Restructuring of Listed Companies in China. Open Journal of Legal Science, Issue 7.

Si, W. (2021). The Debate of 'Absolute Priority' and 'Relative Priority': The Choice of Priority Principle in China's Enterprise Bankruptcy Reorganization. China Law Review, Issue 6.

Summary of the Market for Control Transactions of Listed Companies in 2021 - Replacing Major Asset Restructuring as the Main Battlefield of A-share M&A and Restructuring. (2022, January 13). Wenyi Fuxin. Retrived August 16, 2022.

Tang, X. (2014). On Shareholders' Equity in the Reorganization of Listed Companies. Political Science and Law, Issue 6.

Wang, X. (2012). New Perspectives on the Theory and Practice of Reorganization System. Journal of Law Application, Issue 11.

Wang, X. (2021). Establishing a Market-oriented and Law-based Pre-reorganization System. Journal of Political Science and Law, Issue 6.

Wang, X., & Xu, Y. (2007). Research on Legal System of Restructuring of Listed Companies. Law Science Magazine, Issue 3.

Wen, C., & Li, L. (2010). Reflections on the Adjustment of Shareholders' Equity in

Bankruptcy Reorganization Process of Listed Companies. China Trial, Issue 6.

Xu, D. (2019). Distinction Between Equity and Debt in the Context of Corporate Finance. Chinese Journal of Law, Issue 2.

Xu, Y. (2021). Study on Legal Regulation for Pre-reorganization of Distressed Enterprises. Studies in Law and Business, Issue 3.

Yan, X. (2017). Historical Performance of the High Percentage BI or CCR. Guosen Securities Research Report.

Yang L., & Wang, Y. (2020). Rules for Shareholders' Equity Adjustment in Bankruptcy Reorganization – Based on the Perspective of Protection of Minority Shareholders' Equity. Journal of Fujian Agriculture and Forestry University (Philosophy and Social Sciences Edition), Vol. 23.

Yang, L. (2022). Shareholders' Equity Adjustment in Reorganization of Listed Companies: Practical Experience and Theoretical Justification. Business and Economic Law Review, Issue 1.

Zha, D. (2020). Inquiry into Ex-right Issues of Conversion of Capital Reserves into Share Capital in the Bankruptcy Reorganization of Listed Companies. Financial Law Forum, Issue 3.

Zhang, Y. (2015). Improvement of China's Bankruptcy Protection System. Political Science and Law, Issue 2.

Zhang, Y. (2016). Issues and Solutions for the Effective Operation of the Bankruptcy Reorganization System. Law Science Magazine, Issue 6.

Zheng, Z. (2011). An Empirical Study of Corporate Reorganization in China. Law Review of Corporate Reorganization & Restructuring, Vol. 1.

Zhou, C. (2014). Alienation of Shareholders' Rights in Bankruptcy Reorganization of Listed Companies. Securities Law Review, Vol. 13.

Zhou, C. (2019). On Protection of Strategic Investors' Rights and Interests in Bankruptcy Reorganization. China Collective Economy, Issue 26.

Zou, H. (2017). Supply-Side Structural Reform and the Application of the Bankruptcy Reorganization System. Journal of Law Application, Issue 3.

Zou, H. (2018). Debt-to-Equity Swap in Reorganization Proceedings. Journal of Law Application, Issue 19.

References from foreign literature:

Adams, E. S. (1993). Toward New Conceptualization of the Absolute Priority Rule and Its New Value Exception. Detroit College of Law Review, 1993(4), 1445-1498.

Billyou, D. (1951). Priority rights of preferred and common shares in bankruptcy reorganization. Harvard Law Review, 65(1), 93-105.

Braucher, J. (1994). Bankruptcy reorganization and economic development. Capital University Law Review, 23(2), 499-520.

Butler, R. V., & Gilpatric, S. M. (1994). A re-examination of the purposes and goals of bankruptcy. American Bankruptcy Institute Law Review, 2(2), 269-292.

Coase, R. H. (1937). The nature of the firm. Economica, 4(16), 386-405.

Dean, A. H. (1940-1941). Corporate reorganization. Cornell Law Quarterly, 26(4), 537-591.

Harris, C. S. (1991). A rule unvanquished: the new value exception to the absolute priority rule. Michigan Law Review, 89(8), 2301-2328.

Jackson, T. H., & Scott, R. E. (1989). On the nature of bankruptcy: an essay on bankruptcy sharing and the creditors' bargain. Virginia Law Review, 75(2), 155-204.

LoPucki, L. M., & Whitford, W. C. (1990). Bargaining over equity's share in the bankruptcy reorganization of large, publicly held companies. University of Pennsylvania Law Review, 139(1), 125-196.

LoPucki, L. M., & Whitford, W. C. (1992-1993). Patterns in the bankruptcy reorganization of large publicly held companies. Cornell Law Review, 78(4), 597-618.

Nimmer, R. T. (1987). Negotiated bankruptcy reorganization plans: absolute priority and new value contributions. Emory Law Journal, 36(4), 1009-1084.

Trost, J. (1973). Corporate Bankruptcy Reorganizations: For the Benefit of Creditors or Stockholders. UCLA Law Review, 21(2), 540-552.

Laws and Regulations

Administrative measures for the issuance of securities by listed companies. (2020). Retrieved September 8, 2022, from http://en.pkulaw.cn/display.aspx?cgid=054dc7fdbdc00bf1bdfb&lib=law

Administrative Measures for the Material Assets Restructuring of Listed Companies. (2008). Retrieved September 8, 2022, from

http://en.pkulaw.cn/display.aspx?cgid=f971cc82228854edbdfb&lib=law

Enterprise bankruptcy law of the People's Republic of China. (2006). Retrieved September 8, 2022, from https://english.www.gov.cn/services/doingbusiness/202102/24/content_WS6035f009c6d0719374af97ad.html

Opinions on the Application of Article 62 of the Administrative Measures for the Takeover of Listed Companies and Article 43 of the Administrative Measures for the Material Asset Reorganization of Listed Companies with Regard to Restricting the Transfer of Shares – Opinions No.4 on the Application of Securities and Futures Laws. (2009). Retrieved September 8, 2022, from http://www.pkulaw.cn/fulltext_form.aspx?Db=chl&Gid=130019

Opinions of the State Council on Further Improving the Quality of Listed Companies (No. 14 [2020] of the State Council). (2020). Retrived September 8, 2022, from http://www.pkulaw.cn/fulltext_form.aspx?Db=chl&Gid=346652

Self-regulation of Listed Companies No. 13 - Bankruptcy and Reorganization Matters. (2022). Retrived September 8, 2022, from https://pkulaw.com/chl/1e2eb994fcaceafebdfb.html

Several Opinions on Providing Judicial Guarantee for Improving the Business Environment. (2017). Retrived September 8, 2022, from https://www.court.gov.cn/zixun-xiangqing-56132.html

Annoucements of Listed Companies:

Financial Advisor's Report of China Great Wall Securities Co., Ltd. on Liaoning Fangda Group Industry Co., Ltd.'s Acquisition and Exemption from Tender Offer (October 11, 2011). Retrived September 8, 2022, from http://static.cninfo.com.cn/finalpage/2011-10-11/60040736.PDF

Reorganization Plan of Antong Holdings Co., Ltd. (November 5, 2020). Retrived September 8, 2022, from http://static.cninfo.com.cn/finalpage/2020-11-05/1208691383.PDF

Reorganization Plan of Chenzhou Jingui Silver Industry Co., Ltd. (December 16, 2020). Retrived September 8, 2022, from http://static.cninfo.com.cn/finalpage/2020-12-17/1208919104.PDF

Reorganization Plan of Jiangxi Firstar Panel Technology Co., Ltd. (Draft, July 13, 2022). Retrived September 8, 2022, from http://static.cninfo.com.cn/finalpage/2022-07-13/1214015457.PDF

Reorganization Plan of Qinghai Salt Lake Industry Co., Ltd. (January 17, 2020). Retrived September 8, 2022, from https://quotes.money.163.com/f10/ggmx_000792_5869802.html

Reorganizaiton Plan of Shaanxi J&R Optimum Energy Co., Ltd. (December 30, 2019). Retrived September 8, 2022, from http://static.cninfo.com.cn/finalpage/2019-12-30/1207202505.PDF

Special Opinions of the Pacific Securities Co., Ltd. on the Price of Shares Converted from Capital Reserves and Transferred to Investors in the Reorganization of Jiangxi Firstar

Panel Technology Co., Ltd. (July 13, 2022). Retrived September 8, 2022, from http://static.cninfo.com.cn/finalpage/2022-07-13/1214015452.PDF

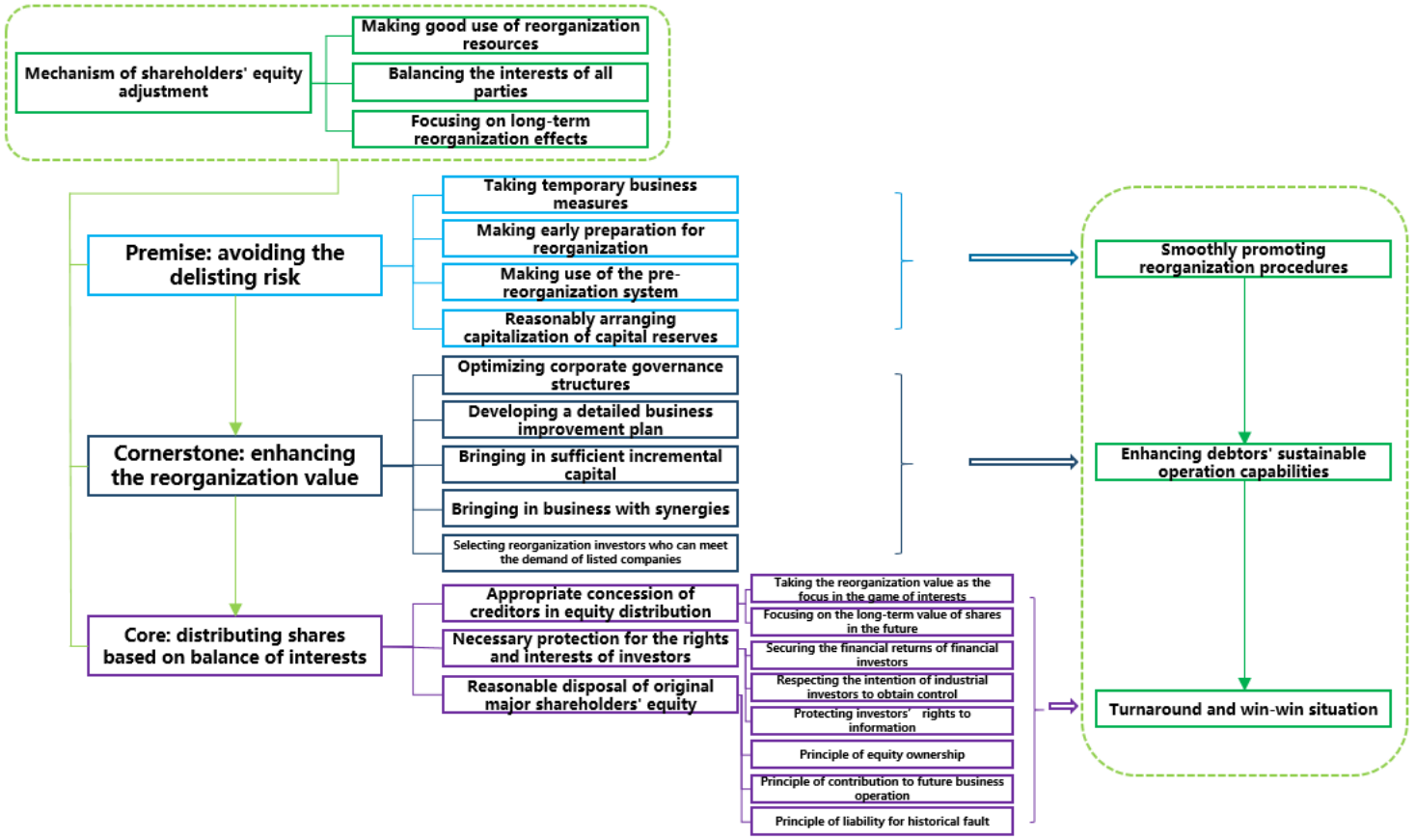
2021 Annual Report of Blivex Energy Technology Co., Ltd. (April 27, 2022). Retrived September 8, 2022, from http://static.cninfo.com.cn/finalpage/2022-04-27/1213140302.PDF

Others:

SSE: Benefits of Going Public. (n.d.). Retrived September 3, 2022, from http://www.sse.com.cn/services/list/listedinsse/benefit

SZSE: What Are the Benefits of Public Offerings and Listings for Enterprises?. (2020). Retrived September 3, 2022, from http://www.szse.cn/ipo/problems/summary/t20200228_574567.html

Appendix A Diagram of the Mechanism for Adjusting Shareholders' Equity



Appendix B List of Accepted Bankruptcy Reorganization of Listed Companies by the End of 2021

No.	Company name	Stock code	Date of application for reorganization	Date of acceptance of the reorganization application	Date of approval of the reorganization plan	Date for completion of the reorganization plan	Does it involve the adjustment of shareholders' equity?	Status as of June 30, 2022
1	Tianyi Science& Technology Co., Ltd.	600703	2007.07.01	2007.08.13	2007.10.11	2007.11.20	Yes	Normal
2	Tianfa Petroleum Co., Ltd.	000670	/①	2007.08.13	2007.10.11	2007.12.17	No	Listing suspended
3	Zhejiang Haina Science and Technology Co., Ltd.	000925	2007.09.13	2007.09.14	2007.11.20	2007.12.24	No	Normal
4	Lan Bao Technology Information Co., Ltd	000631	2007.06.08	2007.11.16	2007.12.21	2007.12.21	No	Normal
5	Cang Zhou Chemical Industry Co., Ltd	600722	2007.06.12	2007.11.16	2007.12.24	2010.11.30	No	Normal
6	Zarva Technology(Group) CO., LTD.	000688	2007.11.06	2007.11.16	2007.12.24	2008.03.31	No	Normal
7	Hebei Baoshuo Co., Ltd.	600155	2007.12.28	2008.01.03	2008.02.05	2011.06.27	Yes	Normal
8	Beiya Industrial (Group) Co., Ltd.	600705	/	2008.01.28	2008.04.24	2010.12.21	Yes	Normal
9	Guangdong Hualong Groups Limited Company	600242	/	2008.03.10	2008.04.17	2009.01.05	No	Delisting risk warning received
10	Stellar Megaunion Corporation	000892	2007.12.17	2008.03.11	2008.04.22	2008.12.31	Yes	Normal
11	Chang Ling (Group) Co., Ltd.	000561	2008.05.05	2008.05.14	2008.10.25	2009.10.25	Yes	Normal

①"/" means unavailable information from public sources

No.	Company name	Stock code	Date of application for reorganization	Date of acceptance of the reorganization application	Date of approval of the reorganization plan	Date for completion of the reorganization plan	Does it involve the adjustment of shareholders' equity?	Status as of June 30, 2022
12	Shanghai Worldbest Co., Ltd	600094	2008.08.11	2008.09.27	2008.12.13	2009.04.24	Yes	Normal
13	Shandong Jiufa Edible Fungus Co., Ltd	600180	2008.09.16	2008.09.28	2008.12.09	2009.06.02	Yes	Normal
14	Jiaozuo Xin'an Science & Technology Co., Ltd.	000719	2008.11.05	2008.11.07	2008.12.10	2009.12.18	Yes	Normal
15	Chengde Dixian Textile Co., Ltd.	200160	2008.11.01	2008.11.10	2008.12.30	2009.12.18	No	Listing terminated
16	Guangxi Beisheng Pharmaceutical Co., Ltd.	600556	/	2008.11.27	2008.12.29	2009.10.28	Yes	Normal
17	Suntek Technology Co., Ltd.	600728	2009.03.12	2009.03.17	2009.11.03	2010.09.06	Yes	Normal
18	Dandong Chemical Fibre Co.,Ltd.	000498	2009.05.12	2009.05.13	2009.11.27	2010.02.13	Yes	Normal
19	Shaanxi Qinling Cement (Group) Co., Ltd.	600217	2009.05.12	2009.08.23	2009.12.14	2010.10.22	Yes	Normal
20	Amoi Electronics Co., Ltd.	600057	2009.08.28	2009.09.15	2009.11.23	2010.04.21	Yes	Normal
21	Guangming Group Furniture Co., Ltd.	000587	/	2009.11.09	2010.08.05	2011.01.28	Yes	Delisting risk warning received
22	Shenzhen Shenxin Taifeng Group Co., Ltd.	000034	2009.11.10	2009.11.20	2010.04.30	2010.08.30	Yes	Normal

No.	Company name	Stock code	Date of application for reorganization	Date of acceptance of the reorganization application	Date of approval of the reorganization plan	Date for completion of the reorganization plan	Does it involve the adjustment of shareholders' equity?	Status as of June 30, 2022
23	Xianyang Pianzhuan Co.,Ltd.	000697	2009.08.24	2009.11.25	2010.05.17	2012.05.17	No	Normal
24	Jin Hua Group Chlor-Alkali Co., Ltd.	000818	/	2010.03.19	2010.07.30	2011.06.20	Yes	Normal
25	Liaoyuan Deheng Company Limited	600699	2010.01.26	2010.04.13	2010.08.14	2010.10.27	Yes	Normal
26	Guangdong Sunrise Holdings Co., Ltd.	000030	/	2010.04.14	2010.10.22	2011.04.25	Yes	Normal
27	Shanghai Worldbest Industry Development Co., Ltd.	600757	2010.07.13	2010.08.30	2010.11.29	2012.05.28	Yes	Normal
28	Powerise Information Technology Co., Ltd.	000787	/	2010.08.12	2011.05.27	2012.05.28	Yes	Listing terminated
29	Guangxia (Yinchuan) Industry Co., Ltd.	000557	2010.01.18	2010.09.16	2011.12.09	2013.02.20	Yes	Normal
30	Sichuan Direction Photoelectricity Co., Ltd.	000757	/	/	2011.06.24	2012.01.05	Yes	Normal
31	Sichuan Golden Summit Group Joint Stock Co., Ltd.	600678	2010.02.11	2011.09.23	2012.09.17	2012.12.31	Yes	Normal
32	China Kejian Co., Ltd.	000035	2010.12.31	2011.10.08	2012.05.18	2013.07.18	Yes	Normal
33	Zhengzhou Deheng Hongsheng Technology Co., Ltd.	600817	/	2011.10.27	2012.04.23	2016.07.08	Yes	Normal
34	CNNC Hua Yuan Titanium Dioxide Co., Ltd.	002145	2011.04.22	2011.11.30	2012.07.31	2012.11.15	Yes	Normal

No.	Company name	Stock code	Date of application for reorganization	Date of acceptance of the reorganization application	Date of approval of the reorganization plan	Date for completion of the reorganization plan	Does it involve the adjustment of shareholders' equity?	Status as of June 30, 2022
35	Yanbian Shixian Bailu Papermaking Co., Ltd.	600462	2011.05.09	2011.12.30	2012.08.06	2012.12.13	Yes	Other risk warning received
36	Shandong Helon Co., Ltd.	000677	2012.03.01	2012.05.18	2012.11.02	2012.12.26	Yes	Normal
37	Jincheng Paper Co, Ltd.	000820	2011.06.27	2012.05.22	2012.10.16	2012.11.23	Yes	Delisting risk warning received
38	Xinjiang Chalkis Co., Ltd.	000972	2012.09.10	2012.10.19	2012.12.25	2013.04.21	Yes	Delisting risk warning received
39	Shenzhen China Bicycle Company (Holdings) Limited	000017	2012.05.11	2012.10.12	2013.11.05	2013.12.27	Yes	Normal
40	Huludao Zinc Industry Co., Ltd.	000751	2013.01.10	2013.01.31	2013.12.05	2013.12.31	Yes	Normal
41	Jiangsu Zhongda New Material Group Co., Ltd.	600074	2013.01.14	2013.04.26	2013.11.19	2014.02.21	Yes	Listing terminated
42	Qinghai Sunshiny Mining Co., Ltd.	600381	2013.05.23	2013.06.18	2013.12.20	2014.07.21	Yes	Normal
43	Chang Jiang Shipping Group Phoenix Co., Ltd.	000520	2013.05.14	2013.11.26	2014.03.18	2014.09.30	Yes	Normal
44	Shanghai Chaori Solar Energy Science & Technology Co., Ltd.	002506	2014.04.03	2014.06.26	2014.10.28	2014.09.30	Yes	Normal

No.	Company name	Stock code	Date of application for reorganization	Date of acceptance of the reorganization application	Date of approval of the reorganization plan	Date for completion of the reorganization plan	Does it involve the adjustment of shareholders' equity?	Status as of June 30, 2022
45	Xiake Color Spinning Co., Ltd.	002015	2014.09.24	2014.11.19	2015.04.15	2015.11.02	Yes	Normal
46	Shenzhen Century Plaza Hotel Co., Ltd.	000033	2015.09.15	2015.09.16	2015.12.15	2015.12.29	Yes	Listing terminated
47	Xinjiang Yilu Wanyuan Industrial Holding Co., Ltd.	600145	2015.08.28	2015.11.07	2015.12.31	/	Yes	Listing terminated
48	Sainty Marine Corporation Ltd.	002608	2015.12.22	2016.02.05	2016.10.24	2016.12.31	Yes	Normal
49	Sichuan Chemical Company Limited	000155	2016.02.15	2016.03.24	2016.09.29	2016.12.28	Yes	Normal
50	Yunnan Yunwei Company Limited	600725	2016.06.20	2016.08.23	2016.11.21	2016.12.30	Yes	Normal
51	Chongqing Iron & Steel Co., Ltd.	601005	2017.04.24	2017.07.03	2017.11.20	2017.12.29	Yes	Normal
52	Sichuan Lutianhua Company Limited	000912	2017.06.05	2017.12.13	2018.06.29	2018.12.28	Yes	Normal
53	Liuzhou Chemical Industry Co., Ltd.	600423	2017.09.18	2018.01.31	2018.11.26	2019.11.21	Yes	Normal
54	Fushun Special Steel Co., Ltd.	600399	2018.04.08	2018.09.20	2018.11.22	2018.12.27	Yes	Normal
55	Ningxia Zhongyin Cashmere Co., Ltd.	000982	2018.11.15	2019.07.09	2019.11.13	2019.12.26	Yes	Normal
56	Shaanxi J&R Optimum Energy Co., Ltd.	300116	2018.12.13	2019.09.30	2019.12.27	2020.04.29	Yes	Normal
57	Xiamen XGMA Machinery Co., Ltd.	600815	2019.04.02	2019.07.26	2019.11.01	2019.12.31	Yes	Normal
58	Pang Da Automobile Trade Co., Ltd.	601258	2019.05.13	2019.09.05	2019.12.09	2019.12.31	Yes	Normal

No.	Company name	Stock code	Date of application for reorganization	Date of acceptance of the reorganization application	Date of approval of the reorganization plan	Date for completion of the reorganization plan	Does it involve the adjustment of shareholders' equity?	Status as of June 30, 2022
59	Lotus Health Group Company	600186	2019.07.03	2019.10.15	2019.12.16	2020.03.04	Yes	Normal
60	Shenyang Machine Tool Co. Ltd.	000410	2019.07.12	2019.08.16	2019.11.16	2019.12.31	Yes	Delisting risk warning received
61	Qinghai Salt Lake Industry Co.,Ltd.	000792	2019.08.15	2019.09.30	2020.01.20	2020.04.20	Yes	Normal
62	Bestway Marine & Energy Technolgy Co., Ltd	300008	2019.03.21	2020.02.14	2020.09.09	2020.12.31	Yes	Normal
63	DEA General Aviation Holding Co., Ltd.	002260	2019.07.22	2020.04.23	2020.05.28	2020.06.28	Yes	Listing terminated
64	Yinyi Co., Ltd.	000981	2019.10.10	2020.06.23	2020.12.15	Not completed yet	Yes	Normal
65	Baota Industry Co., Ltd	000595	2020.03.20	2020.07.21	2020.11.13	2020.12.25	Yes	Normal
66	Tianyu Digital Technology (Dalian) Group Co., Ltd.	002354	2020.04.26	2020.07.31	2020.11.06	2020.12.09	Yes	Normal
67	Lifan Technology Group Co., Ltd.	601777	2020.06.29	2020.08.21	2020.11.25	2021.02.09	Yes	Normal
68	Antong Holdings Co., Ltd.	600179	2020.03.25	2020.09.11	2020.11.04	2020.12.19	Yes	Normal
69	Shenzhen Feima International Supply Chain Co., Ltd.	002210	2019.08.19	2020.09.17	2020.12.18	2021.11.08	Yes	Normal
70	Wintime Energy Co., Ltd.	600157	2020.08.03	2020.09.25	2020.12.16	2020.12.30	Yes	Normal

No.	Company name	Stock code	Date of application for reorganization	Date of acceptance of the reorganization application	Date of approval of the reorganization plan	Date for completion of the reorganization plan	Does it involve the adjustment of shareholders' equity?	Status as of June 30, 2022
71	Jilin Liyuan Precision Manufacturing Co., Ltd.	002501	2019.09.06	2020.11.05	2020.12.11	2021.01.04	Yes	Normal
72	Chenzhou City Jingui Silver Industry Co., Ltd.	002716	2019.12.18	2020.11.05	2020.12.16	2021.01.04	Yes	Normal
73	Zhongnan Red Culture Group Co., Ltd.	002445	2020.05.25	2020.11.24	2020.12.26	2021.03.30	Yes	Normal
74	Guirenniao Co., Ltd.	603555	2020.08.12	2020.12.08	2021.04.27	2021.07.03	Yes	Normal
75	Henan Zhongfu Industrial Co., Ltd.	600595	2020.08.20	2020.12.11	2021.08.11	2021.12.29	Yes	Normal
76	Chengdu Techcent Environment Co., Ltd.	300362	2018.12.26	2020.12.14	2021.07.01	2021.07.09	Yes	Listing terminated
77	CCOOP Group Co., Ltd.	000564	2021.01.29	2021.02.10	2021.11.01	2021.12.31	Yes	Normal
78	Hainan Airlines Holding Co., Ltd.	600221	2021.01.29	2021.02.10	2021.11.01	2021.12.31	Yes	Other risk warning received
79	Hainan Airport Infrastructure Co., Ltd.	600515	2021.01.29	2021.02.10	2021.11.01	2021.12.31	Yes	Other risk warning received
80	Tianjin Songjiang Co., Ltd.	600225	2021.03.27	2021.04.22	2021.11.16	2022.3.09	Yes	Normal
81	Jiangsu Yabaite Technology Co., Ltd.	002323	2020.06.20	2021.04.27	2021.10.08	2022.02.16	Yes	Normal
82	Kangmei Pharmaceutical Co., Ltd.	600518	2021.04.22	2021.06.04	2021.11.27	2021.12.29	Yes	Normal

No.	Company name	Stock code	Date of application for reorganization	Date of acceptance of the reorganization application	Date of approval of the reorganization plan	Date for completion of the reorganization plan	Does it involve the adjustment of shareholders' equity?	Status as of June 30, 2022
83	Zotye Automobile Co., Ltd.	000980	2020.10.13	2021.06.09	2021.12.01	2021.12.28	Yes	Other risk warning received
84	Hengkang Medical Group Co., Ltd.	002219	2020.08.19	2021.07.09	2022.04.23	2022.06.23	Yes	Delisting risk warning received
85	Lonkey Industrial Co., Ltd., Guangzhou	000523	2021.02.06	2021.09.30	2021.11.12	2021.12.23	Yes	Normal
86	Huachangda Intelligent Equipment Group Co. Ltd.	300278	2021.06.04	2021.11.18	2021.12.20	2021.12.31	Yes	Normal
87	Spearhead Integrated Marketing Communication Group	300071	2021.03.05	2021.10.28	2021.12.16	2021.12.31	Yes	Normal
88	Kairuide Holding Co., Ltd	002072	2020.12.11	2021.11.05	2021.12.10	2022.01.01	Yes	Delisting risk warning received
89	Henan Huaying Agricultural Development Co., Ltd.	002321	2021.05.12	2021.11.20	2021.12.23	2022.04.16	Yes	Normal
90	Shenzhen Soling Industrial Co., Ltd.	002766	2020.08.21	2021.11.29	2021.12.08	2022.01.04	Yes	Normal
91	Fujian Start Group Co., Ltd.	600734	2021.02.09	2021.11.30	2021.12.28	2022.01.01	Yes	Other risk warning received

No.	Company name	Stock code	Date of application for reorganization	Date of acceptance of the reorganization application	Date of approval of the reorganization plan	Date for completion of the reorganization plan	Does it involve the adjustment of shareholders' equity?	Status as of June 30, 2022
92	Oriental Times Media Corporation	002175	2021.02.09	2021.11.30	2021.12.01	2022.01.01	Yes	Normal
93	Shenzhen Hemei Group Co., Ltd	002356	2021.01.04	2021.12.04	2021.12.29	2022.01.04	Yes	Delisting risk warning received