

**ICMC 2023****The 3<sup>rd</sup> International Conference on Management and Communication****PROTECTION OF THE MINORITY SHAREHOLDERS' RIGHTS  
AND INTERESTS IN THE VOLUNTARY DELISTING**

Jiajia Xu (a)\*, Ruzita Azmi (b), Nor Hayati Abdul Samat (c)

\*Corresponding author

- (a) School of Law, University Utara Malaysia, 06010 UUM Sintok, Kedah Darul Aman, Malaysia, xujiajamalai@163.com
- (b) School of Law, University Utara Malaysia, 06010 UUM Sintok, Kedah Darul Aman, Malaysia, zita@uum.edu.my
- (c) School of Law, University Utara Malaysia, 06010 UUM Sintok, Kedah Darul Aman, Malaysia, as.yati@uum.edu.my

**Abstract**

Since the implementation of the new Securities Law and the revision of the Rules Governing the Listing of Stocks on the Shanghai Stock Exchange in 2020, the delisting criteria for listed companies in China have been further expanded. Influenced by the “New Delisting Rules” and the financial fraud of its subsidiaries, \*ST Hangtong chose to voluntarily delist in order to avoid further triggering the compulsory delisting index, which has become a typical case of voluntary delisting in China. The voluntary delisting of \*ST Hangtong has prompted further reflection on the protection of the rights and interests of minority shareholders, including issues such as insufficient exercise awareness among minority shareholders and the damage to their rights and interests caused by financial fraud. The cash option rights and majority decision mechanism, which are key to the protection of the interests of small and medium shareholders in relation to \*ST Hangtong, have been implemented in China for only a few years but still have notable deficiencies. Therefore, the protection of minority shareholder’ interests should be improved in terms of regulation, information disclosure and fairness, so as to avoid the unfavorable impacts of its compulsory delisting.

2357-1330 © 2023 Published by European Publisher.

*Keywords:* Protection of The Rights and Interests of Minority Shareholders, \*ST Hangtong, Voluntary Delisting

## 1. Introduction

Voluntary delisting refers to a listed company applying to the stock exchange to end trading in its shares on its own initiative, based on considerations such as achieving its development strategy, maintaining a reasonable valuation, stabilizing its control and the law of cost-benefit, etc. It is no longer necessary to maintain its listing status, or maintaining its listing status is no longer beneficial to the development of the company. However, in recent years there have also been a number of cases of voluntary delisting of companies that should have been compulsorily delisted, and this \*ST Hangtong voluntary delisting is the third typical case after \*ST Erzhong and \*ST Shangpu, in which the protection of minority shareholders' rights and interests deserves reflection and attention. Based on the above background, this article takes the voluntary delisting of \*ST Hangtong as a case study, the main purpose of which is to have an analysis of the influence of voluntary delisting on the rights and interests of minority shareholders, and then to explore useful research findings for the protection of minority shareholders' rights and interests (Wu, 2021). By analyzing the special features of the case, this paper finds that \*ST Hangtong is already on the verge of mandatory delisting, and if the situation is allowed to develop after the publication of the Delisting Opinions, the rights and interests of minority shareholders will undoubtedly be more damaged if the company is eventually forced to be delisted. By analyzing the reasonableness of the case company's voluntary delisting method and the measures implemented to protect dissenting shareholders, and reviewing the company's decision-making process, we analyze the impact of the rights and interests of minority shareholders in the process of voluntary delisting of listed companies and the corresponding path, and identify the extent of the impact to draw relevant conclusions (Gongyang, 2022).

## 2. Research Methods

This paper aims at analyzing the impact of the voluntary delisting of \*ST Hangtong on the rights and interests of minority shareholders from the perspective of shareholder equality theory, information asymmetry theory and investor protection theory, using case study method, comparative analysis method and literature research method.

### 2.1. Case study method

The case study method is the most important research method in this paper, taking \*ST Hangtong's voluntary delisting as the key case, firstly, we collect information about the company's own development in the industry, reasons for delisting, financial data before and after delisting, and corresponding information disclosure effectiveness, including the company's annual report, audit report, stock market data and other kinds of public information or relevant reports. The presentation is categorized according to the overview of the case company and the delisting scenario. After that, we evaluate the delisting behavior of \*ST Hangtong according to the category of equity from the perspective of protection of the rights and interests of minority shareholders by combining the real situation of the company before and after delisting, and identify the impact of voluntary delisting on the rights and interests of minority shareholders. On the other hand, in order to analyze the degree of impact of voluntary delisting on the

rights and interests of minority shareholders, a horizontal analysis of the corresponding rights and interests protection or damage is conducted, and finally the path of the impact of \*ST Hangtong on the rights and interests of minority shareholders in delisting is explored. The ultimate purpose is to clarify two parts, one is the extent to which voluntary delisting will have an impact on the rights and interests of minority shareholders, and how it will influence the rights and interests of minority shareholders.

## **2.2. Comparative analysis method**

The impact of voluntary delisting on minority shareholders cannot be analyzed only on the situation of the delisted company itself. However, the reasonableness of the cash option pricing cannot be analyzed by a single indicator, but also by comparing the share price at that time, the impact during the fraudulent period and even the compensation strength of other companies of the same type, and by comparing the quality of information disclosure and the degree of influence on the decision-making rights of minority shareholders with those of similar companies. In this paper, the comparative analysis method is applied to both information disclosure and the reasonableness analysis of cash option pricing.

## **2.3. Literature research method**

The research path of this paper is determined by reviewing the literature combined with existing theories, clarifying how the voluntary delisting of listed companies affects the rights and interests of minority shareholders, and finding the direction of analysis of the case after clarifying the motivation and scheme design composition of voluntary delisting. This paper summarizes the existing research literature on “definition and motivation of voluntary delisting”, “voluntary delisting scheme” and “impact of voluntary delisting on the rights and interests of minority shareholders”. We then elaborate on the three theories of “principal-agent theory”, “information asymmetry theory” and “minority investors protection theory” to provide a better comprehension of the current status of research on voluntary delisting and protection of minority investors' interests, which laid the theoretical foundation for the subsequent case studies.

# **3. Findings**

## **3.1. Basic situation of \*ST Hangtong's voluntary delisting**

Aerospace Communications Holdings Group Co.,Ltd is located in Hangzhou, Zhejiang Province, formerly known as Zhejiang Textile Industry Company, an administrative company in charge of the province's textile industry. In 1993, approved by the National Reform Commission, it became a pilot shareholding system, listed on the Shanghai Stock Exchange on September 28 of the same year, whose stock code is 600677. In 2014, as the company's original traditional business operations fell into difficulties, the company entered into a major asset restructuring, during which it acquired Wisdom Hipad Technology Co., Ltd (hereinafter referred to as Wisdom Hipad), and in 2019 Wisdom Hipa's financial fraud was investigated by the Securities Regulatory Commission, and the parent company's financial report was retroactively adjusted for negative net assets and audited net profits for three consecutive fiscal

years On 21 January 2020, the shares were directly exposed to the risk of delisting after being subject to a risk warning. On 19 February 2021, \*ST Hangtong formally filed an application for termination of listing and terminated its listing on 18 March 2021 and was transferred to the national minority enterprise share transfer system after delisting. Based on the development of ST Hangtong, its voluntary delisting process can be divided into five stages (Sun, 2022):

i. The first stage: deterioration of Hangtong's operating condition

Starting from 2014, the company's commercial distribution business and textile business revenue declined significantly, the company's large accounts receivable could not be collected, and its financial position deteriorated, which caused ST Hangtong's business to fall into operational difficulties. After 2016, the net profit attributable to the parent company showed a loss for the first time, and the company entered into a major asset restructuring.

ii. The second stage: Acquisition of Intelligent Hipad

In order to further improve the company's operation and respond to the call for military-civilian integration, ST Hangtong decided to promote the company's communication business by acquiring Wisdom Hipad and expanding its communication business to the civilian sector. Therefore, in 2015, ST Hangtong acquired half of the equity of Wisdom Hipad by way of a share offering. The two parties signed a betting agreement in the acquisition agreement, and during the three-year betting period from 2016-2018, Wisdom Hipad completed its profitability commitment (Zhang, 2022), driving ST Hangtong's total revenue and net profit attributable to the mother company, and ST Hangtong's financial statement performance successfully turned from loss to profit (Wang, 2022).

iii. The third stage: imposition of \*ST warning

In November 2019, ST Hangtong was investigated by the SFC for suspected information disclosure violations, while at the same time, the black curtain of the false performance of Wisdom Hipad was officially unveiled. During the three-year period from 2016-2018, Wisdom Hipad increased the company's total profit by 720 million yuan, 1.044 billion yuan and 2.853 billion yuan by means of false transactions, which were later retroactively adjusted to a net loss attributable to the mother of 1.115 billion yuan, 512 million yuan and 1.47 billion yuan. Meanwhile, according to the trading rules of the SSE, the company was subject to delisting risk warning (\*ST) in 2019.

iv. The fourth stage: suspension of listing

At the request of the SFC, the annual reports of ST Hangtong were retroactively adjusted and, after strict auditing, the net profit attributable to the shareholders of ST Hangtong's parent company in 2019 continued to be negative and the scale of losses continued to expand. As a result, the Company's shares will be requested to be suspended by SSE on May 29 in accordance with the relevant provisions of the China Stock Listing Rules (Duan, 2020).

v. The fifth stage: Voluntary delisting

In January 2021, the Company decided to voluntarily withdraw its shares circulating on the Shanghai Stock Exchange by means of a resolution at the shareholders' meeting and, after obtaining approval, transfer them to the National Minority Stock Transfer System for share transfer, with the stock renamed Hangtong 3. At the same time, the delisting plan announced at the shareholders' meeting set up a protection mechanism for dissenting shareholders and a cash option for the Company's major shareholder,

Aerospace Science and Industry Corporation, to offer a cash option to all shareholders, including dissenting shareholders, including The exercise price of the cash option was RMB4.18/share, a premium of 38.87% compared with the closing price of RMB3.01/share before the suspension of listing (Wang, 2022).

### **3.2. Motivation for \*ST Hangtong's compulsory delisting**

After the financial fraud of its subsidiary Hipad Intelligent Technology Co., Ltd has been exposed, \*ST Hangtong made retrospective adjustments to its 2016-2018 annual results, during which the company's net profit had been continuously negative and its net assets attributable to shareholders of the listed company for the year 2018 were also negative, which led to the implementation of a delisting risk warning for the company's shares, followed by the release of the company's 2020 earnings forecast loss, sitting on the fact that the company would will soon be compulsorily delisted.

#### **3.2.1. A number of compulsory delisting indicators were met prior to the compulsory delisting**

From 2017 to 2019, \*ST Hangtong's audited net profit has continued to be negative, and if its net profit and closing net assets continue to be negative in 2020, it will be terminated by the SSE for hitting financial indicators, which is in line with Paragraph 2 (4) of Article 9 of the Measures for the Implementation of Relisting of Companies Delisted from the SSE. Under the circumstances set out in Paragraph 2 (4) of Article 9 of the Measures for the Implementation of Relisting of Delisted Companies on the SSE, the company shall apply to the SSE for relisting only after "12 months have elapsed from the date of transfer of its shares to the National Small and Medium Enterprises Stock Transfer System and other securities trading venues". However, according to Article 8 of the Implementation Measures, it is also necessary to meet the conditions set out in the Rules Governing the Listing of Stocks on the SSE, which set out the requirements for net profit, net cash flow, operating income, audit report and net assets for the last three fiscal years, while \*ST Hangtong has been in a loss-making position for several years prior to delisting.

#### **3.2.2. The impending implementation of the new delisting rules further reduces the possibility of shell preservation**

On 31 December 2020, the new delisting rules, known as the "strictest ever", were officially released and implemented. In the Opinions on Reforming, Improving and Strictly Implementing the Delisting System of Listed Companies, the indicators for determining financial fraud are tightened across the board, the number of years of fraud is shortened, the amount of fraud is reduced, and the operating income indicator is added as a method for determining financial fraud. The relevant system is gradually strengthening its efforts to combat financial fraud. Net profit and operating income alone will not be used as a criterion for judging, and the new rules take net profit after deduction as a key element to examine in depth the sustained profitability of a listed company's main business. From this change, it can be seen that

the policy takes a relatively denying attitude towards “shell companies” in the secondary market, and the difficulty of shell preservation is further expanded.

### **3.2.3. Long-term financial fraud by subsidiaries**

Financial falsification by subsidiary Hipad Intelligent Technology Co., Ltd was the trigger that led to the voluntary delisting of \*ST Hangtong. In October 2019, the SSE issued a letter of inquiry requesting \*ST Hangtong to investigate the true results of Hipad Intelligent Technology Co., Ltd for the past years as soon as possible, and subsequently engaged Shu Lun Pan CPA Co., Ltd to conduct a three-year restatement of the statements in response to the incident (Deng, 2021). After the relevant investigation and verification, it was found that there was indeed a purposeful and organized financial fraud in Hipad . In May 2020, \*ST Hangtong’s shares were subject to a delisting risk warning, an application for delisting was made in February 2021, and the listing was terminated on the SSE in March 2021, with the shares subsequently transferred to the SME share transfer system.

### **3.3. Negative impact of the compulsory delisting of \*ST Hangtong on the rights and interests of minority shareholders**

As the first company to be voluntarily delisted since the issuance of the new delisting rules, \*ST Hangtong’s choice to voluntarily delist its shares when it is on the verge of compulsory delisting will undeniably bring damage to the rights and interests of minority shareholders. The design of the delisting scheme still lacks a comprehensive understanding of the rights of minority shareholders when it comes to the protection of their rights and interests, resulting in a series of negative impacts.

#### **3.3.1. Insufficient awareness of the exercise of rights by some minority shareholders makes their decision-making rights meaningless in practice**

According to the data of the shareholders’ meeting of \*ST Hangtong, only 20% of the total number of shareholders attended the meeting. In fact, the participation rate of minority shareholders in the general meetings of most companies is extremely low. In this case, the relevant protection mechanism for minority shareholders will become null and void, and the requirement will hardly restrain the behavior of major shareholders due to the small number of minority shareholders attending the meeting.

#### **3.3.2. Financial fraud is the main reason why the rights and interests of minority shareholders are damaged in the event of compulsory delisting**

In the process of the voluntary delisting of \*ST Hangtong, it actively cooperated with SFC to meet the relevant requirements and made corresponding efforts to protect the rights and interests of minority shareholders, which largely mitigated the losses of minority shareholders caused by the financial fraud of its subsidiaries. However, due to the long duration of the subsidiary’s financial fraud and the huge amount of money involved, the losses it caused to the listed company as well as the minority shareholders are huge and long-term. Although \*ST Hangtong was delisted on its own initiative to reduce the losses of its shareholders after the case was made public, it still had a negative impact on their rights to information,

income and exit. The “financial fraud” was in fact the main reason for the voluntary delisting of \*ST Hangtong, which caused a significant drop in estimates and a long-term infringement on the right to information of minority shareholders, which could hardly be compensated for in a short period of time through the voluntary delisting.

### **3.3.3. Compulsory delisting fails to protect the rights and interests of minority shareholders**

Voluntary delisting has more stringent requirements and restrictions on listed companies than compulsory delisting. At present, the protection of the rights and interests of minority shareholders mainly relies on the consciousness of listed companies. On the one hand, the SFC requires listed companies to disclose the protection plan for dissenting shareholders and the detailed plan for delisting before compulsory delisting, but most of the time, listed companies only aim to complete the requirements of the SFC when making relevant disclosures, and most of the voluntary delisted companies face certain financial difficulties or have certain financial irregularities, which makes the complete disclosure of listed companies particularly difficult. Voluntary disclosure has become the main way for minority shareholders to obtain the true picture of a listed company, but the quality of this active disclosure varies greatly from one listed company to another. On the other hand, the pricing of compensation for dissenting shareholders is carried out unilaterally by the listed company, and minority shareholders only vote on whether to initiate delisting, and cannot initiate or participate in the pricing of compensation for delisting, even if the delisting compensation is not reasonable, in order to avoid further losses caused by compulsory delisting, most minority shareholders can only choose the same compulsory delisting scheme and accept the corresponding delisting compensation.

## **3.4. The protection path for the rights and interests of minority shareholders in the voluntary delisting of \*ST Hangtong**

### **3.4.1. Theoretical basis for the protection of minority shareholders' rights and interests in the voluntary delisting of listed companies**

First of all, the interests of minority shareholders should be protected equally. In the process of the competition and cooperation between rights and interests of controlling shareholders and minority shareholders of listed public companies, the rights and interests of minority shareholders can be regarded as public interests in the capital market. For the uncertainty and information asymmetry in the voluntary delisting process, reasonable rules such as information disclosure need to be formulated by the exchange to restrict controlling shareholders, so as to protect the rights and interests of minority shareholders in the voluntary delisting process (Zhang, 2020). Secondly, the impact of minority shareholders' right to know and asymmetric information game theory is important (Feng, 2022). In the case of voluntary delisting of listed companies, the rights and interests of minority investors are likely to be infringed during this period due to the information asymmetry caused by the time gap in market information transmission, thus violating the right to information and other rights and interests of minority shareholders. It is worth noting that among the rights and interests enjoyed by shareholders, the right to information is the basis and

prerequisite for the exercise of other rights. If the right to information of minority shareholders is not fully protected and the controlling shareholders are allowed to control the amount and transmission channels of information, the major shareholders may release induced information under the tendency of self-interest, so that minority shareholders cannot be informed of the fair value of the company (Zhang, 2020), thus making misjudgments that run counter to the real situation, which may lead to infringement of the right to income, decision-making, and litigation rights. Finally, investor protection requirements are noticeable. In the shareholding structure, since the controlling shareholder is the actual controller of the company with the most Chinese acquirer of shares, and the minority shareholders rely on the difference in the sale of shares to obtain benefits, the minority shareholders' right to earnings will thus be subject to the share repurchase price determined by the major shareholder. Therefore, based on the requirements of investor protection, the interests of minority shareholders need to be protected.

#### **3.4.2. To front-load the regulation of protection of the rights and interests of minority shareholders in voluntary delisting**

The stock exchange designated by listed companies is the implementation body of the delisting system, fulfilling the responsibility of protecting the rights and interests of minority shareholders in delisting and playing the role of ex-ante supervision of listed companies before delisting. The Exchange needs to regularly monitor the current state of operation of listed companies, be alert to companies that are not operating well and have the potential to be delisted, and identify and guide listed companies that have the potential to be delisted to do so on their own initiative by issuing enquiry letters and conducting on-site investigations. The Exchange can adopt an ex-ante tracking and control approach, possess sensitivity to special trading matters, major operational changes, significant personnel changes and changes in shareholding structure of listed companies, deal with information disclosure irregularities seriously and require listed companies to complete rectification in a timely manner. It is also necessary for the Exchange to publicize breaches by listed companies, announce the risk of their breaches, reduce the risk of wrong decisions by minority shareholders, and retain effective evidence for litigation claims afterwards.

#### **3.4.3. To strengthen the review of information disclosure quality to implement the right to information of minority shareholders**

Voluntary delisting has a strong degree of autonomy in both the way it is decided and the scheme it is exercised. The Exchange cannot just examine the compliance of listed companies' documents and the reasonableness of the procedures, but also needs to review elements such as the timing of delisting, the content of the scheme and the transparency of the decision-making process in terms of the participation of minority shareholders. Firstly, it is necessary to review the level of participation of minority shareholders in the subjective aspects of delisting in conjunction with the public documents of listed companies and the questioning and investigation methods. Secondly, it is necessary to strengthen the examination of the reasonableness of the delisting compensation, whether it is active withdrawal, absorption and merger or offer to purchase cash option is the main way to compensate the minority shareholders. As Chinese laws and regulations only impose procedural requirements on the cash option, there are no clear provisions on



the content and pricing of the cash option, and the rights and interests of minority shareholders may be damaged due to subjective manipulation by listed companies. The cash option is not a legal right of the minority shareholders, and the main binding basis is the regulations on the protection of dissenting shareholders issued by listed companies, therefore the reasonableness of the treaty becomes the key to whether the cash option can compensate the losses of the minority shareholders. Finally, the review of the quality of information disclosed by listed companies should be reinforced to prevent listed companies from issuing even abbreviated relevant announcements in order to perfunctorily comply with the requirements of the voluntary delisting regime. It is necessary to review whether the information disclosed by listed companies is easily accessible and can be properly understood by minority shareholders to reduce misleadingness and enhance the usefulness and effectiveness of delisting information for minority shareholders' decision-making.

#### **3.4.4. To enhance the fairness of participation of minority shareholders in voluntary delisting transactions**

First of all, the right of shareholders to make proposals and resolutions should be effectively protected. In accordance with the new Securities Law, minority shareholders can entrust securities companies and securities service providers to exercise their rights and interests on their behalf. Minority shareholders themselves should actively exercise their rights through online or offline means, and in case of difficulties in exercising their rights, they can also participate in the call for shareholders' rights and exercise the relevant rights through investor representative bodies (Dong, 2022). Secondly, minority shareholders need to broaden their information access platform, actively pay attention to the company's annual audit report and interact with or ask questions to listed companies through the investor relations section in the relevant software on the securities trading platform to protect their right to information. They also need to improve their knowledge and learn about the relevant securities regulations and investment market knowledge, and enhance their ability to distinguish between true and false information (Feng & Li, 2011). Finally, it is necessary to actively seek legal means to protect your right to income. For example, the new Securities Act proposes a representative litigation system, under which a representative can be elected to represent a large number of parties to a lawsuit and when the case is homogeneous, minority shareholders can join together and choose a professional investor protection agency to represent them. For some listed companies that have not received penalties from the regulator but have substantially violated the rights and interests of investors, they can apply for securities mediation with the CSI Minority Shareholders Service Centre and the China Securities Investor Protection Fund Limited Liability Company, or apply for investigation by the regulator at the reporting section of the CSRC website.

## **4. Conclusion**

By analyzing the motivation and impact of the delisting of \*ST Hangtong as well as the protection of investors in the delisting process, the exchange should increase the guidance for the voluntary delisting of listed companies, raise the cost of maintaining the listing status of listed companies in terms of

information disclosure, etc., so that poorly-run listed companies can exit the securities market earlier and improve their operating conditions through restructuring and other means to avoid the adverse effects of their compulsory delisting (Sun, 2022).

## References

- Deng, C. P. (2021). *Research on the causes and consequences of financial fraud of subsidiaries*. Nanchang University.
- Dong, X. L. (2022). Research on the protection of the rights and interests of minority shareholders under voluntary delisting. *Finance and Accounting Newsletter*.
- Duan, C. (2020). Research on the protection of the rights and interests of minority shareholders in the voluntary delisting of listed companies. *China University of Political Science and Law*.
- Feng, G., & Li, A. (2011). Conflicts of interest in the process of voluntary delisting of listed companies and their legal regulation: A study on the protection of the rights and interests of minority shareholders. *Nandu Journal*, 31(05), 68-72.
- Feng, L. (2022). Research on Dual Principal-Agent Relationship in the Stock Issuance Inquiry Process. *Gansu Finance*, 11(8).
- Gongyang, B. L. (2022). Analysis of the Impact of Voluntary Delisting of \*ST Hangtong on the Rights and Interests of Minority Shareholders. *Jiangxi University of Finance and Economics*.
- Sun, Y. Q. (2022). Research on the impact of Voluntary Delisting of Listed Companies on the Rights and Interests of Minority Shareholders under the New Delisting Regulations. *Inner Mongolia University*.
- Wang, S. X. (2022). Analysis of the Protection of the Rights and Interests of Minority Shareholders in the Voluntary Delisting of \*ST Hangtong. *Hebei Institute of Finance*.
- Wu, M. J. (2021). Review of the Case of \*ST Hangtong's Voluntary Delisting - the Emergence of Avoidance-based Voluntary delisting. *Financial Law Court*, (01), 76-93.
- Zhang, Q. (2022). A case study of financial fraud in corporate M&A based on fraud risk factor theory: An example of M&A of Company B by Company A. *Accountant*, (19), 48-50.
- Zhang, X. Y. (2020). Research on the Protection of Minority Investors in the Voluntary Delisting System of Science and Technology Board. *Northern Finance*, 1(1), 63.