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Judicial review of corporate bankruptcy reorganization value in China: a critical analysis based on 590 judicial judgments

Abstract: Reorganization value is the logical starting point for a corporation to undergo bankruptcy reorganization. Establishing a judicial review system for corporate reorganization value is vital for protecting creditors' interests and promoting the rational allocation of social resources. Empirical analysis reveals significant challenges in China concerning the judicial review of reorganization value. Courts need to reach a consensus on the necessity of reviewing reorganization value and address issues such as inconsistent adjudication standards, misapplication of the law, a lack of thorough argumentation, and insufficient judicial rationale. To address these issues, China must explicitly mandate judicial review of corporate reorganization value in future amendments to the bankruptcy law. Furthermore, the introduction of an inquiry mechanism and a third-party investigation mechanism, along with differentiated burdens of proof for various applicants, is crucial for establishing a scientific and rational framework for assessing corporate reorganization value.

Keywords: Reorganization value; hope for business rehabilitation; reorganization petition; corporate reorganization; bankruptcy reorganization; corporate bankruptcy

1. Introduction

The legal framework of China's corporate bankruptcy system is principally composed of two parts: the Enterprise Bankruptcy Law (EBL) of the People's Republic of China (PRC), enacted by the Standing Committee of the National People's Congress in 2006, and the judicial interpretations subsequently issued by the Supreme People's Court (SPC), China's highest judicial authority, to facilitate its implementation. The EBL was promulgated on August 27, 2006, and came into effect on June 1, 2007. As a rescue-oriented insolvency law, the EBL was designed to facilitate more corporate reorganizations and to establish a market-based corporate insolvency system (Zhang, 2020). The statute establishes three principal corporate insolvency procedures under Chapters 8 (reorganization), 9 (composition), and 10 (liquidation) respectively. It is widely argued that the sequencing of these chapters reflects the legislature's intent to prioritize the use of reorganization as the preferred insolvency resolution mechanism (Zhang and Tomasic, 2016). The introduction of the reorganization regime constitutes one of the most significant innovations of the EBL 2006. Drawing on legislative experiences from other jurisdictions such as the United States (Lee, 2011), Chinese lawmakers regarded reorganization as a critical mechanism for preventing corporate bankruptcy (Wang, 2005). To that end, Article 2 of the EBL stipulates that a company that is either insolvent or likely to become insolvent may apply for voluntary reorganization, which allows for the possibility of initiating a rescue effort while the company is approaching insolvency, rather than waiting until it is already in a insolvency trouble (Zhang, 2020). This provision reflects a legislative idea of "early rescue" (Wang, 2006).

On this basis, Chapter 7 of the EBL sets out detailed provisions regarding the scope of reorganization, its procedural framework, protective measures, and the formulation, approval, and implementation of the reorganization plan (Wang et al., 2007). It is important to note that while the principal purpose of reorganization is to restore the viability of debtors and safeguard public

interests—such as employment and economic stability—the protection of creditors remains a fundamental value.[1] However, in practice, creditors' rights may be subject to different constraints during reorganization (Steele et al., 2018), particularly where debtor-in-possession models prevail. This has raised concerns that misuse or abuse of the reorganization regime could harm creditors' interests (Payne, 2018). To address these risks, the EBL incorporates the principle of interest balancing in the design of its reorganization framework and emphasizes the need for judicial oversight to prevent abuse and uphold the interests of creditors. Judicial intervention is most evident at the initiation stage of the reorganization procedure. Under Article 70 of the EBL, corporate reorganization filings may be submitted to the people's court by the debtor, a creditor, or an investor holding at least ten percent of the debtor company's registered capital. Pursuant to Article 71, the court, upon review and confirmation that the filing meets the statutory requirements, shall issue a ruling to commence reorganization. These provisions collectively establish a legal basis for courts to perform assessments of corporate reorganization filings.

To reduce procedural barriers and broaden access to reorganization, the EBL sets relatively low entry requirements for commencing reorganization proceedings: the debtor enterprise must be unable to repay due debts and either be balance-sheet insolvent or manifestly lack repayment ability.[2] Notably, the statute does not require that the debtor enterprise possess reorganization value as a prerequisite for initiating the process. However, given the significant costs of reorganization and its impact on creditors' rights, some scholars argue that courts should not only determine whether corporate filings meet the requirements set forth in the EBL but also assess the debtor enterprise's potential for rehabilitation (Xiao, 2011; Gan et al., 2021; Li and Li, 2013). In their view, an assessment of reorganization value should be incorporated into the judicial review of reorganization filings. This view was adopted in 2018 when the SPC issued the Minutes of the National Court Work Conference on Bankruptcy Trials (Bankruptcy Minutes).

The Minutes emphasized that "the target of bankruptcy reorganization shall be corporations in trouble having the value and possibility of saving", and that courts should reject applications lacking reorganization value and the possibility of rescue, based on relevant factors such as asset status, industry prospects, and technological capacity.

Despite this guidance, there remains considerable uncertainty as to how Chinese courts have responded in practice. Specifically, it is unclear whether courts consistently assess the reorganization value of debtor enterprises in reorganization cases, what methods and criteria are used in such assessments, whether these standards are uniformly applied across jurisdictions, and what institutional or procedural challenges courts face in conducting such reviews. Nevertheless, there has been a dearth of empirical studies on the judicial review of reorganization value in China. This article thus seeks to fill that gap and contribute to the broader academic discourse on corporate reorganization.

To this end, this study examines court decisions issued between January 2019 and June 2023 concerning corporate reorganization filings. Through a critical analysis of how corporate reorganization value has been reviewed in practice, the study identifies major deficiencies in current judicial practice and offers normative recommendations for future reform of the corporate reorganization value review system in China. The remainder of this article is organized as follows: Part II discusses the theoretical foundations and practical significance of judicial review of corporate reorganization value. Part III conducts an empirical analysis of how Chinese courts have reviewed the enterprise's reorganization value in reorganization cases in a five-year period from 2019 to 2023. Part IV proposes a reform framework to improve the judicial review system for corporate reorganization value in China. Part V concludes.

2. Why is Judicial Review of Reorganization Value Needed in Corporate Reorganization?

2.1 Transaction Cost Theory

Renowned economist Ronald Coase, in his seminal work The Nature of the Firm, developed the theory of transaction cost, which has since become the dominant paradigm in modern firm theory and the starting point for the study of corporate structure (Baird and Rasmussen, 2002). According to transaction cost theory, firms exist because, in certain contexts, organizing transactions internally within a firm is more cost-efficient than relying on the market mechanism to achieve the same outcome (Coase, 1937). The size and structure of a firm are determined by whether the marginal cost of organizing transactions internally remains lower than the marginal cost of conducting equivalent transactions through the market (Coase, 1937). Whether an activity takes place within a firm or between firms in the market depends entirely on comparative advantage—specifically, which method of organizing can complete the activity at a lower cost (Baird and Rasmussen, 2002). This in turn depends on the relative transaction costs associated with the available organizational alternatives (Baird and Rasmussen, 2002).

Within the Chinese legal framework, financially distressed enterprises typically face two options: bankruptcy reorganization or bankruptcy liquidation (Wang, 2012). Applying transaction cost theory to this issue comes to a clear conclusion. Whether a distressed firm should choose reorganization, or liquidation depends on whether its existing organizational form is still more cost-effective than dissolving the firm and reallocating its assets through market transactions (Zhang & Li, 2008). In other words, a firm only possesses economic justification for continued existence if the transaction costs associated with continued internal operation are lower than the transaction costs of reallocating its assets via liquidation in the market. Reorganization value, in this context, functions as an indicator of whether an enterprise's existing organizational structure and asset configuration still has a transaction cost advantage. Accordingly, courts should examine the corporate reorganization value in determining whether to approve a reorganization filing.

Reorganization is essentially a legal mechanism for corporate rehabilitation; its primary objective is to revive the financially distressed business as a going concern (Wang, 1996). The preservation of going-concern value is the central justification for reorganization (Baird and Rasmussen, 2003). However, such preservation must be based on the fact that the enterprise itself still has going concern value. A reorganization petition raises the question whether the assets that legally owned by the firm should remain with this firm, reorganization law thus ought to begin by ascertaining the value of retaining particular assets within a given firm (Baird and Rasmussen, 2002). A firm only possesses a going-concern surplus if those assets are worth more when retained within the existing company. If all the assets can be equally or more efficiently used elsewhere, then the company has no value as a going concern. If a court permits a firm with no reorganization value to enter reorganization proceedings, it effectively allows a high-cost organizational structure to persist in the economy, thereby contrary to the objectives of insolvency law in promoting the optimal allocation of resources.

2.2 The need to protect the interests of creditors

According to Articles 2[3] and 7[4] of the EBL, if a debtor enterprise fails to pay off its debts when due and its assets are insufficient to cover all the debts or if it is obviously unable to do so, the debtor enterprise or creditor may directly apply to the court for bankruptcy reorganization against the debtor enterprise. These provisions indicate that China's bankruptcy law has relatively lenient regulations for corporate bankruptcy reorganization. This indicates that the requirements for corporations to petition the court for revival are relatively low. Consequently, this may lead to financially distressed corporations without any revival value seeking bankruptcy reorganization (Li, 2022).

As mentioned above, financially distressed companies are typically confronted with a choice between immediate bankruptcy liquidation and reorganization. Liquidation results in the dissolution of the company, often leaving shareholders with little or no recovery. By contrast, a successful reorganization allows the company to continue as a going concern by relieving it of excessive debt burden, thereby enabling the resumption of normal business activities (Payne, 2018). Unsurprisingly, both distressed companies and their shareholders often prefer reorganization over liquidation. Shareholders have strong incentives for reorganization because they may still get unpaid even after liquidation but may share the benefits of successful reorganization, without assuming any risk of failure (Lin, 2018). Even if the reorganization ultimately fails, it may delay the company's collapse, offering a marginal extension of operations. In such cases, the outcome for the company and its shareholders may not be significantly worse than the pre-reorganization status quo (Hashi, 1997). Nevertheless, corporate reorganization remains a time-consuming and costly process (Lee, 2011). The direct costs include general expense, professional service costs, financial advisory costs, administration costs, administrative costs, etc. (Lee, 2011), which must be covered by the company's assets or funds invested in bankruptcy reorganization. This decreases the total amount that creditors can receive. Moreover, if the reorganization ultimately fails, creditors also bear indirect costs such as the loss and depreciation of corporate assets caused by reorganization or changes in the market situation during the reorganization period, which may further diminish the value of corporate assets during liquidation and decrease the amount of debt repayment that creditors will receive. An empirical study once pointed out that most enterprises in bankruptcy proceedings in China either lack executable assets to compensate creditors or have few assets available for liquidation (Zhang, 2022). This further raises concerns about the actual recover rate in bankruptcy liquidation (Zhang, 2022) and

underscores the importance of judicially reviewing the corporate reorganization value when initiating reorganization proceedings.

The essential goal of bankruptcy laws is to protect the interests of creditors (Zhang, 2022; Mooney, 2004; Li, 2002). To prevent creditors from suffering losses caused by unnecessary reorganization, it is necessary to establish a mechanism for identifying reorganization value and raise the threshold for reorganization, so as to prevent distressed companies with no hope of revival from unthinkingly pursuing reorganization and thereby harming the interests of creditors. From a comparative law perspective, many jurisdictions have considered the hope of reorganization as a factor in determining whether to initiate reorganization proceedings. For example, in Taiwan, Article 282 of the Company Act states that if a company is facing financial difficulties or is at risk of suspending its business, but there is a chance for the company to be reorganized or rehabilitated, the company or any interested party can file for reorganization. Meanwhile, Article 285-1 further clarifies that the court may dismiss a reorganization application when the applicant's reorganization and rehabilitation are deemed unfeasible after considering the business and financial conditions of the company (Company Act, 2021). Similarly, according to Article 41 of the Japanese Corporate Reorganization Act, when it is evident that a proposed reorganization plan providing for the continuation of the business is unlikely to be prepared, approved or confirmed (Fujita & Tago, 2021), the court shall reject the reorganization application. Although Taiwan and Japan adopt different legislative approaches to the initiation of corporate reorganization proceedings—Taiwan follows a “positive condition” model, requiring a demonstrable possibility of rehabilitation as a formal prerequisite, while Japan adopts a “negative condition” model, under which reorganization is permitted unless it is evident that the debtor lacks the potential for recovery—both jurisdictions share a common normative objective. That is, the reorganization regime should be reserved for enterprises with prospects of rehabilitation, rather than being

universally accessible to all firms in financial distress. This shared value orientation reflects a fundamental concern in modern insolvency law: preventing abuse of reorganization proceedings by debtors and avoiding undue harm to creditor interests.

2.3 Reasonable allocation of social resources

As mentioned above, for their own interests, the debtor company and its shareholders prefer reorganization when faced with the choice between bankruptcy liquidation and bankruptcy reorganization. However, not all distressed companies have the value for and necessity of reorganization. The reorganization of a corporation that should be in liquidation would directly harm the interests of its creditors and new investors. Nevertheless, it would also have consequences beyond the private interests of these stakeholders in the distressed company (Hashi, 1997). The essence of a market economy is competition, which inevitably leads to the survival of the fittest. In practice, some companies in traditional industry that lack technological innovation ability and core competitiveness and mindlessly follow production trends are prone to problems such as overcapacity, an unreasonable product structure, unsatisfactory returns, and high debt ratios when the market is saturated. In addition, with the development of China's society and economy, there are numerous "zombie" enterprises in the market. Generally, these enterprises have low operating efficiency and high debt levels. Most of them utilize outdated industrial technologies and operate in industries marked by overcapacity, high pollution, and high energy consumption (Wu, 2021). From a practical perspective, it is unrealistic to reorganize the corporations mentioned above, which hinders the optimization and upgrading of the industrial structure for the entire social economy. Reorganizing corporations that should have been liquidated and exited the market will not only waste social resources and affect the efficient allocation of social resources but also hinder and delay the adjustment of excess production capacity to

shrinking demand. This situation often leads to economic downturns and depression in the entire industry. Therefore, from a macroeconomic perspective, it should not be assumed that a corporation can be reorganized simply because it faces operational difficulties (Buchanan, 1939).

The principal contradiction in China's economic development has now transformed into structural problems, with the main aspect being the contradiction on the supply side. Therefore, the Chinese government has proposed policies to deepen supply-side structural reforms. These policies aim to clear industries with overcapacity efficiently, rectify distortions in allocating production factors, and improve the effective supply of resources (http://theory.people.com.cn/n1/2021/0225/c40531-32036538.html). Law is an essential tool and a means of modern social governance. As legislation concerning critical decisions related to the survival and closure of businesses, bankruptcy law must align with China's social governance requirements in the modern era. The revival value should be emphasized as a prerequisite for initiating corporate reorganization. This involves preventing companies without the potential for revival from undergoing reorganization, leading them to liquidate and exit the market promptly in accordance with market rules.

3. An Empirical Study on Judicial Review of Reorganization Value

3.1 Methodology and Data collection

This study tries to collect cases of application for corporate reorganization handled by courts reported as of the end of June 2023. The Minutes were released by the SPC in March 2018. Considering that the trial of bankruptcy reorganization cases requires a certain period, this study focuses on examining the court's handling of bankruptcy reorganization cases after the release of the minutes. Therefore, the sample for this study is limited to cases of application for corporate reorganization publicly available in courts across China from January 1, 2019, to the end of June 2023.

The case samples for this study were primarily obtained from China Judgments Online (CJO，中国裁判文书网) and the National Enterprise Bankruptcy Information Disclosure Platform (NEBIDP，全国企业破产重整案件信息网), both of which are open access databases established by the SPC and serve as key platforms for promoting judicial disclosure. CJO is designed to publish all effective judgments issued by courts across the country,[5] including those involving bankruptcy reorganization,[6] except for those involving state secrets, personal privacy, or juvenile protection.[7] NEBIDP is intended to disclose information on enterprise bankruptcy procedure across the country,[8] except for cases involving state secrets, personal privacy, or other legally protected matters.[9] Given this, both databases are considered among the most comprehensive and authoritative sources in China. Except for potential limitations in data collection methods or delays in publication by the courts (Liebman et al., 2020),[10] which may result in minor omissions, the judgments included in these databases are likely to provide the most representative reflection of the cases handled by Chinese courts. Since this study focuses on rulings related to corporate reorganization, the case samples obtained from these two platforms can be considered sufficiently representative for the purposes of this empirical legal analysis. To further ensure transparency, the procedures for collecting and processing the sample cases are detailed as follows.

From CJO, two parallel searches were conducted to maximize coverage and control for variations in metadata classification. The first search used the cause of action “application for reorganization” (申请破产重整) and filtered for “rulings” (裁定书) as the document type, yielding 1,016 results. The second search used “application for reorganization”（申请破产重整）as the case name (案件名称), again filtering for “rulings”（裁定书）as the document type, and produced 1,091 results.

Given the limited number of relevant 2023 rulings available on CJO at the time of collection (only 4 results), a supplementary search was conducted on the NEBIDP. Using the keyword "reorganization application" (重整申请), filtering for rulings published between January 1 and June 30, 2023, and after reviewing content relevance, 66 additional rulings were identified that specifically addressed whether courts accepted reorganization applications.

To ensure accuracy and consistency, all 2,173 retrieved rulings were carefully reviewed manually. Rulings that did not pertain to whether the court accepted a reorganization application were excluded. In addition, duplicate decisions—i.e., rulings retrieved from both platforms referring to the same case—were identified and removed. The final sample consists of 590 unique and relevant rulings; each explicitly concerning a court's decision to accept or reject a corporate reorganization application. The temporal distribution of the sample is as follows: 226 cases in 2019, 191 cases in 2020, 70 cases in 2021, 33 cases in 2022, and 70 cases in 2023(first half).

All inclusion and exclusion criteria were applied uniformly throughout the case collection process. Duplicate cases were identified based on a combination of case name, case number, court, and the parties involved. While the raw search results may contain minor inconsistencies due to limitations in platform metadata, the manual review process significantly reduced the risk of inclusion bias. Moreover, the use of two independent databases further strengthens the coverage and validity of the sample.

It is important to note that this sample of cases may not fully represent the examination of corporate reorganization value by all courts across China. Nevertheless, as depicted in Figure 1, the 590 sample cases in this study are drawn from courts at various levels across 27 provincial-level administrative regions. The cases exhibit broad geographical distribution, which, to some extent, helps to reflect the prevailing practices and features of judicial review concerning corporate reorganization value in China.

Figure 1 Distribution of Jurisdictions for Sample Cases

3.2 Sample description

3.2.1 Types of cases for corporate reorganization filing

As shown in Table 1, out of 590 sample cases, 565 involved the reorganization of a single enterprise, and 25 pertained to the substantive consolidation of affiliated enterprises in bankruptcy reorganization. Among these, the applications for substantive consolidation generally fall into three distinct categories. The first type is Consolidation following separate reorganization entries. This involves the administrator, creditor, or debtor filing for consolidation after each affiliated enterprise have already separately entered reorganization process. There are 10 cases of this type in the sample. The second type is consolidation between reorganized and non-reorganized affiliate. It happens where one or more enterprises have already entered reorganization proceedings, and then the administrator(s) files for consolidation with other affiliated companies that were not involved in the reorganization procedures. The third type involves multiple corporations that have not yet entered reorganization proceedings jointly filing for substantive consolidation and reorganization, of which seven cases are included in the sample.

Table 1 Types of Cases for Corporate Reorganization Filing

Types of Cases		No. of Case
Bankruptcy reorganization of a single enterprise		565
Substantive Consolidation	Consolidation following separate reorganization entries	10
	Consolidation between reorganized and non-reorganized affiliate	8

	Joint application for consolidation by all non-reorganized affiliate	7
Total		590

3.2.2 Types of applicants for corporate reorganization

In Figure 2, out of the 590 sample cases, 187 creditors applied for the debtor corporation reorganization, accounting for 31.70% of the cases. Additionally, 370 debtors applied for reorganization, accounting for 62.71% of the cases. Furthermore, 14 investors applied for corporate reorganization, accounting for 2.37% of the cases. The prereorganization administrator applied for corporation reorganization in 18 cases, accounting for 3.05% of the cases, while the bankruptcy liquidation group applied for reorganization in 1 case, accounting for 0.17% of the cases.

Figure 2 Types of Applicants in Corporate Reorganization Cases

3.2.3 Overview of the judicial review of reorganization value

Per Article 71 of the EBL, if the court determines that the reorganization filing complies with the provisions of this law, it should issue a ruling on the reorganization of the debtor and announce the decision. As shown in Table 2, out of the 590 reorganization filings, 447 cases were approved by the court after review. Among these, 291 involved a review of the corporate reorganization value. On the other hand, 143 cases were dismissed, with 83 involving a review of the corporate reorganization value. In summary, out of the 590 sample cases, 374 cases underwent a court review on the corporate reorganization value, accounting for 63% of the cases, while 216 cases were not reviewed on the corporate reorganization value, accounting for 37% of the cases.

Table 2 Overview of the Court's Examination of Reorganization Value in Reorganization Cases

Year	2019	2020	2021	2022	2023	Total
Total No. of Cases	226	191	70	33	70	590
Approve reorganization	169	140	47	29	62	447
Cases with Review Revival Value	94	93	29	19	56	291
Dismiss Reorganization	57	51	23	4	8	143
Cases with Review Revival Value	31	37	8	3	4	83

From the perspective of the type of applicant, in cases where the court examines the corporate reorganization value, the applicants involved include creditors, debtors, investors, and bankruptcy administrators (refer to Table 3). Thus, in judicial practice, examining the corporate reorganization value in reorganization cases is not dependent on the applicant type.

Table 3 Type of Applicant in Corporate Reorganization Cases

Type of applicant	No. of Cases	No. of cases with review of reorganization value	No. of cases without review of reorganization value
Creditor	187	111	76
Debtor	370	246	124
Investor	14	12	2

Administrator or Liquidation Group	19	5	14
Total	590	374	216

3.2.4 Criteria for identifying reorganization value

As indicated in Table 4, out of the 374 sample cases where the court assessed the corporate reorganization value, the court found that the corporation had a reorganization value in 291 cases, representing 77.81% of the cases. In 83 cases, the court concluded that the corporation did not possess reorganization value, accounting for 22.19% of the cases. Among the 291 sample cases in which the court determined that the corporation had reorganization value, the criteria the court used to determine whether the corporation had reorganization value in judicial practice can be roughly divided into the following three categories (refer to Table 5):

(1) Direct Determination: This occurs for cases where parties fail to provide specific evidence to prove that the corporation has reorganization value. In this case, the court directly determines that the corporation has the potential for reorganization after examining the business scope, assets, and liabilities. There were 47 similar cases, accounting for 16.15% of the total.

(2) Determination based on the corporate primary condition: In these cases, the court usually determines that the corporation has the potential for reorganization by considering various factors, such as company qualifications, asset status, products, production technology, equipment, business status, market prospects, and potential investors. Out of the total, there were 118 cases of this type, representing 40.55% of the total.

(3) Determination based on specialized evidence: This case occurs in two main situations. First, if the corporation has undergone prereorganization, recruited reorganization investors, and

developed a prereorganization plan approved by a temporary creditors' meeting, the court generally considers the corporation to have the potential for reorganization based on the prereorganization facts or the prereorganization work report submitted by the bankruptcy administrator. Second, if the parties submit the reorganization plan, reorganization value, or reorganization feasibility report to the court, the court relies on this information to determine that the corporation has value and has the potential for reorganization. There were 126 such cases, accounting for 43.30%. of the cases

Table 4 Overview of the Court's Determination of Reorganization Value

Judicial Decision	No. of Cases	Percentage
Having revival value	291	77.81%
Lack of revival value	83	22.19%
Total	374	100%

Table 5 Judicial Criteria for Determining the Existence of Reorganization Value

Criteria for Determining Revival Value	No. of Cases	Percentage
1.Direct Determination	47	16.15%
2.Determination Based on the Corporate Primary Status	118	40.55%
3.Determination Based on Specific Evidence	126	43.30%
Total	291	100%

On the other hand, based on the 83 sample cases in which the court ruled to reject reorganization filings, the criteria the court used to determine that the corporation did not have reorganization value can be summarized into the following three types (refer to Table 6):

First, in 16 cases (19.28%), the court directly determined that the corporation did not have reorganization value based on its fundamental information, such as business scope, assets, and liabilities.

Second, in 30 cases (36.14%), the parties failed to provide specific evidence, such as the reorganization plan or reorganization feasibility report. Consequently, the court determined that it was unable to ascertain whether the corporation had the value and potential for reorganization.

Third, in 37 cases (44.58%), the parties presented a reorganization plan. However, the court found that the content of the reorganization plan was not comprehensive or specific enough to demonstrate the value for and potential of corporate reorganization. Additionally, the court noted that some reorganization plans lacked operability and feasibility.

Table 6 Judicial Criteria for Determining Lack of Reorganization Value

Criteria for Determination Lack of Revival Value	No. of Cases	Percentage
1.Direct Determination	16	19.28%
2.Insufficient Evidence（Reorganization Plan and Feasibility Report Not Provided)	30	36.14%
3.Reorganization Plan Incomplete or Lacking Feasibility	37	44.58%
Total	83	100%

3.3 Empirical findings

3.3.1 Different approaches to examining corporate revival value in reorganization cases

Based on the sample analysis mentioned above (Table 2), it is evident that in judicial practice, certain courts consider the revival value to be a significant factor when deciding on a corporate reorganization. Therefore, they typically assess whether the business has revival value when

reviewing a reorganization request. If a company lacks revival value, the court will dismiss the reorganization filing, even if the company meets the grounds for bankruptcy. In Table 2, out of the 143 cases studied, 83 cases were dismissed by the court due to the company's lack of revival value. According to the bankruptcy law, many courts consider only the grounds for bankruptcy as the primary criteria for applying for corporate reorganization without assessing the company's potential for revival. This implies that the reorganization application will be approved as long as the formal requirements specified in the bankruptcy law are met and the company has valid grounds for bankruptcy.

The criteria for judicial review of corporate reorganization filings vary among courts in different regions and even among courts at various levels within the same area. For example, in the reorganization case of Zhufu Co., Ltd., the initial court dismissed the reorganization filing due to insufficient evidence demonstrating the company's insolvency and its potential for recovery. The second-instance court overturned the ruling and instructed the first-instance court to approve the reorganization filing. The second-instance court determined that Zhufu Co., Ltd. could not repay its debts, meeting the criteria of Article 2 of the EBL for initiating reorganization procedure. However, it did not address whether Zhufu Co., Ltd. had reorganization value (Civil Ruling of Hebei High People's Court, （2021）冀破终 5 号民事裁定书).

3.3.2 Lack of judicial review of reorganization value in substantive consolidation affiliated corporations

Currently, Chinese bankruptcy laws and judicial interpretations do not address the consolidation of affiliated corporations in bankruptcy reorganization. As a result, courts at all levels primarily handle such cases by referring to the opinions on the bankruptcy of affiliated corporations in Articles 31 and 32 of the Minutes on Bankruptcy Trial. When reviewing an application for

substantive consolidation in reorganization, most courts focus on determining whether there are highly confused legal personalities among affiliated corporations. If such confusion exists, the application for substantive consolidation in bankruptcy reorganization is generally approved without considering whether the affiliated corporations proposed for consolidation and reorganization have reorganization value.

In 25 sample case studies involving the consolidation of affiliated corporations in reorganization, the courts typically did not assess the reorganization value of the affiliated corporations. When the parties failed to demonstrate that the affiliated corporations had revival value, no court dismissed the reorganization filing on these grounds. For example, in the case of substantive consolidation of Shandong Brake Co., Ltd., and Shanxi Brake Co., Ltd., in bankruptcy reorganization, the court decided that due to the confused legal personalities of the two companies, substantive consolidation should be conducted to fairly settle claims and debts; protect the rights of creditors, debtors, employees, and other stakeholders; and maximize the value of reorganization. However, the court did not consider whether the two companies had the potential for recovery (Civil Ruling of Shouguang Primary People's Court, Shandong，(2020)鲁 0783 破 4 号之一民事裁定书).

In addition, although there are two sample cases where the court mentioned the revival value of the affiliated corporations in the ruling, it was only briefly explained without any supporting argument. In these cases, it is not clear how the court determined that all related corporations involved had revival value. For example, in the case of Huaxia Construction Group's request for consolidation and reorganization with World Trade Hotel, Junlan Hotel, and Huaxia Real Estate Co., Ltd., the applicant failed to prove that the four companies possessed any potential for revival and possibility of saving. However, the court noted that none of the creditors objected to the substantive consolidation of the four companies during the objection period. Therefore, the court

concluded that the substantive consolidation of these companies in reorganization was feasible to some extent (Civil Ruling of Dongyang Primary People's Court, Zhejiang,（2022）浙 0783 破 85-88 号民事裁定书).

3.3.3 Inconsistent criteria for determining reorganization value

An examination of the sample above shows that courts use different criteria when evaluating the revival value of corporations. Regarding the identification criteria, 47 cases indicate that some courts determine corporate reorganization value without requiring evidence from the parties. On the other hand, 193 case samples demonstrate that some courts base their determinations of corporate reorganization value on evidence provided by the parties. Additionally, 134 case samples indicate that some courts assess corporate reorganization value based on the primary conditions of the company, such as company qualifications, asset status, products, production technology, equipment, business status, market prospects, and potential investors (refer to Table 7 and Table 8). Furthermore, the court's inconsistent judgment criteria in reviewing the value of corporate reorganization are also reflected in the following:

First, in corporate reorganization filing cases, there are differences in the allocation of the burden of proof and the standards of proof required by the court from the applicant. Specifically, different courts have various evidentiary requirements regarding the corporation’s reorganization value. Some courts do not require particular evidence but instead determine the corporate revival value directly by examining its business scope, assets, and liabilities, as evidenced in 47 cases. However, in cases where parties failed to provide specific evidence, some courts dismissed the reorganization filing due to insufficient evidence to determine the value and possibility of reorganization, as demonstrated in 30 cases.

Furthermore, even when the same identification method is used, different courts have various criteria for determining the corporation's reorganization value. This is evident in the different attitudes of courts when parties present specialized evidence regarding the revival value of a business. For example, some courts may determine that a company has the potential for revival if parties present a prereorganization plan, a reorganization plan, or a feasibility report for reorganization. On the other hand, some courts may conduct substantive evaluations of the reorganization plan or the feasibility report related to the reorganization. In the empirical research, cases were identified where the courts determined that the corporation did not have the potential for reorganization because the content of the reorganization plan provided by the parties was not detailed enough, feasible, or opposed by some creditors (Civil Ruling of Yuncheng Primary People's Court, Shandong,（2023）鲁 1725 破申 1 号民事裁定书；Civil Ruling of Deyang Primary People's Court, Sichuan,（2022）川 06 破申 10 号民事裁定书; Civil Ruling of Shanghai High People's Court, (2020）沪破终 1 号民事裁定书,（2020）沪破终 2 号民事裁定书,（2020）沪破终 3 号民事裁定书; Civil Ruling of Pingluo Primary People's Court, Ningxia,（2020）宁 0221 破申 1 号民事裁定书).

Importantly, the methods and standards used by courts to determine the reorganization value of a corporation can significantly influence the burden of proof and standards of proof for parties involved in reorganization cases. The methods and criteria employed by courts to determine the reorganization value vary, and the burden of proof and proof standards for applicants also differ across courts. For example, some courts may determine the reorganization value based solely on basic information, such as the company's business scope and its financial status, in which case the parties involved are not required to bear a heavy burden of proof, allowing for a quicker initiation of the reorganization process. However, other courts may require applicants to provide specific evidence, such as a reorganization plan and a feasibility report, to substantiate the reorganization

value. In such cases, the applicant must submit the required evidence. Moreover, some courts may even demand that the reorganization plan and feasibility report be detailed and comprehensive; otherwise, the reorganization petition may be rejected. As a result, the challenges faced by applicants when initiating reorganization proceedings vary significantly depending on the court involved.

This variation in the methods and standards for determining corporate reorganization value also results in differing evidentiary requirements for different types of applicants. Some cases indicate that creditors face higher proof requirements than debtors when demonstrating corporate reorganization value. As shown in Table 7, of the 210 cases in which the debtor applied for reorganization, the courts in 114 cases did not require the applicant to provide specialized evidence on corporate revival value, such as a reorganization plan or feasibility report. After identifying essential information, such as the business scope and assets of the corporation, the court directly determined that the corporation had reorganization value and ruled to approve the debtor's application for reorganization. In contrast, in cases where creditors apply for reorganization, some courts may require creditors to submit evidence such as a reorganization plan, a feasibility report, or other evidence demonstrating the revival value. Moreover, some courts may conduct substantive reviews of the reorganization plans and feasibility reports. As shown in Table 8, there were 28 cases in which the court dismissed the reorganization application filed by creditors because they failed to provide evidence to substantiate the corporate reorganization value and feasibility, or because the reorganization plan submitted by the creditors was incomplete or unfeasible. The discrepancy in the burden of proof and standards of evidence significantly complicates the initiation of reorganization procedures for creditors compared to debtors.

It is important to note that, in practice, creditors are not involved in the management or operation of the debtor company, making it difficult for them to fully understand the debtor

company's financial and operational situation. Therefore, requiring creditors to provide a specific and feasible reorganization plan or feasibility report undoubtedly increases the difficulty of initiating the reorganization process. If the court dismisses a creditor's reorganization petition due to their failure to provide such a plan or report, some companies with recovery potential may be unable to initiate the reorganization process, thereby hindering ordinary creditors from obtaining greater repayment through corporate reorganization.

Table 7 Applicants and Judicial Criteria for Recognizing Reorganization Value

Applicant / Criteria	Creditor	Debtor	Administrator or Liquidation Group	Total
Direct Determination (No. of Cases)	13	31	3	47
Determination Based on the Corporate Fundamental Conditions (No. of Cases)	34	83	1	118
Determination Based on Specific Evidence (No. of Cases)	29	96	1	126
Total	76	210	5	291

Table 8 Applicants and Judicial Criteria for No Reorganization Value

Applicant / Criteria	Creditor	Debtor	Investor	Total
Determination Based on the Corporate Fundamental Conditions (No. of Cases)	7	7	2	16
Insufficient Evidence (No. of Cases)	14	13	3	30
Reorganization Plan Incomplete of Lacking Feasibility (No. of Cases)	14	16	7	37
Total	35	36	12	83

Second, the court lacks clear and unified criteria for determining corporation’s reorganization value based on its particular circumstances. In the cases reviewed, many courts assess corporate

reorganization value by considering factors such as asset status, technological process, production and sales, and industry prospects, in accordance with the guidance provided in the SPC's Meeting Minutes. However, in most cases, courts do not thoroughly examine the facts related to these factors. Instead, they make conclusive statements in their rulings based solely on the corporate business scope, assets and liabilities, and the statements of the involved parties. This approach results in a lack of objective evaluation criteria for determining the corporate-relevant condition and its revival value. For example, in the case of Lushuihe Co., Ltd. and Sengong Co., Ltd. applying for reorganization, the court determined that Sengong Co., Ltd. had revival value due to its renowned forestry business with abundant customers, strong sales platform, and significant growth potential stemming from its particleboard resources and brand advantages (Civil Ruling of Changchun Intermediate People's Court, Jilin,（2020）吉 01 破申 57 号民事裁定书). In Guo's application for reorganization of HanNeng Co., Ltd. the court held that HanNeng Co., Ltd. had revival value because its business caters to the needs of industry development and has promising market prospects (Civil Ruling of Wuzhong Intermediate People's Court, Ningxia, （2022）宁 03 破申 2 号民事裁定书).

The court's judgment is based on subjective factors, which leads to uncertainty in determining the corporate reorganization value. Without concrete proof and reasoning, the court concluded that the corporation in question possessed "abundant customer resources", "strong sales platforms", "significant growth potential", "brand advantages", and "promising market prospects", thereby establishing its reorganization value. However, this determination can vary from one court to another. For instance, in the case of the Shenyang Branch of the Chinese Academy of Sciences applying for the reorganization of Flywheel Co., Ltd., the court found that Flywheel Co., Ltd. had been closed for many years, had no production or business premises, showed no signs of resuming production and operation, and lacked a core competitive business. Additionally, the market share

of the leading business was gradually shrinking, and the industry prospects could have been more optimistic. Therefore, the court dismissed the reorganization application, stating that the company had no potential for revival (Civil Ruling of Shenhe Primary People's Court, Shenyang, Liaoning,（2021）辽 0103 破申 9 号民事裁定书).

Third, the criteria for determining the reorganization value vary across types of corporation reorganization. Empirical findings have shown that the court assesses corporate reorganization value differently in the reorganization of an individual corporation than in the substantive consolidation of affiliated corporations in reorganization. When reorganizing an individual corporation, many courts specifically require the applicant to provide concrete evidence, such as a reorganization plan or feasibility analysis report, to demonstrate that the corporation holds reorganization value. However, the court usually does not have such a requirement in cases of substantive consolidation of affiliated corporations. Among the 25 cases involving substantive consolidation in the sample, 23 cases lacked evidence to support the revival value of affiliated corporations; however, the court did not dismiss the reorganization petition. In the two cases where the court mentioned the reorganization value of related corporations, the relevant evidence was found to be insufficient. For example, in one case, the court established the revival value and the possibility of reorganization for affiliated corporations because the creditors of the affiliated corporation had no objection to the substantive consolidation (Civil Ruling of Dongyang Primary People's Court, Zhejiang,（2022）浙 0783 破 85-88 号民事裁定书). In another case, the court determined that 21 affiliated corporations had revival value because creditors applied for consolidation during the judicial review process. The court also held that some core assets of the 21 affiliated companies involved in the case could be revitalized and reorganized, but it did not further elaborate on how this conclusion was reached (Civil Ruling of Donggang Primary People's Court, Rizhao, Shandong,（2019）鲁 1102 破 1 号民事裁定书).

3.3.4 Inaccurate Application of the EBL

Article 79 of the EBL stipulates that a debtor or bankruptcy administrator may submit a draft of the revival plan to the court and the creditors' meeting within six months of the day the court approves its revival. Therefore, under the current legal framework, it is not necessary to have a reorganization plan or draft to determine whether a corporation has reorganization value, nor is it mandatory evidence for the court to approve a corporate reorganization filing.

In judicial practice, an applicant can submit a reorganization proposal to demonstrate the potential for corporate revival. In such cases, the court may consider the reorganization proposal as a crucial factor in determining whether the corporation has the potential and value for reorganization. Nevertheless, the court should not dismiss the corporate reorganization value simply because the parties failed to submit a reorganization plan. Unfortunately, some courts have mandated in their guidelines for assessing reorganization cases that applicants must provide a feasibility report and a reorganization plan for corporate reorganization.[11] Furthermore, some courts require a comprehensive assessment of the feasibility of the reorganization plan.[12]

As indicated in Table 8, out of 83 applications deemed inadmissible by the court for reorganization, 30 were not approved because the applicants failed to provide a reorganization plan or a feasibility report. It has been observed that some courts have made logical errors in interpreting and implementing bankruptcy laws during the review of reorganization applications. They view the reorganization plan and feasibility report as essential components in assessing the potential of corporate reorganization. For example, in the reorganization case of Niu Xinwei v. Dexinyuan Food Co., Ltd., the first-instance court decision stated that the applicant did not submit a feasible reorganization plan and that the corporation did not meet the requirements for

reorganization (Civil Ruling of Baiyin Intermediate People's Court, Gansu, （2019）甘 04 民终 1400 号民事裁定书).[13]

Moreover, in some courts, the feasibility of a reorganization plan is considered an essential factor in determining the value and possibility of corporate reorganization. Table 8 presents 37 cases in which reorganization applications were rejected due to a lack of comprehensiveness and feasibility in the reorganization plan. For example, in the case of Jiaxin Co., Ltd., and Shenzhen Commercial Co., Ltd., who applied for reorganization of Xinyijia Co., Ltd., the first-instance court dismissed the reorganization filing due to the low likelihood of successfully reorganizing the company. The court believed that one of the creditors, whose amount of secured claims exceeded one-third of the total secured claims, opposed the reorganization. The opposition made it highly likely that the draft reorganization plan would not pass the vote of the secured creditor group. However, the applicant submitted reorganization plans that did not propose feasible solutions. Hence, the value and likelihood of reorganizing Xinyijia Co., Ltd. are low. However, the appellate court believed that since Xinyijia Co., Ltd. and many of its creditors had expressed support for the reorganization, and the reorganization plan proposed that secured claims would be fully paid off in cash within thirty days from the approval date of the reorganization plan, the reorganization of Xinyijia Co., Ltd. should not be denied the opportunity for reorganization simply because of the opposition from the secured creditor, Mr. Xu. With the aim of prioritizing the rescue of companies in financial distress, the applications by Jiaxin Co., Ltd. and Shenzhen Commercial Co., Ltd. for the reorganization of Xinyijia Co., Ltd. should be accepted (Civil Ruling of Guangdong High People's Court, （2020）粤破终 17 号民事裁定书). In three separate cases, Longsheng Co., Ltd., Huilide Fund Partnership, and Jinchuan Co., Ltd. applied for reorganization of Yuehe Co., Ltd. The first-instance court initially denied the possibility of reorganizing Yuehe Co., Ltd., for several reasons. One reason was that the court believed that the reorganization plan

draft lacked a sufficient feasibility basis, and the explanation of debt repayment and the execution of the reorganization plan draft needed to be more specific. However, the second-instance court emphasized the importance of a modest evaluation of the proposed reorganization plan. The court emphasized that it should reject the reorganization filing only if the plan is clearly not feasible and the company clearly lacks any potential for recovery. The level of detail required for the draft of the reorganization plan should not be excessively rigid. The plan should be fully negotiated by all involved parties and stakeholders during the reorganization process and ultimately approved by the creditors' vote (Civil Ruling of Guangdong High People's Court,（2020）沪破终 1 号民事裁定书，（2020）沪破终 2 号民事裁定书，（2020）沪破终 3 号民事裁定书).

3.3.5 Contested Role of the SPC Minutes in Judicial Decisions

The EBL and relevant judicial interpretations in China specify only that a corporation must have valid reasons for bankruptcy reorganization. It does not, however, require corporations to have a revival value or provide for the substantive consolidation of affiliated corporations in reorganization. In 2018, the SPC issued the Bankruptcy Minutes, which outlined the identification and review of corporations to be reorganized and the substantive consolidation of affiliated corporations in bankruptcy. However, importantly, the SPC once explicitly stated that minutes are not judicial interpretations and cannot be cited as a basis for court decisions in its notice on the issuance of the Minutes of the National Conference on Civil and Commercial Trial Work of Courts. Meanwhile, the SPC also stated that people's courts may reason according to the relevant provisions of the Conference Minutes when specifically analyzing the reasons for applying the law in the "The court is of the view" section of adjudicative instruments. Empirical studies indicate that many courts have relied on the Bankruptcy Minutes as the basis for adjudicating cases related to corporate reorganization. For example, in at least 33 cases, courts used the minutes to guide the

hearing of corporate reorganization cases and reasoning in their judgments, which aligns with the SPC's opinion above. However, in several instances, some courts have even directly cited the minutes as the basis for their decisions, which violates the provisions of the notice mentioned above issued by the SPC (Civil Ruling of Huizhou Intermediate People's Court, Guangdong，（2019）粤 13 破申 22 号民事裁定书；Civil Ruling of Bijie Intermediate People's Court, Guizhou,（2020）黔 05 破终 1 号民事裁定书).

Some parties or stakeholders have objected in some cases, claiming that the Minutes on Bankruptcy Trials, which are merely guidelines for the court's internal trial work rather than judicial interpretations, cannot be used as a basis for judgment. For example, in the reorganization case involving the substantive consolidated reorganization of Jixin Co., Ltd. and Xinyi Group (Civil Ruling of Guangrao Primary People's Court, Shandong,（2019）鲁 0523 破 1 号民事裁定书; Civil Ruling of Dongying Intermediate People's Court, Shandong,（2020）鲁 05 破监 2 号民事裁定书), as well as a substantive consolidated reorganization case involving 21 corporations, including Jiahong Group and Huadong Co., Ltd.(Civil Ruling of Donggang Primary People's Court, Rizhao, Shandong, (2018)鲁 1102 破 4,5,6,7 号民事裁定书, (2019)鲁 1102 破 1 号民事裁定书), creditors were dissatisfied with the initial court's decision. They separately applied for reconsideration to the Intermediate People's Court of Dongying City and the Intermediate People's Court of Rizhao City. They argued that since the Minutes cannot be used as a basis for judgment, the first instance court's ruling based on it is inappropriate (Civil Ruling of Dongying Intermediate People's Court, Shandong,（2020）鲁 05 破监 2 号民事裁定书; Civil Ruling of Rizhao Intermediate People's Court, Shandong, (2019) 鲁 11 破监 4 号民事裁定书, (2019)鲁 11 破监 5 号民事裁定书). The Dongying Intermediate People's Court did not respond to the issue. At the same time, the Rizhao Intermediate People's Court determined that bankruptcy law and company law do not specifically address the consolidation of affiliated companies in bankruptcy

reorganization. Consequently, the Bankruptcy Minutes should guide and standardize bankruptcy trial practices. The Donggang District Court's decision was based on these minutes and the legislative intent of the bankruptcy law, which prioritizes the fair settlement of claims and debts, safeguarding the legitimate rights of creditors and debtors. The court's decision aligns with the law and is supported by this court (Civil Ruling of Rizhao Intermediate People's Court, Shandong, (2019)鲁 11 破监 4 号民事裁定书, (2019)鲁 11 破监 5 号民事裁定书).

3.4 Institutional and Policy Factors Behind the Inconsistent Judicial Review of Reorganization Value

In reviewing corporate reorganization filings, Chinese courts retain broad discretion in assessing the reorganization value of a debtor enterprise. This discretion is most apparent in two respects. First, courts differ on whether reorganization value should be treated as a threshold criterion for initiating reorganization proceedings. Second, even when reorganization value is considered, there is a lack of uniform standards for its identification and evaluation. This institutional inconsistency stems from three underlying causes.

The first is a legislative deficiency. The EBL does not explicitly require courts to assess reorganization value at the commencement of proceedings, nor does it provide clear definitions, valuation methods, or evidentiary rules for such assessments. This normative gap leaves courts reliant on discretionary judgment in individual cases, thereby undermining the predictability and consistency of the reorganization regime. The second cause lies in the substantive influence of macro-level policy on judicial decision-making. Although prior research has emphasized that corporate bankruptcy—particularly bankruptcy reorganization—has not been widely used in China due to limited judicial willingness, administrative interference, and legal deficiencies (Zhang, 2022; Zhang, 2020; Zhang, 2016), the landscape began to shift after 2015. The Chinese

government began to prioritize bankruptcy as a policy tool under the broader framework of Supply-Side Structural Reform and the campaign to eliminate "zombie enterprises" (Zhang, 2022). Under strong policy signals from central authorities, courts across the country became more active in accepting bankruptcy cases in service of national economic goals (Zhang, 2022). As a result, the number of accepted reorganization cases increased significantly.

Nevertheless, this policy-driven activation of the reorganization system has blurred the boundary between legal adjudication and administrative policy. The outbreak of COVID-19 in 2020 further accentuated this trend. In response to the economic crisis, the central government issued the "Six Guarantees" policy[14] to stabilize employment, livelihoods, and market entities. To support this, the SPC issued judicial guidance[15] urging lower courts to "carefully determine bankruptcy grounds" and avoid declaring bankruptcy for firms that remained viable despite temporary financial distress. Consequently, some local courts explicitly positioned bankruptcy reorganization during the pandemic as a means to facilitate the continued operation and recovery of debtor enterprises that were affected by the pandemic but still retained operational value (Shanghai High People's Court, 2022).[16] Specifically, for enterprises facing financial distress and liquidity shortfalls due to the pandemic—yet possessing viable movable property, real estate, or intangible assets, and whose continued operations were aligned with national industrial policy objectives—courts were encouraged to act in accordance with the guiding spirit of the "Six Stabilities" and "Six Guarantees" policies. In such cases, courts were advised to promote corporate reorganization through the integrated use of viable assets, rather than resorting to liquidation (Shanghai High People's Court, 2022). In such a policy context, courts have shown a tendency to guide debtors into reorganization rather than reject their filings or initiate liquidation. While this approach may help stabilize the market in times of crisis, it risks allowing policy considerations to dominate judicial reasoning. Over time, this undermines judicial independence and contributes to

ambiguity and inconsistency in how reorganization value is assessed. The resulting erosion of legal certainty may weaken stakeholders' confidence in the reorganization regime and diminish its role in supporting rational, market-oriented resource allocation.

The third issue concerns the professional capacity of judges. China has yet to establish specialized bankruptcy courts. Although the SPC directed intermediate courts in 2016 to establish dedicated liquidation and bankruptcy tribunals,[17] in most primary people's courts, corporate insolvency cases, including reorganizations, remain under the jurisdiction of general civil tribunals. As earlier studies have noted, during the first decade following the enactment of the EBL in 2006, corporate reorganization filings remained limited and the reorganization regime was underutilized (Zhang and Tomasic, 2016). Consequently, many judges lack both practical experience in handling insolvency cases and opportunities to develop relevant expertise through prior legal practice (Zhang and Tomasic, 2016). This deficit in judicial expertise and skill continues to hamper the effective implementation of the reorganization regime. Judges who are not experienced or trained in dealing with corporate bankruptcies, including reorganizations, often struggle to evaluate reorganization value or competently manage the proceedings, thereby constraining the reorganization regime's ability to fulfill its intended socio-economic functions.

4. Pathways to Establishing a Comprehensive Judicial Review System for Reorganization Value in China

4.1 Mandating judicial review of reorganization value in corporate reorganization applications

In the Bankruptcy Minutes, the SPC emphasizes that bankruptcy reorganization should be pursued only for distressed corporations with the potential for recovery. If a court determines that

a debtor conspicuously lacks reorganization value and the possibility of being rescued, the reorganization filing should not be approved.

Despite these guidelines, as this empirical analysis demonstrates, in the absence of explicit legislative provisions, some courts in practice continue to consider only whether a statutory ground for reorganization exists, without examining whether the enterprise possesses reorganization value. Although some courts have cited the above-mentioned Minutes as the basis for examining an enterprise's reorganization value, the legitimacy of this practice is questionable under the normative legal framework. According to the Provisions of the SPC on Judicial Interpretation Work and Article 9 of the Measures for the Handling of People's Court Documents, such minutes do not constitute judicial interpretations but are instead internal documents of the courts. While such minutes issued by the SPC may, in the absence of legislation or judicial interpretations, offer practical guidance to lower courts and help unify adjudication, they are best understood as advisory or instructive documents rather than binding legal sources. In terms of their legal nature and effect, such minutes are neither formal sources of law nor judicial interpretations and thus lack binding legal force. Accordingly, the Bankruptcy Minutes should not be treated as a legitimate legal basis for judicial decisions.

As discussed above, the assessment of an enterprise's reorganization value is not only theoretically sound but also of substantial practical significance at the initiation stage of reorganization proceedings. The opinion expressed by the SPC in the Bankruptcy Minutes reflects an emerging judicial consensus that the existence of reorganization value should constitute a necessary condition for initiating reorganization proceedings. To address the problems currently encountered by courts in judicial practice, it is essential that the EBL explicitly incorporate reorganization value as a substantive criterion for judicial review. This could be framed

legislatively as a negative condition for admitting a reorganization petition—that is, if a court determines that the debtor enterprise lacks reorganization value, the petition should be dismissed.

4.2 Mandating judicial review of reorganization value in substantive consolidation of affiliated corporations

Currently, Chinese bankruptcy law does not expressly provide for the substantive consolidation of affiliated corporations in reorganization proceedings. Although the SPC has provided general guidance on this issue in the Bankruptcy Minutes, it does not clarify whether courts should assess the reorganization value of affiliated entities. As a result, most courts omit such assessment when adjudicating substantive consolidation cases involving affiliated corporations. This empirical study found that many Chinese courts primarily focus on the complex legal relationships among affiliated businesses when reviewing petitions for substantive consolidation. In other words, whether the court approves the substantive consolidation of affiliated corporations in reorganization largely depends on whether the distinct legal personalities of these entities have been substantially commingled or should be disregarded in practice.

Substantive consolidation is a bankruptcy doctrine originating from case law in the United States (Baird, 2005; Sampsell v. Imperial Paper & Color Corp., 1941; Chemical Bank New York Trust Corporate v. Kheel, 1966). It involves combining the assets and liabilities of multiple corporate entities into a single pool during bankruptcy proceedings, regardless of the independence of each entity (MacKinnon, 1986; Gilbert, 1990). All the creditors of the various entities have their claims handled through this common pool (Baird, 2005). When substantive consolidation is used in reorganization proceedings, it creates what is known as substantive consolidation reorganization. Therefore, substantive consolidation reorganization is merely a special case of corporate reorganization and remains, in essence, a form of reorganization.

Similar to the United States, China's substantive consolidation regime has evolved through judicial practice rather than legislative enactment. More precisely, Chinese courts have drawn on the U.S. doctrine of substantive consolidation in order to respond to the growing need to protect creditor interests in the increasing number and complexity of affiliated enterprise bankruptcy cases. As in the United States, there is no statutory basis for substantive consolidation in China's bankruptcy law.

From a functionalist perspective,[18] differences in political, economic, cultural, and legal systems across jurisdictions do not necessarily preclude legal transplantation; rather, aligning transplanted rules with local social needs or practices is often key to its success (Miller, 2003). However, from the perspective of the law-and-society approach (Cotterrell, 2017), the success of legal transplantation also depends on careful consideration of the social context into which the rule is placed (Miller, 2003), as well as the rule's practical application and development in different legal systems (Cotterrell, 2017). While the functional logic of the U.S. substantive consolidation doctrine—namely, to promote equitable treatment of creditors in enterprise group bankruptcies—offers a persuasive justification for its transplantation to China, the uncertainty and controversy surrounding its application in the U.S. context should not be overlooked. Specifically, although substantive consolidation has been regarded as the foundations of the United States legal system for insolvencies of corporate groups (Bai, 2024), the U.S. Bankruptcy Code does not provide an explicit statutory basis for the doctrine, and courts have applied it inconsistently (Baird, 2005), its legitimacy and continued viability thus have long been subject to criticism (Baird, 2005). This experience highlights the risks of transplanting a doctrine with a high degree of judicial discretion derived from case law into a different legal system, especially a codified legal system like China. China is a civil law jurisdiction, where judges are primarily expected to interpret and apply written statutes rather than to develop new legal rules through jurisprudence. This structural feature of the

Chinese legal system suggests that, in the absence of a clear legislative foundation, courts should exercise extreme caution in applying the principle of substantive consolidation. Although the SPC formally acknowledged the doctrine's applicability in 2018 Bankruptcy Minutes, as noted earlier, the legal authority of such minutes is questionable, and their provisions remain broad and lack concrete standards for implementation.

Moreover, as previously mentioned, the professional competence of judges in China remains uneven, with some primary courts lacking specialized bankruptcy divisions altogether. In such a context, authorizing judges to apply an abstract and discretionary doctrine without clear statutory guidance is likely to result in inconsistent rulings, heightened risks of doctrinal misuse, and impairment of creditors' reasonable expectations of equitable repayment.

Therefore, until the legislature codifies the doctrine of substantive consolidation, Chinese courts should strictly limit the scope and conditions of its application. In particular, in cases involving the substantive consolidation of affiliated enterprises within reorganization proceedings, courts should—just as in individual reorganizations—first examine whether the enterprises proposed for consolidation possess reorganization value, either individually or collectively. In other words, the presence of reorganization value must serve as a prerequisite for initiating substantive consolidation reorganization proceedings (Chen, 2021). This raises to a related question: how should courts, in practice, assess the reorganization value of affiliated enterprises during the proceedings? To address this issue, the following section analyzes and discusses three typical categories of substantive consolidation applications identified through empirical research.

The first case is where creditors or other interested parties file for consolidation after each affiliated company has already separately entered reorganization proceedings. In this case, since many courts evaluate the reorganization value of each enterprise in accordance with the review

procedures for reorganization of a single enterprise at the initial acceptance stage, there is typically no need to repeat the reorganization value assessment during the subsequent review of consolidation request.

The second case is where one or some enterprises have already entered reorganization proceedings and then subsequently apply for consolidation with other enterprises that have not yet done so. In this case, some court rulings contain two key decisions: one approving the bankruptcy reorganization of the affiliated enterprise(s) as the respondent, and the other approving substantive consolidation of the applicant and the respondent (Civil Ruling of Weifang Intermediate People's Court, Shandong,（2020）鲁 07 破监 1 号民事裁定书; Civil Ruling of Shouguang Primary People's Court, Shandong, (2020) 鲁 0783 破 4 号之一民事裁定书). This judicial approach implicitly presumes a precondition—namely, that substantive consolidation should only proceed if all affiliated enterprises proposed for consolidation have entered reorganization proceedings first. Under this logic, when reviewing a request for substantive consolidation, the court must first examine the reorganization possibility of those affiliated enterprises that have not yet entered the reorganization process. This necessarily entails assessing whether these enterprises possess reorganization value, in accordance with the same standards applicable to single enterprise reorganization.

However, in practice, some courts do not regard prior entry into reorganization proceedings by all affiliated enterprises as a necessary precondition for substantive consolidation. As a result, these courts do not examine the reorganization value and possibility of reorganization for those affiliated enterprises not yet in the reorganization procedure, and instead directly permit enterprises already in reorganization with those that are not. It is important to note, however, that once substantive consolidation is approved, all assets and liabilities of the affiliated enterprises are combined into a

single entity. Therefore, the market value attributes of the enterprises being consolidated—particularly those not previously under reorganization—along with whether they possess reorganization value, are crucial to determining the viability of consolidation. The rationale is straightforward: if all affiliated enterprises are to be subjected to a substantive consolidation in reorganization, it logically follows that each of them must possess independent or collective reorganization value. Even if, alternatively, the affiliated entities are permitted to follow distinct bankruptcy procedures after substantive consolidation, a preliminary evaluation of each affiliated entity's reorganization value remains necessary to determine whether a unified or differentiated bankruptcy procedures should be adopted.

The third case involves multiple affiliated enterprises that have not yet entered reorganization proceedings jointly applying to the court for substantive consolidation and reorganization. This empirical study indicates that courts reviewing such applications have typically not conducted a substantive assessment of the reorganization value of each enterprise proposed for consolidation. However, as emphasized above, substantive consolidation should be premised on the existence of reorganization value in all affiliated entities. Accordingly, in such cases, before deciding whether to approve the substantive consolidation, courts should first examine whether all affiliated enterprises possess reorganization value.

4.3 Establishing a consultation and third-party investigation mechanism for identifying enterprises' reorganization value

Reorganization value serves as a key indicator of a company's potential to continue as a going concern. It provides a comprehensive reflection of the corporate capital structure, governance, production and operational strategy, financial management strategy, resource allocation efficiency,

human resources management, and technological innovation management (Luan, 2009). The reorganization value or going-concern value of a business is often difficult to perceive directly (Robert et al., 2003). Therefore, a comprehensive evaluation of the business's overall economic value, based on a range of factors, is necessary to make an objective assessment. The assessment of corporate reorganization value requires a comprehensive evaluation of its overall economic worth. This process extends beyond the appraisal of tangible assets and includes consideration of a wide range of supporting elements such as the business's qualifications, organizational and managerial structure, financing capacity, creditworthiness, operational strategies, governance mechanisms, and the broader industry prospects. The going-concern value of a business inheres not only in its physical and intangible assets, but also in a vast network of relationships—both internal and external, such as between employees and outsiders (Lynn & LoPucki, 2003). It also involves a comparative analysis between reorganization and liquidation, with the ultimate aim of evaluating the company's ability to repay creditors and its potential for long-term viability (Luan, 2009; Luan and Hou, 2017). Evidently, determining reorganization value is a complex, multidisciplinary task that requires expertise in various professional fields, such as economics, management, finance, and accounting. However, in judicial proceedings, judges often lack the professional background or commercial experience necessary to conduct professional analyses of financial documents or reorganization proposals submitted by debtor companies and other interested parties. As a result, courts may struggle to make objective and scientifically grounded determinations regarding a company's reorganization value or going-concern value.

To address the challenges outlined above, this section examines Taiwan's experience through the lens of functionalist comparative law, illustrating how comparative insights from this jurisdiction can inform legal reform in Mainland China. In Taiwan, a consultation mechanism and an examiner mechanism have been established within the reorganization regime. According to

Articles 284, 285, and 285-1 of Taiwan's Company Act, when a petition for reorganization is received, the court must solicit opinions on whether the reorganization should proceed from relevant authorities such as the competent authority, the central authority in charge of the corporation concerned, the authority in charge of securities affairs, the taxation authority, and other relevant local authorities. In addition, the court may appoint a qualified person, without any interest in the company, as an inspector to assess the company's business operations, financial condition, assets, and production equipment. The inspector will evaluate whether the reorganization or rehabilitation of the company is possible, and the feasibility of the reorganization proposal submitted by the debtor company. Based on the inspector's report and the opinions of the authorities, the court then decides whether to approve or dismiss the reorganization application.

The determination of a corporate reorganization value is not merely a legal assessment but also involves business judgment. From a functionalist perspective, Taiwan's consultation and examiner mechanisms effectively mitigate the information asymmetry faced by courts in determining corporate reorganization value, significantly enhancing the court's ability to acquire information and make fair decisions. Such mechanisms improve the professionalism, objectivity, transparency, and fairness of the process, particularly in cases where judges may lack sufficient commercial expertise, thus reducing the risk of excessive judicial discretion. Taiwan's experience aligns closely with the needs in mainland China for scientific, objective, and accurate identification of corporate reorganization value, making it highly relevant and worthy of adoption. Notably, the cultural and legal similarities between Taiwan and mainland China further enhance the applicability of Taiwan's legal system design in the Chinese context. As both jurisdictions are in the Great China region which share a common cultural background and operate within a civil law framework, these factors increase the feasibility of drawing from Taiwan's experience. Therefore, based on Taiwan's approach, future amendments to China's bankruptcy law could introduce a

consultation mechanism and neutral, professional third-party investigation mechanism to address issues related to excessive judicial discretion and a lack of commercial judgment when evaluating corporate reorganization value.

Typically, a corporate reorganization value encompasses two dimensions: the economic value derived from its going concern and the social value generated from the reorganization (Yao and Yang, 2021). A going-concern surplus exists when the anticipated value of the business's ongoing operations exceeds the value that could be generated by putting the assets to some other use (Baird and Rasmussen, 2003). In evaluating economic value, the court may appoint professional organizations, such as accounting firms, to compare the business's potential reorganization outcome and liquidation outcome based on its business, finance, assets, and operational situation and analyze whether the corporation has reorganization value. If the expected benefits from reorganization are significantly lower than those expected from liquidation, it can be considered that the business has little reorganization value. The social value of corporate reorganization typically requires a comprehensive assessment of factors such as industry prospects (e.g., whether the company aligns with national industrial policy directions), tax implications, employment effects, and the impact on public services. Considering the information concerning these factors is usually dispersed across different government agencies, the court can leverage the existing "government-court coordination" mechanism, establishing a consultation mechanism. During the preliminary review of the reorganization application, the court can solicit opinions from relevant government departments to evaluate the feasibility of reorganization and its potential social value. By incorporating these opinions into its decision-making process, the court can determine whether to approve the reorganization application. This dual mechanism not only helps limit judicial discretion but also provides the court with diverse, objective, and professional information,

enhancing the professionalism, fairness, and transparency of the court's review of corporate reorganization value.

4.4 Establishing Tailored Burdens and Standards of Proof for Debtors and Non-Debtor

In civil litigation, the burden of proof rule rests on who asserts, not on who denies. The empirical study has found that many Chinese courts also apply this fundamental principle in the case of corporate reorganization: the applicant must prove that the legal requirements for initiating the reorganization proceeding are met, including the existence of reorganization value. However, this uniform rule of allocation of the burden of proof ignores the objective differences between different applicants in terms of the availability of evidence and can lead to substantial unfairness. For example, creditors, who are typically not involved in the debtor corporation's operation and management and lack access to its internal financial and operational information, may therefore be at a significant disadvantage when they are required to prove the reorganization value of the debtor company. In some cases, the creditor's application with reorganization potential may be rejected by the court simply due to insufficient evidence. This will not only discourage the enthusiasm of creditors to participate in reorganization proceedings, but also further reinforce the debtor's dominant position in initiating such proceedings, which may lead to procedural unfairness.

Unlike the mainland Chinese system, which applies a uniform burden of proof to all applicants, Taiwan's legislation imposes different evidentiary requirements on debtors and non-debtors, such as creditors, shareholders, employee. Under Article 283 of Taiwan's Company Act, debtor applicants are required to submit business reports, financial statements, balance sheets, and a substantial reorganization proposal. In contrast, non-debtor applicants are only required to state

the cause and facts supporting the application for reorganization, along with their opinions regarding the corporate reorganization.

From a functionalist perspective of comparative law, the above-mentioned institutional design under Taiwan's Company Act effectively addresses the shortcomings of applying a uniform burden of proof to all applicants in corporate reorganization proceedings. This differentiated evidentiary requirements mitigate the risk of procedural unfairness arising from disparities in evidence availability and accessibility. They also reduce the likelihood that applications by non-debtor applicants with reorganization potential will be rejected merely due to insufficient evidence. Therefore, the Taiwan model provides a useful reference for Mainland China to address similar issues. In the future, it is necessary for China's bankruptcy law to establish differentiated evidentiary burdens and standards in the procedure of reorganization applications, in order to safeguard procedural fairness and prevent substantive injustice caused by unequal access to evidence. Specifically, debtor applicants should be required to submit affirmative evidence demonstrating the corporate reorganization value, including financial reports, business operation reports, asset appraisals, and a detailed reorganization proposal. In contrast, non-debtor applicants—such as creditors or shareholders—should only be required to submit opinions on the corporate reorganization. Such a differentiated burden and standard of proof would better account for differences in evidence accessibility among applicants and more effectively promote procedural justice.

5. Conclusion

Bankruptcy reorganization is the most cost-effective mechanism for restoring financially distressed enterprises to operational viability (Lee, 2011). While it is traditionally justified on the basis of preserving businesses with going-concern value, not all distressed businesses, in reality,

have such value (Baird and Rasmussen, 2003). According to the cost-benefit rationale, and given the constraints of judicial resources, the risk of procedural abuse, and the imperative of protecting creditors' interests, establishing a judicial review mechanism to assess reorganization value before reorganization proceedings commence is both necessary and urgent.

Currently, China's insolvency law lacks a clear statutory basis for such a mechanism. The ongoing revision of the EBL therefore presents a valuable opportunity to re-evaluate and strengthen the legislative framework governing corporate reorganization. Although many scholars have addressed corporate reorganization reform from a theoretical perspective, few have relied on empirical data to examine its recent development and practical application. This study seeks to fill that gap. Drawing on several hundred judicial decisions, it examines how courts have assessed reorganization value in reorganization filings over the past five years. The findings reveal a lack of consistency among courts regarding whether and how such value is evaluated. Common problems include inconsistent adjudicative standards, flawed legal reasoning, insufficient justification, and a lack of clear statutory grounding.

To address these challenges, this paper argues that future amendments to the EBL should explicitly require the judicial assessment of reorganization value at the application stage. It further proposes the adoption of a stakeholder consultation mechanism and a third-party expert investigation system to assist courts in value determination. In addition, courts should adopt differentiated burdens and standards of proof for debtor and non-debtor applicants when determining whether an enterprise possesses reorganization value. Together, these reforms aim to establish a more transparent, fair, and effective framework for evaluating reorganization value—enhancing the fairness and validity of China's reorganization regime and ensuring that the system achieves its intended objectives.

Data availability

Data used or generated in this study are available from the author upon reasonable request.

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[1] Article 1 of the EBL states that the purpose of the EBL is to regulate the procedures for enterprise bankruptcy, fairly set the credits and debts, safeguard the legitimate rights and interests of creditors and debtors, and maintain the socialist market order.

[2] Article 12 of the EBL.

[3] Article 2 of the EBL provides: "Where an enterprise legal person fails to clear off its debt as due, and if its assets are not enough to pay off all the debts or if it is obviously incapable of clearing off its debts, its liabilities shall be liquidated according to the

provisions of the present Law. Where an enterprise legal person is under the aforesaid circumstance or if it is obviously likely that it is unable to pay off its debts, it may be subject to revival according to the provisions of the present Law."

[4] Article 7 the EBL provides: "Where a debtor is under the circumstance as prescribed by Article 2 of the present Law, it may file an application with the people's court for revival, compromise or bankrupt liquidation. Where the debtor fails to pay off its due debts, it may file an application with the people's court for revival or bankrupt liquidation. Where an enterprise legal person has been dissolved without any liquidation or without completing the liquidation and if the relevant assets are not enough to clear off the debts, the person liable for liquidation shall apply with the people's court for bankrupt liquidation."

[5] See ***Provisions of the Supreme People's Court on the Publication of Judgments on the Internet by the People's Courts (2016 Revision)*** (Interpretation No. 19 [2016] of the SPC). The original version took effect on January 1, 2014; the revised version came into force on October 1, 2016. **Article 2 provides**: "China Judgments Online is the uniform platform for the publication of judgments by the people's courts across the country. The people's courts at various levels shall set up links to China Judgments Online on their government affairs websites and judicial openness platforms."

[6] See ***Provisions of the Supreme People's Court on the Publication of Judgments on the Internet by the People's Courts (2016 Revision)*** (Interpretation No. 19 [2016] of the SPC), **art. 3** (providing that "Any of the following judgments rendered by a people's court shall be published on the Internet:(1) criminal, civil, or administrative judgments; (2) criminal, civil, or administrative rulings, or rulings for enforcement;(3) payment orders;(4) written notices on the dismissal of petitions in criminal, civil, administrative or enforcement cases;(5) written decisions on state compensation;(6) written decisions on compulsory medical services or written decision on rejecting the application for compulsory medical services; (7) written decisions on penalty execution and alteration; (8) written decisions on detention or fine for any act of obstructing proceedings or enforcement, written decisions on removing detention in advance, or written reconsideration decisions made for the application for reconsideration due to refusal to accept such sanctions as detention and fine; (9) written administrative mediation papers or written civil public interest action mediation papers; and (10) any other judgment that has the role of suspending or concluding judicial proceedings or has impact on the parties' material interests or significant impact on the parties' procedural interests.")

[7] See ***Provisions of the Supreme People's Court on the Publication of Judgments on the Internet by the People's Courts(2016 Revision)*** (Interpretation No. 19 [2016] of the SPC), **art. 4** (providing that "Under any of the following circumstances, a judgment rendered by a people's court shall not be published on the Internet: (1) it involves any state secret;(2) it involves any juvenile delinquency;(3) the case is closed by mediation or the effect of a people's mediation agreement is confirmed; unless it is actually necessary to disclose the judgment for the purpose of protecting the state interests, public interests, and the lawful rights and interests of others; (4) it involves divorce proceedings or child support and guardianship of under-aged children; and (5) any other circumstance under which the people's court holds it inappropriate to publish the judgment on the Internet.")

[8] See ***Notice of the Supreme People's Court on Issuing the Provisions on the Information Disclosure regarding Enterprise Bankruptcy Cases (for Trial Implementation)*** (No. 19 [2016] of the SPC, effective July 26, 2016) **, art. 1** (Providing that "The Supreme People's Court (SPC) shall set up the National Enterprise Bankruptcy Reorganization Case Information Website (hereinafter referred to as the "Bankruptcy Reorganization Case Information Website") with the information about the trial procedure for bankruptcy cases (including cases concerning bankruptcy reorganization, insolvent liquidation and composition in

bankruptcy) and the information related to the bankruptcy procedure such as announcements, legal instruments and information about debtors to be uniformly released on it....")

[9] See ***Notice of the Supreme People's Court on Issuing the Provisions on the Information Disclosure regarding Enterprise Bankruptcy Cases (for Trial Implementation)*** (No. 19 [2016] of the SPC, effective July 26, 2016), **art. 2** (Providing that "The bankruptcy case information disclosure shall take disclosure as the principle while taking non-disclosure as the exception. Any information not involving state secret or personal privacy shall be disclosed according to the law. As to the information about debtors which involves commercial secrets, in the event that the information causes no harm to the legal rights and interests of creditors or debtors, the bankruptcy administrators may disclose the information to reorganization investors under their agreements."), **art.3** (providing that "People's courts shall disclose the following information regarding bankruptcy cases according to the law:1. information about the stages of the trial procedure; 2. all the announcements issued by people's courts during the bankruptcy procedure; 3. legal instruments regarding the bankruptcy procedure which are prepared by people's courts; 4. other information which people's courts deem shall be disclosed.")

[10] In practice, resource constraints, disparities in judicial diligence, and the attitudes of court leadership may all contribute to delays in the online disclosure of judgments. For instance, in some courts, heavy caseloads make it difficult for staff to upload judicial decisions promptly. Moreover, due to budgetary limitations, many courts lack dedicated personnel responsible for collecting judgments, redacting personal information, and publishing them online.

[11] For example, the Shanghai High People's Court stipulates that a report on the necessity and feasibility of the reorganization and an initial reorganization plan must be provided to apply for the debtor's bankruptcy reorganization. Both Chongqing and Hunan People's High Courts have stipulated that when a debtor or investor applies for reorganization, they must submit a feasibility analysis report or a reorganization plan for the debtor's reorganization. See Shanghai High People's Court: Bankruptcy Trial Work Guidelines (2021)）(上海市高级人民法院《破产审判工作规范指引（2021）》沪高法〔2021〕257 号) , art. 30; See Chongqing High People's Court: Guidelines for the Review of Bankruptcy Reorganization Applications [重庆市高级人民法院关于印发《破产重整申请审查工作指引（暂行）》的通知（渝高法〔2018〕190 号）], art.2; See Hunan High People's Court: Guidelines for Handling Corporate Reorganization Applications(2020) [湖南省高级人民法院印发《关于办理企业重整申请案件的工作指引（试行）》的通知（湘高法〔2020〕69 号）], art.4 & art.5.

[12] See Chongqing High People's Court, Guidelines for the Review of Bankruptcy Reorganization Applications [重庆市高级人民法院关于印发《破产重整申请审查工作指引（暂行）》的通知（渝高法〔2018〕190 号）]

[13] Similar cases see Civil Ruling of Tongliang Primary People's Court, Chongqing (重庆市铜梁区人民法院 (2019) 渝 0151 破申 1 号民事裁定书). China Judgements Online, https://wenshu.court.gov.cn. Accessed 20 March 2024; Civil Ruling of Tongliang Primary People's Court, Chongqing (重庆市铜梁区人民法院 (2019) 渝 0151 破申 2 号民事裁定书). China Judgements Online, https://wenshu.court.gov.cn. Accessed 20 March 2024

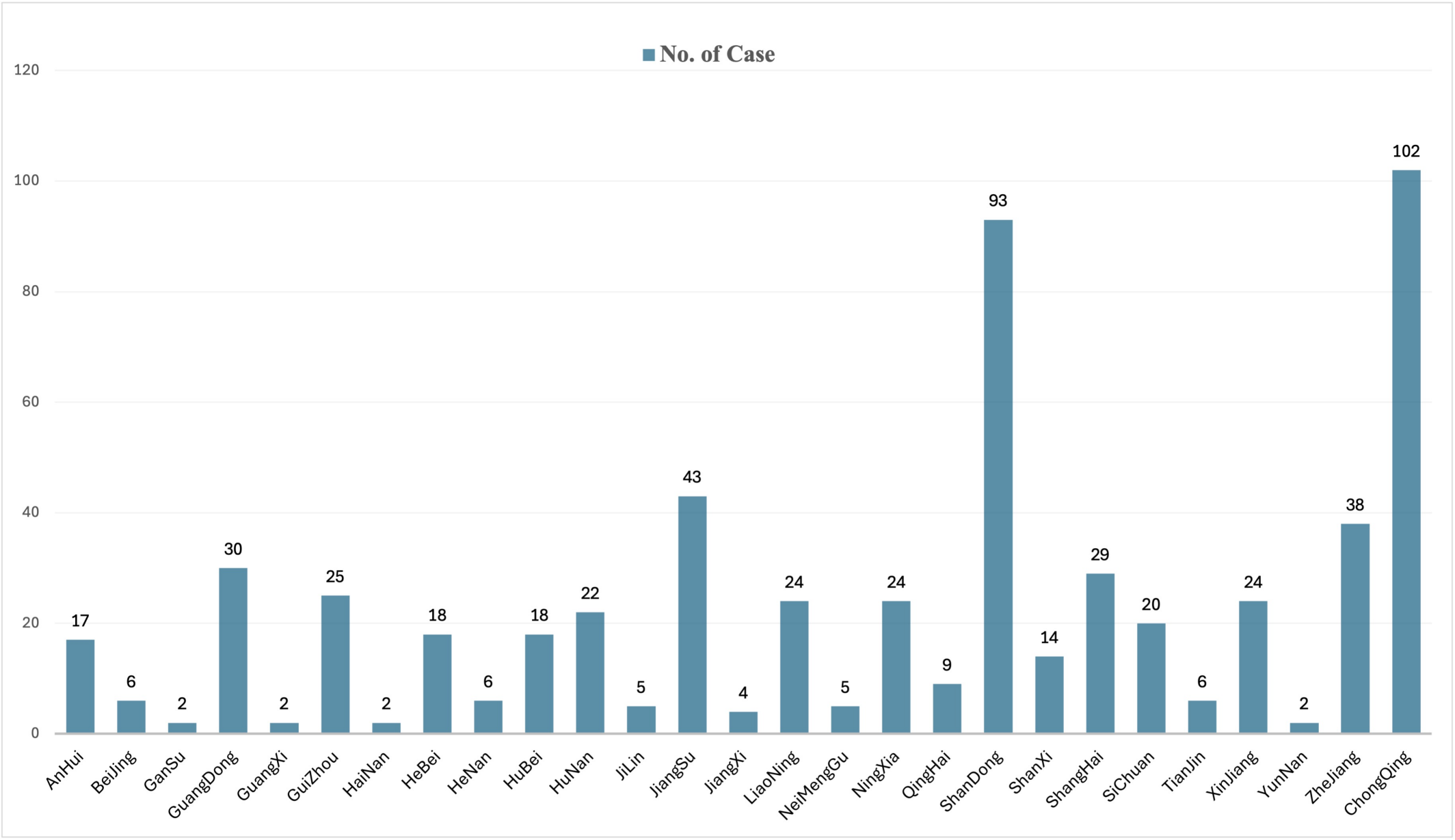
[14] Opinions of the General Office of the State Council on Supporting Efforts to Ensure Stability on Six Fronts and Maintain Security in Six Areas and Further Promoting the Reform of "Simplification of Administrative Procedures, Decentralization of Powers, Combination of Decentralization with Appropriate Control and Optimization of Services" (No. 10 [2021] of the General Office of the State Council) 《国务院办公厅关于服务 "六稳" "六保" 进一步做好 "放管服" 改革有关工作的意见》（国办发〔2021〕10 号）

[15] Circular of the Supreme People's Court on the Promulgation of the Guiding Opinions of the Supreme People's Court on Several Issues Concerning Properly Handling Civil Cases Related to COVID-19 Epidemic in Accordance with the Law (II) (No. 17 [2020] of the Supreme People's Court) (最高人民法院印发《关于依法妥善审理涉新冠肺炎疫情民事案件若干问题的指导意见（二）》的通知)（法发〔2020〕17 号）

[16] Research and Revision Team, Shanghai High People's Court (2022) Q&A Series (V) on Legal Issues Concerning COVID-19-Related Cases (2022 Edition) [《关于涉新冠肺炎疫情案件法律适用问题的系列问答五》（2022 年版）], https://mp.weixin.qq.com/s/VqMAMCBdPzHfK2WX_aB2JA. Accessed 12 May 2025.

[17] See "Notice by the Supreme People's Court of Issuance of the Work Plan for Establishing Liquidation and Bankruptcy Tribunals in Intermediate People's Courts" (No. 209 [2016] of the Supreme People's Court) [最高人民法院印发《关于在中级人民法院设立清算与破产审判庭的工作方案》的通知]（法〔2016〕209 号）

[18] "Under a functionalist approach the transplanter examines how the same function may exist in two legal systems and the extent to which a foreign model can be sensibly to fulfil the same functions in one's own system." See Jonathan M. Miller (2003) A Typology of Legal Transplants: Using Sociology, Legal History and Argentine Examples to Explain the Transplant Process. The American Journal of Comparative Law 51(4): 839–886.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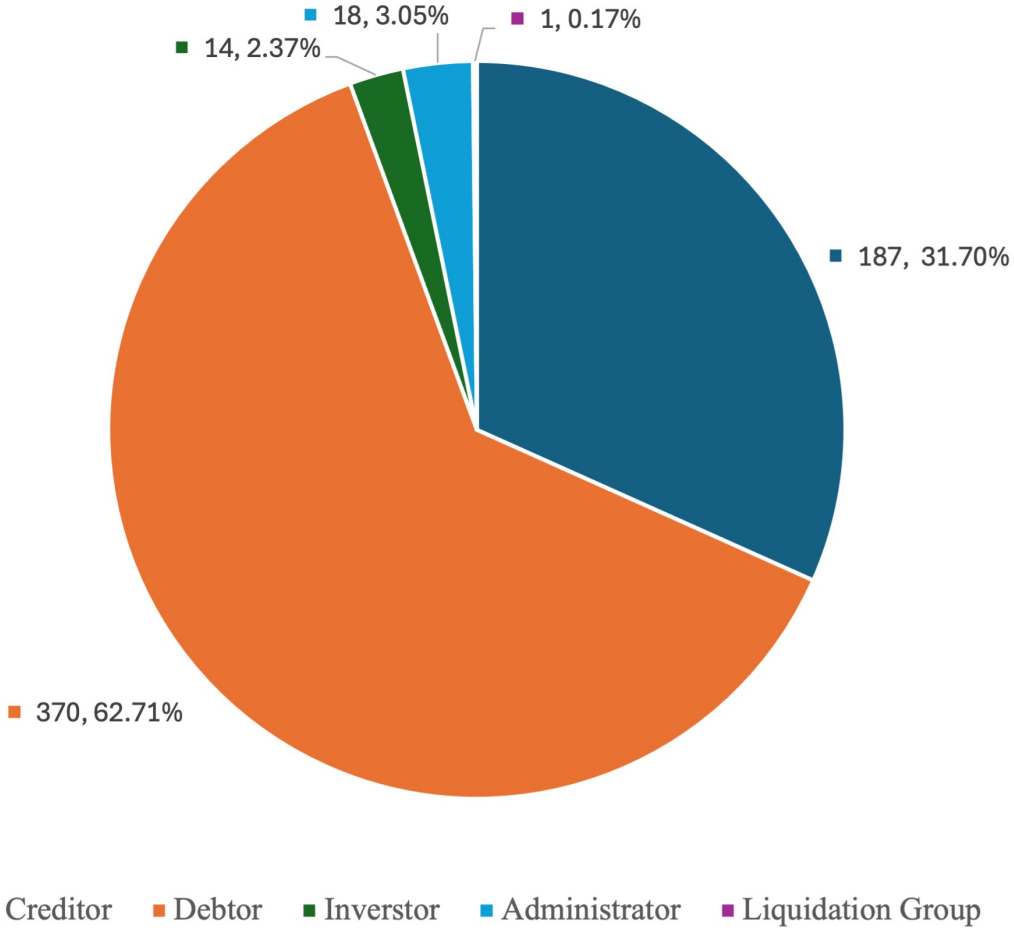
18, 3.05%
1, 0.17%
14, 2.37%
187, 31.70%
370, 62.71%
Creditor
Debtor
Inverstor
Administrator
Liquidation Group