

社会企业道路

A PATH TO SOCIAL ENTERPRISES:

——中国公益性小额信贷组织转制问题初探

 Institutional Transformation
of Public-Interest Microfinance Institutions
in China

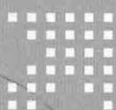
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摘 要

中国小额信贷起源于 20 世纪 90 年代中期借鉴国际经验进行的小额信贷扶贫实践，这些实践活动最初都是以小额信贷扶贫项目的形式进行的。为了能够长期向低收入人口提供融资服务，20 世纪末小额信贷项目开始机构化，出现了专门从事扶贫的小额信贷机构。由于小额信贷资金基本上都是来自国内外公益捐赠和政府扶贫专项资金，这些机构都采用了非政府组织的形式，如社团、民办非企业单位、事业单位和基金会等。有些小额信贷项目没有机构化，但是由准政府性质的组织管理和操作。这些机构可以被统称为非营利组织。由于这些机构从事的小额信贷是以扶贫为宗旨，因此，这一类小额信贷亦被称为公益性小额信贷。

公益性小额信贷不仅直接解决了许多贫困人口发展生产、提高生活水平的融资困难，加快了小额信贷服务区域内人民脱贫致富的进程，而且在我国扶贫资金利用模式创新、农村金融组织创新、产品创新、机制创新等方面都发挥了重要的试验和示范作用，成为其他几类小额信贷形式产生和发展的先导，加快了我国扶贫方式改革和农村金融市场改革的步伐。小额信贷已成为农村金融直接服务于“三农”的重要组成部分。因此，从 2004 年至 2010 年的中央一号文件都将发展小额信贷作为促进

农民增收和农村发展的重要措施。

但是，近年来公益性小额信贷的发展迟滞，有些机构甚至呈现萎缩之势。公益性小额信贷是依靠捐赠资金发展起来的，但是捐赠资金来源不稳定，数量也有限，不能为小额信贷的可持续发展提供稳定的支持。近年来，小额信贷市场对社会责任投资和商业性资本都产生了很大吸引力，但是，由于公益性小额信贷机构缺乏明确的经营金融业务的合法地位以及采用非营利组织形式，为其融入这些资本带来了巨大障碍，影响了公益性小额信贷规模的扩大。

在此背景下，非营利组织小额信贷机构转制之风渐行，有的从社团转制为民办非企业单位；有的引入私人资本从非营利组织转制为股份制的小额贷款公司；有的转制为以扶贫为宗旨的资产管理公司；有的新成立的小额信贷机构直接注册成为以扶贫为使命的非营利性公司；有的表面上没有转制，但是以各种形式吸收员工入股等。

为什么公益性小额信贷发展得这样缓慢而艰难？除了组织形式给融资带来困难之外，是否还有其他的内在原因？怎样从理论上解释这些原因？转制为营利组织形式的公益性小额信贷机构能否继续坚持以及怎样坚持其社会目标？这些都是当前我国公益性小额信贷发展所面临的重大问题，不仅需要大胆的实践，更需要深入的理论探索，为实践提供借鉴和指引。

本书从组织制度的定义和形成机制入手，认为组织是效率机制、合法性机制和共同目标机制作用的结果。制度经济学认为，交易是经济分析的基本单位，任何交易都有成本，当交易成本达到一定程度就会产生经济组织，以减少交易成本；组织规模扩大到一定程度就会停止，因为此时组织内部的协调等交易成本过大，即组织有其边界；这样就产生了

组织与组织的合作，形成了关系比较稳定的关系性契约，此谓效率机制。组织社会学认为，任何组织都处于一定的网络之中，并在其中发挥自己的作用，而把这些组织联结成一个稳定的网络结构的机制是这些组织的共同目标，此谓共同目标机制。各种组织或组织网络的结构和运行方式都必须合乎法律规定、社会规范（包括道德、习俗、社会期待等），此谓合法性机制。一个组织目标的设定反映了组织创建人的自由意志，同时组织制度变迁受到“内部人”利益的重大影响，在本书中前者被称为自由意志决定机制，后者被称为利益平衡机制。任何一个组织的形成和制度演变都是这些机制共同作用的结果。

本研究发现，公益性小额信贷组织制度的形成和变化，从项目形式到非营利组织形式，从非营利组织形式再到营利组织形式，也都遵循上述三种机制。非营利组织的形成是对“市场失灵”和“政府失灵”的纠正和补充。但是，由于建立于公益捐赠资金基础之上，受到“非分配约束”等限制，非营利组织也存在失灵的问题，集中表现为慈善供给不足、家长式作风、业余主义和内部人控制等，影响了非营利组织的公共服务能力。社会企业的出现就是对“非营利组织失灵”的纠正。

社会企业是近年来国内外兴起的致力于社会发展的组织活动方式，至今尚无统一的定义。通过各种定义，社会企业的本质特征可以归纳为两个：第一，其目的是解决社会难题，推动社会进步；第二，以市场化的商业活动作为组织生存、发展和解决社会问题的手段。所以，社会企业在法律上并不是一种新的组织形式，而只是一种组织目的及其运作方式的结合。只要其符合上述两个本质特征，社会企业的组织形式可以多种多样，可以是慈善组织、公司或合作社，可以采用非营利组织形式，也可以采用营利组织形式。重要的是，社会企业在服务社会公益的同

时，还兼顾其投资者和从业者的利益，将个人利益与社会公共利益衔接起来，调动了投资者和业内人员的积极性，大大有助于解决慈善供给不足、业余主义、家长式作风和内部人得不到有效监督等问题。社会企业公共服务能力的提高符合社会需要和公众期待，也是公益组织所有利益相关者的共同目标。因此，非营利组织向社会企业的过渡是效率机制、合法性机制和共同目标机制内在作用的结果。

因此，以组织制度形成和演变的三种内在机制来解释公益性小额信贷机构的转制，可以发现，各种转制方式不仅仅是为了解决融资和合法地位的问题，更深层的内在动力在于同时解决“非营利组织失灵”的问题。公益性小额信贷机构通过转制，引入投资者或者内部人员入股，或者采用营利组织的形式，不仅扩大了资金规模，在其他方面还具有潜在的效果。第一，在所有权方面，采用营利组织形式引入投资者，将“无主企业”全部或部分地变为“有主企业”，可以改善治理结构，增强内部监督的动力和效果，这应该是对非营利组织治理方式的根本性转变。第二，在“内部人”激励方面，可以纠正以往片面强调奉献和社会责任，忽视管理者和员工个人及其家庭利益的倾向，使内部人利益与社会利益更加平衡，有助于提高员工的工作积极性和稳定性，从而有利于员工在提高工作技能和绩效方面的投入。第三，在上述两种转变的作用下，小额信贷机构资金运用的效率和效果可以得到提高，这些效果已开始在一些转制的公益性小额信贷机构中显现。

以社会企业方式运行的公益性小额信贷机构提高了对个人利益的关注，但是否会使天平再次失衡，倾向个人利益，忽视或偏离社会目标，从而导致类似于“市场失灵”的“社会企业失灵”？为了避免这种情况的发生，在国家政策法律上需有明确的限制性规定，在内部组织制度上

也应有相应的安排。例如，英国对社会企业制定了资产锁定和红利分配限制的规定，要求社会企业的资产必须用于其宣称的公益目的，所得利润必须主要用于对公益事业的再投资；美国法律将社会企业的经营范围限制在低利润行业，并给予税收优惠；波黑共和国（以下简称波黑）法律规定，非政府组织形式小额信贷机构进行商业化转制的，在新的商业化小额信贷机构中，原非政府组织的股份不得低于51%。中国目前尚无适用于小额信贷社会企业的法律制度，但率先转制或直接采用营利组织形式的新建小额信贷机构已经做出了较好的实践探索。例如，中国扶贫基金会将小额信贷项目部转制为中和农信项目管理有限公司后，中国扶贫基金会是最大的股东；友成企业家扶贫基金会发起成立的友成普融信息咨询有限责任公司的股东包括两家非政府组织、一家社会企业以及两家商业投资公司，其公司章程中明确规定公司的大部分赢利要继续投入小额信贷事业。

虽然转为社会企业或商业化的转制在一定程度上解决了“非营利组织失灵”的问题，但是，这并不能否定非营利组织形式的优势，如筹资、社会动员、税收和其他优惠政策支持等。国外非政府组织小额信贷的良好发展状况证明了非营利组织形式的优势，同样，国内一些发展良好的非政府组织小额信贷机构也证明了这一点。只要有较完善的治理结构，处理好内部管理人员的激励和约束机制，处理好与外部资助和其他支持机构之间的关系，就可以提高管理人员的积极性和绩效水平，非营利组织小额信贷机构仍然可以健康发展。但是，在目前中国公益性小额信贷机构商业化转制的潮流中，一些公益性小额信贷机构仍面临转制为小额贷款公司的内外部压力。不过，对这样转制的效果进行判断还为时尚早，值得密切关注和深入研究。

从中国公益性小额信贷组织制度的演进过程可以看到，组织制度的形成和演进有其自身的规律性，集中体现在组织制度的形成和变化是效率机制、合法性机制和共同目标机制共同作用的结果。任何组织制度的设计和改变都要能够提高效率，为政策法规和社会观念所接受，并能与各利益相关者的利益目标所契合。非营利组织对“政府失灵”和“市场失灵”的纠正以及社会企业对“非营利组织失灵”的纠正都是这些机制发生作用的结果。不管组织制度如何演变，作为公益性组织的小额信贷机构都应该坚持社会公益为其核心目标，同时兼顾投资者、内部员工以及其他利益相关者的利益。

为了保证转制的公益性小额信贷机构不偏离公益轨道，避免“社会企业失灵”，迫切需要为社会企业和小额信贷制定相应的政策法规。借鉴一些国家（如英国关于社区利益公司、美国关于低利有限公司和波黑关于公益性小额信贷机构转制）的立法实践，一些关键性的内容应该得到明确。例如，给予各种组织形式的公益性小额信贷机构以合法的经营地位；规定组织的资产锁定和红利返还限制的政策，要求组织所有者和出资人就此作出明确而公开的承诺；规定转制后原非政府组织在新的小额信贷机构中应占据控股地位；继续给予税收优惠等政策；推动社会责任投资的发展，促进融资平台建设，并制定强制性的信息公开披露机制等。用各种措施来推动公益性小额信贷机构健康发展，继续致力于为中低收入人口提供金融服务，促进社会和谐进步。

Abstract

Microfinance in China originated from poverty alleviation projects in the mid – 1990s. Most of the projects were financed by international aid organizations. In order to provide financing service for the low – income people, many aid organizations and local authorities set up microfinance institutions (MFIs) on the basis of the microfinance projects at the end of the 20th century. Because microfinance funds come basically from philanthropic donations at home and abroad, the aid – the – poor funds of Chinese government, they are mostly in non – governmental organization (NPO), private non – enterprise and foundation, and so on. The organizational forms of the MFIs are mostly in non – governmental organizations, which can also be called nonprofit organizations. The purpose of NPO MFIs is to provide the financial service for the poor. Therefore, NPO – MFIs and the MF projects in China are also called public – interest MFIs.

Public – interest MF solved some difficulties, such as the development of production of the poor and financing for improving the living standard, greatly impelled people in the service zone of the microfinance to get rid of the poverty. It played a experimental and model role in these innovation, such as

the use of poverty alleviation funds, financial organizations in village, products and mechanisms. It became the forerunner of the formation and development of other forms of microfinance, improving reformation for ways of poverty alleviation (PA) and financial market in village. Microfinance is an important part that rural finance served three rural issues. Therefore, in the central documents between 2004 and 2010, the development of microfinance is an important measure that improves farmers' income and the rural development.

However, public – interest microfinance face some barriers to its growth in recent years, some organizations have started to shrink. Its development relies on the endowment, but the endowment can not provide a stable support for the sustainable development of microfinance, because of instability and limited quantity of source of funds. In recent years, the socially responsible investment and the commercial capital greatly make use of the market of microfinance. However, public – interest MFIs are the lack of legal status that operates finance business, using the pattern of nonprofit organizations, so it has barriers to integrate into these capitals, its expansion is influenced.

In this context, public – interest MFIs started to transform into commercial organizations, some institutions transformed societies into private non – enterprise, some transformed non – profit organizations into joint – stock loan companies, some was transformed into asset management corporations that targeted poverty reduction. Some new microfinance institutions registered as non – profit corporations that targeted poverty reduction. Some institutions seemingly did not transform, but absorbed employees to buy shares in various forms.

Why PI – MFIs develop so difficultly? How to explain the difficulties? Can PI – MFIs continue to adhere to their social goals when they are transformed into profitable organizations? All these questions are important for the PI – MFIs development, as well as for the social development.

Based on the definition and formation of the organizational system, the authors of this book argue that, an organization is formed under a series of mechanisms, including efficiency mechanism, legality mechanism, common – goals mechanism, free – will determination and interests – balance mechanism. According to institutional economics, transaction is the basic unit of economic analysis, any transaction has costs. In order to reduce transaction costs, an economic organization will be formed when the transaction cost is high enough. When the internal transaction cost becomes high enough, the expansion of the organization will stop. Then the organization and its corporation are created, a stably relational contract is formed. This is called efficiency mechanisms. According to the sociology of organizations, the organizations will form a network to cooperate with each other. The elements that form the networks are the common goals of the organizations in the networks. This is the common – goals mechanism. Any organization or the structure and operating mode of the organizational networks shall abide by the law, social regulations (including moralities, customs, and social expectation, etc.). This is legality mechanism. The setting of organizational goals reflects the free will of its founder, which is called the free – will-determination mechanism in the book. And the interest of internal stakeholders greatly influence the change of organizational system, which is called the interests – balance mechanism. The formation of organization and evolution of the system result from the above five mechanisms.

The authors argue that the institutional transformation of PI – MFIs, from project to NPO, and then from NPO to FPO, is the result of above five mechanisms. NPO is a correction of the market failure and government failure. But on the basis of the public endowment and the restriction of the non – distribution constraint, NPO is also at the risk of failure, such as philanthropic insufficiency, paternalism, amateurism and insider control, and so on. And its service ability is influenced. The correction to NPO failure is the social enterprises.

The social enterprise (SE) is a new pattern of social intervention to promote social justice and development. The essential characteristics of SE can be summarized in two points. Firstly, the purpose of SE is to solve social problems, improve the social development. Secondly, market – oriented business activities are means of the organizational survival, development and solution of social problems. So SE is legally not a new organizational form, but a new combination of organizational purpose and action. Only when the organizational form of SE meets the above two characteristics, can organizational form be charity, company or cooperative, NPO and profitable organizations. More importantly, SE does not only service social welfare, but takes into account the interest of investors and practitioners. It connects personal interests with public social interests, motivating investors and staffs. And this greatly contributes to solve the philanthropic insufficiency, amateurism, paternalism and effective supervision of insiders. Therefore, the transformation of NPO into SE is the function of above – mentioned three mechanisms.

Therefore, the institutional restructuring of the public – interest microfinance can be explained with the above three mechanisms, to find that ways of restructuring not

only solve financing and legal status but also the failure of nonprofit organizations. Through institutional restructuring, public – interest microfinance encourages investors and internal staffs to buy shares, or uses the pattern of profitable organizations, to expand funds and potential effects. Firstly, in terms of ownership, it introduces investors through the pattern of the profitable organization, transfers “the enterprise within owners” into “the enterprise without owners”, to improve the governance structure, the power and effect of the internal supervision. This should be the fundamental restructuring of nonprofit organizations. Secondly, in terms of the insider incentives, it can be corrected in the past one – sided emphasis on dedication and social responsibility or ignoring the personal and family interest of managers and employees, balances the personal interest of insiders and the social interest. This contributes to make employees more likely to work hard, stay in their works, and improve their work skills and performance. Thirdly, under the influence of the above two transformations, the efficiency and effect of MFIs funds can be improved, these effects have emerged in some MFIs after restructuring.

In the pattern of SE, personal interests of insiders receive more attention than that in a traditional NPO. But is it possible to ignore the public interests when personal interests are emphasized, and result in a social enterprise failure? In order to avoid the situation, the national policy and regulation and the organizational system should have a clear restriction. In Britain, the government asks social enterprises to lock their asset and restrict their profit sharing, requires that their asset must be used for the public welfare, and their profits must be used to reinvest in the public welfare. The law in U. S. provided that the scope of business of social enterprises was limited to the low – margin industry and was given tax preference. The

law in Bosnia provided that the share percentage of the original non – governmental organization was not less than 51% in the new commercial MFIs if the non – governmental pattern of MFIs was transformed into the commercial pattern. In China, now there is no legal system appropriate for microfinance social enterprises, but new MFIs, firstly transformed or using profitable pattern, have greatly made practice and exploration. For example, the China foundation for poverty alleviation would be the largest shareholder when it transformed the microfinance department into the Zhonghe Nongxin project management corporation. You Change Purong Information Advisory Co, Ltd was founded by China Social Entrepreneur Foundation, its shareholders including two non-governmental organizations, a social enterprise and two commercial investment companies, and its articles stated that most of its profits would be invested in microfinance business.

Even though Social enterprises and commercial patterns solved the failure of non – profit organizations to some extent, this does not detract from its advantages, such as financing, social mobilization, tax and preferential policies. The development of MFIs of non – profit organizations from abroad greatly proved its advantages, some well – developed MFIs of non – profit organizations in China also proved this point. Motivation and performance of managers in non – profit MFIs can be improved if it has a good governance structure, greatly handling incentive and restraint mechanisms of internal managers, greatly dealing with the relation between themselves and the external funding, supporting institutions. Therefore, non – profit MFIs can be healthily developed. However, in the current trend of commercial restructuring of the Chinese public – interest MFIs, some public – interest MFIs still face inter-

nal and external pressures that it is transformed into a small loan company. It is still too early to judge the effect of their restructuring.

Through the evolution of the system of the Chinese public – interest MFIs, it is seen that the formation and evolution of organizational system has its own law. The law reflects that the formation and change in organizational system results from the efficiency mechanism, the legitimacy mechanism and the common goals mechanism. The design and change of any organizational systems is able to improve its efficiency, is accepted by policies and regulations and social concept, and corresponds to the interest of stakeholders. These mechanisms result in that non – profit organizations correct the failure of the government and market, and social enterprises correct the failure of non – profit organizations. No matter how transform organizational systems, non – profit MFIs should adhere to the social welfare known as its core objectives, take into account the interest of investors, internal employees and other stakeholders.

The Chinese government urgently needs to provide policies and regulations for social enterprises and micro finance, in order to ensure that non – profit MFIs adhere to the social welfare, avoid the failure of social enterprises. China should learn from legislative practices in some countries, such as Community Interest Company in UK, low – interest Ltd in the U. S. and the restructuring of non – profit MFIs in Bosnia, some important contents should be explicit. For example, any non – profit MFIs should be given the legitimate position. The asset locked and limited distribution of surplus should be regulated, owners and investors of the organization should be asked to make a clear

and public commitment. Non – governmental organizations after restructuring should have holdings in the new MFIs. Preferential tax policies should be given, the development of socially responsible investment should be promoted, and the establishment of financing platform should be improved. The compulsory information disclosure mechanism should be developed. Through a variety of measures, non – profit MFIs are healthily developed, continuing to provide financial services for the low – income population.