

The paradigm shift in commercial bank shareholder liability: from limited liability to risk sharing

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Abstract. This article examines the paradigm shift in the liability of China's commercial bank shareholders, from traditional company law-based limited liability towards a financial law-based principle of risk sharing. It addresses the inherent flaws and moral hazards of limited liability within the highly leveraged and systemically important banking sector. The analysis focuses on China's constructed system of enhanced obligations for bank shareholders, which bridges ex-ante constraints, such as stringent qualification reviews, consolidated supervision, and capital replenishment commitments, with ex-post accountability tools, including bail-in conversions and rules requiring shareholders to bear losses first. Empirical validation comes from cases like Baoshang Bank, while comparative analysis with the U.S. Source of Strength doctrine and the EU's resolution framework supports this shift's legitimacy. The article identifies operational issues within China's current legal mechanism, including ambiguous regulatory boundaries, inadequate judicial relief, and poor coordination with the Enterprise Bankruptcy Law. It concludes by proposing normative improvements: clarifying liability triggers, emphasizing procedural justice, and enhancing legal coordination to advance the legalization of bank governance and risk resolution in China.

Keywords: commercial bank shareholders, enhanced obligations, risk sharing, limited liability, financial regulation, legal construction

1. Introduction

Commercial banks, as the core of the modern financial system, are profit-maximizing commercial enterprises; however, they operate a special commodity, monetary credit, and undertake crucial public functions such as maintaining payment system stability and serving real economic financing. This intertwining of public and private attributes makes it impossible to simply apply the traditional company law paradigm, which is suitable for general industrial and commercial enterprises, to the corporate governance and risk-bearing mechanisms of commercial banks. Particularly notable, under the reflection of high leverage, strong externalities, and systemic risks in the banking industry, the institutional defects of the shareholder limited liability principle, whose core function is to encourage investment and disperse risks, are drastically magnified and may even become a breeding ground for moral hazard. From an economic perspective, the inherent term transformation and high-leverage operation of the banking industry enable shareholders to leverage large-scale debt funds with a small amount of capital. The asymmetry between the privatization of profits and the socialization of

losses distorts their risk preferences. Merton's option pricing theory points out that shareholder equity can be regarded as a call option, where an increase in asset volatility raises the option value, thereby incentivizing risk-taking behavior [1]. Under the expectation of too big to fail, this moral hazard further exacerbates the fragility of the financial system. To correct this structural distortion, financial regulatory law has gradually broken through the boundaries of traditional company law, promoting a paradigm shift from formal limited liability to substantive risk sharing for bank shareholders in the Chinese context. The core legal principle lies in imposing reasonable restrictions on shareholder rights and imposing enhanced liabilities beyond the general provisions of company law based on the public attributes of banks, so as to internalize the social costs of their actions and fundamentally constrain risk-taking incentives [2]. Relevant systems in Europe and the United States, such as the Source of Strength doctrine in the U.S. and the bail-in rules in the EU's resolution framework, reflect this global trend [3]. In the Chinese context, with the deepening of financial marketization reforms and the manifestation of risks, constructing a framework for enhanced shareholder liability in banks is particularly urgent. From shareholder qualification management to the penetration regulation and capital replenishment commitments in the Interim Measures for the Administration of Commercial Bank Equity, to the loss absorption sequence clarified in the Financial Stability Law, China has initially formed a prototype of a responsibility system characterized by early identification, early exposure, and early disposal. The case of Baoshang Bank's risk resolution, where shareholder equity was written down to zero, starkly revealed the failure of limited liability in the banking sector in an extreme manner, demonstrating the evolution of risk sharing from theory to practice. However, any paradigm shift involves coordination challenges in both theory and practice. At the theoretical level, the paradigm shift of commercial bank shareholders from limited liability to risk sharing still needs to be adapted to basic legal principles such as private law autonomy and property rights protection. In practice, this paradigm shift also faces issues such as ambiguous regulatory power boundaries, unclear liability trigger conditions, and a lack of procedural safeguards. Existing literature mostly focuses on interpreting the basis, content, and consequences of specific regulatory policies, without examining the motivations, connotations, legal construction, and limits of this paradigm shift from a jurisprudential perspective. Therefore, this article will analyze in detail the legal logic and construction methods behind the paradigm shift of commercial bank shareholders from limited liability to risk sharing. This article will first discuss the economic and legal motivations for this paradigm shift; then deconstruct China's current enhanced liability system from the perspectives of legislative evolution, responsible entities, and ex-ante and ex-post liabilities; next, demonstrate the legitimacy and necessity of this paradigm shift through two classic empirical cases and a comparative perspective of European and American experiences; finally, reflect on the problems and deficiencies of the existing system in theory, propose ideas for improving the bank governance and risk resolution framework, and contribute theoretical intellectual support to further improve China's banking governance system and risk resolution framework.

2. The underlying motivations for the enhanced liability system for shareholders

2.1. The cornerstone of the corporate veil

The principle of shareholder limited liability, which means that shareholders are liable for company debts only to the extent of their capital contributions, locks in the maximum loss risk for investors. This principle, as the cornerstone of the modern corporate system, greatly promotes the aggregation of social capital and incentivizes innovation and entrepreneurship, effectively coordinating the contradiction between risk

dispersion and capital concentration, and between stimulating investment and controlling risks. Therefore, in general industrial and commercial sectors, the shareholder limited liability principle can separate the operational risks of the company from the personal property of shareholders, laying the legal foundation for the company to participate in competition as an independent market entity. However, if this principle is directly applied to special enterprises like commercial banks, its presumed incentive compatibility mechanism may produce opposite effects.

2.2. The particularity of commercial banks

2.2.1. *High-leverage operation and severe asymmetry in risk and return*

The core of the banking business is term transformation and credit transformation, which necessarily requires operation with extremely high financial leverage. According to the requirements of the Commercial Bank Capital Management Measures, the minimum capital adequacy ratio standard is 8%, meaning that banks can operate using up to 92% external funds. This high-leverage model leads to a severe mismatch between risk and return. As scholars Mao and Li pointed out through empirical research, the high-leverage nature of the banking industry gives shareholders an inherent impulse to engage in high-risk speculative activities, and the loss transfer effect under the limited liability system is significantly amplified [4]. When banks engage in high-risk, high-return businesses, shareholders seek huge returns with their small amount of capital, but once risks materialize, the huge losses far exceeding the share capital will be mainly borne by depositors, other creditors, and public bailout funds. Here, limited liability not only fails to effectively disperse risks but becomes an institutional channel for shareholders to transfer their investment risks to society, creating a distorted pattern of profit privatization and loss socialization. Li, in discussing bank regulation, also stated that the combination of limited liability and the deposit insurance system has defects in incentive compatibility, allowing shareholders to enjoy all the benefits of risk-taking without bearing all the costs, which is the core of bank corporate governance issues [5].

2.2.2. *Drastically amplified negative externalities*

Commercial banks, as central hubs of the financial network, generate negative externalities from their failures that far exceed those of ordinary enterprises. The failure of a single bank often triggers chain reactions due to payment system paralysis, interbank lending freezes, contagion effects of asset sales, etc., even threatening the stability of the entire financial system. Lu, in studying systemic financial risks, emphasized that the interconnectedness of financial institutions and similar behavior patterns lead to risk resonance and amplification, where the default of a single institution may evolve into a systemic event due to the domino effect [6]. This huge negative externality causes the private costs of bank shareholders to be far lower than the public losses caused by their actions. In this case, limited liability solely focused on protecting shareholder equity is obviously difficult to address the potential huge losses of the banking system, and inevitably leads to a serious underestimation of systemic risks. As Zhou stated, the necessity of bank regulation stems precisely from the huge gap between the social costs and private costs of bank failures, i.e., negative externalities, which requires the law to impose stricter liability standards on banks and their shareholders [7].

2.2.3. *Regulatory reliance*

As the main creditors of banks, depositors, due to high information asymmetry and limitations in professional ability, find it difficult to effectively monitor the operational risks of banks. To this end, the government has constructed safety nets such as deposit insurance to protect depositors and maintain financial stability. However, while this safety net prevents bank runs, it also ensures deposit safety, leading depositors to lack the motivation to monitor banks' risk-taking behaviors, thus weakening market discipline on bank shareholders. Ba and Gao pointed out that while financial safety nets prevent crises, they objectively reduce the intensity of

market discipline, which may induce banks to take excessive risks [8]. As depositors are protected and lack supervision motivation, shareholders, under the dual barriers of the limited liability system and protective regulation, are more likely to engage in high-risk activities.

2.3. Moral hazard under the limited liability paradigm

The above three particularities of the banking industry give rise to and exacerbate moral hazard under the traditional limited liability principle, and the option pricing theory in economics provides a profound interpretation of this mechanism. Merton once succinctly pointed out that shareholder equity under limited liability is essentially equivalent to a call option with bank assets as the underlying and the face value of bank liabilities as the exercise price [1]. The value of an option increases with the volatility of the underlying asset. Therefore, mapped to bank operations, shareholders will have a strong incentive to support high-risk, high-volatility investment projects. Because if the project succeeds, part of the excess returns belongs to shareholders; if the project fails, the losses borne are limited to their capital contributions, and if the decision leads to excessively large error costs, they will still be covered by depositors or creditors. Many domestic scholars have also discussed this moral hazard arising from institutional design in the financial field. Liao, in his monograph on enhanced shareholder liability, clearly stated the traditional shareholder limited liability principle [2]. Combined with financial safety nets such as deposit insurance in the banking sector, gives rise to and exacerbates moral hazard problems, enabling bank shareholders to have both the motivation to engage in excessively risky operations and the conditions to transfer the costs of operational failure to depositors, deposit insurance institutions, and even the whole society [2]. This incentive mechanism encourages excessive risk-taking and is a key source of the inherent fragility of the banking system. Furthermore, the market expectation of too big to fail or too interconnected to fail further distorts the incentive structure of large bank shareholders. When the market generally believes that the government will inevitably bail out large banks in trouble to avoid systemic risks, the shareholders of these banks are effectively exempted from bearing the ultimate consequences of bankruptcy, greatly strengthening their motivation to engage in high-risk businesses. Wang and Fan, in analyzing the regulation of systemically important banks, also discussed that implicit government guarantees significantly reduce market discipline and enhance banks' risk-taking preferences [9]. In this context, the limited liability principle has nearly failed and instead become a one-way profit tool for shareholders to engage in high-risk speculation. The Baoshang Bank incident is a classic example; its actual controller, Tomorrow Group, under the cover of the too-big-to-fail expectation, long-term emptied bank assets through complex related-party transactions and fund misappropriation, ultimately transforming moral hazard into a real banking crisis, highlighting the serious consequences that implicit guarantees may trigger in the absence of regulation.

3. Legal deconstruction of the enhanced liability system for shareholders

3.1. Legislative evolution

China's regulation of commercial bank shareholder liability has gradually shown a development path from principled declarations to refined regulation. Early versions of the Commercial Banking Law only provided general guidelines on shareholder qualifications, lacking specific, operable standards. The promulgation of the Interim Measures for the Management of Equity in Commercial Banks (hereinafter referred to as the Interim Measures) in 2018 marked a significant breakthrough in this situation. For the first time, these measures established a comprehensive set of rules to regulate shareholder behavior and optimize the business environment from the perspective of the rights and obligations of bank shareholders, especially major

shareholders. They detailed specific requirements for shareholder qualifications, behavioral norms, and legal responsibilities, and were aligned with the risk management provisions in the subsequent draft Financial Stability Law. Together, these provisions form the legislative framework for increased shareholder responsibility.

This legislative evolution process not only demonstrates the continuous maturation of regulatory technology but also reflects a profound change in regulatory philosophy from ex-post risk resolution to ex-ante warning and interim intervention in the whole process of risk prevention.

3.2. Responsible entities

Accurately identifying the entities responsible for liability is a prerequisite for legal regulation. Therefore, China's regulatory rules no longer adopt a homogeneous treatment of all shareholders but implement differentiated regulation based on shareholders' influence and control. The core task is to accurately target major shareholders, controlling shareholders, and actual controllers. According to the Interim Measures, major shareholders refer to those who hold or control more than 5% of the shares or voting rights of a commercial bank, or whose shareholding ratio does not meet the standard but has a significant impact on the bank's operation and management. This definition goes beyond simple superficial shareholding ratio restrictions and, under the principle of substance over form, leaves regulatory authorities with greater discretion to penetrate complex equity structures and layers, expose the ultimate responsible entities that have a substantive impact on bank risk-taking, and impose constraints, thereby effectively preventing regulatory evasion and ensuring that liability can be assigned to the real dominators.

3.3. Ex-ante liability

The core of the enhanced liability system for shareholders lies in preventing problems before they occur, hence requiring the establishment of a more rigorous risk prevention system ex-ante to eliminate potential issues in the bud. China's existing laws mainly achieve ex-ante constraints and prevention through the following measures: First, setting relatively strict access reviews and continuous compliance systems, stipulating that shareholders must meet certain conditions to participate in shareholding, and regulatory authorities should conduct comprehensive inspections of shareholders' fund sources, financial status, and whether corporate governance is effective, screening out unqualified investment subjects at the source to ensure that shareholders have sufficient honesty, credit, and qualified continuous contribution ability. Second, implementing the penetration regulation system. As Liao pointed out, penetration regulation is a key tool for identifying and controlling the relevance of financial risks [2]. In practice, the penetration regulation principle should be strictly required: all shareholders must fully disclose their equity structures up to the ultimate beneficial owners, enabling regulatory departments to penetrate complex equity arrangements and identify the true source of risks. Third, establishing a binding equity management system to achieve hard constraints, such as setting equity lock-up periods, requiring major shareholders not to transfer their shares within five years from the date of acquisition [10]. This is to deeply bind shareholder interests with the long-term stable operation of the bank, suppress short-term speculative behaviors, and constrain shareholders' profit-maximizing behaviors to carry out operations without harming the bank's interests. At the same time, major shareholders are required to make written commitments to replenish capital to the commercial bank when necessary [10]. This contingent enhanced liability provides an additional capital buffer for banks to cope with potential risks. Finally, it is crucial to improve the management system for related-party transactions, build robust firewalls, and prevent shareholders from misappropriating bank profits through the transfer of benefits, thus avoiding

potential risks such as hollowing out the bank. The collapse of Baoshang Bank serves as a classic example of how inadequate control over related-party transactions led to severe consequences.

3.4. Ex-post liability

When a commercial bank falls into serious operational difficulties or substantive risks, the enhanced liability of shareholders is manifested in that shareholders must absorb losses first. First, the Financial Stability Law clearly stipulates the statutory sequence of loss absorption in resolution procedures: shareholder equity is written down first, followed by specific debts. This legally establishes the primary responsibility of shareholders in bank resolution. Second, introducing specific bail-in mechanisms. Although China has not fully established a European-and American-style bail-in bond system, there is a clear legislative trend in this aspect. In future risk resolutions, regulatory authorities have the power to write down shareholder equity as needed or convert it into ordinary shares, internalizing losses, minimizing the use of public resources as much as possible, reducing the number of times public bailout funds replace bail-ins, thereby improving resolution efficiency and marketization. Zhou earlier argued that establishing an effective resolution framework is a necessary link to constrain the moral hazard of bank shareholders [7]. Finally, this mechanism connects with the deposit insurance system. After compensating depositors, the deposit insurance fund legally acquires the right of subrogation against banks, meaning it will fully compensate depositors according to law. However, this does not exempt insured institutions and the relevant responsible parties from their legal liabilities. This implies that shareholders may ultimately be liable for the deposit insurance fund's losses, forming another line of defense for ex-post accountability and strengthening the ultimate accountability of shareholders.

4. Classic cases of the enhanced liability system for shareholders

4.1. The Baoshang Bank case

4.1.1. Case overview

The essential root of the Baoshang Bank risk event was its inherent corporate governance defects. Tomorrow Group, as the actual controller, used complex equity entrusted holdings, related-party transactions, and other concealed means to avoid regulatory review of shareholder qualifications, ultimately forming actual control over Baoshang Bank [11]. After secretly gaining control of Baoshang Bank, Tomorrow Group used a large number of irregular related-party transactions to transfer the bank's funds to other enterprises within its group, leading to serious credit risks in Baoshang Bank. This case exposed the limitations of traditional regulatory models relying mainly on formal review to determine compliance issues in the context of opaque equity structures.

4.1.2. Penetration regulation and shareholder liability pursuit

In May 2019, the People's Bank of China and the China Banking and Insurance Regulatory Commission took over Baoshang Bank according to law. During the resolution process, regulatory authorities adopted a series of measures reflecting enhanced shareholder liability. First, through penetration regulation, they identified Tomorrow Group as the actual controller, breaking through the formal equity structure. Second, when formulating the resolution plan, it was clearly stipulated that the original shareholder equity would absorb losses first, and the shares held by Tomorrow Group and the tier 2 capital bonds issued by Baoshang Bank were fully written down [12]. This treatment completely broke the expectation of shareholder limited liability, reflecting the rigid constraint of the risk-sharing principle in practice.

4.1.3. First practice

The Baoshang Bank case is a typical case of systematically applying enhanced shareholder liability in the risk resolution of commercial banks in China, demonstrating two major values: First, it proved the key role of penetration regulation in exposing substantive risk sources, thus providing empirical support for the application of relevant clauses in the Interim Measures for the Administration of Commercial Bank Equity. Second, through the Baoshang Bank case, the principle of shareholder equity absorbing losses first was established as a priority in resolving commercial bank risks, and it can serve as a practical model for the future enactment of the Financial Stability Law, accumulating experience for the design of subsequent relevant clauses. This case shows that only when legal rules have sufficient deterrence and enforceability can they effectively curb the moral hazard of shareholders.

4.2. The Hengfeng Bank case

4.2.1. Case overview

Unlike Baoshang Bank, which was hollowed out by external shareholders, Hengfeng Bank's risk events involved serious failures in insider control and corporate governance. Its risks mainly stemmed from senior management's use of various complex transactions to transfer benefits and engage in illegal and irregular operations. Previously, Cai, the former chairman of Hengfeng Bank, and related personnel caused serious deterioration of the bank's asset quality and a sharp decline in the capital adequacy ratio through means such as issuing irregular loans and implementing equity incentive plans [13]. This case exposed the moral hazard problems that can arise when commercial banks lack effective checks and balances mechanisms.

4.2.2. Equity restructuring and risk premium

In the risk resolution process of Hengfeng Bank, shareholder liability was mainly implemented through market-oriented restructuring. In 2019, Hengfeng Bank introduced strategic investors such as Central Huijin and Shandong Financial Asset Management Company through private share placement, raising 100 billion yuan [14]. In this restructuring process, the equity of the original shareholders was significantly diluted, and their shareholding ratio markedly decreased, essentially reflecting that the original shareholders were required to bear responsibility for the bank's earlier operational losses. In the restructuring plan, new investors entered at a price significantly lower than the net asset value, reflecting a market-oriented pricing mechanism for holding the original shareholders accountable.

4.2.3. Liability penetration under insider control

The special significance of the Hengfeng Bank case lies in demonstrating how the enhanced liability principle is applied in the risk resolution of commercial banks in the context of control by insiders rather than external shareholders. In this case, regulatory authorities promoted market-oriented restructuring, ultimately achieving accountability for the losses caused by insider control. This approach indicates that, in addition to external controlling shareholders needing to bear responsibility, in situations where insider control causes company damage, all shareholders also need to bear corresponding consequences for inadequate supervision. This represents the deepened development of the theory of enhanced shareholder liability and provides important guidance for improving bank corporate governance and strengthening shareholder supervisory responsibilities.

5. European and American experiences with the enhanced liability system

5.1. U.S. practice: the source of strength doctrine and bank holding company liability

A key feature of U.S. financial regulation is repositioning bank holding companies as a source of strength. This concept essentially stems from the requirements of the Bank Holding Company Act, which requires that bank holding companies must be a source of strength for their insured depository institution subsidiaries. When the bank holding company becomes insolvent or faces bankruptcy, it must provide sufficient financial support to its subsidiary institutions¹. This actually goes beyond the traditional limited liability principle, creating enhanced liability of the holding company towards its subsidiaries. Historically, the source of strength principle evolved gradually. After the savings and loan crisis in the 1980s, regulatory authorities strengthened this concept through a series of precedents and policy statements. The Federal Reserve System emphasized that bank holding companies should not be merely passive investors enjoying returns but should bear the continuous responsibility of maintaining the sound operation of their subsidiaries. Later, during the 2008 financial crisis, when large financial institutions such as Citigroup and Bank of America faced bankruptcy risks, regulatory authorities began to invoke and use the source of strength principle, prompting holding companies to inject capital into their troubled subsidiaries, thereby avoiding triggering greater financial volatility and endangering the stability of the financial system. After the crisis, the enacted Dodd-Frank Wall Street Reform and Consumer Protection Act established an orderly liquidation authority, requiring systemically important financial institutions to formulate living wills. Once a financial institution enters a crisis, losses are first borne by shareholders and creditors, strengthening the actual liability of shareholders. Simultaneously, the pre-planning requirement prevents holding companies from using unpreparedness as an excuse to evade responsibilities and obligations². Note that the U.S. model focuses on emphasizing ex-ante liability and applying continuous regulatory pressure, ultimately tracing risk control responsibilities back to the ultimate responsible entities, reflecting the ideas of functional regulation and penetration management, but also retaining some regulatory discretion space.

5.2. The EU paradigm: shareholder liability in the recovery and resolution mechanism

The EU has constructed a more systematic and procedural ex-post resolution framework through unified legislation. The Bank Recovery and Resolution Directive (BRRD), passed in 2014, is a model. This directive establishes a resolution mechanism with bail-in at its core, clearly setting the statutory sequence of loss absorption³. According to BRRD, when a bank is in financial distress and undergoes resolution, loss absorption must be carried out layer by layer following the sequence: first, covering losses entirely by writing down equity or converting it into ordinary shares; only after equity instruments are fully written down can subordinated debt be written down or converted; and only after all equity is completely exhausted can the write-down of specific senior claims proceed. This waterfall-like loss absorption sequence ensures the internalization of resolution costs, preventing risks from resolution from spilling over to public funds. The legal basis of this system stems from the most basic principle of corporate governance, as the ultimate claimants of bank assets' residual claims and substantive influencers of operational decisions, shareholders naturally should be the primary bearers of bank risks. BRRD breaks new ground in this aspect by codifying this economic substance through statutory law and equipping it with a series of detailed procedural provisions, including early intervention measures, resolution plan requirements, and resolution condition trigger mechanisms, forming a relatively complete institutional system. The single resolution mechanism established by the EU further enhances the operability of this framework. The Single Resolution Board, as the core institution of this mechanism, is responsible for ensuring the consistent application of shareholder liability

rules in cross-border bank resolutions. The advantage of the EU paradigm lies in the clear legal basis for ex-post resolution, strictly standardized procedures, and high predictability. By establishing clear and transparent loss-sharing rules, this mechanism helps stabilize market expectations, strengthen market discipline, and minimize uncertainty during the resolution process.

6. The path to perfecting China's enhanced liability system for shareholders

Comparing the above two models, it can be seen that both the United States and the EU have broken through the traditional company law principle of limited liability, legally establishing that shareholders bear the primary loss absorption responsibility in bank crises to prevent the moral hazard arising from too big to fail. However, there are significant differences in the two paths: the U.S. model focuses more on ex-ante responsibility extension to the holding company level through regulatory pressure, with stronger case-by-case discretion characteristics; while the EU model focuses more on ex-post establishment of clear loss absorption layers through statutory law, emphasizing predictability of rules and procedural standardization. In contrast, China's current system has an eclectic characteristic: on the one hand, similar to the U.S. source of strength doctrine, China's penetration regulation also needs to penetrate multiple layers of equity relationships to find the source of risks and the actual controller, focusing on ex-ante prevention. On the other hand, the loss absorption sequence in the Financial Stability Law clearly draws on the bail-in idea of the EU BRRD, emphasizing the legal framework for ex-post resolution. By comparing the domestic and foreign enhanced liability systems for shareholders, it can be inferred that in the future improvement process, China's enhanced liability system for shareholders should focus on the following three aspects. First, enhance the legislative hierarchy of enhanced shareholder liability. Currently, the core rules of enhanced shareholder liability are mostly scattered in departmental regulations and normative documents, with low legal effect, and due to the lack of support from higher-level laws, there are certain deficiencies in stability and authority. In the future, efforts should be made to establish the basic principles of enhanced shareholder liability in the Commercial Bank Law or Financial Stability Law, providing a solid higher-law basis for regulatory actions. At the same time, the trigger conditions, exercise procedures, and discretion standards for enhanced shareholder liability should be further clarified to prevent abuse or underuse of power due to ambiguous rules, promoting the formation of a strong regulatory situation with rules to follow. Second, seek a balance between administrative efficiency and procedural justice. While pursuing the efficiency of risk resolution, the procedural safeguards for the legitimate rights of shareholders cannot be ignored. A rights protection system including ex-ante warning, interim notification, hearings, and ex-post judicial relief should be established. Through due process, the credibility of regulatory decisions can be enhanced, ensuring that, under the major goal of maintaining financial stability, the legitimate rights and interests of individual shareholders are treated fairly, achieving the organic unity of fairness and efficiency. Third, organic integration of systems. On the one hand, drawing on the source of strength principle imposed on bank holding companies in the U.S. and its powerful ex-ante deterrence mechanism in regulatory practice, focus on strengthening the penetration regulation of major shareholders and actual controllers, continuous capital replenishment commitments, and early intervention capabilities for high-risk businesses, containing risks in the bud. On the other hand, it is necessary to systematically introduce the ex-post rule-based resolution framework established by the EU's Bank Recovery and Resolution Directive, establishing a clear loss absorption hierarchy to ensure that in times of crisis, shareholder equity absorbs losses first, thereby stabilizing market expectations and avoiding uncertainty during resolution from causing panic. More critically, the enhanced liability system for shareholders must be combined with China's national conditions. In the legal design process, China's specific financial industry

must be considered, and how to effectively connect with the existing Enterprise Bankruptcy Law, the Financial Stability Law, etc., must be addressed, while prudently defining the boundaries and exercise procedures of regulatory power, thereby constructing an enhanced liability legal system for shareholders that integrates international experience and Chinese national conditions.

7. Conclusion

Reviewing the full text, the logical context of this study clearly reveals the inevitability and rationality of this shift. First, commercial banks themselves have characteristics such as high leverage, negative externalities, and systemic risks. Therefore, in the corporate governance system based on traditional company law with limited liability as the foundation, it is difficult to achieve the purpose of dispersing risks and encouraging investment. On the contrary, its inherent risk-return mismatch mechanism will induce and exacerbate the moral hazard of shareholders—this is the fundamental reason for the paradigm shift. Then, in this institutional correction, to rectify this institutional deviation, China has used norms such as the Interim Measures for the Administration of Commercial Bank Equity and the Financial Stability Law to accurately identify responsible entities through penetration regulation, strengthen ex-ante constraints in areas such as shareholder qualification restrictions, equity lock-up periods, and capital replenishment commitments, and clarify the sequence of shareholder equity absorbing losses first in risk resolution, constructing a full-chain enhanced liability legal framework for shareholders covering ex-ante prevention and ex-post resolution. Further, the analysis of two typical cases, Baoshang Bank and Hengfeng Bank, shows that China's enhanced liability system for shareholders has moved from theory to practice and played a key role in resolving bank risks and strengthening market discipline. In the context of bank insider control, market-oriented restructuring can be used to hold all shareholders accountable for inadequate supervision, enriching the application scenarios of enhanced shareholder liability. Meanwhile, comparative law reveals that while the US's emphasis on the source power principle (preemptive measures) and the EU's emphasis on the internal relief mechanism (post-event measures) differ in their approaches, they both point to a trend of requiring shareholders to bear primary responsibility for absorbing losses, providing a valuable lesson for the improvement of China's system. In summary, the future improvement of China's system of increased shareholder liability should focus on the following three dimensions: First, raising the legislative level of increased shareholder liability by incorporating the principles of increased shareholder liability into the Commercial Bank Law or the Financial Stability Law to enhance the stability and authority of the system; second, refining the conditions for initiating disposal powers, implementation procedures, and channels for shareholder remedies to ensure the transparency and predictability of the rules and prevent market disturbances caused by regulatory uncertainty; and third, constructing a legal system for increased shareholder liability that integrates the US's preemptive deterrence model and the EU's post-event rule model, while adapting to China's national conditions, thereby providing a solid legal guarantee for preventing and resolving systemic financial risks.

Notes

1. Bank Holding Company Act of 1956, 12 U.S.C. § 1841 et seq. (1956).
2. Dodd–Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111–203, 124 Stat. 1376 (2010).
3. European Parliament and Council. (2014). Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.

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