PROTECTION OF MINORITY SHAREHOLDERS' EXIT RIGHTS IN LIMITED LIABILITY COMPANIES: CENTERED ON ARTICLE 89 OF CHINA'S NEWLY REVISED COMPANY LAW

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I. INTRODUCTION

China is continuously optimizing its business environment. Protecting the exit rights of minority shareholders of limited liability companies is the cornerstone of corporate governance and one of the key indicators for assessing the health of the business environment. The issue of controlling shareholders oppressing minority shareholders during the operation of limited liability companies has a major impact on the business environment.[1] The core value of optimizing the business environment and protecting minority investors is the relationship between inclusion and being included.[2] Freedom of capital 'in and out' is an important part of investment choice, and minority shareholders' rights to exit a limited liability company under certain conditions should be recognized and protected. Amending the *Company Law* to strengthen shareholder rights protection is important for improving the property rights protection system, necessary for optimizing the business environment, and a key goal for improving corporate governance.[3] One of the main goals is to reduce capital contribution pressure and legal investment risk for minority investors, better attract social capital, and improve the investment environment.

The newly revised *Company Law of the People's Republic of China of 2024* (hereinafter referred to as the newly revised Company Law) is a fundamental and comprehensive major revision on the journey toward Chinese modernization.[4] This revision aims to continuously optimize the

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1 *See* Lou Qiuran, *Business Environment Report, 'Protection of Minority Investors Indicator' and the Endogenous Development of the Company Law: A Review of the Provisions of the Supreme People's Court on Several Issues Concerning the Application of the Company Law of the People's Republic of China (V)*, 2 Research of Institutional Economics 142 (2021).

2 *See* Liang Weiliang, *Practical Myths and Solutions for Minority Investor Protection from the Perspective of Business Environment Optimization: Taking the Provisions of the Supreme People's Court on Several Issues Concerning the Application of the Company Law of the People's Republic of China (V) as an Example*, 9 Reformation & Strategy 71 (2019).

3 *See* Lin Yiying, *Perfection on the Protection of Rights of Shareholders in the Revision of the Company Law*, 2 Journal of Law Application 16 (2024); Bai Murong, *Coordination of Public Law and Private Law in Business Environment Optimization*, 1 Lanzhou Academic Journal 115 (2022).

4 *See* Zhao Wanyi & Zhang Caihua, *Theoretical Responses and Practical Challenges in the Revision of the Company Law*, 2 Journal of Northwestern Polytechnical University (Social Sciences) 113 (2024).

business environment, strengthen property rights protection, and refine the concepts of corporate governance, placing great emphasis on issues of conflicts of interest among shareholders.[5] Article 89(1) of the newly revised Company Law stipulates the right of dissenting shareholders to request a buyback, and article 89(3) adds the buyback request right of oppressed shareholders. Together, they form a two-dimensional rule model for minority shareholders' exit rights with Chinese characteristics[6] and are a structural component of corporate governance. This is crucial for the protection of minority shareholders' rights in limited liability companies, as it provides an orderly and fair exit path, resolves the liquidity dilemma of minority shares, and serves to regulate and oversee potential conflicts of interest.

The right to request repurchase by dissenting shareholders ensures that shareholders who disagree with fundamental changes in the company are not forced to stay in a company that changes its development direction, mainly to prevent minority shareholders from being forced to accept changes in their investment expectations and objectives without their consent. When their investment expectations are disappointed, allowing shareholders to exit the company promptly and conveniently is undoubtedly stronger and more effective for minority shareholders in terms of their investment rights and reasonable expectations.[7] However, whether the scope of application of the right to request shareholder buyback should be expanded is the core of legislative development and a key issue courts face when adjudicating litigation, presenting difficult trade-offs. Regulation of shareholder oppression under *China's Company Law* is situated primarily within the framework of protecting minority shareholders' rights. Shareholder oppression is essentially a serious infringement of minority shareholders' property rights and the product of opportunistic behavior by controlling shareholders.[8] Controlling shareholders of limited liability companies are able to abuse their position to engage in self-serving opportunistic conduct because the principle of capital majority rule provides them with convenience.[9] As the company is an organization established by shareholders to obtain investment benefits, all shareholders profit from the company and receive investment

5 *See* Du Cui, *The Application of the Prohibition of Shareholder Rights Abuse Clause in Shareholder Interest Conflict Disputes: Retrial Case of Tonghua Mining (Group) Co., Ltd. v. Li Mou Regarding Corporate Disputes*, 3 Securities Law Review 186 (2024).

6 *See* Zhao Yu, *A Two-Dimensional Framework of Minority Shareholders' Right to Exit: Organizational Structure and Legal Interpretation*, 1 Social Sciences International 88, 88-90 (2026).

7 *See* WU CHANGBO, RESEARCH ON THE JUDICIAL DISSOLUTION SYSTEM OF COMPANIES, at 35-42 (Intellectual Property Publishing House, 2010).

8 *See* Hyeok-Joon Rho, *New Squeeze-Out Devices as a Part of Corporate Law Reform in Korea: What Type of Device Is Required for a Developing Economy?*, 1 Boston University International Law Journal 41, 48 (2011).

9 *See* Li Jianwei, *Remedy for Shareholder Oppression in Company Law: The British Experience and Chinese Practice*, 3 Global Law Review 148 (2019).

benefits according to their shares, reflecting the consistency of shareholder interests. The premise for the effective operation of the capital majority rule is that interests are homogeneous both among shareholders and between shareholders and the company. On the basis of this 'homogenization' assumption, the *Company Law* regards capital as the sole criterion for internal rights allocation. When controlling shareholders abuse their rights and pursue their own interests by suppressing minority shareholders, legitimate remedies need to be protected by law. However, protecting the legitimate rights and interests of minority shareholders of limited liability companies is not easy. How to balance the protection of minority shareholders' rights and interests, respect corporate autonomy, and avoid excessive judicial intervention in company affairs remains complex and important.

Promoting investment and ensuring the optimal allocation of capital play significant roles in encouraging investment enthusiasm among small and medium-sized investors and in optimizing the business environment. Legislative reform balances the interests of minority and majority shareholders and should establish a comprehensive legal regulatory system centered on the 'rights' and 'responsibilities' of controlling shareholders. It should strike an appropriate balance between effectively protecting minority shareholders' exit rights and company development, between formal and substantive equality of shareholder interests, and between fairness and efficiency.

II. PURPOSE AND VALUE MEASUREMENT OF SHAREHOLDER EXIT RIGHTS REGULATION

Limited liability companies have a small number of shareholders and highly concentrated equity, with controlling shareholders enjoying extensive rights within the company. Decision-making and management rights are almost inseparable, making it challenging to implement separation of powers and checks and balances. The statutory norms of centralized control and majority decision-making, combined with the lack of a public equity trading market for closed companies, place minority shareholders in a vulnerable position, which is fundamentally different from the risks faced by investors in listed companies. The possibility that minority shareholders may be suppressed should be understood as an inherent structural feature of closed companies. It should regulate the boundary between the exercise of controlling shareholder rights and the protection of minority shareholder rights, balance the protection of investment value and basic fairness, and treat whether an act harms the company's development as the main evaluation criterion.

A. The Legitimacy Basis and Applicable Limits of Minority Shareholder Exit Relief

Shareholder oppression is used to describe various abusive strategic actions by controlling shareholders that restrict or exclude minority shareholders from participating in enterprise management or deprive them of significant economic returns from their investments.[10] It is an expression of the unfair treatment of minority shareholders by directors or controllers in closed companies.[11] However, shareholder oppression itself is an uncertain concept. *China's Company Law* does not include the concept of shareholder oppression;[12] instead, it corresponds to controlling shareholders' abuse of rights. These two concepts are divided into two perspectives: passive oppression experienced by minority shareholders and active abuse by controlling shareholders. There is no reciprocal relationship between them but rather a causal or related one. However, in the application of legal interpretations and judicial practice norms, there is a certain degree of mixing between the concepts of controlling shareholders' abuse of rights and shareholder oppression. In judicial practice, some courts have directly used the concept of shareholder oppression in judgments,[13] but few courts link shareholder oppression with the abuse of shareholder rights; thus, article 21 of the *Company Law* lacks applicability in terms of remedies for shareholder oppression. The newly revised Company Law offers remedies for shareholder oppression, which can be divided into two types: principled and rule-based. The principled approach mainly refers to article 21 of the *Company Law* prohibiting the abuse of rights. Although this article does not explicitly include shareholder oppressive behavior, it provides a general remedy for the harm suffered by oppressed minority shareholders.[14] Rule-based remedies include specific remedies established under article 89(3) for equity buyback and article 231 for judicial dissolution. These remedies provide certain legal grounds for oppressed shareholders but still have obvious shortcomings.

10 *See* ROBERT W. HAMILTON, THE LAW OF CORPORATIONS, at 272 (Qi Dongxiang trans., Law Press · China, 2008).

11 *See* ZHANG XUEWEN, OPPRESSION OF MINORITY SHAREHOLDERS IN LIMITED LIABILITY COMPANIES, at 17 (Law Press · China, 2011).

12 *See* Lu Li, *Reflection and Improvement of the Shareholder Oppression Relief System in Limited Liability Companies*, 5 Chongqing Social Sciences 122 (2024).

13 *See Guangzhou Yonghao Investment Co., Ltd. v. Guangzhou Donghui Property Management Co., Ltd.*, Civil Final Judgment No. 22724 (Yue 01) of Guangzhou Intermediate People's Court of Guangdong Province (2019); *Hainan Xinxinyuan Home Furnishing Co., Ltd. v. Xia Haizhen*, Civil Final Judgment No. 784 of the High People's Court of Hainan Province (2021); *Yin Xiangqian v. Huaihua Zhenyuan Power Development Co., Ltd. and Other Companies*, Civil Final Judgment No. 211 of the High People's Court of Hunan Province (2023).

14 *See* Weng Xiaochuan, *Research on the Approaches to Oppression Remedies for Shareholders: Fiduciary Duties and Statutory Remedies*, 4 Journal of Comparative Law 187 (2021).

Therefore, clarifying the connotations of controlling shareholders' abuse of rights and shareholder oppression and improving corresponding remedy mechanisms have become key issues in optimizing the governance of limited liability companies.

The general principle of the *Company Law* is that shareholders of limited liability companies cannot freely withdraw their shares. Shareholders' invested funds become company property. In situations of uneven equity structure, imperfect information disclosure mechanisms, and underdeveloped supervisory and check-and-balance mechanisms, the risk that majority shareholders exercise 'lawfully' improper control by leveraging their voting advantages increases significantly. The capital majority rule adopted by shareholders' meetings may lead to capital oppression, harming minority shareholders' interests. In this case, without a corresponding equity transfer mechanism, minority shareholders will be forced to endure oppression, and the company may fall into a deadlock.[15] The close nature and personal unity of limited liability companies, as well as the lack of exit mechanisms, make shareholder oppression particularly prominent.[16] To balance minority shareholder rights with the principle of capital majority voting, the newly revised Company Law establishes a mechanism allowing shareholders to petition for share repurchase; shareholders may request that the company repurchase their shares under specific circumstances, but strict standards and conditions are set as exceptions. Although minority shareholders' interests must be considered, the application of shareholder exit mechanisms should be minimized to prevent negative impacts. Using the distinction between equity and debt and the capital maintenance rules to restrain equity repurchase behavior is reasonable.[17] In the case concerning *Li*'s request for the company to acquire shares,[18] the court held that to prevent shareholders from abusing their buyback rights and affecting company stability, a careful examination should be conducted to determine whether the controlling shareholder has abused shareholder rights and whether it seriously harms the interests of the company or other shareholders.

The *Interpretation of the Supreme People's Court on Several Issues Concerning the Application of the Company Law of the People's Republic of China (Draft for Comment)* reflects a systematic and moderate approach:

15 *See You Zhiyong v. Beijing Baibin Technology Co., Ltd.*, Civil First-Instance Judgment No. 6782 (Jing 0114) of Changping District People's Court of Beijing Municipality (2020).

16 *See* Zhang Xin, Wang Xi & Shen Jie, *The Certification and Determination of Conditional Dissolution of a Company by a Shareholder Agreement*, 32 People's Judicature 58 (2023).

17 *See* Yue Wanbing, *Building a Systematic Framework for Share Repurchase Regulation from the Perspective of Interest Balancing*, 6 Journal of Comparative Law 51 (2025).

18 Civil Final Judgment No. 11203 (Jing 01) of Beijing First Intermediate People's Court (2025).

it emphasizes the constructive value of general legal principles in the formation of judicial interpretation, evaluates the spillover effects of limiting or expanding interpretations, and responds to adjudication needs arising during the implementation of the newly revised Company Law to unify the standards for legal application.[19] Article 39 stipulates that when controlling shareholders abuse shareholder rights and harm the interests of the company or other shareholders, the abuse must reach the extent that 'the purpose of other shareholders' participation in company management or obtaining investment returns cannot be achieved'; otherwise, the court will not support the suppressed shareholder's acquisition claim. This constitutes the core interpretive element of the minority shareholder exit system for limited liability companies in practical application. Since article 89 of the newly revised Company Law does not simultaneously regulate the actual controller,[20] when the actual controller abuses its control and seriously harms the interests of the company or other shareholders, this provision cannot be directly invoked. In this context, the newly revised Company Law contains obvious regulatory loopholes, which directly affect the level of protection for the company or other shareholders.[21] Given the highly concentrated shareholding structure of limited liability companies, the *Company Law* needs to set rules and designate both the actual controller and the controlling shareholder as responsible parties.[22]

B. Typology of Corporate Governance Failure and Differentiated Allocation of Remedy Paths

Under the principle of 'majority capital', shareholder oppression and corporate deadlock often occur. Withdrawing from the company through negotiation to transfer equity at a reasonable price or by requesting the company to repurchase its equity is one way to resolve the deadlock between the parties.[23] The value of the system for shareholders with damaged rights requesting company equity acquisition lies in protecting the legitimate rights and interests of minority shareholders improperly affected by 'majority

19 *See* Chen Su, *Systematic Thinking and Systematic Construction of Judicial Interpretations of the Company Law*, 1 Journal of Law Application 22 (2026).

20 *See* Zhou You, *Differential Practice and Institutional Expressions of Determination Standards for Actual Controller*, 1 Tribune of Political Science and Law 169 (2024).

21 *See* Jiang Daxing, *Examination of the 'Unity of Liability' Rule for Dual Controllers*, 1 Journal of National Prosecutors College 59 (2025).

22 *See* Zhou You & Lin Sheng, *Outline of Reconstructing the Actual Controller Rules of the Company Law*, 37 Securities Law Review 123, 123 (2023).

23 *See Fujian Mou Materials Co., Ltd. v. Wang Mou*, Civil Ruling No. 1858 for Retrial Review of the High People's Court of Fujian Province (2022).

capital' and 'shareholder oppression', such as a controlling shareholder dominating the shareholders' meeting and causing it to resolve not to distribute dividends to minority shareholders or to conduct unfair targeted capital increases or reductions.[24] If the parties agree through negotiation to have the company repurchase or shareholders acquire shares or to continue the company through capital reduction and other means, and this does not violate mandatory provisions of laws or administrative regulations, the people's court should support such agreements.[25] In *Jilin Financial Asset Management Co., Ltd. v. Anyang Steel Group Co., Ltd. et al.* regarding a company dissolution dispute,[26] the court repeatedly organized mediation between the parties, attempting to resolve the dispute through various means such as equity transfer and company control transfer. Ultimately, no mediation agreement was reached. After exhausting all the avenues other than judicial dissolution and being unable to resolve the issue, the court ruled to dissolve the company.

The contractual nature of a limited liability company determines that shareholders have the right to request judicial dissolution of the company, but shareholders can request dissolution only under the statutory circumstances stipulated in the *Company Law* and judicial interpretations; otherwise, shareholders' arbitrary claims may lead to loss of company interest.[27] Therefore, while establishing shareholders' right to request judicial dissolution, the legal elements for dissolving a company are also strictly limited. Article 231 of the newly revised Company Law stipulates the right to request judicial dissolution. In this context, 'serious difficulties in company management and continued existence will cause significant losses to shareholders' interests' should be considered a substantive element for judicial dissolution in judicial practice. It should be analyzed comprehensively in terms of the operational status of the company's organizational structure, reflected mainly in the deadlock of shareholders' meetings or boards of directors caused by intensified shareholder conflicts, which leads to a long-term inability to effectively convene and vote and to the failure of the company's governance structure to function normally. With respect to the specific applicable situations of judicial dissolution, the most common is 'company deadlock', which is recognized as the sole ground

24 *See Song Mouxi v. Tianjin Mou Medical Equipment Technology Co., Ltd.*, Civil Final Judgment No. 1340 (Jin 02) of Tianjin Second Intermediate People's Court (2025).

25 *See Beijing Guoke Xinlicheng Hospital Management Co., Ltd. v. Anyang Steel Group Co., Ltd. et al.*, Civil Final Judgment No. 696 of the High People's Court of Henan Province (2021).

26 *See* Civil Ruling No. 1474 for Retrial Review of the Supreme People's Court (2019).

27 *See Zhang Lei v. Zhongshan Emma & Me Baby Products Co., Ltd.*, Civil Final Judgment No. 460 (Yue 20) of Zhongshan Intermediate People's Court of Guangdong Province (2016).

for judicial dissolution. Article 1 of the *Provisions of the Supreme People's Court on Several Issues Concerning the Application of the Company Law of the People's Republic of China (II)* lists several situations of 'corporate deadlock' but does not specify shareholder oppression as one of them.

Corporate deadlock refers to a situation where, during internal governance, all decision-making and management mechanisms fall into paralysis because of conflicts of interest among shareholders or company management.[28] The Supreme Court's guiding case points out that when determining whether a company is facing serious operational difficulties, an analysis should be made on the basis of the operational status of the company's internal organizational structure. If the internal shareholders' meeting mechanism has been ineffective for a long time, even if the company is still profitable, the conditions for applying article 231 of the *Company Law* can still be met.[29] In the case of the dissolution dispute between Company A and *Tang*,[30] shareholder conflicts intensified, mutual trust among shareholders was lost, and the corporate governance mechanism failed, leading to a deadlock. The company's continued existence would cause significant losses to shareholders' interests. Therefore, the court held that *Tang*'s request to dissolve Company A was lawful and well founded and should be supported. There is uncertainty in judicial practice regarding the scope of judicial dissolution, with the main issue being whether shareholder oppression falls within 'serious difficulties in company management and operations', as stipulated in this article.

The cause of shareholder oppression is conflicts of interest among shareholders. The controlling shareholder engages in opportunistic behavior to seek improper benefits,[31] which exceeds the legitimate limits of shareholder rights and deviates from the purposes stipulated by the *Company Law*, constituting an abuse of shareholder rights.[32] The core of solving this problem is the balance of interests among all the parties, which lies in coordinating the conflict between efficiency-oriented capital majority rule and the justice-oriented principle of shareholder equality. Attention should be given to balancing the overall operational efficiency of the company with the

28 *See Suzhou Hongjian Biotechnology Co., Ltd. v. Taizhou Hongzheng Investment Co., Ltd. et al.*, Civil Final Judgment No. 00161 of the High People's Court of Jiangsu Province (2015).

29 *See* Wu Jianbin, *Key Points of Guiding Case Adjudication Should Not Deviate from the Original Case Facts: Commentary and Outlook on Guiding Case No. 67 of the Supreme People's Court*, 10 Political Science and Law 113 (2017).

30 *See Jia Mou Co., Ltd. v. Tang Mou*, Civil Final Judgment No. 2434 (Yue 19) of the Intermediate People's Court of Dongguan City, Guangdong Province (2026).

31 *See* FRANK H. EASTERBROOK & DANIEL R. FISCHEL, THE ECONOMIC STRUCTURE OF CORPORATE LAW, at 269 (Zhang Jianwei & Luo Peixin trans., Peking University Press, 2005).

32 *See* WANG RUIHE, INTERPRETATION OF THE COMPANY LAW OF THE PEOPLE'S REPUBLIC OF CHINA, at 36-37 (Law Press · China, 2024).

protection of minority shareholders' interests.[33] The exercise of controlling shareholder rights must meet specific requirements to be considered legitimate; otherwise, it will affect the controlling shareholder's freedom to choose their actions.

C. The Restrictive Logic of Judicial Dissolution in Corporate Deadlock: The Compulsory Construction of Share Purchase Remedies

The interpretation of 'serious difficulties in corporate management' has been expanded and limited, raising issues of fairness, utility, the choice of legal value elements, and the rationality of objectives. The main purpose of shareholders' requests for judicial dissolution of the company should be to resolve the company's operational deadlock, which does not include shareholder oppression.[34] The *Provisions of the Supreme People's Court on Several Issues Concerning the Application of the Company Law of the People's Republic of China (II)* formalize company deadlock and do not include shareholder oppression as a condition for dissolving the company. The cause of conflicts or deadlocks among shareholders is not a statutory condition for company dissolution.[35] Requesting forced dissolution of a company solely on the grounds of shareholder oppression complies neither with relevant company laws nor with the basic principle of 'company autonomy as the main principle, judicial intervention with caution'. 'Although major shareholders abuse shareholder rights and infringe on minority shareholders' interests, and although this leads to conflicts between major and minority shareholders, oppression by major shareholders does not constitute grounds for compulsory company dissolution as stipulated by Chinese law.'[36] In *Chen Xubao v. Jingmen Kailing Real Estate Development Co., Ltd.*,[37] the court held that even if this case constituted shareholder oppression, the court could not rule to dissolve the company. In *Changchun Northeast Asia Logistics Co., Ltd. v. Jilin Huiguan Investment Co., Ltd.*,[38] the court held that owing to numerous conflicts among the shareholders of Northeast Asia Company, the company had lost the human harmony that formed the foundation for the existence of a limited liability company. The

33 *See* Chen Jingwei, *Analysis on the Inherent Rights of Shareholders of Limited Companies*, 1 Administration and Law 104 (2018).

34 *See* SHI TIANTAO, CORPORATION LAW, at 596-597 (Law Press · China, 2018).

35 *See Suzhou Qiantang Weaving Co., Ltd. v. Dai Gangyin et al.*, Civil Final Judgment No. 11394 (Su 05) of Suzhou Intermediate People's Court of Jiangsu Province (2019).

36 *See Xing Yanping et al. v. Weihai White Swan Hotel Co., Ltd.*, Civil Ruling No. 304 for Retrial Review of the Supreme People's Court (2021).

37 Civil Final Judgment No. 5 of the High People's Court of Hubei Province (2018).

38 Civil Final Judgment No. 569 of the High People's Court of Jilin Province (2016).

company's operations and management faced serious difficulties, and the company had become a tool for controlling shareholders to oppress and bully noncontrolling shareholders. The prolongation of this situation prevented Huiguan Company from achieving its investment objectives and caused significant losses to shareholders' interests. When the conflict between the parties could not be resolved through other means, Huiguan Company's request to dissolve Northeast Asia Company complied with legal provisions and should be granted according to law.

Corporate deadlock differs from shareholder oppression; shareholder oppression usually involves controlling shareholders infringing upon minority shareholders, but the company can still form resolutions and operate normally, without becoming unable to operate. Therefore, judicial rulings often exclude shareholder oppression from the applicable scenarios of company dissolution lawsuits.[39] In corporate deadlock situations, the degree of impairment of legal interests presupposed by the *Company Law* is significantly greater than that preset by statutory buyback rules applicable to shareholder oppression.[40] The judicial dissolution stipulated in the newly revised Company Law applies only to corporate deadlock, not to shareholder oppression, because it provides multiple judicial remedies for excluded and oppressed shareholders without dissolving the company.

In the context of a dissolution petition, a share repurchase may be viewed as an equitable remedy — one that is less drastic than and preferable to dissolution itself.[41] As an alternative to judicial dissolution proceedings, a share buyout mechanism advances the dual objectives of corporate preservation and shareholder exit. This 'gentle exit' model avoids the social costs associated with the 'sudden death' of a company while enabling the controlling shareholder to maintain intact control and continue the company's operations. Accordingly, scholars have proposed that 'the buyout remedy as an alternative relief to corporate dissolution' be separately provided for in legislation.[42] A share buyout by a shareholder or the company is generally preferable to dissolution, typically premised on the company's value as a going concern. The core question, however, is whether to introduce a mandatory buyout rule requiring the company or the controlling shareholder

39 *See China Energy Conservation Technology Investment Co., Ltd. v. China Energy Conservation Urban Lighting Energy Management Co., Ltd.*, Civil First-Instance Judgment No. 1761 (Hu 0104) of Xuhui District People's Court of Shanghai (2022).

40 *See* Ding Junfeng, *Adjudicative Approach to Equity Transfer Disputes in the Interplay of Multiple Legal Rules*, 2 Tsinghua Law Journal 78 (2026).

41 *See* Paolo Butturini, *Dissenters' Rights Evolution Across European and U.S. Company Regulations: Lawmakers' Choices and Investors' Expectations*, 2 Syracuse Journal of International Law and Commerce 200 (2025).

42 *See* FAN SHIQIAN, LEGAL REGIMES REGARDING SHAREHOLDERS' LIABILITY: CONSTRUCTION OF CHINESE CORPORATION LAW, at 346 (Law Press · China, 2010).

to purchase the shares of minority shareholders. Resolving this question requires the ordering and coordination of values such as corporate survival and development, the controlling shareholder's freedom of action, and the protection of minority shareholders and corporate creditors.

III. THE NORMATIVE LOGIC OF SHAREHOLDER BUYBACK CLAIMS IN MAJOR COMPANY CHANGES

Capital majority voting itself implies that the will of shareholders holding the majority of voting rights is deemed to be the will of the company, making it difficult for minority shareholders to have substantial influence over company decisions. The right to request shareholder buyback is a mechanism for balancing interests, providing shareholders with a way to exit when interests differ significantly. In the evolution of regulations, explicit enumeration is the premise of its application. Balancing the maintenance of company capital with the protection of dissenting shareholders' interests allows shareholders to express opposition to major company decisions and exit the company while also requiring shareholders to exercise their rights through the statutory procedure of 'vote against — negotiate — sue', thereby avoiding the abuse of rights.

A. Minority Shareholders Failing to Achieve Their Investment Objectives in Major Company Changes

In the context of capital majority voting, the *Company Law* grants shareholders an effective exit path when fundamental structural changes occur in the company or when investment expectations are disappointed,[43] allowing minority shareholders to exit the company at a reasonable price when major resolutions conflict with their own wishes. The dissenting shareholder's buyback claim is essentially a corrective remedy for deviations in the operation of capital majority voting, not abuse of control, and provides minority shareholders with protection against key company decisions made without their support.[44] The right to request shareholder buyback is oriented toward balancing the 'majority of capital' and minority shareholder interests, providing an exit channel for minority shareholders whose investment expectations are disappointed and allowing them to 'exit' through reasonable

43 *See* Guo Li & Chen Xingyu, *Probing the Criteria for Identifying 'Transfer of Major Property' in the Appraisal Right of Dissenting Shareholders*, 1 Law Review 110, 110 (2026).

44 *See* Xu Fangliang, *Compulsory Acquisition of Shares in Limited Liability Company: An Analysis of Article 89(3) of China's Company Law*, 5 Global Law Review 139 (2024).

and fair share compensation rather than being bound by majority resolution.[45] The right to request shareholder buyback requires a balance between the company's interests, the shareholder's interests in litigation, and the interests among the shareholders involved.[46]

The right to request share buyback for dissenting shareholders, also known as the right to dissent from the valuation or 'appraisal rights',[47] is regarded as a way to resolve conflicts of interest among shareholders of a closed company and is a legal right granted to minority shareholders. When the shareholders' meeting, which is based on majority voting, makes decisions on major company matters, the dissenting minority shareholder has the right to request an appraisal of the value of their shares and to have the company purchase them at a fair price. In certain cases, minority shareholders opposing majority voting may request that the company repurchase their shares to protect their own interests, thereby exiting the company.[48] The remedy for appraisal rights is essentially a statutory system designed to allow shareholders who oppose certain major changes to require the company to purchase their shares at the value immediately before the resolution is approved, thereby exiting the company.[49] In *Shanghai Qianhang Investment Co., Ltd. v. Zhang Guoqiang*,[50] the court held that the dissenting shareholders' right to request repurchase is an exceptional remedy, meaning that when the shareholders' meeting seriously affects the fundamental interests of shareholders, shareholders who voted against have the right to request the company to repurchase their shares. The value of this claim system lies mainly in protecting the interests of minority shareholders, allowing dissenting shareholders to choose to exit by obtaining reasonable and fair share compensation so that they are no longer bound by resolutions formed by a 'majority vote'.[51] The key point is that minority shareholders can transfer their equity to the company at a reasonable price when major

45 *See* Research Group of Changzhou Intermediate People's Court of Jiangsu Province, *Exercise of the Appraisal Right for Dissenting Shareholders Within the Current Legal Framework*, 5 Journal of Law Application 45 (2015).

46 *See* THOMAS LEISER & RÜDIGER FEIL, GERMAN CORPORATE LAW, at 682 (Gao Xujun et al. trans., Shanghai People's Publishing House, 2019).

47 *See* RICHARD D. FREER, THE LAW OF CORPORATIONS IN A NUTSHELL, at 344-345 (Cui Huanpeng & Shi Hanbo trans., Law Press · China, 2021).

48 *See* Masaru Hayakawa, *Appraisal Rights in Japanese Company Law: Can They Be Used as Modern Weapons for Minority Shareholders?*, 2 European Business Organization Law Review 611 (2001).

49 *See* Charles Korsmo & Minor Myers, *The Flawed Corporate Finance of Dell and DFC Global*, 68 Emory Law Journal 221 (2018); Thomas Papadopoulos, *Protection of Shareholders in Cross-Border Mergers: The New Harmonized Rules*, 18 European Company and Financial Law Review 980 (2021).

50 Civil Final Judgment No. 2457 (Hu 02) of Shanghai No. 2 Intermediate People's Court (2021).

51 *See Shandong Mou Logistics Development Co., Ltd. v. Zibo Mou New Energy Technology Co., Ltd.*, Civil Final Judgment No. 2535 (Lu 03) of Zibo Intermediate People's Court of Shandong Province (2024).

situations unfavorable to themselves arise, thereby exiting the company.[52] If the company fails to fulfill this obligation, dissenting shareholders may seek judicial protection.

The right to request shareholder buyback is a legislative compromise aimed at protecting the majority capital in its pursuit of business opportunities. This is due to the property rights logic of commercial organizations based on efficiency.[53] To achieve a balance of interests, a minority of dissenting shareholders should be granted the opportunity to exit the company at a fair price. Therefore, 'veto compensation theory' for the dissenting shareholder's buyback requests arises, and the law grants shareholders who object to the transaction the right to request that the company repurchase equity at a fair price. The right to request shareholder buyback arises from the traditional company law theory of shareholders' 'vested rights', serving as compensation for shareholders who no longer have the right to deny the merger (resulting in a share swap).[54] Essentially, it involves shareholders withdrawing their investments and exiting the company; thus, strict statutory restrictions exist. Only when statutory circumstances occur, and the shareholders' meeting still makes a valid resolution despite minority opposition, can the dissenting shareholders request that the company acquire equity at a reasonable price.[55]

Currently, equity mergers and acquisitions (M&As) of limited liability companies and commercial activities involving significant shareholder changes are frequent and significant. M&As are considered transformative transactions that often alter company ownership and organizational structure.[56] Although M&A transactions are usually business combinations for reasons such as strategy, growth, or efficiency improvement, they can have significant effects on minority shareholders. Under the capital majority rule, controlling shareholders are granted decision-making power and flexibility to fundamentally change the company. However, as a trade-off, if minority shareholders believe that major changes in the company's equity structure or operations would harm their rights, alter their expectations for investment, or defeat the investment objectives, they can cash out their equity. Yet, if a large proportion of opposing shareholders choose to cash out their equity because of triggering events, and if the company is forced to pay the amount to the

52 *See Su Mou v. Jiangsu Gaotang Medical and Elderly Care Industry Group Co., Ltd.*, Civil Final Judgment No. 1809 (Su 01) of Nanjing Intermediate People's Court of Jiangsu Province (2021).

53 *See* Chen Jie, *The Internal Logic and Institutional Response to Promoting Entrepreneurship*, 5 China Law Review 39 (2024).

54 *See* Geng Lihang, *Appraisal Remedy for Dissenting Shareholders in Squeeze-Out Mergers*, 2 Chinese Journal of Law 74 (2025).

55 *See Shizong Boyu Information Technology Service Co., Ltd. et al. v. Yunnan Guozhong Human Resources Co., Ltd.*, Civil Final Ruling No. 1501 (Yun 03) of Qujing Intermediate People's Court of Yunnan Province (2025).

56 *See* Péter Gárdos, *Exit Right of Shareholders*, 22 European Company and Financial Law Review 660, 695 (2025).

opposing shareholders under remedies, this choice may put the company in financial distress or pose a financial threat, which could directly endanger creditors' interests. This affects whether management recommends the transaction and whether the controlling shareholder approves it.

B. Appraisal Rights of Dissenting Shareholders in Major Corporate Changes: Decision-Making Rationality and Corrective Remedies

The newly revised Company Law adopts the principle of 'prohibition in principle, exception allowed' for joint stock companies' acquisition of their own equity, making the right to request shareholder buyback an exceptional case.[57] Article 89(1) clearly specifies the scope of application of the right to request shareholder buyback (such as merger, division, and transfer of major assets) and the procedure for making the request. With respect to the conditions and procedures for exercising the right to request equity buyback, the *Company Law* usually stipulates relatively narrow triggering reasons and strict procedures, with triggering grounds limited to specific fundamental changes in company acts, and stipulates the exclusion period for shareholders to file lawsuits. However, among statutory trigger reasons, there is ambiguity, illogicality, and a lack of operability in terms of appraisal procedures and the determination of reasonable prices. It only stipulates that dissenting shareholders who vote against must file a lawsuit in court within 90 days after the resolution is reached but does not clearly specify the consequences of failing to act within the time limit.[58] This creates many obstacles for dissenting shareholders to exercise their right to request share buybacks. If a resolution by the controlling shareholder causes actual harm to the interests of shareholders not participating in the shareholders' meeting, dissenting shareholders who are harmed also have the right to claim damages. In *Hengyang A Industrial Group Co., Ltd. v. Hengyang B Guarantee Co., Ltd., Hengyang C Asset Group Co., Ltd., and Hengyang D Center*,[59] the court held that the right to request shareholder buyback is subject to strict conditions, namely, one of the three circumstances stipulated in article 89(1) of the newly revised Company Law.

However, in *Changjiang Real Estate (Hunan) Development Co., Ltd. v.*

57 *See Shandong Shengxiang Power Co., Ltd. v. Chen Zhiming et al.*, Civil Final Judgment No. 10692 (Lu 07) of Weifang Intermediate People's Court of Shandong Province (2022).

58 *See Ma Moucong & Zhu Moupeng v. Guangzhou Li Mou Co., Ltd.*, Civil Final Judgment No. 20213 (Yue 01) of Guangzhou Intermediate People's Court of Guangdong Province (2025).

59 *See* Civil Final Judgment No. 2525 (Xiang 04) of Hengyang Intermediate People's Court of Hunan Province (2025).

Yuan Zhaohui,[60] the issue concerns whether absent shareholders who dispute a shareholders' meeting resolution can request that the company repurchase shares. The court held that although *Yuan* did not attend the shareholders' meeting and did not formally meet the requirements for exercising rights, the company's actions infringed upon *Yuan*'s shareholder rights. After learning of the company's resolution, he reasonably exercised his shareholder rights to express his opposition to the company and other shareholders, which met the legislative purpose of the dissenting shareholder's share buyback request. Therefore, the court ruled in favor of *Yuan*'s claim. From the perspective of balancing interests, when company decisions are disputed, minority shareholders are not allowed to directly file lawsuits to dissolve the company, but dissenting shareholders are allowed to choose to leave the company. This is a delicate balance between minority shareholders' interests and those of the company (and its major shareholders).[61] The valuation rights remedy does not deny majority shareholders the right to conduct major transactions; it aims to balance the conflicting interests of majority and minority shareholders. In this fiercely competitive business world, protecting company interests often requires significant changes in business operations, financial structure, and even ongoing operations. Therefore, actions taken by majority shareholders on the basis of such statutory provisions should be regarded as commercially necessary.

The emergence of the right to request shareholder buyback is the result of majority consent replacing the rule of unanimous consent,[62] granting minority shareholders the right to object to certain company actions and request an evaluation of the buyback of their shares. Although the ultimate legal effect of both the right to request shareholder buyback and the buyback right under shareholder oppression is the company's equity buyback and minority shareholders' exit from the company, their core positioning and institutional logic are completely different. Functionally, the 'statutory enumeration of circumstances' of the right to request shareholder buyback differs from the 'catch-all remedy' value orientation of the buyback right under shareholder oppression. If the judicial elements and adjudication logic of both are not separately defined, rights may be mutually obscured, and functions weakened. The right to request repurchase by dissenting shareholders is subject to statutory exercise conditions and restrictive clauses. When the relevant conditions are met, the dissenting shareholder has the

60 *See* Civil Ruling No. 2154 for Retrial Review of the Supreme People's Court (2014).

61 *See* Li Jianwei, *Interpretation and Interest Measurement of Commercial Law from Adjudications of the Appraisal Right of Dissenters' Cases*, 22 People's Judicature 82 (2023).

62 *See* Mary Siegel, *Back to the Future: Appraisal Rights in the 21st Century*, 32 Harvard Journal on Legislation 79, 91 (1995).

right to request that the company repurchase its equity, which corresponds to the company's statutory obligation to repurchase the dissenting shareholder's equity.[63]

C. Interpretation of Statutory Grounds for Limiting and Expanding Dissenting Shareholders' Right to Request Share Repurchases

The statutory grounds for applying the right to request shareholder buyback in the newly revised Company Law retain the scope stipulated in article 75 of the *Company Law of 2005* and article 74 of the *Company Law of 2018*. The scope of applicable subjects has been extended to unlisted joint stock companies, expanding the scope of remedies under organizational law. Under the framework of the *Company Law of 2005*, the right to request shareholder buyback of dissenting shareholders in joint stock companies is severely lacking. Unlisted joint stock companies are highly closed, and the difficulties faced by minority shareholders essentially do not differ from those faced by shareholders in limited liability companies. For shareholders of unlisted joint stock companies who agree to have their equity repurchased by the company, creating equal remedies and protecting minority interests through opposition valuation rights complies with the principles of fairness and corporate autonomy.[64] For shareholders of listed companies, the right to request repurchase by dissenting shareholders generally does not apply because their shares are readily transferable, requiring no special remedies, and dissenting shareholders are not granted appraisal rights.[65]

The right to request shareholder buyback is a mechanism to protect minority shareholders' interests when a company undergoes fundamental change, is strictly limited to areas where the company has undergone fundamental change, and its scope should not be arbitrarily expanded. It is essential to always adhere to the two main lines of 'minority shareholder protection' and 'fundamental changes in the company'. When the shareholders' meeting makes a resolution that seriously affects the fundamental interests of shareholders, shareholders who vote against have the right to request the company to repurchase their shares. The right to request shareholder buyback respects the principle of maintaining company capital

63 *See Hu Mou v. Guizhou Mou Investment and Construction Co., Ltd.*, Civil Ruling No. 3478 for Retrial Review of the High People's Court of Guizhou Province (2024).

64 *See Xinjiang Xilong Geosynthetic New Materials Co., Ltd. v. Beijing Yinhaitong Investment Center & Kuitun Xilong Nonwoven Geosynthetic Products Co., Ltd.*, Civil Final Judgment No. 280 of the High People's Court of Xinjiang Uygur Autonomous Region (2015).

65 *See* Marilyn B. Cane & Peter Ferola, *An Appraisal of 'Fair Value' in the Revised Corporate Appraisal Statute Section 1.01*, 30 Nova Law Review 333, 335 (2006).

and is strictly limited to statutory situations of 'major structural changes in the company'.[66] The triggers for mergers, divisions, and transfers of major assets should be clearly defined, and their application by courts at all levels should be regulated through legislative amendments, judicial interpretations, or guiding cases of the Supreme People's Court. To determine whether each specific case has fundamentally changed the company's structure and operations, a broader interpretation may help protect minority shareholders of limited liability companies, but to some extent, it may also limit the company's development.[67]

When shareholders demand that the company repurchase their shares, it not only harms the interests of creditors but also places a heavy financial burden on the company. Companies in mergers are often undergoing intense asset and business restructuring, especially those requiring capital input rather than capital export, which may place financial pressure on the company. The impact of the dissenting shareholder's buyback request on other shareholders and creditors has not received sufficient attention. For many major company changes that adversely affect minority shareholders, such as the company's business scope or direction, actual controller or management team, external business environment, and taxation, the *Company Law* does not provide minority shareholders with exit channels in these cases. That is, beyond the statutory list, minority shareholders may not exercise the right to request repurchase by dissenting shareholders, strictly limiting the impact of the abuse of this right on the company's independent legal entity status. A proper balance is achieved between protecting dissenting shareholders and respecting the company's majority decision-making efficiency, and between effectively safeguarding shareholder rights and promoting major transaction processes.

IV. THE PRIVATE LAW AUTONOMY BOUNDARY OF SHAREHOLDER WITHDRAWAL AGREEMENT AND ITS EFFECT UNDER ORGANIZATIONAL LAW

Company organizational law norms can be divided into mandatory and discretionary norms. The basic characteristic of limited liability companies is the autonomy of the articles of association, with the law providing only a few mandatory provisions. The newly revised Company Law, in order to respect shareholders' rights and strengthen company autonomy, emphasizes

66 *See* Wang Zhenzhen, *Coasean Law and Economic Analysis of Shareholder Agreements: A Case Study of Shanghai Milan Trading Company*, 2 Law and Economy 70 (2019).

67 *See* Ye Lin, *The Exercise and Safeguard of the Appraisal Right of Dissenting Shareholders: The Comments on Section 75 of the Company Law*, 9 Journal of Social Sciences 72, 76 (2012).

the nonmandatory character of company law norms, reduces the scope of mandatory norms, and grants shareholders more flexibility and autonomy in their negotiations, reflecting the principle of private autonomy. The root of limited liability company autonomy lies in the control that shareholders exercise over company operations, making them both the principal holders of management rights and the bearers of the greatest operational risk. The company's interests occupy a superior position and are important prerequisites for the corporate autonomy system. Such restrictions on minority shareholders' rights protection are also essential for safeguarding minority shareholders' basic rights.

A. Balancing Contractual Freedom in Shareholder Agreements with Corporate Governance

The contractual governance model has sparked controversies in Chinese judicial practice, with the enforcement and validity of shareholder agreements being major challenges. Although the contract model provides a flexible mechanism for adjusting interests, once shareholder disagreements or disputes arise, it is unclear how to ensure that the agreement is enforced through legal means. Courts often have disagreements in adjudicating the validity of shareholder agreements, and in similar cases, they even hold completely opposing views. Some courts regard shareholder agreements as effective means of internal corporate governance and, on the basis of contract law thinking, review whether the parties' agreements are valid and effective.[68] Some courts believe that, in addition to shareholders' contracts explicitly stipulated in the articles of association and law, contract models cannot constitute effective corporate governance tools, as they disrupt the business order established by law and cause conflicts among shareholders.[69]

As private law, the *Company Law* should adhere to the basic concept of private law autonomy, uphold the spirit of private law, and encourage companies to independently arrange business management affairs.[70] Contract theory advocates that shareholder rights and obligations should also be clarified through articles of association, shareholder agreements, and other contractual forms rather than by relying on internal company organizations and statutory rights allocation.[71] Unlike the organizational law path, the

68 *See* Civil First-Instance Judgment No. 4436 of Pudong New Area People's Court of Shanghai (2009).

69 *See* Civil Final Judgment No. 1198 of Shanghai No. 1 Intermediate People's Court (2011).

70 *See* Ye Lin, *The Nature of Commercial Acts*, 4 Tsinghua Law Journal 40 (2008).

71 *See* Qian Ning, *On the Jurisprudential Structure and Institutional Realization of the Right to Corporate Development*, 3 Theory Monthly 147 (2026).

contract approach regards the company as a collection of contracts, believing that relationships among shareholders and between shareholders and the company are established and adjusted by the contract.[72] Under the contract law path, minority shareholders can agree in advance during the establishment stage of a limited liability company on voting rules that exceed the capital majority rule, thereby constraining the controlling shareholder's exercise of control on the basis of its shareholding advantage.[73] In closed companies, there are an increasing number of 'agreement-based governance' scenarios in which shareholder agreements may even, to some extent, undermine the formal governance mechanisms arranged by the *Company Law*.[74] Shareholders participate in corporate governance through shareholder agreements, which to some extent supplement or even replace formal corporate governance mechanisms under organizational law. The third-party organizational law effect of shareholder agreements is legislatively affirmed, making them special agreements with both contractual and organizational attributes.[75]

The *Company Law* should allow the articles of association and shareholder agreements to make autonomous arrangements for internal governance structures on the premise of a genuine declaration of intent, non-violation of mandatory legal provisions, the principle of good faith, and public order and good morals.[76] Shareholder resolutions and articles of association are rooted in shareholder agreements, and introducing shareholder agreements aligns with the concept of shareholder-led governance. The newly revised Company Law introduces a system of unequal capital reduction. In principle, capital should be reduced in proportion to shareholders' contributions or shareholding ratios, but shareholders are allowed to reduce capital in a nonproportional manner through contractual agreements.[77] As a type of property right, equity withdrawal follows the principle of private law autonomy. Only with equity freedom can equity value be discovered, thereby optimizing the use of funds. The articles of association can reduce the difficulty for shareholders to exit the company, list reasons for withdrawal, or

72 *See* Li Jianwei, *Boundary of Shareholder Agreements' Effectiveness in Organizational Law*, 6 Contemporary Law Review 68 (2024).

73 *See* CHANG JIAN, ON CORPORATE ARTICLES OF ASSOCIATION, at 68-70 (China Social Sciences Press, 2011).

74 *See* Chen Qunfeng, *Taking the Company Law Seriously: An Examination of Judicial Practice Based on Shareholder Agreements*, 4 Peking University Law Journal 831 (2013); Wang Qingsong, *The Company Law Response to Shadow Governance of Shareholder Agreement*, 5 China Legal Science 229 (2023).

75 *See* Liu Chang, *On the 'Dual Attributes' of the Shareholder Agreement of a Limited Liability Company*, 12 South China Finance 85 (2020).

76 *See* Qiao Baojie, *Reflections on the Governance Structure of Limited Liability Companies in China*, 8 Political Science and Law 112 (2011).

77 *See* Gao Junhui, *Research on Capital Reduction Regulation from the Perspective of Shareholder Equality*, 1 Journal of China University of Political Science and Law 233 (2023).

grant shareholders general exit rights.

An agreement formed by the unanimous written consent of all shareholders is granted legal effect under organizational law.[78] A shareholder agreement can be elevated to organizational rules that bind the company and all shareholders. An agreement formed by all shareholders through contract rules can replace organizational rules.[79] From the perspective of the organizational nature of shareholder agreements, the agreements reached by all shareholders are binding on the company, while the agreements reached by some shareholders are not binding on the company.[80] In the case of the unanimous consent of all shareholders, as long as shareholders make decisions freely and there are no defects in the declaration of intent by the contracting shareholders, the result of the shareholder agreement reached by all shareholders and the resolution reached at the shareholders' meeting should be consistent, thereby explaining the reasonableness of recognizing the shareholder agreement as an expansion of the company's autonomous rules.[81] The standard established in article 37(2) of the newly revised Company Law is 'unanimous written consent of all shareholders', which is also the legitimate basis for a shareholder agreement to have the greatest effect, similar to the articles of association or shareholder resolution.

B. Coordinating the Contractual Boundaries of Corporate Governance Rules with Mandatory Functions

A company is an autonomous entity. Courts should respect company decisions made by the decision-making body, assess only the appropriateness of the decision-making procedures, and generally do not review the content of the decision.[82] Courts cannot make commercial judgments on company affairs on the company's behalf. The law grants companies the right to self-management through discretionary norms, but this does not mean that judicial means are separated from corporate autonomy. Judicial intervention is important for safeguarding corporate autonomy and correcting the failure of its autonomy mechanism.

78 *See Chen Mou v. Yongjing Co., Ltd. et al.*, Civil Final Judgment No. 2752 (Hu 02) of Shanghai No. 2 Intermediate People's Court (2022).

79 *See* Xu Defeng, *The Nature and Boundaries of Organizational Rules: Focusing on the Relationship Between Member Contracts and Commercial Organizations*, 3 Chinese Journal of Law 94, 111 (2011).

80 *See* Wu Gaochen, *Beyond Contract: A Study on the Legal Effect of Shareholder Agreements*, 2 Journal of Yunnan University (Social Sciences Edition) 92 (2025).

81 *See* LUO FANG, RESEARCH ON SHAREHOLDER AGREEMENT SYSTEMS, at 267 (China University of Political Science and Law Press, 2014).

82 *See* He Qian, *Judicial Regulation of Shareholders' Abuse of Rights: An Empirical Analysis of Article 20 of the Company Law*, 6 Journal of Shandong University (Philosophy and Social Sciences) 43 (2017).

Controlling shareholders may excessively control and manipulate the company's decision-making process, causing the company to lose its independence completely and to become a tool or shell of the controlling shareholder.[83] To maximize protection from the harm caused by controlling shareholder oppression, carefully drafted shareholder agreements help prevent or resolve shareholder disputes. Shareholder agreements have strong predictability and remedy efficiency and should promote a balance between corporate autonomy and judicial intervention. However, it is impossible for all parties to fully understand all potential future breaches of loyalty, and there is also a possibility of abuse.[84] For minority shareholders, the mandatory provisions on shareholder oppression under the *Company Law* provide a fair alternative to the shareholder agreement. Article 89(1) and (2) of the newly revised Company Law do not apply to situations where the company agrees to repurchase shares. These provisions specify the conditions for exercising the right to request shareholder buyback, corresponding to whether the company should fulfill its statutory obligation to repurchase shareholder equity. Whether the company repurchases shareholders' equity on the basis of a shareholder agreement reflects the company's obligation to repurchase under the agreement; the two are different in nature. The *Company Law* stipulates the right to request shareholder buyback for limited liability companies but does not specify voluntary share buyback by companies, nor does it explicitly prohibit voluntary equity buyback.[85] In numerous cases, the Supreme People's Court has held that agreements for company share buybacks cannot apply the provisions of article 74 to the dissenting shareholder's buyback request under the original *Company Law*.[86] Triggering the right to request shareholder buyback by agreed equity repurchase is equivalent to creating a statutory equity repurchase scenario. However, to prevent excessive restrictions on company financing and development, the implementation of agreement repurchase is subject to a unified standard, meaning that regardless of whether capital is used, the performance of agreement equity repurchase must be unanimously agreed upon by all shareholders.

The main purpose of mandatory regulations is to maintain a company's

83 *See Qinghai Moujia Construction Engineering Co., Ltd. et al. v. Qinghai Moubing Cement Co., Ltd.*, Civil Final Judgment No. 1034 (Qing 02) of Haidong Intermediate People's Court of Qinghai Province (2025).

84 *See* Robert Cooter & Bradley J. Freedman, *The Fiduciary Relationship: Its Economic Character and Legal Consequences*, 66 New York University Law Review 1045, 1075 (1991).

85 *See He Mou v. Wu Mou & Xiamen Mou Company et al.*, Civil Final Judgment No. 1832 (Min 02) of Xiamen Intermediate People's Court of Fujian Province (2025).

86 *See* Civil Ruling No. 453 for Retrial Review of the Supreme People's Court (2009); Civil Ruling No. 2819 for Retrial Review of the Supreme People's Court (2015); Civil Retrial Judgment No. 128 of the Supreme People's Court (2016); Civil Retrial Judgment No. 258 of the Supreme People's Court (2017).

independent personality and the objectivity and neutrality of its assets. Minority shareholders lack control and equity liquidity, placing them at a disadvantage.[87] The core of mandatory provisions in the *Company Law* is the company's independent personality. Minority shareholders and creditors are in a vulnerable position and need to be protected to curb abuses caused by the capital majority decision-making mechanism and similar mechanisms.[88] The need for mandatory legal provisions on company equity repurchases is due mainly to the principle of capital maintenance, which requires a clear boundary between *bona fide* share buyback and malicious withdrawal of capital contributions to prevent malicious shareholders from creating unfair trading advantages for other shareholders through so-called agreed equity buybacks or from withdrawing capital contributions when the company lacks credit, which significantly harms external creditors' security for performance.[89] The relationship between shareholder agreement exit strategies and statutory exit channels essentially concerns the relationship between discretionary and mandatory norms within company law norms. The balance between the two lies in the fact that statutory exit channels are the basic bottom-line guarantee for minority shareholders' rights and cannot be substantively deprived.

V. CONCLUSION

To improve the remedy system for the abuse of rights by controlling shareholders of limited liability companies and to provide balanced protection for minority shareholders, the concept and connotation of shareholder oppression should be introduced at the judicial interpretation level. The revocability of resolutions on the abuse of rights under shareholder oppression should be clarified, the channels for equity acquisition should be smoothed, and the scope of controlling shareholders who abuse rights as the entities obligated to effect the acquisition should be expanded. Such measures aim to regulate the abuse of rights by controlling shareholders and provide more comprehensive channels of remedies for resolving liquidity issues for suppressed minority shareholders. The essence of the dissenting shareholder's buyback request is a corrective remedy for deviations in the operation of majority capital, not abuse of control, and

87 *See* Benjamin Means & Douglas K. Moll, *Against Contractual Formalism in Shareholder Oppression Law*, 57 UC Davis Law Review 1867, 1875 (2024).

88 *See* Xie Hongfei, *State Mandatory Provisions in the Newly Revised Company Law: A Concurrent Analysis of the Natural Regularization of State-Mandated Norms in Company Law*, 3 Social Science Research 98, 98 (2025).

89 *See* Yuan Huigen & Shi Lei, *Understanding and Reference of the Case No. 96 of Dispute of Determining Shareholder Qualification Between Song Wenjun and Xi'an Dahua Catering Ltd.*, 17 People's Judicature 68 (2021).

provides protection for minority shareholders from the consequences of key company decisions made without their support. Shareholder agreements have strong predictability and remedy efficiency. A relatively simple solution to improving the governance of limited liability companies is to provide an automatic, fault-free separation mechanism, i.e., to reach shareholders' exit agreements on the basis of fair value, thereby promoting a balance between corporate autonomy and judicial intervention. An agreement formed with the unanimous written consent of all shareholders has an organizational legal effect. Shareholder oppression cannot be listed alongside 'company deadlock' as a statutory reason for company dissolution. If there is a situation constituting shareholder oppression without causing a stalemate among parties, the suppressed minority shareholders cannot leave the company by requesting judicial dissolution; this measure applies only when shareholder oppression reaches a level of severity, leading to dissolution. Although the demands of minority shareholders are suppressed and the development trends of remedy measures are not consistent, there is a general tendency toward relaxing liability standards, expanding the remedy base, and simultaneously broadening available remedies. Among these, equity buybacks and acquisitions are the most efficient, legitimate, and reasonable remedies. Thus, the corrective logic of minority shareholder withdrawal rights protection is based on promoting economic development and corporate self-governance, balancing interests, and establishing a reasonable boundary and a diversified, coordinated remedy system.

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