

# Director's Duty and Extent of Liability in a Call for Capital Contributions Under Article 51 of the PRC Company Law 2023

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## Abstract

The Company Law of the People's Republic of China, as amended in 2023, introduced significant amendments to directors' duties in a call for capital contributions, particularly Article 51. This study focuses on the legal duties and obligations of directors, which are designed to ensure that shareholders' contributions are made in a timely and adequate manner. By examining legislative intent and judicial interpretation, this study highlights the multi-faceted nature of directors' duties in capital contributions, including capital adequacy, creditor protection, and enhanced corporate governance. Based on one important decided court case, the study identifies ambiguities in the existing legal framework in respect of the identification of the responsible party, the standard of enforcement of directors' duties in capital contributions, and the scope of directors' liability. The study recommends legislative and judicial improvements to reduce uncertainty in judicial practice and improve the standard and transparency of corporate governance. The findings of this study contribute to the academic discourse on corporate governance and provide insights for legislators and practitioners to develop effective legal mechanisms to safeguard the interests of all stakeholders.

**Keywords:** Capital Contributions, Corporate Governance, Creditor's Protection

## Introduction

Corporate governance is the cornerstone of ensuring the healthy operation of enterprises and safeguarding the rights and interests of all stakeholders. Under the modern corporate system, directors, as the core members of a corporate governance structure, bear the important responsibility of supervising and guiding the company's operation. With the continuous changes in global economic integration and the market environment, the roles and responsibilities of directors are receiving increasing attention. In terms of capital structure and shareholder contribution obligations especially, directors' duties in capital contributions have become an important issue in corporate governance and legal practice.

In recent years, with the rapid development of China's market economy and the revision of the Company Law of the People's Republic of China (PRC Company Law), the legal responsibilities and behavioral norms of directors have been further clarified. With the revision of the PRC Company Law in 2023, important provisions have been made regarding the obligations and responsibilities of directors in capital recruitment. However, in practice, there are still theoretical and practical disputes over how directors fulfill their obligations to collect payments, the definition of directors' responsibilities, and the specific content of directors' legal responsibilities. These issues not only affect the company's capital adequacy ratio and operational efficiency but also directly impact the protection of the interests of creditors and other stakeholders.

The purpose of this study is to conduct an in-depth analysis of the directors' summoning obligations stipulated in the PRC Company Law 2023; explore how directors fulfill their duties in accordance with the law; and define the legal responsibilities of directors in judicial practice. This study attempts to resolve the problems encountered by directors in fulfilling their convening obligations through the interpretation of relevant legal provisions, case analysis, and critical analysis of the existing legal framework, while suggested improvements are also proposed. The outcomes of this study have important theoretical and practical significance for improving corporate governance structure, enhancing the stability of company capital, and protecting the rights and interests of creditors and other stakeholders. This study first reviews the theoretical basis of director's duty to call for capital contributions, including stakeholder theory and the fiduciary responsibility of directors. Subsequently, this study analyzes the specific provisions of Article 51 of the PRC Company Law 2023, before exploring the legal obligations and responsibilities of directors in capital recruitment. Through the analysis of typical cases such as SMT, this study further reveals the actual situations and challenges faced by directors in fulfilling their obligations to collect payments. Finally, this study proposes improvements to the existing legal framework in order to provide a reference for corporate governance practice and legislation. Summarily, this study aims to provide a solid legal foundation for corporate governance and stakeholders' protection.

#### *Theoretical Basis of Directors' Duties in Capital Contributions*

Director's duty in a call for capital contributions is the key issue in corporate governance, which requires directors to ensure that shareholders pay their contributions on time and in full to safeguard the company's capital adequacy and the interests of creditors. This obligation is not only a part of corporate governance but also a manifestation of the fiduciary responsibility of directors. Since the stakeholder theory was proposed by Stanford Research Institute in 1963, it has been emphasized that companies should serve the interests of all stakeholders, including shareholders, employees, creditors, and suppliers (Freeman, 1984). Under the legal system in China, the loyalty and diligence obligations of directors require them to consider the interests of all stakeholders when making decisions (Company Law of the People's Republic of China, 2018). Agency theory further clarifies the role of directors as shareholder agents who are responsible for ensuring that the company has sufficient capital and receives shareholder contributions in a timely manner (Fama & Jensen, 1983a; 1983b; Jensen & Meckling, 1976). This provides theoretical support for directors' actions when shareholders fail to fulfill their capital contribution obligations.

Article 51 of the PRC Company Law 2023 specifies the duty of directors to summon shareholders when they fail to pay their contributions on time. Directors must comply with the law by giving timely written reminders to ensure the adequacy of the company's capital

(Article 51, PRC Company Law 2023). In judicial practice, there are challenges in determining the scope of directors' liability and enforcement mechanisms. The SMT case (Supreme People's Court, 2019) highlights the problems faced in determining directors' liability in terms of determining causation and delineating the scope of liability, emphasizing the need for directors to take proactive measures to avoid losses in capital calls.

While the theory provides a macro view of directors' liabilities, the specifics of these liabilities and the manner in which they are to be enforced in the actual legal framework still need further clarification.

### **Analysis of Article 51 of the PRC Company Law 2023**

#### *Article 51: Directors' Duties in Capital Contributions*

In accordance with the revised Article 51 of the PRC Company Law 2023, a board of directors bears the legal responsibility for scrutinizing the status of shareholders' capital contributions subsequent to the establishment of a limited liability company. Should the board ascertain that a shareholder has defaulted on the full payment of their capital contribution within the timeframe and according to the amount delineated in the company's articles of association, the board is mandated to dispatch a formal written notice to the delinquent shareholder. If the board of directors fails to fulfill this responsibility in a timely manner, resulting in economic losses to the company, the directors may face legal recourse and demand compensation for the losses.

The Subscribed Registered Capital System (SRCS)<sup>1</sup> facilitates the payment of capital contributions by shareholders in installments over a predefined period, as opposed to a single lump sum. This arrangement, while enhancing flexibility in capital utilization, concurrently amplifies the risk borne by creditors. The aforementioned article elucidates the concept of the directors' duty to call, underscoring its significance in safeguarding the interests of corporate creditors within the framework of the paid-in capital system (Wang, 2024). This duty is pivotal within the corporate governance paradigm as the fulfillment of the call for capital obligations is instrumental in ensuring sufficient company capital and the protection of creditors' interests (Li & Yue, 2022; Lu, 2017).

Directors' duties in capital contributions are multifaceted, with implications for capital adequacy, creditor protection, and the enhancement of the corporate governance structure. However, any scholarly and practitioner consensus on the attribution, implementation, and delineation of liability pertaining to directors' duties in capital contributions remains elusive. The discourse primarily revolves around directors' responsibility to call for contributions and the criteria that should govern the fulfillment of this duty. Furthermore, the debate extends to the criteria for determining civil liability in the event of a director's failure to adequately fulfill their call obligations (Wang, 2024; Zhao & Zou, 2024).

The modern corporate governance structure assigns a critical role to directors, whose responsibilities encompass not only the company's operational decisions but also the oversight and management of shareholders' capital contributions. The PRC Company Law 2023 places particular emphasis on directors' duties in capital contributions, the aim being to ensure the veracity and sufficiency of a company's capital through legal mechanisms, thereby safeguarding the interests of creditors and the stability of the market. Nonetheless, the implementation of this law has unveiled several theoretical and practical challenges

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<sup>1</sup> The SRCS, also known as the declared capital system, is a corporate capital regime whereby shareholders are obligated to contribute capital to the company according to their subscribed shares, but the actual payment of such contributions is not required immediately upon the company's establishment. Instead, shareholders commit to paying the subscribed capital within a specified period or upon the occurrence of certain conditions.

associated with the call for capital obligations that need urgent solutions?. Under Article 51 of the amended PRC Company Law 2023, directors have a duty to ensure shareholders pay their contributions in full and on time. However, the SMT case shows the challenges in determining the scope of the directors' liability in practice.

Supreme People's Court of the People's Republic of China (2019). Civil retrial judgment (2018), No. 366. Shenzhen SmanTe Micro Display Technology Co., Ltd., & Hu Qiusheng v. The Dispute over the Liability for Damages to the Company (SMT Case)

In June 2019, the Supreme People's Court of the People's Republic of China rendered the landmark civil retrial judgment (2018), No. 366. Shenzhen SmanTe Micro Display Technology Co., Ltd., & Hu Qiusheng v. The Dispute over the Liability for Damages to the Company, colloquially referred to as the SMT case. This judgment offers significant elucidation of the legal contours surrounding directors' duties in a call for capital contributions. This interpretation exerts a profound influence on the formulation of Article 51 of the PRC Company Law 2023. Consequently, the present study involves a meticulous analysis of the case to delve into the intricacies of directors' duties in capital contributions.

The case at hand provides a foundational framework for understanding the legal obligations of directors within a corporate governance structure. It is imperative to examine the underlying facts of the case to appreciate the full scope of the directors' responsibilities:

The implications of the SMT case extend beyond the immediate parties involved. It set a precedent and influenced the understanding and application of directorial responsibilities in company law. The study aims to dissect the legal reasoning of the judgment and its implications for corporate governance, particularly focusing on directors' duties in capital contributions. This analysis will contribute to the existing body of literature by offering insights into how case law shapes fiduciary responsibilities and influences the legislative evolution of company law.

Furthermore, the study engages with pertinent scholarly discourse and relevant judicial opinions to contextualize the SMT case within the broader narrative of corporate law development. By doing so, it seeks to provide a comprehensive understanding of director's duty in a call for capital contributions., their legal underpinnings, and their practical ramifications for corporate entities and their stakeholders.

In conclusion, the SMT case represents a pivotal moment in the jurisprudence of corporate governance. Through its detailed examination, this study aspires to shed light on directors' duties in capital contributions., reinforcing the academic and practical significance of these duties within the evolving landscape of company law.

In the SMT case, the plaintiff was a creditor who had initiated bankruptcy liquidation proceedings against Shenzhen SMT Company, a wholly foreign-owned limited liability company. The defendants included Hu and five other Chinese directors of both the company and its shareholder, the Cayman SMT. The company's articles of association stipulated specific payment schedules for the registered capital, which the Cayman SMT had repeatedly failed to meet in full. Shenzhen SMT Company's articles of association required the Cayman SMT to pay 3 million USD within 90 days of the company's establishment and the remaining 13 million USD within one year. Despite multiple contributions and forced executions, the Cayman SMT still owed 4,912,376.06 USD. The company's board of directors, aware of the shareholder's financial status, failed to take adequate measures to ensure the capital contributions were made, leading to the company's insolvency and the subsequent lawsuit.

The plaintiff argued that the directors had neglected their duty to urge the shareholder to make the capital contributions, resulting in damages to the company. The defendants contended that their failure to perform this duty did not directly cause the losses. The Supreme People's Court, upon retrial, ruled that the directors should have been more proactive in supervising the shareholder's obligations, ultimately deciding that they were jointly liable for the company's losses, amounting to approximately 30 million RMB. The court found that the directors' inaction, coupled with the shareholder's failure to pay in full, directly harmed the company's interests. The directors' obligation to urge payment was legally causal to the losses suffered by Shenzhen SMT, thus establishing their liability.

The SMT case highlights the critical role of directors in upholding corporate governance standards and protecting the interests of all stakeholders. It underscores the need for directors to be diligent in ensuring that shareholders meet their capital commitments. The case also calls for a more precise legal framework to define directors' duty in a call for capital contributions obligation and the extent of their liability. To address the deficiencies identified in defining directorial responsibilities, it is recommended that the PRC Company Law 2023 be clarified to specify the modalities for fulfilling the call for capital obligations and to delineate the scope of directors' liability more precisely. This would not only provide a clearer legal path for directors but also ensure fair and just outcomes in future cases.

### **Shortcoming in the Director's Duty to Call for Capital Contributions**

#### *Unclear Definition of 'Responsible Director'*

Ensuring timely and complete capital contributions from shareholders within the corporate governance framework is the foundation for maintaining the financial integrity of a company. The PRC Company Law 2023 stipulates that a board of directors has the right to require shareholders to subscribe to capital contributions. However, due to the lack of any clear legal identification of the parties responsible or the allocation of responsibilities, various interpretations and judicial results have emerged.

Although the PRC Company Law 2023 clearly stipulates that one responsibility of boards of directors is to raise capital, it provides no detailed explanation of the responsible parties or allocation of responsibilities. This obscurity has fostered a divergence in the interpretation of directors' liability, particularly concerning the extent of their accountability for the duty to call and the mechanisms through which this duty is to be executed (Wang, 2024).

Scholars widely acknowledge that a board of directors, as the pivotal decision-making entity of a company, is endowed with a comprehensive understanding of the company's operational and financial dynamics, as well as being subject to fiduciary duties (Zhao & Liu, 2024). Consequently, director's duty in a call for capital contributions is deemed a reasonable imperative. Nevertheless, the execution of this duty transcends the mere act of calling; it is intricately linked to the internal governance structure's power distribution and division of responsibilities.

The determination of directorial liability has been a contentious issue in judicial practice, exemplified by the SMT case, in which the court faced challenges in defining the directors' responsibilities during the capital call process and in ascertaining the precise scope of their liability (Zhao & Liu, 2024). This highlights the necessity for a more precise judicial delineation of directorial duties and liabilities.

Directors' duties in a call for capital contributions should not be confined to procedural adherence to meeting formats. They necessitate the identification of specific duty bearers in accordance with a company's articles of incorporation or the operational modalities



determined by the board. Although individual directors may oversee distinct departments, it is imperative that the board takes collective responsibility for convening regular meetings for collaborative decision-making on significant corporate matters (Fu, 2022).

The delineation of a "liable director" in instances of default in capital contribution payments is a critical issue that requires further judicial elucidation (Wang, 2024). This clarification is essential for establishing the parameters of individual director accountability.

Despite the stipulations of the PRC Company Law 2023, the ambiguity in defining the responsible parties and their respective responsibilities persists. To foster the standard of corporate governance and safeguard the interests of creditors effectively, future legislative developments and judicial practices should aim to clarify the role of directors in respect of the duty to call. Such clarification would provide a more robust legal foundation for corporate governance and enhance the safeguards for creditor protection.

### *Lack of Clear Operational Standards*

Within the corporate governance framework, the comprehensive and punctual payment of shareholders' capital is pivotal for preserving the integrity of a company's capital structure (Ding, 2018). Although the PRC Company Law 2023 delineates the board of directors' duty to invoke capital from shareholders who fail to meet their obligations, the legislation's lack of specific provisions regarding the enforcement mechanism has resulted in a diversity of enforcement standards in practice.

The PRC Company Law 2023 mandates a board of directors to issue a call for capital contributions. However, it does not prescribe the form or content of such a call, nor does it elucidate whether a board resolution is necessary for this purpose. This ambiguity affords the board greater discretion in enforcing the call duty but concurrently engenders uncertainty in the enforcement process.

Due to the lack of clear operational standards, companies have adopted a series of methods to fulfill its debt collection obligations, from the most basic written notice to formal board resolutions (Ye, 2018). These differences may affect the legal effectiveness and practical impact of debt collection laws, thereby impacting the standardization and transparency of corporate governance.

As the core decision-making body, a board of directors has a decisive impact on a company's major issues through resolutions (Li & Li, 2018). It is worth exploring in depth whether a formal board resolution is required for the crucial act of urging shareholders to contribute capital. This issue is related to not only the legality of debt collection but also the transparency and standardization of a company's internal decision-making process.

In order to improve the standardization and effectiveness of debt collection behavior, it is necessary to standardize the format and content of debt collection letters. This standardization should include specifying the basic information to include in the reminder letter, such as the shareholder's identity, the capital contribution amount, the outstanding balance, and the payment deadline, as well as the legal language and formatting requirements of the reminder letter (Ye, 2024).

The SMT case emphasizes the issue of inconsistent payment methods. The law provides no specific regulations on the exact method of implementing debt collection, including the necessity of board resolutions and the format and content of debt collection notices, which has led to inconsistencies in practice. This issue was manifested in the SMT case as a dispute over the determination of directorial responsibility, especially in the absence of clear legal

guidance on how to define whether directors have fulfilled their duty of diligence (Wang, 2020).

Given the obscurity of the collection method, it is advisable for the legislature and judiciary to provide further clarification and refinement. Concurrently, companies should devise a rational process and collection standard based on their specific circumstances to ensure the legality and effectiveness of the collection act. Furthermore, the assessment of whether a director has fulfilled his duty of diligence should be contingent upon the particular facts of the case.

#### *Scope of Directors' Liability Not Clearly Defined*

Within the stringent corporate governance paradigm, the prompt and complete payment of shareholders' capital is essential for upholding a company's capital integrity (Fang & Zhou, 2019). Despite the PRC Company Law 2023 providing a foundational legal framework that addresses directors' liability in cases of failure to fulfill the obligation to call for contributions, the legislation does not distinctly define the specific form or scope of such liability, resulting in divergent interpretations and judicial decisions. Article 51 (2) of the PRC Company Law 2023 mentions the "responsibility" of directors but provides no detailed explanation of the specific scope or nature of this responsibility.

The SMT case highlights the ambiguity of the definition of directorial responsibility and reveals the challenges faced in determining this responsibility in the absence of clear legal guidance. Scholars have advocated further clarification of the specific scope and nature of directors' responsibilities to reduce the arbitrariness of judicial judgments (Zou, 2022; Wang, 2020).

Article 51(2) of the PRC Company Law 2023 emphasizes that only the responsible director is liable, suggesting that liability should be predicated on the director's fault. The board of directors, as a collective authority, should ascertain the liability of its members based on their individual conduct and decision-making processes. When determining the scope of directors' responsibilities, factors such as their professional knowledge, work experience, tenure, and position should be taken into account (Xiong, 2024). At the same time, it is also necessary to evaluate whether the directors have fulfilled their duty of diligence and whether there is a causal relationship between their actions and the company's losses (Li & Yue, 2022).

#### *Recommendations for Enhancing Directors' Duties Enforcement and Legal Certainty*

The focus of the previous text shifts to exploring the execution mechanism and responsibility allocation of directors' debt collection obligations. The study discussed in detail Article 51 of the PRC Company Law 2023, which stipulates that a board of directors should issue a written notice of payment to shareholders when it discovers they have not paid their capital contributions in full and on time. In addition, the responsibility that directors should bear when they fail to fulfill their obligation to collect payments in a timely manner was also analyzed.

The following section provides recommendations for improving Article 51 of the PRC Company Law 2023, with the aim of reducing the uncertainty of judicial judgments, strengthening the legal protection of creditors' rights and interests, and creating a standardized and favorable business environment.

*Identifying Liable Directors*

The study engages with the conceptual underpinnings of directors' responsibilities within corporate governance, particularly concerning the duty to make calls regarding shareholders' capital contributions. The analysis is grounded in stakeholder theory, which emphasises that a company should serve the interests of all stakeholders, including shareholders, employees, creditors, and suppliers (Freeman, 1984).

The exploration of directors' duties in corporate governance, specifically the duty of information verification, is paramount. This duty encompasses not only the oversight and control of shareholders' capital contributions but also the continuous monitoring of the company's operational requirements and financial status. Given the dynamic nature of information verification, it is deemed more efficacious for specific directors or senior managers to shoulder this responsibility, rather than confining it to the board of directors' periodic meetings, which would ensure timely responses to the company's evolving operational and financial circumstances. The designation of the entity accountable for information verification and its role within the verification process should be contingent upon the company's size and internal functional division (Zhao & Liu, 2024).

In the context of smaller companies with less complex governance structures where directors are often intimately involved in day-to-day management, they are expected to exercise due diligence in verifying shareholders' capital contributions and persistently monitoring the company's operational and debt status to ascertain the necessity of a capital call. In the presence of a board of directors, there may be a co-management structure or an internal division of labor, with all directors bearing the duty to verify, or a specialized division of labor where the finance director holds the verification duty while other directors retain the monitoring duty (Zhao & Liu, 2024). The business judgement rule should shield directors' decisions to make preemptive capital calls (Wang, 2024).

Conversely, larger companies typically exhibit a more intricate governance architecture, with boards of directors potentially delegating certain managerial responsibilities to specific functions or members, thus establishing a multi-tiered system of power separation. Within this framework, the horizontal differentiation between directors and the vertical power separation between the board and management are particularly pronounced. While delegating authority, the authorizing body also assumes supervisory responsibilities, and its reasonable reliance on the authorized entity should align with the standard of care expected of a prudent manager (Wang, 2024).

Should a shareholder's capital contribution period lapse without payment, directors' duties in capital contributions are triggered as a matter of principle. The company may extend the contribution period via a shareholders' meeting resolution. Given the clarity of directors' duties in capital contributions, theoretically, there is no requirement for a resolution procedure, and the call should be executed in accordance with a company's articles of association or a board of directors' rules of procedure (Li, 2024).

However, if the deadline for shareholders' contributions has not yet expired but the company requires early payment due to operational exigencies or insolvency, a shareholders' meeting or board of directors must deliberate and vote on whether to make a call. Current legislation necessitates amending articles of association to permit an extension or advance payment of capital contributions, typically requiring a shareholders' meeting to be convened and the approval of more than two-thirds of the voting shareholders. Yet from a legislative perspective, the decision to make a capital call is more suitably made by a board of directors,



given their superior insights into the company's operations and financial health, as well as their fiduciary duty of loyalty and diligence (Wang, 2024).

As stipulated by Article 51(1) of the PRC Company Law 2023, should the failure to punctually fulfill the obligations outlined in the preceding paragraph result in losses to the company, the responsible director shall be held liable for compensation. The term "liable director" not only encompasses a director directly tasked with verifying capital contributions and making the call but also extends to any director who, despite not being directly responsible for the call, impedes the company from issuing the written demand, such as by obstructing the formation of a board resolution through absence or other means. In this case, the responsible director is considered to be the person obstructing the company from issuing a written notice.

In conclusion, directors have multifaceted responsibilities regarding information verification and fund collection, which requires comprehensive consideration of a company's size, governance structure, and operational needs. When implementing debt collection actions, directors should abide by the obligation of due diligence and make appropriate resolutions through the company's internal decision-making procedures when necessary. This program not only reflects the complexity of corporate governance but also highlights the crucial role of directors in safeguarding the interests of a company and its shareholders.

#### *Clarifying Operational Standards of Director's Duty in a Call for Capital Contributions*

The study addresses the enforcement of a director's duty to make a call upon discovering a shareholder's failure to pay the capital contribution in full by the stipulated deadline, as well as the obscurity of this within the relevant provisions of the Company Law. The study advocates the elucidation of the current legal framework to augment the law's applicability and mitigate the directors' uncertainty over enforcing directors' duties in capital contributions.

Upon detection during the verification process that a shareholder has defaulted on the timely and complete payment of their capital contribution, the board of directors is enjoined to issue a written reminder, which should bear the company's corporate seal or the signature of the legal representative (Zhao & Liu, 2024). Although the PRC Company Law 2023 does not explicitly stipulate whether a board resolution is mandatory as a precondition, to ensure procedural legality, it is advisable that the board of directors hold a vote to establish a valid board resolution prior to dispatching the reminder.

In many instances, a board resolution may not be a prerequisite for issuing a call. Nonetheless, to circumvent potential future disenfranchisement issues among shareholders, the board might opt to hold a vote, thereby ensuring adherence to legal protocols. This would not only circumvent legal disputes but also offer unambiguous guidance to directors in the execution of their responsibilities.

The PRC Company Law 2023 stipulates that a call "may" include a grace period, employing permissive rather than prescriptive language. Given that shareholders have already postponed their capital contributions, theoretically, no additional grace period should be proffered. However, acknowledging that it may be impracticable for shareholders to meet their capital contribution obligations instantly, the law sensibly affords a grace period of 60 days (Ye, 2024).

To bolster the efficacy of corporate governance and the law's operability, it is recommended that the PRC Company Law 2023 delineate the procedures for the issuance of a call by the board of directors, clarify whether a board resolution is necessary, and specify the provisions regarding the grace period. Such clarifications will assist in diminishing directors' uncertainty

over enforcing the call obligation while simultaneously protecting the legitimate rights and interests of shareholders and the company (Wang, 2024).

### *Clear Scope of Directors' Liability*

In the realm of corporate governance, the impetus for directors' liability originates from a dereliction of the duty to call, which is an integral component of directors' fiduciary obligations. Despite the significance of this duty, the legal nexus between directors and the company is yet to be comprehensively delineated within the extant legal framework. This study posits that elucidating this relationship is fundamental to establishing the benchmarks of directors' prerogatives, duties, and liabilities.

The business judgment rule serves as a bulwark, affording directors a measure of protection that circumscribes the imposition of liability (Ye, 2024). In accordance with this principle, a director, whose decision-making is underpinned by reasonableness, good faith, and the absence of conflict of interest, should be indemnified from accountability for the outcomes of their decisions, even in instances where the desired outcomes are not realized. The demarcation of directors' liability should transcend a mere consideration of the company's failure to secure shareholders' contributions. It should encompass an appraisal of directors' performance of their duties; the immediacy and preventability of the company's detriment; and the causal nexus between a director's conduct and the company's loss (Zou, 2022).

Given the specialized nature of the directorial role, it may be prudent for the company and directors to expressly stipulate liability limitation and exemption clauses within their contractual agreements. These regulations can reduce the risk of directors facing heavy responsibilities that are disproportionate to their remuneration. In the relationship between directors and shareholders, directorial responsibilities should not be automatically attributed to shareholders' failure to fulfill their capital contribution obligations (Wang, 2020). The determination and scope of a director's responsibility should be independently determined after fully considering the director's response and the actual company losses.

In the dynamic relationships between directors, the attribution of responsibility should be based on the internal division of labor, the decision-making process, and the personal behavior of members of the board. The emergence of collective responsibility should focus on the operational mode of the board of directors and their mutual supervision responsibility (Ye, 2018).

The study advocates a comprehensive approach to determining and expanding the liability of directors for compensation, based on a comprehensive review of the legal relationship between the company and its directors. By clarifying the directors' obligation to make payments, applying business judgment rules, determining the scope of liability, and establishing liability limitations and exemption clauses, directorial responsibilities can be more fairly divided. This approach not only helps improve the level of corporate governance but also safeguards the legitimate rights and interests of directors.

### **Conclusion**

This study holds significant theoretical and contextual importance in the realm of corporate governance and legal practice. Theoretically, it contributes to the body of knowledge by providing a comprehensive analysis of directors' responsibilities under Article 51 of the PRC Company Law 2023, particularly in the context of capital contributions. It integrates stakeholder theory and fiduciary duties to offer a nuanced understanding of the directors' role in ensuring capital adequacy and creditor protection. By examining the legal duties and

obligations of directors through the lens of a critical court case, this study extends the academic discourse on the multifaceted nature of directors' duties, including capital adequacy, creditor protection, and corporate governance enhancement.

Contextually, this study is particularly relevant given the rapid evolution of China's market economy and the recent amendments to the PRC Company Law. It addresses the practical challenges faced by directors in fulfilling their obligations to collect payments, the definition of their responsibilities, and the specific content of their legal duties. The findings of this study offer insights into the ambiguities within the existing legal framework and provide recommendations for legislative and judicial improvements. These contributions are not only academic but also have practical implications for shaping corporate governance practices and legislation, thereby enhancing the stability of company capital and protecting the rights and interests of creditors and other stakeholders.

By systematically examining directors' convening obligations, this study provides a solid theoretical foundation for understanding and improving directors' responsibilities. It offers valuable guidance for improving corporate governance practices and legislation, contributing to the optimization of corporate governance structures, thus enhancing the stability of corporate capital and protecting the rights and interests of creditors and other stakeholders.

## References

- Ding, Y. (2018). Innovation of Capital Rules in Corporate Law After the Subscription System. *Legal Research*, 40(2), 159-160.
- Fama, E. F., & Jensen, M. C. (1983a). Separation of Ownership and Control. *Journal of Law and Economics*, 26(2), 301-325.
- Fama, E. F., & Jensen, M. C. (1983b). Agency Problems and Residual Claims. *Journal of Law and Economics*, 26(1), 327-349.
- Fang, G. B., & Zhou, D. S. (2019). Research on the Acceleration Mechanism of Shareholders' Capital Contribution Obligations under the Subscription System: An Analysis from the Perspective of Corporate Capital System Reform. *Era Legal Science*, 17(5), 22-31.
- Freeman, R. E. (1984). *Strategic Management: A Stakeholder Approach*. Pitman, Boston, MA.
- Fu, Q. (2022). Reform of Directors' Obligations under the Paradigm of Company Interest. *China Legal Science*, 22(6), 197-218.
- Jensen, M. C., & Meckling, W. H. (1976). Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure. *Journal of Financial Economics*, 3(4), 305-360.
- Li, J. W., & Yue, W. B. (2022). Directors' Fiduciary Duties to Creditors: An Examination from the Perspective of the Corporate Capital System. *Journal of China University of Political Science and Law*.4(3), 30-36.
- Li, H. Y., & Li, S. C. (2018). The Director's Capital Contribution Collection System under the Capital Subscription System. *Journal of Yanbian University (Social Sciences Edition)*, 20(3), 77-78.
- Li, N. N. (2024). Perspective | The New Company Law Comes Into Effect Today! The Impact of the New Company Law from the Perspective of Creditors. *Law News Agency*,13(4), 35-39.
- Lu, N. (2017). An Analysis of the Corporate Capital Contribution System: A Discussion on the Predicament and Solutions for the Accelerated Maturation of Shareholders' Capital Contribution Obligations under the Subscribed Capital System. *Journal of China University of Political Science and Law*, 5(4), 35-41.
- PRC Company Law. (2023).Law Peking University Law Legal Information Network

- PRC Company Law. (2018).Law Peking University Law Legal Information Network
- Wang, Y. (2024). An Interpretation of Directors' Duty to Demand Payment from Shareholders from the Perspective of the Corporation Law. *Journal of Beijing Institute of Technology (Social Sciences Edition)*, 26(4), 98-108.
- Wang, Y. (2020). The Application of Directors' Due Diligence Obligations in the Company's Capital Contribution: A Review of the "Smart Display Technology (Shenzhen) Company vs. Hu Qiusheng for Damages to Company Interests Dispute Case" . *Social Scientist*, 20(9), 114.
- Wang, Y. Y. (2024). *Twenty-Four Lectures on the New Company Law: In-depth Interpretation of Trial Principles and Difficult Issues*. 1st ed. (p. 510).
- Xiong Chuan Lawyer. (2024). Corporate Governance | The Board of Directors' Obligation to Call for Shareholders' Capital Contributions under the New "Company Law" — Taking the SMT Case as an Example. WeChat public account "Xiong Chuan Lawyer".
- Ye, J. Q. (2018). The Specification of the Standard for Judging Directors' Violation of Due Diligence Obligations. *Comparative Law Studies*, 18(6), 79-88.
- Ye, L. (2024). An Analytical Framework for Directors' Obligations and Liability for Compensation. *People's Judicature*, 19(6), 69-78.
- Zhao, X. D., & Zou, X. G. (2024). The Theoretical Basis and Systemic Development of the Contribution Acceleration and Disenfranchisement System. *China Review of Administration of Justice*.17(6), 78-87.
- Zhao, X. D., & Liu, B. (2024). *New Company Law Application and Interpretation of Cases Published by the Supreme People's Court*. 1st ed. (p. 155).
- Zhao, X. D., & Liu, B. (2024). *New Company Law Litigation Practice Guide*. 1st ed. (p. 88).
- Zou, X. G. (2022). On the Supervisory Obligations of Directors to Shareholders' Capital Contributions: A Review of the "Smart" Damage to Company Interests Dispute Case. *Journal of Gansu Political Science and Law University*, 22(2), 102-118.
- Zhao, X. D., & Liu, B. (2024). *New Company Law Application and Interpretation of Cases Published by the Supreme People's Court*. 1st ed. (p. 155).