

Company Law Revision

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Abstract: Against the backdrop of the latest revision of the company law, this paper addresses issues related to co., LTD. shareholders' contribution obligations. It explores contractual and risk characteristics, investment, escape investment, and capital contribution obligations. The paper proposes legislative enhancements, advocates for strengthened judicial guarantees, and provides solutions to optimize corporate internal governance. By clarifying the scope and standards of shareholders' contribution obligations, strengthening the legal binding force, optimizing the corporate governance structure and other measures, it aims to ensure the effective performance of shareholders' contribution obligations, protect the legitimate rights and interests of the company and creditors, and promote the long-term and stable development of the company.

1. Introduction

On December 29, 2023, the Company Law was newly revised and will come into force on July 1, 2024. As for the shareholder's capital contribution, the first paragraph of Article 47 of the revised Company Law clearly stipulates that the registered capital of a limited liability company is the amount of capital contribution subscribed by all shareholders registered in the company registration authority. The amount of capital contribution subscribed by all shareholders shall be fully paid within five years from the date of establishment of the company in accordance with the provisions of the articles of association. The revised Company Law also stipulates that the company registered before the implementation of the new Company Law, the investment period of investment more than five years, should be gradually adjusted to less than five years.

As for shareholder contribution, it also stipulates that the company can make up for losses by reducing its registered capital. **The first paragraph of Article 225 of the Revised Company Law provides:** Where the company may reduce the registered capital to cover losses or reduce the registered capital to cover losses, the company shall not distribute to the shareholders or exempt the shareholders from the obligation to pay the capital contribution or share payment.

In the operation and development of the limited company, the performance of shareholders' contribution obligations is an important cornerstone of the company's steady operation and performance reputation. The contractual and risky characteristics of shareholders' contribution obligations make them face many challenges and problems in practice, such as false investment, withdrawal of investment and improper performance of capital contribution obligations. These problems not only affect the capital structure and operational efficiency of the company, but also lead to many legal disputes and loss of integrity in market transactions. Therefore, these problems

are discussed in depth and corresponding solutions are put forward, in order to provide useful reference for the orderly development of the limited company.

2. Characteristics of the liability of the shareholder contribution of the limited company

2.1 Legal characteristics

The legal characteristics occupy a core position in the capital contribution obligations of shareholders of limited companies, reflecting the strict norms and requirements of the law on shareholders' capital contribution behavior. First, the legal nature of shareholders' capital contribution obligations comes from the clear provisions of the Company Law and its relevant judicial interpretations ^[1]. These legal provisions not only set specific quotas, methods and time limit for shareholders' capital contribution, but also clarify the legal responsibilities that shareholders should bear in the process of capital contribution. This legality ensures the compliance and standardization of shareholders' capital contribution behavior, and provides a solid legal foundation for the sound operation of the company. Second, the legal nature of shareholders' capital contribution obligations is also reflected in its mandatory and binding force. The legal provisions on shareholders' capital contribution obligations are mandatory, and any shareholder must abide by and fulfill its capital contribution obligations. At the same time, this mandatory also gives the binding force of capital contribution obligation, so that shareholders must follow the provisions of the law in the process of investment, and shall not change or violate at will. This mandatory and binding force ensures the stability and predictability of shareholders' capital contribution behavior, and provides a guarantee for the long-term development of the company. Three, the legal obligations of shareholders also embody the principles of fairness and equity. The legal regulation of shareholders' investment obligations is fair and just, requiring all shareholders' contribution obligations to adhere to the same standard. No privileges or exceptions are allowed. The emphasis on fairness and equity ensures that the status and rights of all shareholders in the company receive equal treatment. This creates conditions for internal harmony and stability within the company.

2.2 Covenant characteristics

The characteristics of contract also play an important role in the capital contribution obligation of shareholders of a limited company, which reflects the agreement and trust between shareholders and between shareholders and the company. First, the contractual nature of the capital contribution agreement between shareholders is an important embodiment of the contract of shareholders' capital contribution obligation. When shareholders establish a company, they specify the amount, method, term of their respective investment and other matters by signing a capital contribution agreement, which is the agreement reached between shareholders based on the principle of equality and voluntariness. This agreement is not only legally binding, but also provides a clear basis for the performance of shareholders' capital contribution obligations ^[2]. Second, the association between the capital contribution obligation and the articles of association of the company further highlights the contractual nature of the shareholders' capital contribution obligation. As the articles of association of the company, as the articles of association of the company, is a document jointly formulated by the shareholders to regulate the organization and behavior of the company. Among them, the provisions on the shareholders' capital contribution obligations are an important part of the articles of association of the company, with legal effect. When the shareholders sign the articles of association, they agree to and accept the provisions on the capital contribution obligations, which constitutes the contractual relationship between the shareholders and the company ^[3]. Third, the contractual relationship between the shareholders' capital contribution and the creditors of the company is also the embodiment of the contractual nature of the shareholders' capital contribution

obligation. After the capital contribution, the amount of their capital contribution is transformed into the legal person property of the company, which becomes the basis for the company to bear external debts. Therefore, the performance of shareholders' capital contribution obligation is not only related to the steady operation of the company itself, but also directly affects the interests of the creditors of the company. Shareholders should abide by the legal provisions and the articles of association to ensure the authenticity and legality of the investment, so as to safeguard the legitimate rights and interests of the creditors.

2.3 Risk characteristics

The risk characteristics cannot be ignored in the shareholder contribution obligation of the limited company, which reveals the potential risks and challenges brought by the shareholder's capital contribution behavior. First, the insufficient shareholder contribution is one of the main risks leading to the false registered capital of the company. When shareholders fail to make capital contribution in full as agreed, the actual capital of the company will be lower than the registered capital, which not only affects the credit rating and financing ability of the company, but also causes the company to bear sufficient debt repayment liability when facing debts^[3]. Second, the shareholders' false investment is another potential risk, including false investment and false valuation. When the shareholders contribute in a false way or intentionally overestimate the value of assets, the registered capital of the company will lose its authenticity, which will affect the business stability and long-term development of the company. Third, it is also a common risk behavior for shareholders to withdraw their investment. When shareholders withdraw their investment in various names after the establishment of the company, the capital of the company's capital will be reduced, thus weakening the company's solvency and market competitiveness. These risk characteristics pose a serious threat to the operation and development of the limited company. A series of problems such as insufficient shareholder investment, false or withdrawal lead to the imbalance of the company's capital structure, credit damage and solvency decline. In order to reduce these risks, it is necessary to strengthen the supervision and restraint of shareholders' capital contribution obligations to ensure that shareholders fulfill their capital contribution obligations in accordance with the legal provisions and the articles of association. At the same time, it is also very important to establish a sound credit evaluation mechanism and risk prevention and control system, so as to timely find and deal with the potential risks in shareholders' investment behavior.

3. Investment liability of limited company shareholders

3.1 The problem of false capital contribution

The problem of false investment is an issue that cannot be ignored in the limited company, which is mainly reflected in the shareholders' failure of shareholders to fulfill their investment obligations in accordance with the agreement, and the false investment in practice in various forms, such as false investment, delayed investment, improper investment or the false value of the investment. All these behaviors lead to the virtual increase of the company's registered capital, which will have a negative impact on the company's capital structure and reputation. First, false capital contribution is a typical manifestation of the problem of false investment, which usually involves shareholders to evade the obligation of capital contribution by fictitious capital, concealing the false situation or providing false supporting documents. The false investment not only leads to the false rise of the registered capital of the company, but also causes the crisis of trust and legal disputes of creditors. Second, the delayed investment is also a form of false investment. When shareholders fail to complete the investment within the agreed time, the actual operation of the company will be affected, and the delayed investment will lead to the company's shortage of funds, project stagnation or other forms of operation difficulties. Third, the improper way of investment and the false

appraisal value of the capital contribution are also an important part of the problem of false investment. Shareholders adopt inappropriate investment methods, such as non-monetary assets without reasonable evaluation and confirmation, the assessed value of the same capital contribution is higher than its actual value, resulting in the virtual increase of the registered capital of the company.

3.2 Quit the problem of capital contribution

Escape investment problem is co., LTD., a serious capital irregularities, it involves shareholders in the company, in various ways to invest the capital transfer from the company or hidden, to reduce the company's actual capital, this kind of behavior to the company's long-term stable operation, protect the interests of the creditors and market economic order maintenance constitute a serious challenge. One is destroyed the company's capital enrichment principle, according to the company law, the shareholders after the capital contribution, the capital contribution into the company's legal person property, shareholders shall not draw back, however, escape investment behavior makes the company's actual capital reduction, cause the company capital and registered capital, serious damage to the company's capital enrichment base. Second, the withdrawal damages the interests of the creditors. The registered capital of the company is one of the important bases for the creditors to evaluate the company's solvency. When the shareholders withdraw the capital contribution, the company's solvency will be questioned, leading to the creditors to have doubts when dealing with the company, and then affect the company's market reputation and financing ability. Third, the withdrawal of investment also destroys the fair competition principle of the market economy. When some companies obtain benefits through improper means such as the withdrawal of investment, it will seriously distort the market competition mechanism and damage the interests of other law-abiding companies and destroy the healthy development of the market economy.

3.3 Improper performance of capital contribution obligations

Improper performance of capital contribution obligations is an important issue in the governance of the limited company, which involves all kinds of non-standard, non-compliance or non-contract behaviors of shareholders in the process of fulfilling their capital contribution obligations. These problems not only affect the capital structure and operation efficiency of the company, but also cause legal disputes and reputation loss ^[4]. First, the improper performance of the capital contribution obligation is the shareholders' failure to complete the investment at the agreed time and way, which leads to the tension of the company's capital chain, which affects the promotion of the project and the normal operation of the company. In addition, the delay of capital contribution also affects the credit rating of the company and increases the financing cost. Second, the improper performance of the capital contribution obligation also includes the way of investment does not comply with the legal provisions of the company or the articles of association of the company, such as the shareholders with non-monetary assets, but without reasonable evaluation and confirmation, resulting in the value of the capital contribution is not true, or the shareholders violate the law or the articles of association of investment, such as borrowing funds. Third, the improper performance of the capital contribution obligation also involves the withdrawal of capital or the withdrawal of investment in a disguised way. This behavior seriously violates the company's capital maintenance principle and damages the actual capital and solvency of the company.

4. Optimization countermeasures of shareholder investment obligation of limited company

4.1 We will improve legislative provisions

Improving the legislative provisions is the key measure to ensure the effective performance of

the capital contribution obligations of the shareholders of limited companies. At the legislative level, the shareholder capital contribution obligations should be more clear, specific and operable, so as to improve the applicability and enforcement of the law. One is to perfect the legislation shall be clear the scope of shareholders contribution obligations and standards, including the amount, investment way, investment time and other specific provisions, so that shareholders and the company can clearly understand their rights and obligations, and the legislation should also establish a reasonable contribution evaluation mechanism, to ensure the authenticity and rationality of investment value ^[5]. Based on the latest development of market trading practice, the new equity and creditor's rights of the revised Company Law are taken as the investment form of non-monetary property. That is, the first paragraph of Article 48 of the revised Company Law stipulates that shareholders can contribute in money, but also use in kind, intellectual property, land use rights, equity and debt rights that can be valued in currency and transferred according to law. The capital contribution of equity and creditor's rights belongs to non-monetary property capital contribution, so it shall go through strict evaluation procedures and handle corresponding procedures for transfer of property right and right transfer, so that the capital contribution can be legal and effective. Second is to improve the legislation should strengthen the shareholder obligations binding and legal consequences, including the failure to perform or improper contribution obligations of shareholders severe legal sanctions, such as fines, limit their equity exercise, etc., the legislation should also be clear the company to capital contribution obligations of shareholders recourse and relief ways and procedures. The revised Company Law stipulates that when the company cannot pay off the due debts, the shareholders' investment is triggered to accelerate the maturity. Among them, Article 54 clearly stipulates that if the company cannot pay off the debts due, the company or the creditor's rights have the right to demand the shareholders who have subscribed but not paid to pay the capital contribution in advance. At the same time, the revised Company Law revised the liability for breach of contract to the liability for compensation for the company. According to the previous Company Law, shareholders who fail to pay the capital contribution in full on time shall not only pay the full amount to the company, but also bear the liability for breach of contract to the shareholders who have paid the capital contribution in full. However, paragraph 3 of Article 49 of the revised Company Law clearly stipulates: " If a shareholder fails to pay the capital contribution in full on time, it shall not only pay the company in full, but also be liable for compensation for the losses caused to the company."Liability for breach of contract and liability for compensation are fundamentally different in the definition of the nature of the legal relationship. In addition, absorbing the advanced legislative experience of advanced companies, clearly stipulates that the company can eliminate the shareholders (loss of right system). Article 52 of the amended Company Law clearly states: " If the shareholder fails to pay the capital contribution according to the articles of association of the Company, the grace period may be specified; the grace period shall not be no less than 60 days from the date when the Company issues the letter of payment. Upon the expiration of the grace period, if the shareholder still fails to perform the obligation of capital contribution, the company may, upon resolution of the board of directors, give the shareholder a notice of the loss of right, and the notice shall be issued in writing. From the date of the notice, the shareholder loses the equity he has not paid. The equity lost in accordance with the provisions of the preceding paragraph shall be transferred according to law, or the registered capital shall be reduced and cancelled accordingly: not transferred or cancelled within six months

4.2 We will strengthen judicial protection

Strengthening the judicial protection plays a vital role in ensuring the performance of the investment obligations of the shareholders of limited companies. Judicial protection is not only a sanction and correction of the illegal shareholders, but also a strong protection of the legitimate rights and interests of the company and creditors. First, to strengthen judicial protection means that judicial organs should be more actively involved in the handling of shareholder investment disputes.

When there is a dispute between shareholders or between shareholders and the company, judicial organs should intervene in time, solve disputes fairly and efficiently in accordance with the law, and prevent the expansion of disputes to protect the legitimate rights and interests of the parties. Second, to strengthen the judicial safeguard requires judicial organs strictly in accordance with the law, the judicial organs in the trial of shareholders investment disputes, shall strictly follow the laws and regulations, to ensure the fairness and authority of the trial results, and the judicial organs should also strengthen the execution of the judgment and ruling, to ensure that illegal shareholders by due legal sanctions. Third, to strengthen the judicial guarantee, we also need to improve the relevant legal system and improve the judicial efficiency, such as the establishment of a special mechanism for handling shareholder investment disputes, simplify the litigation procedures, shorten the litigation cycle, and reduce the litigation cost of the parties. At the same time, it also strengthens the judicial interpretation, clarify and refine the relevant legal provisions of shareholders' contribution obligations, and improves the applicability and operability of the law. Strengthening the judicial guarantee is an important safeguard measure to ensure the effective performance of the investment obligations of the shareholders of the limited company. Through active intervention in dispute resolution, strict adherence to legal procedures in related cases, improvement of the relevant legal system, and enhancement of judicial efficiency, strong legal support is provided for the stable operation and long-term development of the limited company.

4.3 Optimize corporate internal governance

The revised Company Law adds the obligation of the board of directors (directors) to the shareholders' contribution and compensation liability. Among them, Article 51 clearly stipulates: "After the establishment of a limited liability company, the board of directors shall check the capital contribution of the shareholder. If the shareholder fails to pay the capital contribution stipulated in the articles of association of the company in full on time, the company shall issue a written request to the shareholder to urge the payment of the capital contribution. If the company fails to timely perform the obligations prescribed in the preceding paragraph and causes losses to the company, the responsible directors shall be liable for compensation." New directors of shareholders contribution obligation and liability for compensation is the key link to optimize internal governance, become ensure co., LTD. Shareholders contribution obligations effectively one of the core of the measures, good corporate governance structure can not only constraint shareholders behavior, protect the interests of the company and creditors, also can improve the company's overall performance and market competitiveness. First, to optimize the internal governance of the company, it is necessary to establish a sound internal organization such as the board of shareholders, the board of directors and the board of supervisors, and clarify their respective responsibilities and powers. As the highest authority of the company, the shareholders 'meeting shall be responsible for deliberating and deciding the major matters of the company, including the performance of the shareholders' capital contribution obligations. As the executive body, the board of directors shall supervise the performance of shareholders 'capital contribution obligations to ensure the sufficient and stable capital of the company, while the board of Supervisors shall be responsible for the supervision of the company's financial and management behavior to prevent the improper performance of shareholders' capital contribution obligations. Second, to optimize the company's internal governance, it is necessary to perfect the internal control system and risk management system. The company should establish a sound financial management system and standardize the process of shareholder investment and standards. This is to ensure the authenticity of investment and compliance. At the same time, the company should also establish a perfect risk management mechanism, identify and evaluate the process of risk, and take corresponding measures. Third, to optimize the internal governance of the company, it should also strengthen the construction of information disclosure and transparency. The company should timely disclose the performance of shareholders' investment obligations, including the amount, method and time of investment, so that

shareholders, creditors and regulatory agencies can understand the capital situation and risk situation of the company. At the same time, the company should also strengthen the communication and cooperation with other stakeholders, jointly maintain the stability and development of the company, and optimize the internal governance of the company is the key measure to ensure the effective performance of the investment obligations of the shareholders of the limited company. The company, by establishing a sound internal organization, improving the internal control system and risk management system, and strengthening the information disclosure and transparency construction, aims to improve the level of corporate governance. This initiative is taken to protect the interests of the company and creditors, ultimately promoting the long-term and stable development of the company.

5. Conclusion

Through the research and analysis of co., LTD. Shareholders contribution obligations, reveals the contractual and risk characteristics, and further discusses the false, escape and improper obligations, for these problems article puts forward the perfect legislation, strengthen the judicial guarantee and optimize the company internal governance solutions. For example, it is clear that shareholders who have not fully contributed can exercise their rights, including voting rights, which solves the disputes over the scope of the rights of shareholders who have not fully contributed in the past. In the company, when shareholders fail to provide full contribution in writing, and after the grace period, which is counted from the date of the company issuing the request, the shareholders shall not be less than 60 days. In order to prevent the major shareholders (major shareholders usually serve as the chairman) and the board of directors (directors) from abusing their rights and expanding the grace period without restriction, the articles of association shall make clear provisions on the grace period. Therefore, the board of directors (directors) shall issue a Notice of Loss of right, and the notice of loss of right shall be issued in writing. Finally, the shares lost of power shall be transferred or cancelled by capital reduction, or other shareholders of the company shall pay the corresponding capital contribution in full according to the proportion of their capital contribution. The objection period of the lost shareholder is 30 days and claims by filing a lawsuit in the people's court. These measures aim to ensure the effective performance of shareholders' investment obligations, protect the legitimate rights and interests of the company and creditors, promote the long-term and stable development of the company, and provide a strong guarantee for the healthy development of the limited company by strengthening legal constraints, optimizing the corporate governance structure and improving the transparency of information disclosure.

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