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A comparative study on the protection of insured's rights and interests in insurer risk disposal

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Abstract

Risk disposal in the insurance industry is an integral part of the entire process of insurer risk supervision. A comprehensive risk disposal framework should encompass four mechanisms: risk warning, risk mitigation, market exit, and protection by the insurance Security fund. Based on the principles of the insured-centricity in non-liability insurance contracts and the alignment of risk and return, the protection of the insured interests should be prioritized in insurer disposal. In the risk warning procedure, the protection of the insured rights and interests is mainly manifested in the timely detection and identification of existing and potential risks of insurers. In the risk mitigation procedure, the protection of the insured rights and interests is indirectly manifested in the restoration of the liquidity and profitability of the troubled insurer's assets. In the market exit procedure, the protection of the insuredrights and interests should focus on improving the cancellation liquidation process, the definition of insolvency assets, the transfer of insurance policies, and exceptions to the cancellation of preferential payments. In the insurance protection fund's participation in the disposal procedure, the protection of the insured rights and interests should focus on the independence and multiple roles of the Insurance Security Fund company, as well as coordination with the financial stability protection fund.

Key words: insurer risk disposal, protection of the insured rights and interests, troubled insurers, insurance security fund

1. INTRODUCTION

With the steady advancement of marketization in the insurance industry and the impetus of regulatory policies that "liberalize the front end and control the back end",[1] it has become common for Chinese troubled insurers to be subject to regulatory measures such as rectification or receivership. The insolvency of insurers will also become a normal occurrence. Since February 2018, regulators have successively taken receivership measures against Anbang Insurance Group Co., Ltd., Huaxia Life Insurance Co., Ltd., Tian'an Life Insurance Co., Ltd., Tian'an Property Insurance Co., Ltd., and Yi'an Property Insurance Co., Ltd., especially Anbang Insurance Group Co., Ltd. has undergone the processes of receivership, application for dissolution, and liquidation, and Yi'an Property Insurance Co., Ltd. has undergone insolvency reorganization procedures. On August 2, 2024, The National Financial

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[1] Deregulating the "front-end" entails reducing ex-ante administrative approvals and shifting away from risk prevention mechanisms that rely predominantly on pre-entry controls such as licensing and verification. Instead, operational autonomy is returned to market entities, and primary responsibility for risk management is delegated to the market. Regulating the "back-end" involves strengthening in-process and ex-post supervision, enhancing the capacity to effectively prevent and promptly resolve risks, steadfastly upholding bottom-line risk control, and ensuring the protection of insurance consumers' interests, available athttp://caijing. chinadaily. com. cn/finance/2016-12/05/content_27573032. html , 4. 9. 2025.

Regulatory Administration (hereinafter referred to as "NFRA")[2] announced its reply on June 12, "agreeing in principle that Anbang Insurance Group Co., Ltd. will enter insolvency proceedings." Regarding the issue ofinsurer risk disposal, China has established a multi-level risk disposal framework covering the market, administration and justice. However, compared with the risk disposal of securities companies, there are still serious deficiencies in the laws, rules and regulatory mechanisms of risk disposal of insurers. Specifically, it is manifested as follows: firstly, there is no special legislation on the risk disposal of insurers, and the relevant regulations are fragmented; secondly, there are a large number of ambiguous expressions in the existing norms, which weakens the operability of legal provisions; thirdly, the inadequate enforcement of regulations is a relatively common issue, with insurance supervision often characterized by insufficient pre-event oversight and excessive post-event intervention (Li, Ma, 2024, 20). Financial institutions possess public characteristics, and once troubled financial institutions are taken risk disposal measures, it will have a huge negative externality and impact the public's confidence in the financial industry. As a specialized industry for risk disposal, the insurance industry involves many policyholders[3], and its industry risks are more contagious. Moreover, the advent of mixed operations in the financial industry has concomitantly engendered a marked increase in the complexity of insurance product design. The active investment-type insurance product market has further compounded the difficulty of protecting the rights and interests of the insured. Commercial law has an international law attribute. Therefore, the core of this paper is to explore how to improve the risk disposal mechanism of insurers in China by drawing on foreign experience, and thereby maximize the protection of the rights and interests of the insured.

[2] The National Financial Regulatory Administration (NFRA) was officially established in 2023. Its predecessor was the China Banking and Insurance Regulatory Commission (CBIRC), which was formed in 2018 through the merger of the former China Banking Regulatory Commission (CBRC) and the China Insurance Regulatory Commission (CIRC). Going further back, the CBRC (established in 2003) and the CIRC (founded in 1998) were specialized regulatory bodies spun off from the early financial regulatory functions of the People's Bank of China.

[3] For the convenience of expression, this article adopts the provisions of Article 5 of the Measures for the Administration of the Insurance Security Fund, which refers to the subject of the right to claim the benefits of the policy in accordance with the law, including the policyholder, the insured and the beneficiary. Consistent with the policyholder-centric principle, the term "policyholder" refers to the insured, unless otherwise specified.

2. OVERVIEW OF DISPOSAL FRAMEWORK FOR CHINESE INSURERS

2. 1. Conceptual Definition of Insurers Risk Disposal

Concepts are the fundamental elements of thought and the basis of theoretical research. Regarding the "risk disposal" of financial institutions, a consensus on its conceptual definition has yet to be reached in basic theoretical research, while practical approaches continue to evolve through ongoing exploration. As demonstrated in extant literature, the term "risk disposal" was first formally utilized in the "Regulation on the Risk Disposal of Securities Companies", promulgated by the State Council in April 2008. Despite the absence of a precise definition of "risk disposal" in this administrative regulation, the relevant provisions delineate the term's connotation, stipulating that the State Council's securities regulatory agency and pertinent government agencies shall serve as the organizational institutions for risk disposal. In September 2008, the China Insurance Regulatory Commission, the Ministry of Finance, and the People's Bank of China jointly issued the new "Measures for the Administration of the Insurance Security Fund (2008)", which also repeatedly referred to the term "risk disposal. " However, the departmental regulations did not provide a clear definition of "risk disposal", and even the latest revision from December 2022 only retained the relevant wording. Concurrently, the Financial Stability Bill (Draft, 2022) formulated in December 2022 also stipulates the content of risk disposal for financial institutions. However, it distinguishes between risk prevention and risk disposal in the financial sector, and lists the disposal measures in an enumerative manner asrectification, receivership, trusteeship, liquidation or filing for bankruptcy.[4] The ambiguity in the legislation has resulted in divergent interpretations. The extant research has principally concentrated on defining the relationship between "insurer risk disposal" and "insurer market exit. " This definition is supported by three perspectives: the terms

[4] The Financial Stability Bill (Draft), Article 23: The paper will thus commence with an examination of the insured-centric approach of first-party insurance contracts, followed by an analysis of the legal structure of insurance contracts. The subsequent section will compare the allocation of legal resources among the various parties involved, and the final section will argue that when insurers handle risks, the insured is the party whose rights and interests are directly harmed and whose rights and interests will be infringed upon in a number of ways. This will further enhance the effectiveness of the system of prioritizing the protection of the insured's rights and interests.

"inclusive view", "parallel view" and "intersecting view. " According to scholars who subscribe to the "inclusive view", market exit is considered to be an integral component of risk disposal, as it represents an adverse outcome arising from unsuccessful risk disposal. With the exception of dissolution and exit, which are based on a company's voluntary decision to withdraw from the market and should not be considered risk disposal measures, cancellation liquidation, as well as bankruptcy liquidation, should all be included within the scope of risk disposal (Zhang, 2015, 9). The "parallel view" is the position espoused by scholars who subscribe to the view that risk disposal and market exit are two distinct mechanisms that operate in parallel. Administrative regulatory measures under the Insurance Law of the People's Republic of China (hereinafter referred to as "Insurance Law", 2015) fall under the category of risk disposal, while bankruptcy liquidation conducted under the Enterprise Bankruptcy Law of the People's Republic of China (hereinafter referred to as "Enterprise Bankruptcy Law", 2006) and other relevant laws falls under the category of market exit (Bo, 2013a, 59). It is evident that scholars espousing the "intersection view" have not yet made a clear distinction between the two. They often discuss both judicial reorganization and liquidation when using regulatory measures as the main argument, and divide the risk disposal measures of insurers into two categories: maintaining the continuous operation of the insurer and the market exit of the insurer (Zhang, 2010, 36-37, 99).

This paper is in broad agreement with the "inclusive view" perspective that market exit should be considered as a component of risk disposal. However, it is the contention of this paper that the scope of risk disposal should be expanded to encompass risk prevention, risk mitigation, market exit and Insurance Security Fund protection. The rationale behind this assertion lies in the fact that, on the one hand, the incorporation of market exit into the risk disposal framework for the insurance industry can be justified by reference to legislative practices that have been established in the securities and financial industries. Despite the necessity for divergent regulatory measures in the domains of securities and insurance, given their distinct nature as financial institutions, there are certain commonalities in their regulatory approaches. In accordance with the provisions stipulated within the Regulation on the Risk Disposal of Securities Companies (2023), relevant entities are permitted to implement risk disposal measures with the aim of controlling and resolving the risks posed by securities companies. These measures may encompass a range of actions, including the suspension of business for the purpose of rectification, trusteeship, receivership, administrative restructuring; cancellation; bankruptcy liquidation and reorganization; dissolution liquidation. It is evident that the risk disposal framework for the securities industry has explicitly encompassed cancellation, bankruptcy reorganization and liquidation, dissolution liquidation, among other concepts. Moreover, while the Financial Stability Bill (Draft, 2022) differentiates between the prevention and disposal of risk, it is also explicit in stating that risk disposal measures encompass reorganization, receivership, trusteeship, cancellation, or bankruptcy filing. This ensures the alignment of administrative and judicial measures in the disposal of financial industry risks, in terms of institutional design. Conversely, this classification method is of great significance for improving the comprehensiveness and effectiveness of risk supervision in the insurance industry. As a pivotal segment of the financial sector, the insurance industry is inherently susceptible to a multitude of risks in its operations. These risks may emanate from various sources, including market fluctuations, the illicit utilization of insurance funds by insurers, fraudulent actions by policyholders, and a range of other factors. The contagious nature of insurance risks means that a risk event at a single insurer could spread throughout the entire insurance industry and trigger systemic turmoil. Consequently, the primary objective of risk disposal for insurers has evolved to encompass risk prevention. In order to protect the rights and interests of the majority of insured persons and maintain financial market stability, it is necessary to incorporate risk prevention into the risk disposal system of insurers. This will help insurers to effectively identify and control risks and prevent their spread and contagion. Simultaneously, while underscoring the pivotal function of government and judicial entities in the disposal and mitigation of insurance risks, it is imperative to leverage market mechanisms to address risks within the insurance sector. In the process of resolving high-risk financial institutions, the government must consider factors related to overall social welfare and intervene in a timely manner to resolve crises. However, the prevailing practices in China for addressing insolvent institutions, which place excessive reliance on administrative measures, exhibit a paucity of diversity in approach and involve the transfer and transaction of non-market-based property rights, are not conducive to the optimal allocation of financial resources. Furthermore, the government's assumption of full responsibility may result in the weakening of accountability mechanisms (Liu, 2008, 34). For instance, although the establishment

of an Insurance Security Fund system has been effective in promoting industry self-regulation, reducing public assistance costs, and protecting consumer rights, it has also induced moral hazards such as policyholders being negligent in selecting insurance institutions and insurance institutions weakening their risk prevention awareness. Consequently, in the context of government-led financial institution risk disposal, there is a compelling rationale for the adoption of market-oriented merger and acquisition methodologies, with a view to circumventing the limitations inherent in purely administrative measures.

In summary, based on a review of current legislative practices and trends in financial regulation, this paper summarizes the concept of risk disposal for insurers: risk disposal for insurers refers to the actions taken by regulatory authorities to protect the rights and interests of insureds and maintain financial market stability by adopting or leading economic, administrative, or judicial measures against insurers. A comprehensive risk disposal system for insurers should include multi-level risk warning, risk mitigation, market exit, and Insurance Security Fundprotection mechanisms covering the market, administration, and judiciary.

2. 2. Basic legal framework for risk disposal by insurers

In the context of the dual-pillar system of macro-financial regulation and micro-prudential supervision, the disposal of risk for insurers is a necessary process for the prevention, control, disposal, and release of insurer risks. Taking the European Union (EU) as an example, the EU has gradually established a relatively systematic risk disposal regime for insurance undertakings through the adoption of Solvency II (Directive 2009/138/EC) and the Insurance Recovery and disposal Directive (hereinafter referred to as "IRRD", Directive 2025/1/EU), which provides important reference points for the improvement of China's legal framework in this field. Solvency II, which entered into force in 2016 and has since been continuously revised, constitutes a supervisory framework for (re) insurance undertakings.[5] It is centered on risk-based capital requirements, governance structures, and reporting and disclosure obligations, with the aim of building a preventive and risk-oriented solvency supervision system. Its architecture rests on three pillars: capital requirements, governance, and transparency. Unlike the Bank Recovery and disposal Directive (hereinafter referred to as "BRRD", Directive 2014/59/EU) in the banking sector, Solvency II does not establish a comprehensive set of disposal tools such as bail-in mechanisms or bridge banks. Instead, it provides the legal foundation for supervisory intervention and risk disposal through several key provisions. The risk disposal elements of Solvency II are mainly reflected in the following provisions: early intervention and supervisory powers (Solvency II, 2009, art. 36-39), which authorize competent authorities to intervene when insurers fail to meet capital requirements, for example by requiring the submission of recovery plans, restricting business operations, or withdrawing authorization—thus constituting an early intervention mechanism; minimum capital requirement (MCR) and license withdrawal (Solvency II, 2009, art. 136–144), where Article 136 defines the MCR and Article 138 stipulates that undertakings must restore capital within a limited period after breaching the solvency capital requirement (SCR), while a breach of the MCR generally triggers withdrawal of authorization, thereby creating a hard disposal trigger; and recovery planning and financing measures (Solvency II, 2009, art. 138(2) & (3), art. 142, 144), which require undertakings to submit recovery plans within six months after breaching the SCR and to provide short-term financing plans immediately upon failing to meet the MCR, while empowering supervisory authorities to revoke licenses and adopt measures to protect policyholders. Although these mechanisms focus on ex ante prevention and orderly market exit, and do not yet constitute a comprehensive disposal regime aimed at preserving going concern, they nonetheless reflect the EU's initial exploration of prudential supervision and risk mitigation in the insurance sector. By contrast, a genuinely systematic framework for insurance recovery and disposal is found in the newly adopted IRRD. Concluded by way of a provisional agreement in 2022 and now proceeding through the legislative process, the IRRD aims to establish a set of disposal mechanisms capable of responding to extreme circumstances, safeguarding policyholder interests, and maintaining financial stability. The IRRD introduces a variety of disposal tools, including orderly exit, portfolio transfer, transfer to a bridge entity, separation of assets and liabilities, as well as debt write-down and conversion. It also clarifies key aspects such as recovery plan preparation, determination of disposal conditions, cross-border coordination, and supervisory accountability. This marks a significant step forward in the institutionalization and operationalization of insurance disposal within the EU.[6]

[5] See Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).

[6] See Directive of the European Parliament and of the Council on the framework for the recovery and resolution of insurance

Presently, China has not promulgated any specific legislation pertaining to the disposal of risks confronting insurers. Instead, it serves to supplement the application of the Enterprise Bankruptcy Law, the Insurance Law, and the Company Law of the People's Republic of China (2023 Amendment) (hereinafter referred to as "Company Law") with a series of normative legal documents, including the Measures for the Administration of the Insurance Security Fund, Provisions on the Administration of the Solvency of insurers (2018), and the impending Financial Stability Bill. The organic combination of these legal norms constitutes the basic framework of China's risk disposal mechanism for insurers (Sun, 2019, 115-116). The overarching objective of the risk disposal framework is to ensure the financial soundness of insurers by establishing a regulatory framework that governs risk disposal disposal. These measures are designed to address the unique characteristics and potential consequences of risks faced by insurers, and are categorized into three distinct types: market, administrative, and judicial measures. Solvency regulation has been demonstrated to offer enhanced protection for the rights and interests of insured parties, whilst concurrently ensuring the claims rights of third parties in the context of liability insurance. This regulatory framework serves to resolve conflicts that arise between insurance purchasers and third-party claimants (Cummins, 1998, 823-839). Firstly, with regard to risk warning procedures, regulatory authorities establish stringent solvency regulatory indicators with the purpose of issuing warnings to insurers that may not meet solvency requirements. In response, regulatory authorities implement corrective measures, including the issuance of warnings, the conduction of regulatory interviews, the requirement for companies to rectify issues within a stipulated timeframe, and the conduct of special on-site inspections. Concurrently, insurers are obligated to establish early warning indicators, construct early warning systems, fortify risk identification, and devise contingency plans to expeditiously identify and recognize early risks confronted by insurers. In light of the inherent risks and their potential consequences, it is imperative to implement measures that will facilitate the systematic withdrawal of insurers grappling with substantial operational risks. Secondly, with regard to risk mitigation procedures, the legal regulations governing insurance supervision are primarily stipulated in the Company Law (2024), the Insurance Law (2015), and the Enterprise Bankruptcy Law (2006), corresponding respectively to market-based approaches centered on mergers and acquisitions; administrative approaches centered on administrative restrictions, orders to rectify within a specified time frame, reorganization, and receivership; and judicial approaches centered on settlement and reorganization. The implementation of the aforementioned operational control and rescue measures is strongly recommended to insurers, with a view to rectifying their substandard operational conditions and assisting them in the restoration and maintenance of their normal operational capabilities. Thirdly, with regard to market exit mechanisms, three different types of closure measures are specified, dissolution liquidation, cancellation liquidation, and bankruptcy liquidation, to ensure the orderly exit of poor-quality insurers from the market. Finally, with regard to the insurance protection mechanism, Measures for the Administration of the Insurance Security Fund and the impending Financial Stability Bill will (Draft, 2022) specify the standards and scope of assistance, and establish a financial stability protection fund as a new risk disposal tool to provide supporting measures and a safety net for risk disposal in the insurance industry. In summary, the current risk disposal framework provides regulatory authorities with a variety of options for differentiated regulatory measures. However, existing regulatory practices indicate that the problem of insufficient legislative resources remains severe. The substantial presence of general or authorizing provisions within top-level legislative design has been demonstrated to weaken the certainty of the regulatory objectives of legal provisions, thus giving rise to criticism that regulatory authorities possess excessive discretionary power and are not subject to effective supervision (Li, Ma, 2024, 20).

3. THE RATIONALE FOR INSURED-CENTRIC RISK DISPOSAL

Academic discourse on financial consumer protection commonly emphasizes the priority of policyholders' rights in the insurance risk disposal process. It is widely argued that protecting the interests of the insured should be the foremost consideration in such contexts. As demonstrated in the extant literature, the following representative theories are postulated: financial fragility theory, vulnerable group theory, security theory, stakeholder theory, standard contract regulation theory, information asymmetry theory, and risk-return matching theory. The above theory provides strong support for the priority protection of the

and reinsurance undertakings and amending Directives 2002/47/EC, 2004/25/EC, 2009/138/EC, 2011/61/EU and (EU) 2017/1132.

insured, but it is mostly based on the overall interests of the policyholder, summarizing the rights and interests of the policyholder, the insured, and the beneficiary within the same framework for overall discussion. It lacks attention to the central position of the insured in the insurance contract and is slightly lacking in explanatory power. This paper will thus commence with an examination of the insured-centric approach of first-party insurance contracts[7], followed by an analysis of the legal structure of insurance contracts. The subsequent section will compare the allocation of legal resources among the various parties involved, and the final section will argue that when insurers handle risks, the insured is the party whose rights and interests are directly harmed and whose rights and interests will be infringed upon in a number of ways. This will further enhance the effectiveness of the system of prioritizing the protection of the insured's rights and interests.

3. 1. Theoretical Foundations of the Insured-Centric Doctrine in Insurance Contracts

The legal structure of an insurance contract encompasses the allocation of rights and obligations among the contracting parties. An analysis of this distribution demonstrates that the protection of the insured's rights and interests constitutes a central element within the contract's legal framework (Hu, 2009, 18). Firstly, an analysis of the provisions safeguarding the rights of the insured in insurance contracts was conducted. The findings indicate that such contracts typically include multiple clauses aimed at protecting insured, underscoring that a central purpose of insurance contracts is indeed the protection of the insured's rights. Notably, China's Insurance Law (2015) does not adopt the concept of the "policyholder," which is widely recognized in common law jurisdictions. Instead, Article 1 of the law explicitly refers to "parties to an insurance contract" in articulating its legislative purpose, emphasizing the protection of the lawful rights and interests of those engaged in insurance activities. It is also important to note that, within both major legal traditions, the contractual status of the insurer is uniformly acknowledged. The theoretical debate primarily concerns the distinct roles of the insurance applicant, the insured, and the beneficiary within insurance contracts. More specifically, it revolves around the question of which entities qualify as parties to the insurance contract itself and which are recognized as parties within the broader contractual relationship. According to the provisions of the Insurance Law, the "insurance applicant" is defined as the party who enters into an insurance contract with the insurer and bears the obligation to pay premiums as stipulated in the policy. The insured is defined as the person or entity whose property or personal well-being is covered by the insurance policy and who holds the right to claim benefits under the contract. Where an insurance applicant enters into a contract for the benefit of a third party, the applicant is not the one who sustains actual loss upon the occurrence of the insured event. Unless otherwise explicitly stipulated in the contract, the right to claim insurance benefits resides with the insured rather than the applicant. Moreover, the beneficiary is defined as the person designated by the insured or the applicant to receive proceeds under a life insurance policy. Where the applicant designates the beneficiary, such designation requires the consent of the insured to be valid. This demonstrates that the appointment of beneficiaries in insurance contracts fundamentally reflects the will of the insured. Therefore, despite ongoing academic debate as to whether the insured constitutes a formal party to the insurance contract or whether the policyholder alone serves as the contractual counterparty, these disputes do not diminish the central importance of protecting the insured's rights as a fundamental objective underlying the rights established in such contracts. Secondly, an analysis of the provisions concerning the obligations of the parties involved in insurance contracts was conducted, revealing that the allocation of obligations between insurers, applicant, and beneficiaries is also governed by the principle of legal resource allocation, with a central focus on the priority protection of the rights of the insured. A thorough examination of the provisions of the Insurance Law pertaining to the subject matter of insurance reveals a persistent and inherent linkage between the subject matter of insurance and the insured. The fundamental purpose of insurance contracts is to provide benefits to the insured. The subject matter of property insurance contracts pertains to the property or associated interests of the insured, whereas the subject matter of life insurance contracts concerns the life and body of the insured. As a

[7] This paper delimits its scope to first-party insurance, which excludes liability insurance, and examines the doctrine of insured-Centric within insurance contracts falling under this category. First-party insurance covers the person or property of the insured against accidental risks, with the purpose of safeguarding the insured from adverse financial consequences resulting from fortuitous events. In contrast, liability insurance refers to contracts where the subject matter is the insured's legal obligation to compensate a third party for damages. Unlike first-party insurance, third-party insurance primarily covers risks transferred by the insured to a third party, and compensation is paid to such third party who suffers harm due to the actions of the insured (Zou, 2017, 380).

signatory to the insurance contract, the applicant, who is not necessarily the same person as the insured and the beneficiary, is only obligated to pay the premium. In essence, the applicant functions as a contractual party entitled to request a full or partial premium refund—but only when statutory grounds are established. Under all other circumstances, no such rights are granted to the applicant. In summary, the fundamental purpose of both the insurer and the applicant is to serve the interests of the insured. Consequently, when establishing the rights and obligations of the insured, the principle of prioritizing the protection of the insured's rights is applied. Finally, although China's Insurance Law (2015) does not explicitly stipulate the central role of the insured in an insurance contract, provisions such as the legislative definition of insurable interest, the waiver of the duty to disclose, and the introduction of the doctrine of estoppel all reflect the legislator's concern for the interests of the insured.

3. 2. The Infringement of Insured's Rights During Risk Disposal

Risk disposal in the insurance industry permeates the entire process of insurer regulation. The implementation of different types of risk disposal measures may adversely affect insureds, who often occupy a vulnerable position. During the risk warning phase, the various existing and potential risks confronting insurers remain relatively limited. Although certain practices may undermine the protection of the insured's rights and interests, their early phase of development allows for timely intervention and correction. During the insurance protection fund protection phase, the administrative authority establishes the final safety net for risk prevention in the insurance industry through non-governmental industry funds. Consequently, infringements of the rights and interests of insured parties primarily occur during the risk mitigation and market exit phases. The following sections will examine the adverse effects arising from the implementation of risk disposal measures in each of these two phases, thereby arguing for the normative rationale behind prioritizing the protection of the insured's rights.

3. 2. 1. Examining the Negative Impacts of Risk Mitigation on Insured Interests

The issues of information disclosure and confidentiality within risk mitigation procedures present practical challenges that cannot be overlooked. Effectively balancing these competing demands is essential to maintaining public trust in the insurance industry and facilitating the smooth implementation of rescue measures—including rectification and receivership. Pursuant to the Insurance Law (Insurance Law, 2015, arts. 140-145), regulatory authorities are required to publicize decisions concerning the rectification or receivership of an insurer. However, unlike the series of model laws developed by the U. S. National Association of Insurance Commissioners(hereinafter referred to as"NAIC")[8], China's Insurance Law (2015) lacks corresponding confidentiality provisions. It further omits specific regulations regarding the scope of confidential information, conditions for disclosure, mechanisms for information sharing with other regulatory or confidentiality bodies, as well as standardized confidentiality practices. While legislators elected to divulge pertinent regulatory information in accordance with the law for the purpose of safeguarding the right of insured persons to be informed and enhancing government transparency, this action unmistakably conveyed a signal to society that insurers were experiencing financial hardship, which would considerably impact the normal business operations of the affected companies and further compound the challenge of restoring the operational capabilities of troubled insurers through administrative measures. Should an insurer fail to effectively manage and mitigate its risks, it may be forced to initiate market exit procedures. Such an outcome would not only undermine public confidence in the insurance sector but could also trigger a cascade of adverse effects, including the involuntary infringement of insured' privacy rights and a reduction in coverage limits, similar to those typically associated with market exit processes.

3. 2. 2. Examining the Impact of Market Exit Procedures on Insured's Rights

The NAIC Model Laws, Regulations and Guidelines, Volume III: Insolvency, constitutes a comprehensive regulatory framework.[9] The use of the

[8] Provisions pertaining to information confidentiality are detailed in the following model acts: 558-1 Administrative Supervision Model Act § 4(A), 312-1 Risk-Based Capital for Insurers Model Act § 8(A), 555-1 Insurer Receivership Model Act § 206(A).

[9] Including: (1) 505-1 Risk Management and Own Risk and Solvency Assessment Model Act, (2) 510-1 Criminal Sanctions for Failure to Report Impairment Model Bill, (3) 520-1 Life and Health Insurance Guaranty Association Model Act, (4) 540-1 Property and Casualty Insurance Guaranty Association Model Act, (5) 555-1 Insurer Receivership Model Act, (6) 558-1 Administrative Supervision Model Act.

term "insolvency" rather than "bankruptcy" reflects an intent to avoid immediately characterizing an insurer as having reached a terminal state (Francine, 1989, 956). However, when measures taken during the risk mitigation phase fail to resolve the risks posed by troubled insurers, those companies will inevitably be forced to undergo closure procedures. Panic over "insurance failure" will spread widely among insurance consumers, posing a significant threat to the protection of insured. Firstly, the closure of insurers directly undermines the interests of insureds. Such events not only disrupt continuity of coverage and raise the costs associated with obtaining new insurance policies, but also erode public trust in the stability of the insurance system. Secondly, the forced closure of insurers may result in a reduction of insurance claims that insured persons are entitled to under insurance contracts. Insurance claims encompass not only insurance payments that should be compensated or paid when the contract matures, but also unearned premiums and cash values that insurers should return when policyholders terminate their contracts (Jia, 2016, 66).[10] When an insurer reaches the threshold for cancellation or bankruptcy liquidation owing to critically insufficient solvency, the Insurance Security Fund, serving as a supplementary mechanism to enable the orderly exit of distressed insurers, operates under a principle that prioritizes small-value and individual policies in dispensing relief. The extent of such relief is determined by two criteria: the value of policy benefits and the fund's risk-bearing capacity. Where policy benefits exceed ¥50, 000, claimants are likely to incur losses as a result of incomplete compensation. Thirdly, insolvency proceedings, which function as a collective settlement mechanism for all creditors, frequently lead to delays in the disbursement of claims. A series of cumbersome and time-consuming insolvency proceedings have been shown to frustrate the insured's desire for timely compensation and to significantly reduce the effectiveness of insurance disposal in risk disposal and loss compensation. Fourthly, under the mandatory transfer rules for life insurance policies and their reserve funds, the transferee life insurers often tend to adopt conservative investment strategies due to insufficient reserves acquired through the transfer, which will seriously weaken the investment function of investment-type insurance contracts. Fifthly, it should be emphasized that insurance contracts are bilateral agreements characterized by asymmetrical performance obligations. In cases of insurer insolvency, a substantial number of contracts may remain unperformed due to non-compliance with contractual conditions. Under China's Enterprise Bankruptcy Law, bankruptcy administrators are vested with the authority to exercise discretion regarding the continuation or termination of such executory contracts. Moreover, Article 240 of Japan's Insurance Business Act (2019) confers upon insurers the prerogative to modify contractual stipulations in instances of financial hardship.[11] Therefore, in bankruptcy reorganization or liquidation proceedings, administrators often opt to rescind high-risk insurance policies or negotiate with insured representatives to reduce coverage scope, aimed either at rehabilitating distressed insurers or maximizing the value of the liquidation estate. These measures, however, introduce substantial uncertainty into the protection of insured' rights and interests.

In summary, when dealing with risk disposal for troubled insurers, the legal principle of centering on the insured party in non-liability insurance contracts should be upheld, and the fact that the rights of the insured party are easily infringed upon should be taken into consideration. Consequently, the primary objective of risk disposal should be the protection of the legitimate rights and interests of the insured party. Moreover, provisions pertaining to the protection of consumer rights, as enshrined in the Consumer Rights Protection Law (2014), can be invoked to ensure the comprehensive, preferential, and appropriate protection of the rights of the insured party in accordance with the law.

4. SYSTEMATIC REVIEW OF LEGISLATIVE DEFICIENCIES IN INSURER RISK DISPOSAL

4. 1. Issues in the Risk Warning Phase

The early warning of risks that have emerged or may potentially arise in insurers serves as the initiation point for triggering risk disposal procedures. Accurately identifying and assessing the nature and extent of these risks is crucial to the success of risk intervention measures. China has established an external administrative regulatory framework centered on solvency, alongside an internal risk identification and early warning system within the insurance industry. However, practical experience reveals that there remain non-negligible institutional weaknesses

[10] According to Article 20 of the Measures for the Administration of the Insurance Security Fund, full protection is provided for policy benefits up to RMB 50, 000. For the portion exceeding this threshold, protection is provided at a rate of 90% for individual policies and 80% for group policies.

[11] See Insurance Business Act, §240(2) &(13), (Last Version: Act No. 37 of 2019).

in China's insurance risk early warning mechanisms. First, equating troubled insurers solely with companies facing solvency deficiencies has proven problematic. In the United States, the NAIC Model Regulation to Define Standards and the Commissioner's Authority for Companies (2010, art. 3) Deemed to be in Hazardous Financial Condition enumerates 19 standards for determining when an insurer is in hazardous condition, while also including a catch-all clause granting supervisory discretion. The regulatory framework governing China's insurance industry aligns with the aforementioned approach. Yet the crisis of a troubled insurer does not necessarily stem from inadequate solvency; in some cases, insurers may possess adequate assets and be fully capable of meeting their liabilities (Yang, Zhang, 2010, 53). For example, empirical studies have shown that deficiencies in internal management mechanisms often constitute the fundamental cause of insolvency, while changes in external conditions merely serve as the proximate trigger (Chen, Xu, 2011, 117). Second, regulatory practice in China continues to suffer from insufficient ex ante supervision. Supervisory agencies frequently fail to take timely measures in the early phases of risk exposure, thereby allowing risks to accumulate and spread. Third, the initiation of disposal measures often exhibits a high degree of arbitrariness: in practice, the selection and application of different measures does not consistently align with the specific nature and magnitude of the risks involved. Finally, under the "C-ROSS II"[12] regulatory framework, the risk-oriented supervisory model imposes heightened demands on the professional capacity of regulators. Persistent challenges, including the reliability of financial data, shortages of specialized regulatory personnel, and the delicate balance between information disclosure and confidentiality, continue to constrain the effectiveness of regulatory oversight.

4. 2. Issues in the Risk Mitigation Phase

First, market-oriented asset reorganization measures have not been institutionalized in higher-level legislation. Asset reorganization is the most common self-adjustment mechanism in a market economy, representing a commercial choice voluntarily agreed upon by market actors. The effectiveness of asset reorganization as a tool for risk disposal has long been validated in the merger and reorganization practices of mature insurance markets in countries such as the United States and the United Kingdom. By contrast, in China, the high concentration of the insurance market continues to limit large-scale reorganization of major insurers, while failing to provide meaningful opportunities for mergers or reorganizations among medium- and small-sized insurers. The absence of legal institutionalization has rendered market-based reorganization underutilized and often overlooked by risk disposal participants accustomed to an administrative interventionist mindset. Secondly, administrative measures suffer from operational deficiencies. (1) Ambiguity of current provisions. Articles 138–149 of the Insurance Law establish a range of escalating risk disposal measures, restrictive measures, rectification , reorganization, receivership, and dissolution, based on the nature and severity of the risks. However, vague and abstract terms such as "insufficient solvency," "serious insufficiency," and "seriously endangering solvency" weaken the operability of the law. From the perspective of current regulatory needs, this reflects an evident shortage in legislative resources (Wang, 2021, 98). Moreover, the absence of transition criteria between different measures prevents regulators from flexibly choosing among tools of varying severity. In practice, this often compels regulators to invoke broader supervisory powers in order to secure greater discretion (Hu, 2018, 29-31). (2) Lack of explicit provisions on trusteeship and administrative restructuring. The absence of trusteeship and administrative restructuring in the Insurance Law does not mean these measures are inapplicable. On the contrary, trusteeship of insurers can find a legal basis in the Regulations on the Cancellation of Financial Institutions (2001) and has already been successfully applied in practice. Likewise, the practice of the Insurance Security Fund demonstrates that when regulators deploy the fund to rescue insurers facing "significant risk," the measures adopted, including debt-based interventions, equity-based injections, asset reorganization, and reorganization subsidies, closely resemble administrative restructuring. Thus, although the Insurance Law does not expressly provide for administrative restructuring, such measures can be justified under the Administrative Measures for the Insurance Security Fund. Nevertheless, the lack of explicit statutory provisions leads to legal uncertainty in the application of trusteeship and administrative restructuring, risks confusion with receivership procedures, and may result in inefficient use or even waste of the Insurance Security Fund. Thirdly, judicial rescue measures lack special provisions.

[12] "C-ROSS" (China Risk-Oriented Solvency System), shortened for China's second-generation solvency regulatory system, is a risk-oriented regulatory framework formulated by the China Insurance Regulatory Commission (hereinafter referred to as "CIRC") to strengthen and improve the supervision of insurers' solvency capabilities.

Article 90 of the Insurance Law stipulates insolvency reorganization and liquidation for insurers, which, compared with administrative measures, often involve lower negotiation costs and higher chances of success. However, due to the absence of special legislation on insurer insolvency, uncertainties arise when applying the general provisions of the Enterprise Bankruptcy Law. Key unresolved issues include: how to reflect the collective characteristics of insured in the claims declaration procedure; whether administrators' selective performance rights apply uniformly to life and property insurance contracts; whether insurance claims should form a separate class of creditors; and whether life insurance policy claims should be transferrable to the Insurance Security Fund during insolvency organization proceedings. These questions urgently require legislative clarification.

4. 3. Issues in the Market Exit Phase

In accordance with the prevailing legal framework in China, insurers are permitted to exit the market through three avenues: dissolution, cancellation liquidation, and insolvency liquidation. In the event of dissolutionliquidation, it is vital to consider the principle that special laws take precedence over general laws and the special nature of insurers. It is therefore inadvisable for insurers to apply the provisions of Article 182 of the Company Law (2024), which stipulates that shareholders holding more than 10% of the voting rights may dissolve the company in the event of a deadlock. However, it should be noted that there are three circumstances in which this is not the case. These are specified in Article 89 of the Insurance Law, and are as follows: merger and division, dissolution by disposal of the shareholders' meeting, and dissolution due to circumstances specified in the articles of association. Moreover, cancellation, liquidation and insolvency liquidation, as the ultimate mechanisms for addressing the market exit of distressed insurers, are also impeded by the practical implementation being hindered due to the ambiguity of legislative provisions. Article 149 of the Insurance Law (2015) grants regulatory authorities the right to revoke the licence of an insurer that meets the criteria for cancellation. However, the article does not provide a clear standard for the level of solvency below which would jeopardise the order of the insurance market or harm the public interest, nor does it specify the selection of liquidation procedures. In relation to the latter, the absence of operational feasibility in insurer insolvency regulations likewise impedes the effective operation of liquidation procedures. Several unresolved questions remain: Should the grounds for insurer insolvency be aligned with those for ordinary companies? Is the distinction between transferring life insurance policies and property insurance policies during bankruptcy proceedings justifiable? Should insurance claims be subject to the avoidance of preferential payments? These issues highlight the need for a more precise and tailored legislative framework to ensure that the exit of insurers from the market can proceed in an orderly and effective manner.

4. 4. Issues with the Insurance Security Fund Protection Phase

In order to adapt to the development of mixed operations in the financial industry and enhance the insurance guarantee fund's ability to participate in the risk disposal of insurers, the regulatory authorities have revised the 2008 version of the Measures for the Administration of the Insurance Security and implemented the new version on December 12, 2022. This revision introduces several substantive changes: (1) establishing the Insurance Security Fund and the Insurance Security Fund Company as independent accounting entities to prevent the commingling of state-owned assets with Insurance Security Fund-managed assets and to avoid risk contagion; (2) replacing the much-criticized "fixed rate" with a "base rate plus risk-differentiated rate," thereby linking insurer contributions more directly to their operational risk profiles; (3) updating the rules on "payment suspension," thus expanding the usable balance of the Fund; (4) authorizing additional scenarios for Insurance Security Fund activation subject to State Council approval; (5) creating a cross-lending mechanism between the property insurance fund and the life insurance fund, thereby enhancing liquidity and flexibility; (6) clarifying the scope of policyholder protection to include refundable premiums, the cash value of policies, and insurance proceeds; (7) strengthening legal liability for non-compliance by publicizing insurers that fail to contribute to the fund on time and imposing late-payment penalties. These modifications significantly improved China's insured protection scheme by aligning insurer contributions with risk exposure, expanding the fund's flexibility, and reinforcing its deterrent effect. Thereby, the revised Measures advance the fundamental objectives of safeguarding insured interests, maintaining public confidence in the insurance sector, stabilizing the financial system, and preventing moral hazard. Nevertheless, longstanding structural problems remain unresolved. The revised Measures still suffer from a low level of legal authority, principle-oriented and abstract

provisions, and a heavily administrative orientation, while the institutional positioning of the Insurance Security Fund Company in risk disposal remains ill-defined. In addition, new challenges have emerged: How can the safety of cross-lending between the property and life insurance funds be ensured? Should innovative mechanisms, such as using one fund's resources to provide credit enhancement for the other in emergency financing, be explored? And how should the Measures be coordinated with the forthcoming Financial Stability Bill? These unresolved issues highlight the need for further legislative refinement and institutional innovation in the design of China's insurance guarantee system.

5. ENHANCING THE DESIGN OF INSURED-CENTRIC RISK DISPOSAL FRAMEWORK

After reviewing the shortcomings in insurers' risk management systems, we should return to the fundamentals, focus on the specific problems that exist in the risk management process of insurers, and put forward targeted recommendations for improvement, thereby helping to formulate unified and effective risk management policies and measures.

5. 1 Establish a Timely and Effective Risk Warning Mechanism

5. 1. 1. Reasonably Define Troubled Insurers

In the context of the evolving insurance market, China's insurance industry regulation has undergone a continuous process of innovation, transitioning from a focus on the regulation of insurers' market behaviour to a regulatory system underpinned by three pillars: market behaviour, solvency, and governance structure. Furthermore, regulatory measures have undergone a shift from direct intervention in insurers' operations to indirect regulation (Bo, 2013b, 169). Moreover, it is important to acknowledge that the sources of risk for troubled insurers encompass not only solvency risk, but also corporate governance risk and market conduct risk. Consequently, reliance on solvency deficiency as the sole basis for determining troubled insurers is inadequate. Therefore, this paper suggests that standards for identifying troubled insurers can be established based on the following three dimensions. In accordance with the Measures for the Administration of the Insurance Security (2022, art. 8), which states that "the Insurance Security Fund Company may monitor risks in the insurance industry. . . and propose disposal recommendations," it can be designated as the risk regulator. Firstly, calculate and classify the core solvency adequacy ratio and comprehensive solvency adequacy ratio of insurers in accordance with the provisions of the latest Insurance Company Solvency Regulatory Rules No. 11: Comprehensive Risk Rating (Classification Supervision) (2021, art. 19).[13] Secondly, rely on third-party rating agencies to comprehensively rate insurers' operational risk, strategic risk, reputational risk, and liquidity risk. Thirdly, comprehensively examine the relevant regulatory authorities' evaluations of insurers' corporate governance structures, including their equity structures, information disclosure, and protection of minority shareholders. It is asserted that any violation of the aforementioned regulatory requirements may serve as an indicator of a troubled insurer. Regulatory authorities are obligated to implement risk mitigation measures that are commensurate with both the severity and nature of the risks presented by the problematic insurer. This should be based on a comprehensive assessment of its asset quality, debt structure, and business quality, as well as consideration of the views and opinions of local governments.

5. 1. 2. Improve the Information Disclosure Mechanism

Solvency regulation is based on data analysis. To ensure real-time and effective regulation, it is necessary to ensure that the original data of insurers is true and accurate (Tang, Hu, 2017, 41). Internally, insurers need to verify the accuracy of publicly disclosed data by conducting on-site inspections of basic data, checking the alignment of insurers'

[13] Article 19 of the Insurance Company Solvency Regulatory Rules No. 11: Comprehensive Risk Rating (Classification Supervision): The China Banking and Insurance Regulatory Commission (CBIRC) classifiesinsurers into four supervisory categories according to the magnitude of solvency risks: 1st Category A companies: insurers whose solvency adequacy ratios meet the regulatory standard and whose operational, strategic, reputational, and liquidity risks are low. Within this category, companies are further subdivided, in ascending order of risk, into AAA, AA, and A classes, 2nd Category B companies: insurers whose solvency adequacy ratios meet the regulatory standard and whose operational, strategic, reputational, and liquidity risks are relatively low. Within this category, companies are further subdivided, in ascending order of risk, into BBB, BB, and B classes, 3rd Category C companies: insurers whose solvency adequacy ratios do not meet the regulatory standard, or whose ratios do meet the standard but which exhibit relatively high levels of one or more of the following risks: operational, strategic, reputational, or liquidity, 4th Category D companies: insurers whose solvency adequacy ratios do not meet the regulatory standard, or whose ratios do meet the standard but which exhibit severe levels of one or more of the following risks: operational, strategic, reputational, or liquidity.

financial data with their business data, comparing statistical data downloaded from the system with insurers' financial data, and focusing on identifying business risk points. At the external level of insurers, regulatory agencies should perform their supervisory functions and insurance guarantee funds should perform their risk monitoring and early warning functions. The authenticity of financial data should be ensured by improving the certified public accountant audit system. Relevant agencies such as finance, audit, and tax departments should work together, and market forces should be mobilized to perform market supervision. Simultaneously, in order to preserve the integrity of the financial market order and ensure the effective functioning of risk disposal mechanisms, it is imperative to implement stringent confidentiality protocols concerning the disclosure of risk disposal information pertaining to insolvent insurers. However, for companies with minor issues where disclosure would not cause significant market disruption, companies with particularly serious issues that are on the verge of closure, and listed companies required by law and regulatory systems to disclose information, relevant information should be disclosed proactively, along with the announcement of related rights protection measures and safeguards.

5. 2. Establish a Comprehensive and Robust Risk Mitigation Mechanism

5. 2. 1. Strengthen the Role of Market-Based Measures

The fundamental rationale for financial regulation is predicated on the existence of market failures within the financial system, which are primarily attributable to external factors, market monopoly forces, and information problems (Gart, 1999, 12). However, an overemphasis on the dominant role of regulatory agencies may undermine the self-regulatory capacity of market entities, distort market mechanisms, and lead to inefficient resource allocation (Liu, 2007, 87, 237). Therefore, this paper contends that while administrative interventions remain a viable approach to addressing crises in the insurance sector, market-based mechanisms can also serve as effective complementary strategies. Such measures may include capital augmentation, negotiated share acquisitions from existing shareholders, the purchase of convertible bonds issued by insurers, and the provision of loans or advances. Employing market-based mechanisms and mobilizing companies' own resources can effectively assist insurance companies in resolving financial distress. When disposing of risks through market-driven mergers and acquisitions, it is essential to conduct comprehensive preparations, including legal, financial, and operational due diligence, to identify potential related-party transactions or conflicts of interest. To ensure the successful execution of such market-based risk disposal, a detailed assessment of the insurer's financial condition is imperative, with particular attention to its capital structure, debt obligations, tax exposure, asset quality, liabilities, and prospective earnings. Concurrently, it is important to recognize the limitations of market-based mechanisms in resolving insurance payment crises. Unlike other financial institutions, insurance companies may temporarily conceal financial vulnerabilities by raising new capital through measures such as introducing low-cost insurance products or increasing agent commissions. However, these strategies do not ultimately address underlying solvency issues; rather, they obscure the problem through capital augmentation. To mitigate such risks, it is essential to enhance operational management and strengthen corporate governance structures, including through strategic mergers and acquisitions.

5. 2. 2. Introduction of Trusteeship and Administrative Reorganization Measures

From the perspective of risk resolution practices in the securities industry, the term "trusteeship" in the Chinese context primarily denotes the establishment of a custodial team by a designated regulatory entity. This mechanism involves the establishment of a custodial team by an appointed institution, which assumes managerial control over the troubled securities company while allowing its business operations, such as securities trading, to continue normally. Three primary models of trusteeship are commonly employed: trusteeship by a peer institution, trusteeship by an asset management company, and trusteeship by the Securities Investor Protection Fund (Diao, 2012, 85-86). According to the Provisions on the Disposal of Securities Companies, trusteeship is distinct from rectification, which aims to assist securities companies in correcting unlawful practices, and from receivership, which involves a receivership team assuming control over the operational and managerial rights of troubled institutions. Instead, trusteeship represents an intermediate administrative measure of a transitional nature, positioned between these two in terms of regulatory intensity. The introduction of a trusteeship mechanism into insurance risk disposal offers a viable approach to addressing difficulties in troubled companies while preserving their operational autonomy. Moreover, it can contribute to the

professional development of trustees and improve the effectiveness of regulatory interventions. Furthermore, administrative reorganization typically refers to an immediate compulsory action taken by administrative authorities to optimize the allocation of resources in the public interest. This occurs when an enterprise faces significant risks, or is subject to measures such as suspension of business, rectification, trusteeship, or receivership (Wu, Yang, 2011). According to China's Insurance Law, administrative reorganization is not explicitly designated as a statutory method for risk resolution in the insurance industry. This omission may stem from the mechanism's strong administrative nature, tendencies toward local protectionism, and the often non-transparent value considerations underlying certain reorganization measures. Nevertheless, in practice, administrative reorganization measures, such as providing low-interest loans, acquiring equity stakes, purchasing assets, and offering restructuring subsidies, can facilitate efficient resource integration within the securities market under governmental guidance. Through mandatory resource reallocation, these measures help mitigate risks and rescue troubled securities companies from financial distress. Therefore, this paper argues that trusteeship and administrative reorganization should be incorporated into the statutory framework for risk disposal in the insurance industry, thereby diversifying and enriching the range of available regulatory tools.

5. 2. 3. Special Provisions for Judicial Rescue Measures

(1) Granting Statutory Agency Rights to Insurance Security Fund Companies

Due to the credibility and professionalism of the Insurance Security Fund Company, it has become the first choice for insurance claimants when selecting an agent. However, according to the Enterprise Bankruptcy Law (2006, art. 59), the Insurance Security Fund Company can only act as an agent through a commissioned agency arrangement. In cases where there are a large number of insurance claimants spread across a wide geographical area, the institutional structure of commissioned agency conflicts with the objectives of simplifying market exit procedures and improving risk disposal efficiency. Regulators have clearly recognized the shortcomings of the authorized agency mechanism in insurer insolvency proceedings and simplified the power of attorney procedure when handling China's first insurer reorganization case. Yi'an Property insurer issued an announcement after the restructuring application was accepted, authorizing the Insurance Security Fund Company to file claims on its behalf, participate in creditors' meetings, and exercise voting rights. At the same time, policyholders were granted the right to object within 30 days from the date of the announcement and before the deadline for filing claims, allowing them to directly participate in the restructuring process as creditors. After the objection period expires, policyholder creditors who have not raised objections are deemed to have authorized the Insurance Security Fund Company to exercise the relevant rights on their behalf, without the need to issue separate authorization documents. Furthermore, in the creditor meeting setup, the insolvency administrator designates the China Insurance Security Fund Co., Ltd. as the chairperson of the creditor meeting in accordance with the provisions of Article 60, Paragraph 1 of the Enterprise Bankruptcy Law.[14] Therefore, this paper suggests that when revising the Insurance Law in the future, we can draw on the experiences of Japan and directly stipulate in law the statutory agency rights of the insurance protection fund for policyholders, while also granting policyholders the right to object, allowing them to participate directly in bankruptcy proceedings as creditors.

(2) Restricting the InsolvencyAdministrator's Right to Terminate Unfulfilled Bilateral Contracts

An insurance contract is a bilateral contract, but it has the characteristic that the parties' contractual obligations are not performed simultaneously. At the time of an insurer's insolvency, an insurance contract where the insured event has not yet occurred falls under the category of an unfulfilled bilateral contract. Article 18 of China's Enterprise Bankruptcy Law (2006) grants the administrator the right to terminate contracts established before the bankruptcy application was accepted but not yet fully performed by both parties. Article 61 of Japan's Company Rehabilitation Law also stipulates the right of the rehabilitation administrator to terminate insurance contracts. In the insolvency proceedings of insurers, insolvency administrators have broader powers and should not represent the interests of any party. They should not only protect the interests of all stakeholders, including policyholders, but also shoulder the responsibility of maintaining financial stability (Liu, 2007, 237). Consequently, within the context of insolvency reorganization proceedings, the primary concern is the preservation of the insurer itself, super-

[14] See Announcement on the Protection of Policy Creditors' Rights and Interests of Yi'an Property Insurance Co., Ltd. in Accordance with the Law, China Insurance Security Fund Co., Ltd. aviailable at https://pccz. court. gov. cn/pcajxxw/pcgg/ggxq?id=D428D6564F49E5F108F2216F8C1B95EC 24. 9. 2024.

seding the protection of the insured. The administrator may exercise discretion in determining the termination of unfulfilled bilateral insurance contracts, contingent upon their potential benefit to the company. In order to reorganize assets, the insolvency administrator generally elects to terminate insurance contracts that may incur insurance payments of a greater magnitude in the future in comparison to the anticipated insurance premium income. However, as outlined in Article 15 of the Insurance Law, following the establishment of the insurance contract, the prerogative to terminate the agreement rests exclusively with the policyholder. The insurer, by contrast, is permitted to terminate the contract only under the circumstances specified in Article 16. The divergent provisions governing the right to terminate insurance contracts under the Insurance Law (2015) and the Enterprise Bankruptcy Law (2006) have generated considerable scholarly debate, making the reconciliation of these legal conflicts an urgent issue in need of resolution. In light of the need to protect policyholders' rights and maintain financial market stability, Article 439 of Japan's Special Measures Law Concerning Rehabilitation Procedures[15] explicitly stipulates that "insurance contracts underwritten by an insurer shall not be subject to the provisions of Article 61(1) to (4) of the Company Rehabilitation Law."[16] In response to this issue, this paper proposes that China could adopt an approach similar to that implemented by Japan to address comparable challenges. Specifically, it is recommended that the authority of administrators to terminate executory insurance contracts during insurer insolvency reorganizations be circumscribed, thereby alleviating the ambiguities and operational uncertainties currently faced by administrators in handling such agreements.

(3) Allow Policyholders to Transfer their Claims to the Insurance Security Fund Company during the Insolvency Reorganization Phase

In accordance with Article 100 of the Insurance Law (2015) and Articles 16(1) and 26 of the Insurance Security Fund Management Measures (2022), current Chinese legislation permits policyholders to transfer their policies (including policies where the insured event has occurred and policies where the insured event has not occurred) to the Insurance Security Fund Company only in the event that an insurer is subject to cancellation, liquidation or bankruptcy liquidation. However, the circumstances specified in Article 16, Paragraph 2 for utilizing the Insurance Security Fund due to the existence of "major risks" at the insurer are difficult to apply in practice due to the lack of operational feasibility. The aforementioned provisions have the effect of preventing the insured from receiving reasonable priority repayment in bankruptcy reorganization. In the event that the insured party elects to exercise the right to transfer claims prior to the conversion of the bankruptcy reorganization into bankruptcy liquidation, it is imperative that they be apprised of the fact that they will be required to engage in a protracted judicial process, the consequences of which will be deleterious to the interests of the insured. An examination of the claim filing process in the restructuring case of Yi'an Property insurer reveals that policyholders are not permitted to transfer policies to the Insurance Security Fund Company prior to the submission of a restructuring application. The decision to initiate the claim filing process or to continue fulfilling the insurance contract is determined on the basis ofwhether or not an insurance incident has occurred. Therefore, in order to comprehensively protect and prioritize the rights and interests of insured persons, promote the smooth progress of bankruptcy proceedings, and maintain financial order and stability, it is necessary to draw on the provisions of Japan's Insurance Business Act. This allows policyholders to transfer their claims to the policyholder protection agency when an insurer is in a state of "impaired". Simultaneously, with respect to the valuation of contingent claims arising from unrealized insured events, the transfer amount may be determined based on the beneficiary's claim against the insurer for the payable insurance amount and the policy reserve value, calculated according to the premium ratio established at the time of contract inception (Gu, 2009, 8).

[15] See 金融機関の更生手続の特例等に関する法律 Special Law Measures Concerning Rehabilitation Procedures available at: https://jahis. law. nagoya-u. ac. jp/lawdb/l/408a0095 28. 9. 2024.

[16] Company Rehabilitation Act § 61:(1) With respect to a bilateral contract wherein both the rehabilitated company and its counterparty have not fully performed their obligations at the time of the commencement of rehabilitation proceedings, the administrator may either rescind the contract, or perform the obligation of the rehabilitated company and require the counterparty to perform its obligation. (2) In the case referred to in the preceding paragraph, the counterparty may demand that the administrator, within a reasonable period fixed by the counterparty, declare whether to rescind the contract or to require the performance of the obligation. If the administrator fails to give a definite reply within such period, the right of rescission under the preceding paragraph shall be deemed waived. (3) The provisions of the preceding two paragraphs shall not apply to contracts for personal services. (4) A claim held by the counterparty arising from the performance of the obligation of the rehabilitated company pursuant to paragraph (1) shall constitute an estate claim.

(4) Establishing a Separate Insurance Claims Class for Voting

In accordance with Article 82(1) of the Enterprise Bankruptcy Law (2006), in the establishment of the voting group for the draft reorganization plan, insurance claims were not distinguished from other claims and were included in the general claims group. This approach does not take into account the unique characteristics of insurance claims in insolvency proceedings. In contradistinction to general creditors, insurance claims are distinguished by a substantial number of claimants, considerable variations in claim amounts, and pervasive distribution. It is vital to distinguish between the two types of claims, as failure to do so would increase the difficulty of convening creditors and conducting creditor meetings. This, in turn, would have a detrimental effect on the efficiency of the insurer's insolvency reorganization proceedings. Notwithstanding the stipulations set out in Article 82(2) of the Enterprise Bankruptcy Law (2006), which confers upon the Court the prerogative to constitute a small claims group within the overarching claims group for the purpose of voting, this remains a prerogative that is subject to judicial discretion and is not without its ambiguities. Moreover, the aggregate value of insurance claims is substantial, rendering them incompatible with the procedural framework designated for small-claim creditor groups. In addition, the legal consequences of conflicting voting outcomes between small-claim and general creditor groups have yet to be clearly resolved. In the context of bankruptcy reorganization proceedings, it is imperative that insurance claims are categorized as a distinct class, alongside the prevailing categories of claims. The exercise of the right to vote by the insurance claims class should be conducted at the creditors' meeting, as opposed to being incorporated within the general claims class. This would enhance the efficiency of the voting process for the reorganization plan and ensure better protection of the interests of the insured.

5. 3. Establish a Reasonable and Orderly Market Exit Mechanism

5. 3. 1. Clarify the applicable path for cancellation and liquidation

Cancellation is an administrative act authorized by the State Council and implemented by insurance regulatory authorities. It differs from voluntary dissolution and liquidation by companies, which tend to protect the interests of shareholders, and judicial bankruptcy liquidation, which focuses on protecting the interests of creditors. cancellation has a special nature in terms of protecting the interests of stakeholders and is usually carried out with the aim of achieving regulatory objectives, i. e., protecting the public interest. Given the quasi-public nature of insurers, when choosing the path for revoking and liquidating an insurer, it is more appropriate to follow the approach outlined in the Regulation on the Risk Disposal of Securities Companies regarding the administrative liquidation of securities companies that have been revoked, and to implement an administrative liquidation process led by the regulatory authorities. Therefore, the provisions of Article 183 of the Company Law[17] do not apply to the selection of liquidation committee members, who may instead be directly appointed by the regulatory authority. Furthermore, to ensure the validity and independence of the liquidation process, it is possible to draw on the experience of risk disposal in securities companies and exclude insurer shareholders from the liquidation committee. Moreover, cancellation does not automatically lead to bankruptcy. Only after the liquidation group has verified and settled the assets, claims, and debts of the troubled insurer, and confirmed that the conditions under Article 2 of the Enterprise Bankruptcy Law (2006) are met, i. e., the inability to repay due debts, insufficient assets to cover all liabilities, or a clear loss of solvency, must the liquidation process be concluded and converted into insolvency liquidation (Li, Ma, 2024, 27).

5. 3. 2. Defining the scope of insolvency assets

One of the fundamental objectives of bankruptcy law is to ensure the equitable distribution of a company's bankruptcy estate among all creditors. As such, the bankruptcy estate constitutes a essential prerequisite for the initiation and progression of bankruptcy proceedings (Li, 2013, 230). In the context of insurers, the estate comprises not only shareholder contributions and borrowed capital, but also operating revenues derived from insurance operations, as well as the market value of the insurance business licence itself (Sai, 2019, 102). In accordance with Article 95 of the Insurance Law (2015), the business scope of insurers is divided into two principal categories: life insurance and property insurance. Typically, property insurance, along with short-term health insurance and accident insurance under life insurance, is classified

[17] The Company Law§ 183: "For a limited liability company, the liquidation committee shall be composed of its shareholders. For a company limited by shares, the liquidation committee shall be composed of persons designated by the board of directors or the shareholders' general meeting. "

as one-year pure risk protection products. The pricing of such products is determined through actuarial principles based on the "law of large numbers" to ensure alignment with their underlying risk levels. Premium income derived from these products is directly recorded as "premium revenue" in insurers' financial statements and is regarded as part of the liquidation estate. Conversely, life insurance, which falls under the broader category of personal insurance, exhibits considerable complexity and variability. In life insurance contracts that combine risk protection with investment functions, policyholder premiums comprise not only risk premiums but also, under level-premium or single-premium systems, a savings component. This component represents the portion of pure premiums paid on an average or lump-sum basis that exceeds the actual natural premiums required (Wang, 2022, 98). Of particular relevance is the investment portion: the insurer deducts fees in accordance with the contract and allocates the remainder of the premium to an investment account (Zou, Li, 2023, 84). In investment-oriented insurance contracts, two fundamental legal relationships are present: risk protection and entrusted investment management. Correspondingly, the premium structure is bifurcated: one portion fulfills conventional insurance coverage obligations, while the other is channeled through investment vehicles to perform asset management functions. This structural distinction becomes particularly evident when insurers establish dedicated investment accounts (Zhang, 2017, 121). Life insurance, categorized as personal insurance, can be further subdivided into two distinct forms: traditional life insurance and investment-linked life insurance, which are distinguished by their respective product design characteristics.[18] Accordingly, insurance premiums should be accounted for separately under distinct categories such as "premium revenue", "liability reserves and investment funds", and "separate account assets" (Jia, 2015, 97). However, the Insurance Law does not explicitly specify the ownership of these two types of assets in the event of an insurer's insolvency. The question of whether such assets form part of the insurer's insolvency estate remains subject to both theoretical and practical debate. Firstly, in traditional life insurance contracts, whether the cash value in life insurance policies should be included in the insolvency estate of the insurer is a key point of academic debate. As mentioned above, the policy value is the "overpayment" of premiums by the policyholder, which is the accumulation of the amount paid in excess of the natural premium during the insurance period. It has a savings function and is essentially a savings asset similar to bank deposits. Therefore, when resolving the issue of the ownership of policy cash value after the insolvency of an insurer, the approach taken in the case of bank bankruptcy can be used as a reference. Article 71 of the Commercial Bank Law (2015) stipulates the priority repayment rules for the principal and interest of personal savings deposits, indirectly indicating that the principal and interest of personal savings deposits are, like other claims, part of the bank's bankruptcy claims.[19] In summary, the present value of traditional life insurance policies should be included in the "premium revenue" account, which is part of the insurer's bankruptcy estate and subject to bankruptcy liquidation. Secondly, with regard to universal life insurance and investment-linked insurance, since the insured under investment-linked insurance contracts are at liberty to select investment targets, the investment performance of any policyholder is unrelated to the insurer. It is imperative to establish discrete investment accounts for each insured individual in order to attain the objective of segregating the investment account funds of policyholders from the assets of the insurer. From a legal perspective, the relationship between the policyholder and the insurer is one of entrusted financial management under the principles of contract law. The assets in the investment account are matched to the principle of risk and return, and thus resemble those in a securities company's customer account. In such cases, the funds in investment-type insurance products are owned by the policyholder or beneficiary. The insurer's use of the independent account is merely "entrusted financial management" (Li, 2020, 166). For universal life insurance and investment-linked insurance, the assets of the investment accounts are not recorded under the "premium income" account of the insurer. Instead, they are classified under

[18] The former (life insurance) is categorized by insurance liability into term life insurance, whole life insurance, endowment insurance, and annuity insurance. The latter (investment-linked insurance) is classified according to insurance liability into participating insurance, universal insurance, unit-linked insurance, and similar products.

[19] The Law of the People's Republic of China on Commercial Banks § 71:"Where a commercial bank is unable to pay its due debts, it shall be declared bankrupt by a people's court in accordance with the law, subject to the consent of the banking regulatory authority under the State Council. Upon declaration of bankruptcy, the people's court shall form a liquidation committee comprising relevant departments such as the banking regulatory authority under the State Council and other relevant personnel to carry out liquidation. In the bankruptcy liquidation of a commercial bank, after covering liquidation expenses, outstanding wages of employees, and labour insurance premiums, priority shall be given to the repayment of principal and interest of personal savings deposits. "

distinct accounting categories such as "policyholder deposits and investment funds" or "separate account assets." Consequently, in the event of an insurer's insolvency, these assets are not deemed part of the insurer's insolvency estate. By contrast, in the case of participating (with-profit) insurance, in addition to the cash value inherent in a traditional life insurance policy, policyholders are entitled to policy dividends derived from the insurer's operating performance and investment returns. Since participating insurance does not establish a separate investment account for policyholders, its financial treatment is effectively identical to that of traditional life insurance. Therefore, upon the bankruptcy of an insurer, the revenues generated from participating policies should be incorporated into the bankruptcy estate and subjected to liquidation.

In addition to the insurance operating revenue mentioned earlier, an insurer's insurance business operating licence, as an intangible asset, also carries substantial market value. This licence is often viewed as a reflection of the company's goodwill. It can be uncontroversially classified as part of the bankruptcy estate and is generally linked to the original trade name, trademark, and other identifiers of the insolvent enterprise (Xu Defeng, 2015). Internationally, frameworks allowing the transfer of such operating licences have been established for some time.[20] Insurers' operating licenses are drawing significant interest from a wide range of potential investors. A notable example is China's first bankruptcy reorganization case involving a insurer, in which BYD Auto Industry Co., Ltd., a subsidiary of BYD Group, acquired 100% equity of Yi'an Property Insurance. Therefore, from the perspective of maximizing the total assets available in the bankruptcy estate of an insurer, the potential market value of the insurer's operating license should be recognized as part of its insolvency assets. In the future, China should consider amending Article 93 of the Insurance Law to permit the separate sale of operating licenses from bankrupt insurers.

5. 3. 3. Reshaping Policy Transfer Rules

The term "must be transferred" and the phrase "designate an insurer that conducts life insurance business to accept the transfer" in Article 92(1) of China's Insurance Law (2015) indicate that a mandatory transfer approach is adopted for life insurance policies characterized by their long-term nature, savings function, and role in livelihood protection. It is worth noting that, in order to increase the flexibility and autonomy of relief for insured persons, policyholders should be allowed to terminate insurance contracts when insurers are revoked, liquidated, or declared insolvency. However, due to factors such as the non-long-term nature of non-life insurance policies and the relatively low premiums paid, the Insurance Law (2006) does not make special provisions regarding the transfer and validity of non-life insurance contracts when an insurer goes insolvency. In the context of insurer exit from the market, multiple mechanisms can be employed to maximize the protection of insured' interests. One effective approach is the continuation of insurance contracts, which ensures uninterrupted provision of coverage to insureds under the original terms and conditions (Long, 2011, 97). Therefore, it is equally important to clarify that non-life insurance contracts are transferable in the event of insurer bankruptcy, and that the Insurance Security Fund provides support to the acquirers of such contracts. In principle, the transfer of insurance contracts should be conducted with the mutual consent of both parties (Bo, 2016, 53), prioritizing market-based mechanisms while treating administratively mandated transfers as the exception (Hu, 2018, 29-31). This approach fully respects the autonomy of the contracting parties within the legal framework. Consequently, for life insurance policies where re-establishing the contract is relatively straightforward, an "agreed transfer" mechanism may be adopted, rendering their inclusion in a "mandatory transfer" scheme unnecessary. In addition, to ensure the smooth transfer of life insurance contracts, the provisions of Article 251 of Japan's Insurance Business Act (1995) can be used as a reference to introduce a contract condition change path, allowing policyholders to choose to negotiate with the policy transferor and policy transferee to change the contract conditions in accordance with their own interests, while also granting policyholders the right to object to the transfer of the policy.[21] When the number of policyholders raising objections exceeds 1/10 of the total number of policyholders, and the amount of their claims exceeds 1/10 of the total claims under the contract, the contract shall not be transferred. Otherwise, it shall be deemed that all policyholders agree to the transfer of the contract, and financial assistance for the transfer of the policy shall be provided through the policyholder protection agency.

[20] Article 503 of the U. S. NAIC's Insurer Receivership Model Act (555-1) stipulates that, when presiding over an insurance company bankruptcy case, the court may permit the insolvent insurer's insurance business operating license to be sold and transferred separately as a special type of asset.

[21] See Insurance Business Act § 265.

5. 3. 4. Confirmation that Insurance Claims are Not Subject to Cancellation Due to Preferential Payments

The administrator may petition the court to revoke and recover assets or rights transferred through the debtor's prejudicial acts conducted during the critical period preceding the commencement of bankruptcy proceedings, where such acts are detrimental to the interests of the creditor body. This legal mechanism is referred to as the right of bankruptcy cancellation. (Zou, 2016, 287). The Enterprise Bankruptcy Law (2006, art. 32) stipulates that individual repayment transactions conducted within six months prior to the bankruptcy application shall be revoked if the conditions for bankruptcy already exist.[22] To ensure that creditors of equal standing receive fair repayment and to realize the institutional value of bankruptcy law, bankruptcy laws in various countries generally do not consider the subjective malice of the debtor or individual creditors when dealing with debt repayment issues prior to bankruptcy. As long as the conditions for preferential repayment are met, the bankruptcy administrator is granted the right to revoke such actions (Liu, Tian, 2008, 301). The U. S. Code: Title 11 — BANKRUPTCY[23] establishes a relatively comprehensive system for preferential payments. Not only does Section 547(b) provide for the avoidance of preferential payments, but it also recognizes the need to maintain transaction security and order by providing a channel for creditors to assert their legitimate rights. Therefore, Section 547(c) of the U. S. Bankruptcy Code stipulates eight exceptions to preferential payments, achieving a balance between substantive fairness, opportunity fairness, and procedural fairness through this system. Article 32 of Enterprise Bankruptcy Law (2006) does not take into account the special nature of financial institution bankruptcies, and only excludes the application of the administrator's right of cancellation when individual repayments benefit the debtor's property. The insurance industry is an industry that operates on the basis of credit and has the function of "spreading risk and absorbing damage. " In accordance with the Enterprise Bankruptcy Law (2006, 32), should all debt repayments made within six months prior to the court's acceptance of the bankruptcy application be revoked without distinction, this would result in the insured party's expected benefits being lost. Consequently, this would destroy the credit foundation for the survival and development of the insurance industry. Furthermore, insurance contracts exhibit a pronounced social welfare dimension, and the repercussions of an insurer's insolvency are more substantial than those associated with the bankruptcy of a general financial institution. Moreover, insurance contracts are contracts based on the life, health, and property of the insured. Given their role in providing livelihood security and social stability, it can be argued that insurance claimants have a more urgent need for debt repayment than general creditors. Therefore, upon the occurrence of an insured event, the insurer remains obligated to compensate or pay the insurance benefits as stipulated in the contract, even if bankruptcy grounds have already emerged, so long as it has not been formally declared insolvency. Furthermore, drawing on provisions within the U. S. Bankruptcy Code, the repayment of routine insurance obligations could be exempted from voidable preferential transfer rules.

5. 4. Equipped with A Comprehensive and Coordinated Insurance Security Fund Protection Mechanism

The Insurance Security Fund serves as a critical mechanism for safeguarding the stability of the insurance industry. Defining the legal status of the Insurance Security Fund Company within risk disposal procedures would enhance its capacity to engage effectively in industry risk disposal, thereby helping to protect policyholders' legitimate rights and interests, promote sustainable development of the insurance sector, and contribute to the stability of the broader financial system. As noted earlier, the Insurance Security Fund Company can assume three roles in the insurance industry risk disposal process: regulator, agent, and creditor of the insurer. It plays a significant role in monitoring industry risks, streamlining disposal procedures, and rescuing policyholders and troubled insurers. However, whether it should also be granted the status of aninsolvency administrator remains a subject of academic debate. Scholars supporting this proposition argue that the Insurance Security Fund Company could first be appointed as a member of the liquidation group to liquidate the insurer, and thereafter be designated as the administrator of the insolvency insurerbased on its membership in that group. Conversely, opposing scholars contend that since policyholders may receive relief by transferring their claims to the Insurance Security Fund Company in the event of insurer insolvency, the Fund's role as a creditor

[22] The Enterprise Bankruptcy Law§ 32: "Where, within six months prior to the acceptance of the bankruptcy application by the people's court, the debtor, under the circumstances specified in the first paragraph of Article 2 of this Law, repays individual debts to certain creditors, the administrator may petition the people's court to revoke such repayments. However, this shall not apply if the individual repayment benefits the debtor's estate. "

[23] See United States Code: Title 11 — BANKRUPTCY.

represents a conflict of interest with the distressed insurer, thereby rendering it ineligible for appointment as bankruptcy administrator under relevant regulations. This paper argues that, in order to ensure the fair and orderly administration of bankruptcy cases, the Insurance Security Fund Company should not be directly designated as the administrator of insolvency insurers. However, to leverage its technical expertise and professional capabilities, it could serve as a trustee or supervisory agent assisting the bankruptcy administrator. This approach may represent an optimal institutional arrangement for balancing fairness and efficiency in the resolution process. Moreover, China's Insurance Law (2006) does not explicitly specify whether financial assistance provided by the Insurance Security Fund constitutes a loan, a grant, or a guarantee. The newly introduced provision in the Measures for the Administration of the Insurance Security Fund, which permits mutual lending between the life and property insurance security funds, expands the channels for fundraising while simultaneously introducing significant uncertainty regarding the financial security of the Funds. Consequently, the imperative for measures to ensure the safety of funds at both the fundraising and usage ends, and to isolate the transmission of risks, has become an urgent issue that needs to be addressed. Furthermore, it is essential to clearly define the funding sources of the Financial Stability Fund, a critical component of the financial safety net, and to specify that it should be deployed exclusively for resolving major risks with systemic implications. Isolated, non-systemic financial risks should not necessitate the use of the Stability Fund (Wu, Li, Guo, 2023, 14). This clarity would help prevent the misuse of quasi-public goods such as the Insurance Security Fund and the Financial Stability Fund, thereby mitigating moral hazard and adverse selection arising from what may be described as "collective irrationality stemming from individual rationality" (Fang, 2019, 102).

6. CONCLUSION

Under the trend of mixed operations with increasingly interconnected financial systems, the disposal of troubled insurers has become an imperative measure for preventing systemic financial risks and enhancing the competitiveness of the insurance industry. However, China's current risk disposal processes for insurers still suffer from inadequate legal frameworks and weak protection mechanisms for insureds' interests. Risk disposal spans the entire cycle of risk supervision and comprises a comprehensive framework that includes four key mechanisms: risk early warning, risk mitigation, market exit, and protection provided by the Insurance Protection Fund. Accordingly, this paper structures the discussion on constructing ainsured protection mechanism around these four dimensions. During the risk early-warning phase, protecting insureds' interests mainly involves the timely identification and assessment of both existing and potential risks within insurers, as well as the initiation of progressive disposal measures tailored to the severity and nature of the risks. In the risk mitigation phase, insured protection is indirectly achieved through restoring the troubled insurer's asset liquidity and profitability. This should be facilitated by diversifying market-oriented and administrative tools, along with establishing special provisions for insolvency reorganization to ensure operational continuity. At the market exit stage, efforts to safeguard insureds should focus on improving the cancellation and liquidation procedures, clarifying the definition of insolvency estates, enabling smooth policy transfers, and establishing exceptions to preferential transaction rules—thereby promoting the orderly exit of non-viable insurers. In the phase involving the Insurance Protection Fund, it is essential to clarify the Fund's roles as regulator, statutory representative, and creditor on behalf of insureds. Introducing a trusteeship mechanism to position the Fund as the trustee of the insolvency administrator—coupled with institutional designs that ensure fund security and enhance coordination with the Financial Stability Fund—will further strengthen the disposal regime.

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