

TI ZHI DE ZAI ZAO YU ZHENG HE

# 体制的再造与整合

——基于DIM方法的中国证券市场监管体制研究

符气岗 著

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符气岗，1964年生，海南文昌人。1986年华南师范大学毕业后至今一直在海南省委党校任职，从事教学、科研、管理等工作，先后担任海南省委党校(海南省行政学院)经济管理系负责人、行政管理处负责人、办学部主任等职，现任海南省委党校、海南省行政学院函授部主任、中央党校函授学院海南分院院长。在各类核心期刊发表论文二十余篇，出版专著《社会信用：缺失与治理》(合)，参加编写《宏观经济运行与管理》一书。主持和参加多项省级课题研究。

## 序

20 世纪 90 年代以来,股票市场已成为影响中国社会经济生活的重要因素。股票市场的出现对我国资本市场的建设发挥了明显的作用。但中国股票市场目前上市公司业绩低下、市盈率高踞、缺乏投资回报,庄家恶炒绩差股、业绩造假、违规情况严重,其影响范围之广、触动领域之深、争议话题之多、先天的运行机制缺陷之大,构成了中国证券市场中一道独特的“中国特色”风景线。

理论界一般认为,我国的经济改革是以渐进的模式进行的,即在不完全打破经济传统体制的前提下,先逐步、局部建立新体制经济,并逐步渗透到传统体制中,用后来者推动前者的改革,这也就是所谓的增量改革战略。中国证券市场尤其股票市场发展正是这种渐进改革模式的一个典型体现,中国股票市场存在的诸多问题也正是这种渐进式改革模式的一个必然结果。这些问题必须在经济发展和改革中加以解决,只能“补台”,不能“拆台”。在这种渐进式的发展过程中必须有这么一种机制,即确保证券市场在这种过程中有效率地不断完善和发展,根据市场规律的要求不断修正与完善。而不是头痛医头,脚痛医脚,更不能对长期存在的上市公司幕后交易、业绩造假,操纵市场、证券中介服务机构缺乏诚信等等诸多问题视而不见,无法修正,或修正效率极低。造成这种局面的原因很多,但

其根本原因是股市运作的体制性、制度性的缺陷,没有形成一种有效的科学的良性运作机制。机制一词来源于希腊语 *mēchanē*,其含义是机器的构造与动作原理,随着社会的发展,社会经济活动过程日益复杂,机制一词也开始运用在经济领域。经济机制通常用来表示经济活动过程中各个构成要素之间形成的因果关系、相互作用及调节的方式。在我国的股票市场上对体制或者说对形成这种机制的研究显得尤为重要。监管体制的研究更是首当其冲。证券市场监管的理论研究对我国证券市场的发展是一个前沿课题也是一个迫切课题。而目前已有不少对我国证券市场监管的理论研究,但对我国证券市场监管体制的研究一直不多,系统地研究监管体制的成果更是少之又少。

符气岗同志进入复旦大学应用经济学博士后流动站,以中国证券市场的监管体制做为研究报告课题,出站研究报告:《基于 DIM 方法的中国证券市场监管体制研究》,获得了复旦大学应用经济学博士后流动站专家组的充分肯定,认为该报告在研究方法、研究内容上作了一定的创新,同时也指出了报告的不足之处。本书是符气岗同志在他的出站研究报告基础上修改而成的。该书运用经济体制研究中采用的 DIM (Decision making、Information、Motivation) 方法,界定证券市场监管体制的内涵,在此基础上全面系统地讨论中国证券市场的监管体制,创造性地把证券市场监管体制定义为证券主管机关或者证券监管执行机关根据证券法规对证券发行和交易实施监督与管理活动过程中的决策机制,它包括三个相互联系的组成部分:即决策结构、信息结构和动力结构。当决策结构、信息结构、动力结构的内容及其联系方法不同时,整个监管体制就发生变化,证券

监管体制的改革,其本质就是证券监管决策机制的改革。决策结构、信息结构、动力结构决定了决策权在一定体制下不同参与者之间的分配,决定了决策参与者之间交换信息的渠道和方式,也决定了他们之间互相推动以保证决策得以贯彻执行的方式。将证券监管体制定义为一种决策机制,从决策结构、信息结构、动力结构三个方面对证券监管体制进行系统的研究,并提出了相应的完善我国证券监管体制的政策建议,在现有的文献中尚未发现用这种方法对证券市场监管体制进行研究的成果,相信本书能对我国证券市场监管体制的研究和改革的发展有所启示。

甘 当 善

2003 年 11 月于复旦

## 摘 要

自 1990 年 12 月上海证券交易所成立以来,短短 10 多年的时间里,中国证券市场获得了飞速的发展,为我国经济特别是国有经济的改革与发展起到了巨大的促进作用。在取得成绩与发挥作用的同时,我们也应看到中国证券市场还存在着诸多的问题,这些问题的存在严重影响了证券市场的健康发展。加入 WTO 以后,中国经济包括证券市场将面临着全球化的机遇和挑战,在世界经济日益全球化的今天,如何改善和提高中国上市公司、证券经营中介机构、证券交易所的国际竞争力,最大限度的防范和化解风险,如何保持和增强中国证券市场对投资者的吸引力将是我国经济面临的一个重大问题。而科学的证券市场的监管体制是解决证券市场中的诸多问题、实现上述目标的一个核心问题。由于历史的原因,我国对证券市场监管体制的研究一直不多,有价值的研究成果更是较少。因此,系统深入地研究中国证券市场的监管体制具有重要的理论和现实意义。

与现有的研究证券监管的文献不同,本书尝试采用经济体制研究中的 DIM 方法,将证券监管体制看作是一个决策机制,从决策结构、信息结构、动力结构角度对中国证券监管体制进行了研究。得出了以下的观点:

1. 从证券监管体制的决策结构角度来看,我国的证券监管体制的决策结构随着证券市场的发展已取得了明显的进步,但

还需要进一步的改革:在证券监管决策权的来源方面,要根据证券市场的发展规律对我国证券监管体制的决策结构进行改进。从传统角度上来讲,传统的计划经济体制下带来的证券监管决策权不适应作为市场经济重要组成部分的证券市场的发展,来自于这一部分的决策权将越来越少。从强制角度来讲,根据法律法规以及部门规章等做出的决策权在证券市场监管中将占有越来越大的比重,这要求我们完善相关法律、法规、部门及行业规章,完善监管组织建设,使监管决策权得到有效行使。在所有制方面,证券市场的发展要求对不同所有制下的证券监管决策要保持公平对待,我国的上市公司现有的所有制结构对证券监管决策带来了不利的影响,特别是国有股不能流通问题,因此需要对其进行改进。在决策权的信息来源方面,一方面要通过证券监管体制的完善不断增强监管主体对信息的掌握程度,另一方面要根据不同决策主体的对信息来源的掌握程度合理划分决策权限。现阶段突出的问题是自律监管机构的监管决策权与其对决策权的信息掌握程度不对称,存在着自律监管决策权弱化的问题,需要加以改进。从决策权的分配角度来看,监管决策权不断向中国证监会转移,我国证券监管体制出现了由分散监管决策向集中统一监管体制模式演变的特点,这与证券市场的发展规律以及各国监管体制的演变趋势相吻合。在目前的证券监管体制下,尽管监管决策权向中国证监会不断集中,但是政府监管的决策权还需要进一步落实,而自律监管机构的决策权还需要进一步加强。

2. 在证券监管体制的信息结构方面,我国原有的证券监管体制不能保证信息传递给决策者的真实性、充分性与及时性,这导致证券市场出现了一系列的问题。另外,信息的传递渠

道,信息对决策者的协调作用也没有很好的发挥。经过体制改革,我国的证券监管体制的信息结构取得了很大的进展,上述问题得到了很大的改观。现有体制已经消除了地方政府在信息结构中的不良作用,信息结构的功能得到改善与提高。但是现有体制没有很好解决作为信息提供主体——上市公司发布虚假信息的动机问题,也没有涉及到信息传递渠道中的媒介在信息传递中的不良作用以及监管机构本身尽力获取信息、准确传递信息的问题,这是下一步体制改革的方向。另外,从信息结构的协调机制来看,现有的主要问题是证监会与证券交易所之间的协调问题,两者的决策权与拥有的做出决策所必需的信息是不对称的,这或者需要对信息结构进行调整,或者需要对决策结构进行调整,使信息结构与决策结构相匹配。

3. 从证券监管体制的动力结构来看,科学的监管体制需要我们在动力结构中必须重视个人目的在证券监管体制中的作用,不断提高组织的统一程度,采取合适的动力方式以及构建合适的激励结构。但对我国证券监管体制的研究中,我们发现,在个人需要方面,实际上存在着多种不同的需要,这决定了不同类型的行动后果对一个决策者的重要程度是不同的,需要我们重视对现有体制下的个人需要的研究。在组织统一方面,通过分析证券监管体制中各个当事人同证券监管共同目标的统一问题,我们发现,实际上相关当事人的目标同证券监管的共同目标之间存在着冲突,这主要是对实现目标的途径手段缺乏认同所导致,这需要体制的改革对途径手段的认同提供强大的动力来解决。在动力方式的选择上,原有体制下的动力方式单一且不完善。我们认为,作为证券监管体制而言,规定影响当事人可能行动的系列仍将是一个主要的动力行使方式,这种

动力方式需要继续加强,以对证券市场当事人产生约束;另外,通过对事物因而是对行动后果施加影响以及通过影响后果的效用及后果、效用的观念等作为辅助的动力方式,也需要进一步完善。特别是对于对事物因而是对行动后果施加影响这种方式,由于它既能对当事人的行动产生影响,使证券监管主体达到控制的目的,又可以使被监管对象拥有一定的自主权,因此,在今后需要大力加强。

从激励结构考虑,激励结构要发挥作用,就必须能够对所要影响的当事人的目标函数产生强烈的影响,由于被监管的当事人基本上可以被认为是追求经济利益最大化的“经济人”,为此,激励结构中必须能够对当事人的经济利益产生影响。而这需要证券监管体制一方面能够有效查处违规行为,另一方面,对证券市场违规行为加大处罚力度。现有的体制改革也是沿着这条道路发展的,今后还需要进一步加强。从证券监管者角度考虑,通过博弈分析,我们得出,加强对监管者的负面激励,不论从短期还是从长期考虑,都将对证券监管产生积极的影响。现有的体制对这一部分涉及的不多,这是今后体制改革需要强调的一个方向。

4. 本书的研究将证券监管体制看作是一个决策机制。它的作用的发挥需要决策结构、信息结构、动力结构之间协调配合。当决策结构、信息结构、动力结构的内容以及其联系方法不同时,整个监管体制就发生了变化。证券监管体制的改革,其本质就是证券监管决策机制的改革。所有制的改革、证券监管法律法规的完善、证券监管组织体系的完善对于证券监管决策机制的完善具有重要意义,我们应该对此引起重视。

全文除导论外有七章,可以分为三部分:

第一部分包括第一章、第二章,它为我们研究我国的证券监管体制提供了一个环境基础。

第一章是证券市场监管概述。主要是对证券监管的概念、目标、监管的原则、证券监管的方法以及证券市场的组织体系进行了阐述与分析,最后对发达国家的证券监管的演变进行了分析。

第二章研究中国证券市场的监管实践。本章首先对我国证券市场的发展进行了回顾,然后对我国证券监管的组织体系的变革情况,我国证券发行市场、交易市场、证券商与证券业监管的实践进行了分析,最后对我国证券监管中出现的问题及原因进行了探讨,指出证券监管体制是导致我国证券市场出现诸多问题的根源。

第二部分包括第三、四、五、六章,这是本书的核心内容,在提出证券监管体制的 DIM 研究方法之后,用该方法对我国的证券监管体制进行了细致地分析与研究,这也是本书的主体内容。

第三章对我国证券监管体制的概念与研究方法进行研究。本章首先对体制的概念、功能、体制与制度的关系进行了分析,在此基础上,对我国的证券监管体制进行了描述,最后,提出了本文对证券监管体制的研究方法——DIM 方法。

第四章研究我国证券监管体制中的决策结构。本章首先对证券监管决策结构的概念进行了分析,然后分别对我国证券监管体制中决策权的性质、决策权的来源、决策权的分配进行了细致的论述,最后提出了科学的证券监管体制对决策结构的改革要求。

第五章是对证券监管体制中的信息结构所做的分析。本

章首先对证券市场中信息结构的含义进行了界定;然后对证券监管体制与信息传递给决策者的充分性、真实性与及时性,证券监管体制与信息的传输渠道、证券监管体制对决策的协调以及证券监管体制与信息经济等方面进行了详细地论述;最后提出了科学的证券监管体制对信息结构的改革要求。

第六章是对证券监管体制中的动力结构所做的分析。本章首先对动力结构、动力结构与个人需要进行了分析;然后对我国证券监管体制与组织的统一问题、证券监管体制与动力方式的选择以及证券监管体制与激励结构的问题进行了分析;最后提出了科学的证券监管体制对动力结构的改革要求。

第三部分包括第七章,这是一个总结性的部分,在将证券监管体制看作是一个决策机制后,提出了完善我国证券市场监管决策机制也即构建科学的证券监管体制对所有制改革、证券监管法律法规的完善、证券监管组织体系的完善的要求。

**关键词:** 证券监管体制, 决策结构, 信息结构, 动力结构, 决策机制

## ABSTRACT

Since Shanghai Security Exchanges were established in December 1990, China's security market has got rapid development only in more than ten years, which played very important roles in the reform and development of China's economy especially of state - owned economy. However, we also should know that there existed many problems in China's security market, which severely blocked the healthy development of security market. After joining in WTO, China's economy including security market will face with the opportunities and challenges of globalization. In the days when the course of globalization of world economy is getting more and more rapidly, how to improve the international competitive ability of China's listed company, security operating media organizations and security exchanges, how to keep away and decompose the risks, and how to keep up and improve the attraction of China's security market to investors will be a very important questions of China's economy. The regulation system of security market is a key point to resolve the problems mentioned above. However, for the history reasons, there were few researches on security market regulation system, and valuable productions were even fewer. So the research on the regulation system of China's stock market systematically and deeply has important theoretical and realistic meanings.

Deferent from literatures of security regulation available, this pa-

per attempts to apply the DIM method of comparative economy system, which regard security regulation system as a decision mechanism, in the research works on China's security system from decision structure, information structure, motivation structure points, and gets following conclusions:

1. From the point of decision structure, we can see that the decision structure of China's security system has made obvious progress, but further reforms are needed: in the source of security regulation decision power, decision structure of China's security regulation system should be improved according to the security market law. From the point of tradition, the security regulation decision power descending from the traditional Plan Economy system was unfit for the development of security market as the important parts of Market Economy, so the decision power from this part will become fewer and fewer. From the point of force, the decision power from the law, rule, and department regulations will become more and more important. So we should consummate relative law rules and regulations of department and industry, consummate the construction of regulation organization to make effective use of regulation decision power. From the point of property right, the security regulation decision to different property should be fair according to the development of security market. The property structure available in our listed companies especially the uncirculation of stated-owned stocks is disadvantageous to security regulation decision, so we should improve the condition. From the point of information source of decision, in one hand, we should continuous enhance the information mastery degree; in the other hand, we should distribute the decision power among the

corresponding decision parts reasonably according to the information mastery degree. The outstanding problems of present stage is that the decision power of self – regulating institution is unfit to the information mastery degree, and there exists a weakness trend in self – regulating decision power which should be improved. From the point of distribution of decision power, the regulation decision power has been continuous transferred to Chinese Security Regulation Committee, and there appears an evolvement from decentralization regulation decision to centralization, which is consistent to the development law and the evolution trends of regulation system of different countries. At present security regulation system, although the regulation decision power is centralized to Chinese Security Regulation Committee, the decision power of government regulation should be fulfilled, while the decision power of self – regulating organizations should be enhanced.

2. From the point of information structure, our previous security regulation system can not ensure the reality, sufficiency and timeliness of the information, which bring out a series of problems in security market. Furthermore, the transferring channel and the coordinating role of information to decision – maker did not work well. Through system reforms, the information structure of security system has made great progress, and the problems above were getting obviously improved. The system at present has eliminated the bad role of local government in information structure, and the function of information structure was improved and enhanced. But the system present did not resolve the motivation problems of listed companies which is the subject of information providing issuing false information, nor the bad roles of the intermedi-

aries in the information transferring and the problems of regulation institution themselves' endeavor to gather and correctly transfer the information. This is the direction of further reform. In addition, from the point of coordinating mechanism of information structure, the main problems at present are the coordination between security regulation committee and security exchanges. Their decision power is asymmetry to the information needed to make decision. We should either adjust the information structure, or adjust the decision structure to make information structure match to decision structure.

3. From the motivation structure of security regulation system, scientific regulation system required that we must think much of personal purpose in security regulation system, improve the unification degree of organization, adopt proper motivation mode and construct proper motivation structure. During the research of our security regulation system, we find that in the respect of personal demand, there exist many different kinds of demand, which determines different kinds action results are different to a decision - maker, and it needs us to reinforce the research on personal demand in present system.

In the organization unification aspect, through the analysis to the unification of common goal of corresponding partners, we find that there exists conflicts among the goal of corresponding partners and the common goal of security regulation, which was caused by the lack of recognition to the ways and means to gain the goal. It needs the reform of the system to provide strong motivation for recognition to the ways and means. For the point of choosing motivation ways, the previous ones are single and incomplete. As security regulation system are con-

cerned, we think the prescription of the series of possible actions of corresponding partners would still be a main motivation exerting way, which needs to be reinforced to produce constraint to corresponding partners. In addition, the motivation ways that affect the things i. e. the results of action, the utility of result and the concept of utility and results, as assistant ways, also need to be further consummated. Especially to the ways affecting the things i. e. the results of action, because it not only can affect the action of corresponding partners to make security regulation subjects gain the goal, but also let the corresponding partners regulated have some initiative power, it should be reinforced greatly.

For the point of motivation structure, motivation structure brings to play roles only if it can make forceful influence on the goal function of the corresponding people. Because the parties regulated can be regarded as "economic people" pursuing the maximization of economic benefits, the motivation structure must be able to affect the economic benefit of the correspondent parties, which require that the security regulation system can find out illegitimate behaviors on one hand, on the other hand enhance the punishment degree to the illegitimate behaviors. The present system reform is getting along this way, and should be enhanced in future. From the point of regulators, through game theory analysis, we get the points that reinforcement the negative motivation will bring positive influence on security regulation both in short terms and in long terms. The present system involves little on this part, which is a direction needing to be emphasized in the course of future system reform.