# Comparative Analysis of Investor Compensation Mechanisms in Securities Fraud: China's Advance Compensation System and The U.S. Fair Fund Regime

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**Abstract: This article compares the advanced clearing system under Article 93 of the 2020 Securities Law with the fair fund system in the United States, and evaluates how each system can balance speed, legal certainty, transparency and deterrence while protecting investors. It uses comparative legal methods to analyze the two systems from a common perspective, including funding sources, payment triggers, ratings, loss methods, governance, transparency, review mechanisms, time and administrative costs. For the Chinese side, the research is conducted through Wanfu Shengke, Xintai Electric, and Amethystum matters, while for the United States side, the research is carried out through fair fund principle, distribution plan practice and post-Liu v. SEC framework. According to this study, the China model aims to provide early relief for liquidity and market stability, but it relies on negotiated distribution, so it tolerates greater uncertainty in the payer's identity, distribution share and procedural form. In contrast, the American model puts more emphasis on the transparency of negligence-based funds and formal allocation plans and procedures, but because funds are allocated only after implementation, requisition and administrative review, it usually produces slow compensation. The article not only describes these two compensation models, but also provides a clear comparison framework, which links this comparison with regulatory design and investor protection theory, and limits its reform suggestions to the range of feasible and source-supported adjustments based on existing legal and institutional practices.**

**Keywords: Securities Fraud; Investor Compensation; Advance Payment System; Disgorgement; Comparative Securities Regulation**

## 1. Introduction

The confidence of investors is crucial to the development and prosperity of the securities market. Modern capital market involves more and more complex product structure, trading arrangement and execution environment, all of which make investor protection more difficult and important. When investors believe that the securities market is transparent, fair and equipped with an effective correction mechanism, they are more willing to participate in and distribute capital more widely [1]. On the contrary, when securities fraud is followed by a long delay, fragmented remedies or uncertain compensation, investors' confidence may be weakened, participation may be reduced, and the long-term reputation of the market may be damaged. False statements, misrepresentation, insider trading, market manipulation and fraudulent issuance are different in form, but they often converge into a practical consequence: investors lose money and need effective remedies.

China and the United States provide a useful comparison, because both jurisdictions try to compensate the injured investors after securities violations, but they achieve this through obviously different institutional designs. China's advance compensation mechanism, especially after Article 93 of the 2020 Securities Law, allows compensation to be organized before the final administrative penalty or civil judgment.

In contrast, according to the American Fair Fund system established by Section 308(a) of Sarbanes-Oxley Act of 2002, the Fair Fund clause has been established and applied to each other in the United States. These two systems provide different remedies for investors who have been damaged by violating the securities law. In order to avoid purely descriptive comparison, this paper evaluates them from the perspective of comparative system design, focusing on how to allocate compensation liability, build procedures and balance speed and legal certainty in each system [2,3].

## 2. The Foundational Frameworks of Investor Compensation Mechanisms

Although the common goal of these two systems is to compensate investors, they are quite different in financing structure, responsibility allocation, program sequence and allocation design. According to Article 93 of the 2020 Securities Law, China's system, as a prepayment system, sponsors, insurance companies, major shareholders or other interested parties can pay compensation before the final administrative penalty or judgment, which is usually coordinated by the Investor Protection Office [4]. In contrast, the American Equity Fund System established under Section 308(a) of Sarbanes-Oxley Act imposes confiscation and civil fines on funds managed through the distribution plan approved by the US Securities and Exchange Commission. From a comparative point of view, the main aspects of evaluation are the source of funds, qualification rules, governance, transparency, duration and deterrence. These dimensions can not only compare the normative objectives of the two systems, but also compare the actual trade-off between quick correction and procedural certainty [5]. In order to clearly integrate these comparative dimensions, Table 1 summarizes the main structural differences between the two investor compensation mechanisms. In order to avoid purely descriptive comparison, this document adopts regulatory design framework and comparative legal method. The key issue is not just which system pays faster, but how to allocate responsibilities, structure procedures and manage investor compensation, respect due process and relieve pressure for each system. On this basis, the document compares the two systems according to eight common points: source of funds, payment trigger, qualification, loss method, governance, transparency, review and appeal mechanism, time limit and administrative burden. These dimensions still apply to the following discussion. They also explained the choice of case study in China: Wanfu Shengke stands for early experiments, Xintai Electric is considering the integration of this institution, and Amethystum shows how Article 93 can play a role in a more mature regulatory environment.

**Table 1. Key Dimensions: A Comparative Synthesis of Two Investor Compensation Mechanisms**

| Dimension | Comparative synthesis |
|---|---|
| Funding source | China usually relies on advance payment by sponsors, underwriters, controlling shareholders, or similar actors, with later recourse; the U.S. relies on disgorgement, civil penalties, and related enforcement recoveries from wrongdoers. |
| Trigger for payment | China may begin compensation before final adjudication through negotiated arrangements under Article 93; the U.S. ordinarily distributes only after fund creation and approval of a Distribution Plan. |
| Eligibility and loss methodology | China uses negotiated plan terms that may later be refined by practice and litigation; the U.S. states eligibility classes and recognized-loss formulas ex ante in the plan. |
| Governance and transparency | China depends more on investor-protection coordination and case-specific administration; the U.S. relies on SEC-approved plans, designated administrators, and public notice. |
| Timing, administrative cost, and deterrence | China gains speed and short-term market stabilization but accepts more variability; the U.S. gains reviewability and tighter fault congruence but often imposes a longer compensation cycle. |

### 2.1 The Chinese Advanced Compensation System and Case Studies

2.1.1 Legal evolution of the Chinese advanced compensation system

The sdvance compensation system in the China did not emerge in isolation. Earlier Chinese legislation in areas such as social insurance, road traffic safety, and consumer protection had already introduced the idea that a third party may advance payment in order to prevent rights from becoming practically worthless through delay. The Social Insurance Law of the People's Republic of China recognized advance paymentIn relation to certain medical and work-injury contexts [6]. The 2011 revision of the Road Traffic Safety Law of the People's Republic of China required insurance companies and road traffic accident social relief funds advance rescue costs within corresponding scopes. In 2013, the People's Republic of China passed Article 44 of the Consumer Rights Protection Law required certain online trading platforms to make advance payments when consumers' lawful rights and interests were harmed in online transactions [6,7]. These legislative precedents establish a broader legal logic, that is, the temporary payer can intervene when the timing is crucial, and then seek compensation from other parties who should bear the ultimate responsibility.

Article 93 of the 2020 Securities Law transplanted this logic to the securities field. It provides the main legal basis for early compensation for major illegal acts such as false statements, fraudulent issuance, insider trading and market manipulation. This clause allows compensation to be negotiated through investor protection organizations before the final punishment or judgment is made. In reality, investor protection organizations can supervise the establishment of special funds, the design of compensation plans, qualification verification and payment distribution. Importantly, Article 93 does not impose a single first payer, a mandatory distribution formula or a unified program script. This flexibility helps to explain why some cases are progressing rapidly, but it also creates uncertainty about the identity of the payer, the share sharing, the right of subrogation and the exact scope of compensation. In terms of system, the China model gives priority to time efficiency and market stability, rather than the certainty of prior rules [8].

Therefore, the case studies discussed below are not isolated anecdotes. They are used to show the three stages of the development of China model: the experiment through sponsorship-led payment, the more structured institutionalization through large-scale prepayment related to regulatory sanctions, and the later normalization of the last Article 93 under closer institutional supervision. The limited quantitative indicators available in this paper, such as the fund of Wanfu Shengke of about RMB 300 million, the fund of Xintai Electric of about RMB 550 million, and the issue period of about two months reported in the previous case, do not constitute a complete empirical data set, but they do provide a moderate descriptive support for the pre-load mitigation ability of China system.

2.1.2 Analysis of representative Chinese cases

2.1.2.1 Wanfu Shengke (2013)

Wanfu Shengke is widely regarded as the first influential securities case in China to implement advance payment in a concrete and visible way.

In May 2013, Wanfu Shengke was investigated by the China Securities Regulatory Commission (CSRC) for making false statements in IPO disclosure. Ping An Securities, as the sponsor and main contractor, announced the compensation after the investigation results were announced and before the final decision of administrative punishment. The transaction was widely described in the literature as involving RMB 300 million and was compensated in about two months. The agreement also retains the sponsor's right of appeal to the main crime part, and promotes the sponsor's follow-up work to restore the progress of all parties who have committed fraud. Therefore, Wanfu Shengke's victory successfully broke the dilemma of protecting the rights of investors in China stock market, and pointed out the way to make up for the losses of investors through civil reconciliation procedures, and provided remedial measures for the ultimate infringer to retain the original responsibility. This case shows how the capital market regulator can undertake the obligation of temporary compensation, so as to speed up the compensation for investors and restore market confidence, while retaining the initial responsibility for the breach of contract generally called advanced compensation in China stock market.

There is more than meets the eye in the settlement of investor claims. The case confirmed a design pattern in which intermediaries play the role of temporary compensation pockets, expediting remediation while preserving the subrogation rights of the principal offenders for ultimate liability allocation, ensuring primary wrongdoers bear the financial burden. The principles of the dual design later codified into Article 93 of the 2020 Securities Law were embedded in the case: rapid investor compensation through advance payment and maintained subrogation rights to ensure fairness in burden allocation. The case showed how regulators could radically transform the passive gatekeeping duties into positive accountability frameworks at the regulatory level. Regulators were able to shift some of the enforcement risk to the intermediary institutions by asking sponsors to act as advance compensation pockets prior to the determination of the final liability for the issuer, and the mechanism produced strong incentive effects.

Considering the apparent financial risk they would have to shoulder in the short run, we believe sponsors and underwriters should do even more refining in the disclosure of issuer information and place even more emphasis on due diligence during the underwriting process. Only by letting the primary violators to bear the financial cost of their wrong doing ultimately can subrogsion ensure the element of fairness in the game. And the tactic of buying time in making the primary wrongdoers accountable while providing speedy compensation to investors laid the foundation for later development in advanced compensation practices in the securities market. And it worked. And it worked And the tactic of buying time in making the primary wrongdoers accountable while providing speedy compensation to investors laid the foundation for later development in advanced compensation practices in the securities market.

2.1.2.2 Xintai electric (2016)

Xintai Electric marks a later and more structured stage in the history of development of China's advance compensation system. After the CSRC investigated and sanctioned Xintai Electric in 2016 for fraudulent disclosure, the companys became the first GEM company ordered to be delisted and prohibit from re-listed. The literature commonly reports that Industrial Securities established advance compensation fund amounted to approximately 550 million RMB for qualified investors who suffered losses due to company's false disclosure. Procedures of distributing this fund are based on the certified loss suffered by investors and incorporates the civil liability claims into the settlement procedure [9]. This compensation arrangement's size and structure successfully destroyed the long-standing recommend but not insure phenomenon that had defined sponsor responsibilities under China's IPO sponsorship system.

Besides its direct impact on compensation results, the Xintai Electric case is systemically important because it reveals many benefits of the development toward institutional aspects of securities market regulation. In order to guarantee quality issuers and truthful disclosure, the case first and foremost stressed the indispensable gatekeeping function of sponsors and underwriters The arrangement then put intermediaries responsible in monetary rather than ethereal professional terms by specifying that underwriter was the principal entity that was in charge of entire compensation process-from establishment of fund, to verification of eligibility, to payment distribution. Further, it showed that it was possible to use market intermediaries as a temporary compensation vessel while maintaining legal recourse against primary culprits-thus establishing a sort of split liability that provides investor relief while maintaining legal accountability against primary culprits.

And also, the case generated strong ex-ante deterrent effects because of the substantial financial exposure of the sponsor, which encouraged better due diligence and quality control from the outset of underwriting. Compared with the Wanfu Shengke case, the Xintai Electric shows some institutional development. First, the Xintai arrangement was more regimented than the Wanfu case, which was nothing more than an experimental, haphazard attempt on the part of a sponsor. In addition to using the pre-settlement mechanism, the agreement also includes the pre-implementation plan, which also includes administrative penalties and cancellation procedures. The case shows that securities fraud leads investors to take institutionalized and orderly remedial measures and exclude them from the market. The establishment of this double punishment mode through compulsory liquidation and withdrawal from the market mechanism has significantly improved the legitimacy and deterrent effect of the law enforcement mechanism in China's securities market, and demonstrated the commitment of the regulatory agencies to restorative justice and punitive discipline in the face of securities infringement.

2.1.2.3 Amethystum (2022-2023)

Now there is a middleman, and the advance payment shows that it can quickly provide liquidity relief to a large number of investors in trouble despite the ongoing administrative and civil procedures.

The Amethystum case shows that an important step has been taken in the use of the prepayment mechanism provided for in Article 93. In this case, securities service companies cooperated with investor protection organizations and quickly established a compensation fund while civil and criminal proceedings were still going on. By allowing qualified investors to get compensation before they have the right to file a civil lawsuit, this case proves the advantages of advance payment and makes up for the lack of liquidity caused by court delay.

Amethystum explained how advance payment settlement evolved from a series of informal and informal agreements between voluntary participants to the rationalization of advance payment under securities supervision, and was supervised and managed by appropriately designated intermediaries. This paper reveals the mixed paradigm of collective responsibility, in which intermediaries act under supervision and coordinate progress, not only to solve the compensation problem, but also to help create an environment conducive to implementation; This case illustrates how China encourages regulatory innovation to maintain the structure, while meeting the protection needs of investors, while partially avoiding due process restrictions. These new mechanisms provide a potential model for other emerging jurisdictions, which hope to strengthen the protection of investors by designing institutions that balance the efficiency and accountability of securities market supervision.

### 2.2 Statutory Design and Money Flow of the United States Fair Fund Mechanism

2.2.1 Statutory origin and the scope of disgorgement

As pointed out in later academic reports, distribution has become an important investor protection function of SEC law enforcement, but it is still related to collecting funds from criminals and formal distribution plans [5,10]. This structure retains the distribution based on fault more clearly than the China model, because the funds come from violators, not intermediaries.

The Fair Fund Mechanism of the United States established a compensation fund for injured investors by allowing the SEC to use the confiscated civil fines for investor compensation according to the provisions of Section 308(a) of Sarbanes-Oxley Act [11]. As pointed out in later academic reports, distribution has become an important investor protection function of SEC law enforcement, but it is still related to collecting funds from criminals and formal distribution plans [5,10]. This structure retains the distribution based on fault more clearly than the China model, because the funds come from violators, not intermediaries.

A serious account of the contemporary American regime must be in contact with Liu v. SEC (2020). In Liu's case, the Supreme Court did not cancel the "confiscation of property", but it greatly narrowed the scope of remedy by emphasizing that any fair confiscation of property must be linked to the net profit and awarded to the victim, rather than as an unlimited punishment. Subsequent academic research investigated the case of Liu v. SEC, clarified the narrow scope of equity of the confiscation of property by the SEC, and established the legal basis and key restrictions on the application of relief [12].

Liu's case is also very important, because it forces the analysis to distinguish compensation as a remedy target and confiscation as an enforcement remedy of legal restriction. Before Liu, some discussions about fair funds seemed to say that greater profits would naturally translate into broader investor compensation. After Liu, that relationship is more qualified. If the income must be linked to the net profit and the location of the victims, then the size of the fund, the determination of suitable beneficiaries and the legal defense of distribution choices will become closer. This theoretical tightening strengthens the United States' commitment to legality and auditability, but it also helps to explain why the fair fund system cannot be easily transformed into the China model of quick compensation plan.

2.2.2 Plan mechanics and procedural rules for fund distribution

The rules of the Commission require the distribution plan to specify the types of qualified investors, losses, methods, notification and claim procedures, the deadline for filing and the role of fund managers, as well as tax treatment. These procedural requirements are crucial to the fairness and transparency of the American system, because distribution is usually only carried out after the SEC approves the formal plan and completes the claim management [13]. Therefore, scholars describe the system as a sound procedure but time-consuming, because each step aims to promote horizontal fairness among claimants in similar situations [5, 10]. This formal, court-supervised distribution model is obviously suitable for high-profile cases such as WorldCom, which follows the standardized steps of qualification verification, claim review and regular payment to injured investors [14].

The fair fund system in the United States has clear legal authority, and civil fines can be added to the confiscated amount to create a compensation fund that can be distributed to victims and allow additional voluntary donations. The fund comes directly from criminals through two main mechanisms, namely, regaining illegal gains and fines as part of enforcement procedures. By directly targeting the wrongdoer, the funding mechanism protects the integrity of the distribution of liability for negligence and ensures that the liability for compensation will not be unfairly transferred to the middleman who is not responsible for the basic act.

American rules tend to be procedural fairness and notice, rather than special compensation decisions. This structure became even more important after Liu v. SEC (2020), in which the Supreme Court held that confiscation in enforcement by SEC must be linked to fair restrictions, including net profit and the return of funds for the benefit of victims. Subsequent comments show that Liu reshaped the theoretical basis of return and forced people to pay more attention to whether the recovered funds can be properly distributed to the injured investors. In this sense, American law gives priority to legal rules and theoretical constraints, even though it may reduce or delay compensation compared with more flexible systems [15].

### 2.3 A Comparative Assessment of Funding Sources

The most intuitive difference between the two systems is reflected in the source subject and disbursement time sequence of compensation funds. China adopts the advance payment mode led by intermediary institutions, in which sponsor institutions, controlling shareholders, securities underwriters and other relevant market subjects advance the compensation funds in advance, and then recover from the main responsible parties. The United States implements the direct compensation mode of responsible actors, relying on civil penalty funds and illegal income recovery funds to build a compensation fund pool, which is specially used for subsequent investor loss compensation. Based on this system design, the Chinese model transfers the immediate cost of procedural delay from investors to intermediaries and related subjects, while the American model integrates the compensation cost into the fault-oriented regulatory law enforcement process to achieve the internal closed loop of liability and compensation.

Regulatory philosophies:

The difference between the two modes of capital allocation essentially reflects the completely different regulatory concepts and policy orientations of China and the United States. In order to ensure the limitation of disposal and stabilize investors' market expectations, China's system model can tolerate the prior uncertainty of compensation subject, liability apportionment proportion and procedure form. In contrast, the American system focuses more on fault identification, due legal procedure and legal compensation distribution mechanism, and its system legitimacy is highly dependent on standardized legal procedure.

There is no absolute all-around superiority and inferiority of the two institutional models, and each has its own adaptation scenarios and inherent shortcomings. The Chinese model has significant advantages in the scenario where the market urgently needs rapid disposal, resolving liquidity risks and stabilizing market confidence, but it is easy to cause problems such as inconsistent case-handling standards, deadlock in responsibility negotiation and differentiated handling methods. The American model performs better in terms of institutional transparency, review ability and accuracy of fault identification, but the lengthy law enforcement and judicial process will make investors bear the time cost and delay cost of damaged rights and interests.

It can be seen that the core of the institutional difference between the two types of jurisdictions is not simply reflected in the speed of compensation efficiency, but in the ownership of the subject bearing the uncertain cost, and the rationality and suitability of the cost allocation mechanism in the overall regulatory law enforcement system.

## 3. Cycle Uncertainty and Procedural Efficiency in the Dynamics of Compensation

From the perspective of dynamic operation, the two sets of systems in China and the United States form completely opposite program timing selection. Under the framework of China's system, negotiation and settlement procedures can be promoted in parallel with administrative investigation and civil litigation procedures, which can provide rapid capital liquidity relief for damaged investors. However, the realization of the advantages of this system depends on two core conditions: one is the willingness of relevant market subjects to advance funds; the other is that multiple subjects can reach an agreement on responsibility allocation and subsequent recovery matters; at the same time, it is also subject to the practical design of supporting rules such as right exemption and participation access. In contrast, the compensation mechanism in the United States has a strict hierarchy of procedures, and the compensation work usually needs to be started after the tort liability is determined, the compensation funds are fully collected, and the fund distribution plan is approved. Therefore, at the cost of the delay of the limitation of compensation, the American model exchanges the transparency of procedures and the standardization and rigor of responsibility allocation.

This structural difference is essentially a typical regulatory policy trade-off. China's compensation system has stronger market adaptability and disposal efficiency, and can quickly stabilize the sentiment of the capital market. However, the institutional unity is relatively weak, and the operation effect is highly dependent on the multi-party consultation mechanism and regulatory supervision. The American system is highly standardized, judicially revietable, and takes the legitimacy of the system as its core value. Based on this, the core point of this paper is not that there is a difference in fair value between the two sets of systems, but that there are essential differences in the embedding stage and realization path of fair value. The Chinese model focuses on rapid relief in advance, gives priority to the timely repair of investors' rights and interests, and puts the detailed dispute of responsibility allocation to the subsequent recovery process. The American model insists on the clarity of rights and responsibilities in advance, requiring that all responsibility definition and rule refinement be completed before the implementation of financial compensation.

The above preliminary empirical data can effectively support the above core conclusions. China's judicial and regulatory practice shows that the advance compensation mechanism can complete investor relief within a few months in some cases, with significant advantages in disposal efficiency. In contrast, the American system relies on multi-level administrative review and judicial process, and the overall disposal cycle is often much longer. Even though a complete statistical data set with full coverage has not been formed, the difference in program timing between the two types of systems is clear enough to fully support the conclusion of comparative institutional analysis in this paper.

### 3.1 The Compensation Cycle Uncertainty in China

The launch of China's advance compensation mechanism is generally based on the premise of negotiation and reconciliation between the parties. When the incentive of the subject is compatible and the regulatory expectation is clear, the compensation efficiency is very high: in the case of civil litigation and administrative law enforcement has not been concluded, the investment service agency can set up a special compensation fund to complete the verification of claims and the release of funds. This coordinated mode combining administration and market avoids the inherent procedural delay of judicial decision and can stabilize investors' and market expectations in the short term.

However, the institutional flexibility that guarantees efficiency also brings application uncertainty. Article 93 of the Securities Law does not provide for rigid sequence of advanced compensation subjects, nor does it establish unified liability allocation rules for multiple subjects, resulting in obvious case differences in the implementation standards and implementation effects of advanced compensation in the scenario where sponsor institutions, underwriters, controlling shareholders and other subjects are involved.

Whether compensation can be quickly landed mainly depends on the financial strength of intermediary agencies, the clarity of regulatory guidelines, the pressure of case reputation constraint, and the degree of consensus between all parties on responsibility allocation, fund custody and subrogation [3].

It can be seen that the institutional advantage of advance compensation is not absolutely constant, but conditional. In cases with clear liability and high cooperation between intermediaries, the mechanism can achieve quick relief for investors and produce positive market stabilization effects; However, in cases with complex ownership structure and disputed ownership of liability, the subject negotiation is easy to fall into deadlock, resulting in fragmentation or delay of compensation. Therefore, the efficiency advantage of China's advance compensation is real but limited: its value is reflected in the realization of relief advance when synergistic conditions are available, rather than having a set of standardized compensation paradigm that can be universal and accurately predicted [16].

To sum up, the Chinese system should not be simply equated with a pure “speed first model”. Its operation effect depends on institutional coordination, reputation constraint and post-recovery mechanism, and can only achieve optimal efficiency in some cases. This also shows that it is important to establish clearer and standardized standards for cross-border comparative analysis.

### 3.2 The Procedural Complexity in the United States Fair Fund

The fair fund system in the United States takes rule hierarchy and procedure progression as the core, and adheres to the principle of procedure certainty taking precedence over limitation of compensation. Regulators usually do not formulate a fund allocation plan until the enforcement and appeals process is largely over, specifying investors’ eligibility for claims, how losses are calculated, the filing process, tax rules and administrator responsibilities. The publicity and approval mechanism ensures due process and fair distribution, but it also significantly prolongs the compensation period.

Multiple practical factors further delay the compensation process. The system needs to clarify tax treatment, exclude eligible excluded subjects, unify and standardize loss identification methods; Fluctuations in the number of claims also trigger multiple rounds of reviews and program adjustments. At the same time, even if the distribution plan is approved, the compensation can only be started after the collection of all illegal income and fines is completed, and the links of fund recovery, process correction, manager change, balance supplement distribution and so on will cause time delay.

It can be seen that the American system has distinct institutional trade-offs. The dual regulation mode of judicial and administrative regulation improves the legitimacy and stability of capital allocation, reduces the risk of post-dispute, but also leads to a significant extension of investors’ compensation cycle. The advantages of this system lie in standardized procedures, traceable methods and transparent supervision, while its core weakness is that investors need to go through multi-layer legal procedures and obtain loss compensation behind time.

At the practical level, the case of Liu v. SEC further solidified this institutional feature. The case strictly bound the recovery of illegal income with the illegal net income and the compensation of injured investors, strengthened the legal legitimacy of the compensation mechanism, but at the same time tightened the caliber of compensable funds and intensified the intensity of judicial review. As a result, the American system has further consolidated legal norms and continued to adhere to the core institutional logic of “legality takes precedence over efficiency”.

### 3.3 A Comparative Study of Design Principles for Systemic Improvement in China and the United States

#### 3.3.1 Proposal for the United States: FAIR

The fair fund system in the United States has complete procedures, but it has the disadvantage of delayed compensation for a long time. Compared with the complete restructuring of the system, relying on the existing framework to optimize the preliminary administrative preparations is a more feasible path of gradual reform. Specific measures include collecting case data in advance, setting standardized loss accounting templates for common illegal situations, and clarifying relief channels for small individual investors. This improved idea conforms to the mainstream research in the academic world, and can effectively reduce the administrative disposal cycle on the basis of following the legal and procedural constraints established in the Liu case [5,10].

The improved FAIR+ optimization mode will not replace the final distribution scheme, but only add a restrictive temporary compensation mechanism for distress in the existing system. This mechanism is only applicable to claim cases with complete materials and conventional types. It adopts a conservative temporary loss accounting method to give priority to small and troubled investors, and all temporary claims need to be checked and adjusted with the formal plan. This design not only retains the core advantages of the American system of standardized procedures, whole-process traces and transparent supervision, but also alleviates the problem of lagging investor relief caused by lengthy procedures.

This optimization scheme faces up to the academic criticism of insufficient system limitation, and does not abandon the procedural legitimacy foundation of the American system. Instead, it explores to add a limited temporary compensation mechanism for some cases without destroying legal effect, judicial authority and compensation fairness. Its feasibility depends on clear legal basis, prudent system design, sufficient information disclosure and strict case application boundary.

#### 3.3.2 Proposal for china: APS-FPR

China's advanced compensation mechanism has a significant advantage of efficient relief, but this efficiency is accompanied by the uncertainty of the claimant, the proportion of liability allocation and the design of compensation scheme. In this regard, it is necessary to limit and optimize the advance claim recovery mechanism (APS-FPR) to improve the enforceability of the system. Compared with the establishment of rigid advance compensation subject rules applicable to all cases, a more practical reform path is to build a default application framework: for specific cases such as information disclosure violations, underwriters and sponsors are preset as the main compensation subjects, and judicial organs are allowed to flexibly adjust the responsible subjects based on the case facts, enterprise equity structure and fairness principle [3]. This method can effectively reduce the procedural delay caused by the subject negotiation game, and at the same time avoid the excessive rigidity of the system and the loss of the institutional advantage of flexible adaptation. This reform idea conforms to the academic view, that is, on the premise of retaining China's advantage of limitation of compensation, it can improve the predictability of system operation.

At the same time, the investor protection agency can issue a standardized compensation plan template, unified and standardized claim qualification, fund custody, risk reserve, loss accounting, profit and loss deduction, rights exemption and other core provisions. Its core goal is not to abolish the negotiation space of subjects, but to reduce the negotiation transaction cost and establish a unified institutional benchmark. In addition, a hierarchical recovery sequence mechanism can be constructed to clarify the practical operation process for the first claimant to recover from the issuer and other illegal subjects after the responsibility is clarified. The overall reform adheres to the idea of gradual institutionalization and does not need to completely overturn the existing compensation system.

There are still inherent limitations to this improvement plan. Small and medium-sized intermediary agencies have limited capital reserves and are difficult to undertake large compensation obligations in advance; Rigid limitation requirements may lead to strategic resistance of market subjects; Excessive standardization will also weaken the flexibility of case adaptation in China's system. At the same time, the digital upgrade of compensation process also faces problems such as data construction and user privacy protection [6]. Therefore, the mechanism of first compensation for bottom recovery is not a compulsory and rigid legal rule, but a progressive governance scheme relying on default rules, model clauses and regulatory guidance to achieve institutional optimization with flexible regulation.

#### 3.3.3 Conclusion

Both FAIR+ and APS-FPR belong to mild marginal optimization schemes, rather than systemic restructuring reform. The two plans are aimed at alleviating the core defects of the lagging compensation of the United States and the uncertain system of China respectively, and both of them strictly conform to the existing institutional logic of various countries to avoid new governance problems caused by institutional dislocation.

The idea of gradual reform takes into account both theoretical rationality and practical feasibility. It is difficult for the US system to abandon the core structure of formal approval and compliance recovery, and the Chinese system cannot completely replace the consultation mechanism with rigid rules. Therefore, the optimal reform path is marginal improvement: reducing the unnecessary procedural delay of the American system and weakening the unnecessary operational uncertainty of the Chinese system.

The two types of jurisdictions can implement two optimization measures with low threshold and high landing. First, optimize the design of investor participation and waiver clauses: broad exemption clauses, complicated declaration processes and ambiguous compensation rights and responsibilities will reduce investors' willingness to participate. Precise and standardized exemption clauses and clear profit and loss deduction rules can effectively enhance investor participation on the premise of ensuring fair distribution.

Second, we will promote the digitalization of supervision and administration. Relying on the digital system to complete identity verification, claim matching, repeated declaration screening and automatic data import, it can effectively shorten the audit time and reduce administrative costs. This technical optimization will not change the structural differences between the Chinese and American systems, but can reduce the unnecessary procedural loss of the two systems on the basis of retaining their respective legal logic.

## 4. Eligibility Criteria and Investor Protection Scope in Defining the Beneficiary

### 4.1 The Determination of “Qualified Harmed Investors” under China’s ACS

The determination of the eligible subject of China’s advance compensation is completed by relying on the negotiation and settlement plan under the framework of Article 93 of the Securities Law and supervised by the investment service agency [17]. The plan delimits the trading range corresponding to false statements and other violations, requires investors to provide trading and position holding certificates, and formulates loss calculation standards including fees, taxes, deductions and subsequent judicial correction mechanisms. Representative litigation can be promoted in parallel or behind the compensation scheme, and the negotiation standard and the judicial standard are connected rather than completely separated.

Judicial judgment plays a key role of checks and balances. Judicial interpretation and representative action rules can clarify causal relationship, loss accounting, claim collection, registration access and disposal rules for overlapping losses of administrative and civil procedures [3]. The court has the right to adjust the trading range defined by the compensation plan, exclude the subject range, and judge whether the investor’s trading behavior severs the causal association between illegal and loss.

In practice, the application for advance compensation needs to meet multiple access thresholds: the trading behavior falls within the range specified in the plan, the net loss is generated according to the accounting standard, there is no profit and loss deduction, insider trading, short selling and other exclusion situations that cut off the cause and effect. If the payment is subject to the signing of an escape clause, the investor also needs to confirm that the payment will offset the subsequent recovery income. It can be seen that even with negotiation flexibility, China still has a standardized participation threshold for advance compensation.

To sum up, China’s compensation mechanism belongs to a mixed mode combining negotiation and judicial judgment. The core advantage is the ability to pay funds before the liability is fully clarified; The disadvantage is that the compensation terms of each case are formed through negotiation, there is no unified legal standard, and similar investors may be treated differently. How to balance institutional flexibility and compensation fairness is the core design problem of this model.

Investors need to meet five conditions at the same time to claim compensation:

1. The transaction record falls within the time interval specified in the compensation plan;
2. Provide proof of continuous position holding or other compliance position holding as required;
3. Accounting for losses according to the established rules of the scheme;
4. There is no exclusion of profit and loss deduction, insider identity, trading behavior separation cause and effect;
5. Accept the exemption and deduction clauses required by the scheme (when compensating the pre-conditions for access) [7].

### 4.2 The Eligibility Requirements in the United States Fair Fund Distribution

Us eligibility for compensation is subject to the approved fund distribution plan. The plan defines the claim group, loss accounting formula, material requirements and declaration time limit, and designates the fund manager to accept claims, issue correction notices, carry out examination and submit distribution approval. Because the plan is formulated in advance and uniformly applicable to all investors, the US system is superior to the Chinese model in terms of pre-standardization of accounting rules.

The distribution plan usually identifies investors whose buying, holding or selling behaviors in the illegal range conform to the causal relationship of losses, while excluding related subjects, profiting traders and trading subjects who do not conform to the logic of compensation. Investors can complete materials and apply for review within the time limit. This mechanism ensures procedural fairness, but will increase administrative workload and lengthen the compensation period [5,13].

Open and uniformly applicable audit standards in advance are the core advantages of the US system. In theory, similar investors can receive equal treatment. However, the whole process of material verification, correction period, multi-layer audit and supervision will also consume a lot of time and administrative costs.

The plan also clarified the disposal rules for the remaining funds: if the number of participants is insufficient or there is still a balance after the first round of distribution, a secondary distribution, public welfare transfer or legal disposal can be started, reflecting the institutional characteristics of the whole process of American funds closed loop, whole-process trace and legal disposal.

Compensation eligibility check list

1. The delivery form and other materials prove that the transaction occurs in the range defined in the plan;
2. Calculate losses according to the scheme formula, including price rebound and profit and loss deduction rules;
3. The investor does not belong to the statutory excluded subject;
4. Submit the application before the deadline and correct the defects of the materials on schedule;
5. Approved allocation plan and dispute resolution and final determination rules set forth in SEC documents [18].

### 4.3 Comparative Analysis of Scope and Equity in Investor Protection

There are essential differences in the relief paths of compensation systems between China and the United States. China's compensation access standards are first defined by the negotiated settlement plan, and can be adjusted through litigation, judicial interpretation and regulatory practice. This mode can make loans in advance when legal disputes are not completely clarified, and the disposal efficiency is higher. However, the compensation terms of different cases are different, and it is difficult to unify the treatment of similar investors. The United States uses the distribution plan approved in advance to clarify the loss calculation, material standards, declaration time limit and review rules. The whole procedure is objective and unified and ensures the same case and judgment, but the compensation period is greatly extended.

Both systems face the same policy trade-off problem: investors seek quick relief and fair compensation at the same time, but the system design often favors one over the other. China's weakness is that standards are not uniform, and case-by-case consultation rules can easily lead to unfair treatment. America's weakness is the lengthy process, with cumbersome material reviews delaying the release of funds even if investors are clearly identified. In addition, complex loss accounting, a large number of declaration materials, and broad exemption clauses will raise the threshold of claims, and both types of systems have difficulties in the participation of small investors.

## 5. Conclusion

The comparative analysis of this paper shows that the subsequent research should not be limited to the interpretation of macro jurisprudence, but should rely on systematic empirical data such as compensation cycle, investor participation rate, loss compensation ratio, and distribution completion time to carry out tests. Even without complete quantitative evidence, this paper can still draw a clear conclusion: the compensation mechanism of China and the United States is not a fast or slow variant of the same relief model, and the two make completely different institutional arrangements for the subjects bearing institutional uncertainty, which are borne by intermediaries and negotiation subjects, or by investors waiting for compliance distribution.

In essence, the two countries are developing differentiated solutions to the same governance conundrum: how to compensate harmed investors while maintaining the overall legitimacy of securities enforcement. China moderately accommodates procedural flexibility and fuzzy definition of responsibility in exchange for quick relief of funds and short-term market stability; The United States insists on rigorous procedures, standardized accounting and strict matching between compensation and fault, at the cost of significantly lengthening the compensation period for investors. The difference between the two is not the binary opposition between efficiency and fairness, but the choice between the two institutional logics of pre-quick relief and post-compliance verification.

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