

A Practical Examination and Path Selection of Equity Transfer Models: Focusing on the Alteration of the Shareholder Register

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Abstract

Article 86 of the Company Law of the People's Republic of China (2023 Revision) provides that an equity transferee may assert shareholder rights against the company from the time when the transferee is recorded in the shareholder register. However, the provision does not clarify whether alteration of the shareholder register constitutes a constitutive requirement for the effectiveness of an equity transfer, a question that has generated significant academic and practical debate. Historically, the shareholder register was designed primarily as strong evidence of shareholder qualification and, on that basis, as an institutional mechanism for constructing the outward appearance of equity rights. Determining the effectiveness of equity transfers was not part of its original functional scope. While the legislature, by virtue of its freedom of institutional design, could designate the shareholder register as the constitutive requirement for equity change effectiveness, the PRC Company Law has remained cautious at the legislative level. Moreover, such a model lacks a realistic commercial environment for implementation, conflicts with the text and logic of the statute, and is therefore ill-suited as China's default framework for equity transfers. From the perspective of reconciling the tension between the law of legal acts and the organizational law of companies in equity transfers, Article 86 can be more appropriately interpreted as adopting a doctrine of formal corporate consent. Under this model, once the parties have entered into a valid equity transfer agreement, the company conducts a formal review to ensure that the transfer complies with applicable laws, administrative regulations, and the company's articles of association, and then expresses its consent or refusal. Upon corporate consent, the equity transfer becomes effective, without awaiting amendment of the shareholder register. This model balances transactional autonomy with corporate governance needs, avoids the governance and associational challenges of the intention-based model, and circumvents both the normative

and practical dilemmas of the shareholder-register-based model. Operating fully within the framework of the existing law, it offers a more coherent, feasible, and doctrinally defensible approach for resolving disputes over equity transfers in China.

Keywords

Equity Transfers, Changes in Equity, Register of Shareholders, Corporate Consent Rights

1. Introduction

Before the 2023 revision of the Company Law of the People's Republic of China (hereinafter the "2023 Company Law"), the question of when an equity transfer based on a legal act becomes legally effective remained unsettled in theory. Competing views included the doctrine of intention, the modified doctrine of intention, the shareholder register-based effectiveness model, and the business registration-based effectiveness model. Each of these theories exerted substantial influence in judicial practice, often resulting in inconsistent rulings in similar cases, thereby undermining both the authority and predictability of the judiciary.

In response to this long-standing practical controversy, the Supreme People's Court issued the Notice by the Supreme People's Court of Issuing the Minutes of the National Courts' Civil and Commercial Trial Work Conference (hereinafter the "Minutes"). Point 8 of the Minutes provides that, so long as the shareholder register is amended to reflect the transferee, the equity transfer shall be deemed effective. Under this framework, registration with the company registry functions merely as a requirement for opposability against bona fide third parties, not as a constitutive condition for the legal effectiveness of the transfer itself. This provision was widely regarded as the Supreme People's Court's initial attempt to establish the shareholder register-based effectiveness doctrine.

The 2023 revision of the Company Law largely codified the core position of the Minutes in Article 86, which governs equity transfers in limited liability companies. Legislative drafters explained that the purpose of the amendment was to ensure that an equity transfer "only takes legal effect upon being recorded in the shareholder register", indicating a legislative inclination to formally endorse the shareholder register-based effectiveness model.

However, the promulgation of the 2023 Company Law did not resolve the debate. On the contrary, academic and practical disputes over the appropriate model for determining equity transfer effectiveness have intensified. Although recent scholarship has deepened understanding of several key aspects of China's equity transfer regime and corrected certain misconceptions, surprisingly little attention has been devoted to the shareholder register itself as a legal document. Consequently, much of the debate rests on conceptual misreadings or misplaced assumptions about its nature, purpose, and functional scope.

Addressing this gap, this article places the shareholder register at the center of analysis. It first examines the legal functions the register is capable of performing in the equity transfer process under Chinese law, drawing on its institutional history and comparative perspectives. It then offers a normative interpretation of Article 86 of the 2023 Company Law, with the aim of constructing a more coherent and doctrinally defensible framework—one that reconciles transactional law and corporate organizational law, and provides a more workable basis for determining equity transfer effectiveness in China.

2. Divergent Models of Equity Transfer Centered on the Alteration of the Shareholder Register

The plain language of Articles 56 and 86 of the 2023 Company Law merely indicates that if the transferee of equity has completed the alteration of the shareholder register, the equity transfer is effected and the transferee acquires shareholder status. However, the inverse inference—that is, if the shareholder register has not been amended, the equity transfer has not taken effect and the transferee has not acquired shareholder rights—remains ambiguous.

Several individuals involved in the legislative process have asserted that the alteration of the shareholder register constitutes a condition for the effectiveness of equity transfers. For instance, the Supreme People's Court stated that the recent revision “formally provides in legal form that the transferee may assert shareholder rights against the company once recorded in the shareholder register, thereby clarifying that the effective time of equity transfer, or the standard for determining shareholder status, is the transferee's registration in the shareholder register” (*Civil Division No. 2 of the Supreme People's Court of China, 2024*). Similarly, Liu Bin has argued that “in cases of equity transfer, the alteration of the shareholder register is the condition for the effectiveness of the transfer of shareholder rights” (*Liu, 2024*). Other scholars contend that the revised Company Law has in effect established a model of equity transfer that treats registration in the shareholder register as a legal requirement for validity (*Lin et al., 2023*).

By contrast, some scholars strongly oppose this view, maintaining that alteration of the shareholder register is merely a “sufficient condition” rather than a “necessary condition” for equity transfer, and thus should not be treated as a constitutive element of validity. For example, Professor Zhu Hu argues that alteration of the shareholder register merely serves as proof that the company has been notified of the transfer. Even absent such alteration, if there is sufficient evidence that the company was notified, the equity transfer should still be deemed effective (*Wang et al., 2024*). Building on this view, numerous scholars suggest that the shareholder register functions only as a legal document that presumes the recorded shareholder holds equity rights, but “the timing of equity transfer does not necessarily coincide with the time of registration in the shareholder register” (*Shi, 2024*).

In fact, due to practical difficulties, even proponents of treating the alteration

of the shareholder register as a condition for effectiveness display ambivalence on this issue. As previously noted, although the Supreme People's Court maintains that the 2023 Company Law establishes registration as the trigger for the effectiveness of equity transfer, it also acknowledges the widespread problems of non-existent or improperly maintained shareholder registers in practice. It further notes that "given that the ultimate purpose of amending the shareholder register is to reflect the company's formal recognition of the equity transfer as long as there is evidence that the company recognizes the transferee as a new shareholder, corresponding legal effects may arise". This evident vacillation speaks for itself.

The lack of theoretical consensus on whether the alteration of the shareholder register constitutes a legal requirement for the effectiveness of equity transfers has inevitably led to significant divergence in judicial outcomes. This article adopts a case study approach, drawing on selected court decisions on equity transfer disputes issued between the Minutes and June 2025 for illustrative analysis. The analysis reveals two fundamentally opposing judicial approaches regarding the legal function and effect of the shareholder register in equity transfers—reflecting the very same divisions that exist at the theoretical level.

Some courts have explicitly treated the alteration of the shareholder register as a legal condition for the effectiveness of equity transfers and have adopted a rigid "all-or-nothing" approach. For example, in an equity transfer dispute heard by the Chengdu Intermediate People's Court, the court held that "the registration of a shareholder in the register of a limited liability company constitutes a constitutive registration in terms of legal effect. This constitutive nature determines that the effectiveness of the equity transfer agreement alone does not result in the transferee automatically acquiring the equity. The transferee only obtains shareholder status once their name has been recorded in the shareholder register." Accordingly, although the transferee in this case had already exercised shareholder rights in practice and was recognized by all other shareholders as a shareholder, the court still ruled that the transferee had not acquired the equity (*Chengdu Intermediate People's Court of Sichuan Province, 2021*).

Outside the shareholder register-based approach, courts have primarily adopted two alternative models for determining the effectiveness of equity transfers. The first is a contract-based model, which treats the effectiveness of the equity transfer agreement itself as the point at which the transfer becomes legally effective. For example, in a case heard by the Intermediate People's Court of Changji Hui Autonomous Prefecture in Xinjiang, the court held that "the Equity Investment Agreement in question took effect upon being signed and confirmed by both parties. The effective date of the agreement shall be deemed the date of equity transfer, and Li acquired the equity and corresponding shareholder rights upon payment of the transfer price" (*Changji Hui Autonomous Prefecture Intermediate People's Court of Xinjiang Uygur Autonomous Region, 2024*).

The second is a consent-based model, which emphasizes the company's recognition of the transferee's shareholder status and adopts a more comprehensive

approach to determining effectiveness. In a case adjudicated by the Beijing High People's Court, all shareholders of Yufei Company unanimously agreed to offset 25% of the company's shares against a creditor's outstanding claim, and a corresponding agreement was reached with the creditor. The court found that the essence of the offset agreement was the shareholders' transfer of equity to the creditor. Because all shareholders consented to the offset, the court held that the company was deemed to have approved the equity transfer. Therefore, "even though Yufei Company did not amend the shareholder register or update its shareholder records, the mutual agreement between the parties was sufficient to produce legal effect internally with respect to the equity transfer" (Beijing High People's Court, 2022).

Although the legislature and the Supreme People's Court have sought to establish an equity transfer model centered on the alteration of the shareholder register, the realities of shareholder register maintenance and the final form of the legal text have prevented the shareholder register-based effectiveness doctrine from achieving even a preliminary consensus at the theoretical level. In practice, in order to ensure fairness in individual cases, courts faced with complex and varied factual scenarios have found it difficult to implement the intent of the legislature and the Supreme People's Court without compromise. As a result, the shareholder register-based effectiveness doctrine has not been fully endorsed in either theory or practice.

That said, the divergence between theory and practice does not, in itself, demonstrate that the shareholder register-based effectiveness doctrine is inherently flawed. In fact, assessing whether this doctrine is sound requires a twofold inquiry: on the one hand, returning to the shareholder register itself to examine in detail whether its functions can sustain the institutional ideal underlying the doctrine; and on the other hand, analyzing the doctrine's compatibility with the normative framework of China's company law. Only through such an integrated approach can a well-reasoned and comprehensive conclusion be reached.

3. The Institutional Functions of the Shareholder Register

If the original design and institutional function of the shareholder register had included serving as a condition for the effectiveness of equity transfers, then logically, once the shareholder register is accepted by the legislature, the adoption of a register-based effectiveness model would follow to the same extent. Therefore, any discussion of the doctrinal legitimacy of the register-based effectiveness model in China should reasonably begin with an examination of the institutional functions of the shareholder register.

3.1. Evidentiary Function of Shareholder Qualification

The institutional prototype of the shareholder register can be traced back to the partnership, the oldest form of business organization. Although early partnerships were not formalistic legal acts, in order to clarify the rights and obligations among

partners, such organizations typically recorded in writing the names of partners, their capital contributions, and their respective partnership interests, thereby forming a legal document (Lobban, 2010). This can be seen as the original blueprint of the modern shareholder register.

By the 16th century, with the advent of the Age of Discovery, transoceanic trade became increasingly prevalent. Given the immense costs involved in such ventures, oceanic trade could rarely be financed by a handful of wealthy merchants or families alone, and thus there arose a need to attract outside investors to share the risk. In response, merchants engaged in long-distance trade adopted partnership-like structures and established dedicated registers of investing members within trading companies. These registers documented the amount of investment, shareholding proportions, and dividend entitlements, thereby identifying who participated in the enterprise and in what capacity (Cooke, 1951).

The development of commercial practice spurred corresponding changes in legal institutions. In 1845, in order to provide a standardized constitutional framework for the large number of companies—particularly railway enterprises—emerging in the wake of the Industrial Revolution, the British Parliament enacted the Companies Clauses Consolidation Act 1845. Section 8 of that Act provided that a person whose name was entered in the register of shareholders “shall be deemed” a shareholder. This was the earliest statutory basis for treating the shareholder register as proof of shareholder identity.

Subsequently, Section 25 of the Companies Act 1862 set out in detail the specific requirements for companies to maintain a shareholder register and stipulated penalties for failure to comply. Building on the statutory provisions of the Companies Clauses Consolidation Act 1845 and the Companies Act 1862, British courts in the early 20th century, through a series of cases, gradually established the evidentiary function of the shareholder register in determining shareholder qualification.

The current Companies Act 2006 broadly maintains this normative framework. Section 112 provides that a person becomes a member of a company only when their name is entered in its register of members; Section 127 further provides that the register is *prima facie* evidence of membership. Thus, in modern UK company law, the original and primary function of the shareholder register is to serve as proof of shareholder qualification (*Borland’s Trustee v. Steel Bros & Co Ltd*, 1901, 1 Ch 279; *Re Sussex Brick Co Ltd* [1904] 1 Ch 598.). The evidentiary function of the shareholder register in establishing shareholder qualification serves not only as the basis for shareholders to exercise their rights, but also as an essential institutional mechanism for ensuring the effective operation of the company.

3.2. The Shareholder Register as the Basis for the Appearance of Equity Rights

In order to avoid an endlessly regressive chain of transactional verification in equity transfers and to reduce the transactional burden, many jurisdictions have

chosen to base the construction of the outward appearance of equity rights on the shareholder register. For example, when Germany amended its Limited Liability Companies Act (**GmbHG**) in 2008, it expressly grounded the German doctrine of bona fide acquisition of equity in the outward appearance created by the shareholder register. Pursuant to Article 16(3) of that Act, even if the transferor is not the true rights holder, the transferee may still acquire the equity in good faith by relying on the shareholder register, provided that the transferor is recorded therein and the inconsistency in registration is attributable to the true rights holder, or—even if it is not attributable to the true rights holder—the inconsistency has persisted for more than three years. In other words, under German law, the shareholder register, like the real estate register, constitutes an artificially constructed foundation for the outward appearance of rights, capable of affording transactional security to transferees (**Schüßler, 2011**).

Similarly, according to the view of the Supreme People's Court of China, the very recording of a shareholder in the shareholder register gives rise to an appearance of rights on which a purchaser may rely (**Xi, 2014**). Admittedly, given that in China the shareholder register and the registration of shareholders with the company registration authority are maintained separately, neither alone can satisfy the standard for constituting the appearance of equity rights; the two must be assessed together when determining whether a purchaser has relied upon such appearance. Nevertheless, in light of the 2023 Company Law's reconceptualization of the legal effect of the shareholder register, there should be little interpretive doubt in recognizing that the register plays a role in constructing the appearance of equity rights in the field of equity transactions.

In sum, from the perspective of the historical evolution of the shareholder register system, its original institutional function was to serve as a strong evidentiary document of shareholder qualification. Subsequently, leveraging this strong evidentiary nature, the shareholder register naturally came to underpin the outward appearance of equity rights. Accordingly, just as the requirement of publication is a constitutive rule for judicial decisions, it may likewise be considered that both the evidentiary function in proving shareholder qualification and the capacity to represent rights are constitutive rules of the shareholder register. Absent these two functions, the shareholder register would lose its original institutional significance. However, the original institutional function of the shareholder register and its logical derivatives did not include serving as a condition for the effectiveness of equity transfers. Therefore, acceptance of the shareholder register does not necessarily entail acceptance of the register-based effectiveness doctrine. Of course, the shareholder register may be assigned such a function by legislative design, but this function would be the result of legislative choice rather than an inherent characteristic of the shareholder register as a legal instrument.

4. The Practical and Normative Infeasibility of the Shareholder Register-Based Effectiveness Model

Admittedly, the shareholder register is, in essence, a legal document evidencing

shareholder identity and does not inherently carry the institutional implication of determining whether an equity transfer has taken effect. However, the legislature may well, by analogy to the system of real property transfer, condition the effectiveness of equity transfers upon the alteration of the shareholder register. For instance, Section 1072F of the Australian Corporations Act explicitly provides that, prior to the completion of registration in the shareholder register, the original holder shall remain the shareholder of record. Only under specific circumstances may the time of transfer be backdated to the date on which the board of directors approved the registration of transfer, or the date when the registration ought to have been affected (*Federal Commissioner of Taxation v. Patcorp Investments Ltd*, 1976). Until such alteration of the register, the transferee merely enjoys an equitable beneficial interest in the shares.

It should be noted that such legislative choice by the Australian legislature is not purely technical in nature but does generate tangible institutional benefits. Since the effectiveness of equity transfer is conditioned upon the company's act of altering the shareholder register, the company is thereby brought into the process of equity transfer. Consequently, the procedure of equity transfer can simultaneously accommodate the behavioral-law dimension of party autonomy and the organizational-law dimension of corporate governance. This, in turn, remedies the shortcoming of pure voluntarism, which neglects the organizational significance of changes in shareholding.

Whether the alteration of the shareholder register should be made a condition for the effectiveness of equity transfers is not a binary question of truth or falsity, but rather a matter of technical choice based on a balance of advantages and disadvantages. The adoption of such a technical choice ultimately depends on the compatibility of the shareholder register-based effectiveness doctrine with the specific company law framework and the practical operation of the company law system in question. Accordingly, assessing the feasibility of this doctrine in China requires an individualized examination within the context of China's institutional framework.

In China's commercial practice, the state of shareholder register maintenance is far from satisfactory. For example, Zhou You's empirical study, which drew on 230 relevant cases identified in the PKU Laws & Regulations Database over the nearly five-year period from the issuance of the Minutes to August 2024 (using search terms such as "shareholder register," "equity transfer," and "time of effectiveness"), found that 191 cases lacked a shareholder register, with the absence rate reaching as high as 83% (Zhou, 2025). In addition, the Company Law of China imposes no specific formal requirements on the shareholder register and does not designate a statutory custodian. In practice, instances of false entries and even forged shareholder registers are not uncommon (*Supreme People's Court of China*, 2021). Under such circumstances, expecting judges to determine the effectiveness of equity transfers simply by examining changes in the shareholder register is largely a theoretical abstraction. In other words, an informal and non-

standardized shareholder register not only fails to support the reasonableness of the register-based effectiveness doctrine but also underscores its lack of a practical foundation.

Making the alteration of the shareholder register a condition for the effectiveness of equity transfers in China lacks feasibility not only in practical terms but also at the normative level. First, while some individuals involved in the legislative process may indeed have intended to advance the adoption of the register-based effectiveness doctrine, both the Legislative Affairs Commission of the National People's Congress and the Supreme People's Court have shown clear hesitation and uncertainty, largely due to concerns about its practical operability (Wang, 2024). The legislature has not established supporting institutional measures for this doctrine: it has neither prescribed penalties for failure to maintain a shareholder register, nor specified its required form or custodial authority. Moreover, across multiple comprehensive revisions of the Company Law, the legislature has never expressly designated alteration of the shareholder register as a constitutive requirement for equity transfers, instead maintaining a stance of “strategic ambiguity” on the matter. This suggests a possible lack of confidence in the doctrine's legitimacy, with the legislature preferring to advocate for it rather than to enforce it mandatorily.

Second, although paragraph 2 of Article 86 of the 2023 Company Law provides that, in the case of an equity transfer, once the shareholder register has been amended the transferee may assert rights against the company, this provision only allows the positive inference that, once the register is altered, the transferee necessarily acquires shareholder status and the equity transfer necessarily takes effect. The negative inference—that if the register is not altered, the equity transfer has not taken effect—does not necessarily follow. Using paragraph 2 of Article 86 as the basis for such a negative inference effectively engages in a form of “judicial supplementation” to construct doctrinal support for the register-based effectiveness doctrine, which exceeds the proper bounds of legal interpretation and may be questionable in propriety.

Finally, because equity transfers in China must undergo at least an internal corporate confirmation procedure and a process for exercising shareholders' preemptive rights, there is inevitably a temporal gap between the signing of an equity transfer agreement and the actual change in equity. For this reason, rigid adherence to the register-based effectiveness doctrine risks creating moral hazard.

5. Normative Foundations for the Formal Corporate Consent Model: A Legal Interpretation of Article 86

Although, within the normative framework of China's new Company Law, the shareholder register-based effectiveness doctrine is neither practically nor normatively feasible, it nonetheless retains considerable theoretical value as an attempt to reconcile the structural tension between the effects of transactional law and

those of organizational law in the process of equity transfers in limited liability companies. The key issue, therefore, is not whether the shareholder register-based effectiveness doctrine should be adopted, but rather how to interpret the text of the Company Law within its existing normative structure and institutional logic, so as to construct an interpretive approach better aligned with China's company law system and capable of effectively bridging the normative gap between transactional law and organizational law. On this issue, the present article contends that, based on the newly added provisions of Article 86 of the 2023 Company Law, it is logically sound to interpret the new law as adopting a model in which an effective equity transfer agreement, combined with the company's formal consent, constitutes the condition for effectiveness—namely, the doctrine of “formal corporate consent effectiveness”. “Corporate formal consent” refers to a model under which an equity transfer becomes effective only after being formally acknowledged by the company. Specifically, this model operates through three sequential steps: 1) the shareholder and the transferee conclude a valid equity transfer agreement; 2) the company conducts a formal review of the transfer and grants its consent; and 3) upon the company's consent, the equity transfer takes effect.

The Supreme People's Court has noted that, in the past, due to the absence of specific provisions, some shareholders, when transferring their equity, completely ignored the company, resulting in the company being unaware of the transfer and thus unable to cooperate in subsequent amendments to the shareholder register and business registration. This, in turn, created significant obstacles to the company's daily governance ([Civil Division No. 2 of the Supreme People's Court of China, 2024](#)). In addition, some courts failed to grasp the nature of equity changes with sufficient depth, producing numerous judgments that recognized an equity transfer as effective solely on the basis of the transfer agreement.

For this reason, during the revision of the new Company Law, Article 86 was amended to include the new requirement that “a shareholder transferring equity shall notify the company in writing and request the company to amend the shareholder register”. This provision clearly reflects that, in the view of the legislature, equity transfers in limited liability companies are by no means, as proponents of the pure intention-based model suggest, merely contractual relationships between transferor and transferee under transactional law. Rather, equity transfers also involve organizational law relationships among the transferor, the transferee, and the target company.

Accordingly, an equity transfer cannot take effect solely on the basis of the parties' declarations of intent; the company's right to be informed is essential ([Liu, 2022](#)). In fact, the transfer of claims—serving as the archetype for all private-law rights transfers—requires that the debtor be notified of the assignment; otherwise, the transfer has no effect on the debtor. A fortiori, equity transfers must also be notified to the company. From this perspective, the requirement in Article 86 of the Company Law for a written notice to the company in the case of equity transfer is nothing more than a return to common sense.

On the other hand, since the transfer of claims is confined to the civil contractual relationship among the three parties to the transfer, the legal relationship is relatively simple, requiring only that the debtor be informed of the transfer. By contrast, equity transfers, in addition to the civil contractual relationship arising from the transfer agreement, also involve matters of corporate governance and the associational nature of the company under commercial organizational law. In such cases, mere notice to the company is insufficient. For example, an equity transfer may fail to comply with the requirements of the company's articles of association, or it may infringe the preemptive rights of other shareholders. Therefore, beyond the right to be informed of an equity transfer, it is also necessary for the company to intervene to a certain extent in the transfer and to have a formal right to determine whether the transfer is proper.

It is for this reason that the new Article 86 of the Company Law provides that, where the transferor requests the company to amend the shareholder register and complete business registration, "if the company refuses or fails to respond within a reasonable time, the transferor or transferee may file a lawsuit with the People's Court in accordance with the law". According to the legislative interpretation of this provision, when the company receives written notice of an equity transfer, "if it finds that the transfer of equity violates laws, administrative regulations, or the company's articles of association, the company may refuse to amend the shareholder register" (Wang, 2024). Accordingly, since the company may refuse an equity transfer, there should be little doubt, from an interpretive standpoint, that the company enjoys a formal right of consent to such transfers (Gong, 2025).

In other words, Article 86 of the Company Law designs the equity transfer process as follows: First, a complete equity transfer requires that the transferor and transferee conclude an equity transfer agreement and then give written notice to the company (and simultaneously to the other shareholders). Second, upon receiving the notice, the company must conduct a formal review and then issue a statement of consent or refusal. Formal review generally concerns only formal issues, such as whether the transfer violates laws, administrative regulations, or the company's articles of association, and does not extend to any substantive assessment of the legitimacy of the transfer itself. Corporate formal consent includes both the company's express indication of approval of the transfer to the transferor, as well as its implied consent manifested through various acts of performing obligations toward, or asserting rights against, the new shareholder.

If the company refuses to consent, the transferor and transferee may file a lawsuit, leaving it to the court to determine whether the refusal is justified. Third, once the company issues its statement of consent, the equity transfer takes effect immediately without waiting for the shareholder register to be amended. This is the equity transfer model of "formal corporate consent effectiveness". It should be noted that if the company, after receiving the transferor's written notice of an equity transfer, fails to respond within a reasonable period, the company's silence should be presumed as consent. This presumption is grounded in the rule of "gen-

eral approval and exceptional denial by the company”, under which denial must be explicit whereas approval is not subject to any formal requirement. Such a presumption serves to enhance the efficiency of equity transfers and to prevent the company from undermining shareholders’ rights through inaction.

6. Conclusion

In conclusion, the model of corporate formal consent provides a balanced approach to the legal framework of equity transfers in limited liability companies. By mediating between the transactional law and organizational law dimensions, it avoids both the governance and associational problems inherent in the pure intention-based model and the practical difficulties and statutory inconsistencies faced by the shareholder register-based effectiveness doctrine (Zhou, 2025). Moreover, given the explicit provisions of Article 86, this model rests on a solid normative foundation in the statutory text. Its construction therefore constitutes an interpretive exercise firmly situated within the scope of legislative wording, rather than a form of judicial law-making grounded in abstract theoretical conjecture. Compared with the diverse and often complex doctrinal theories currently debated in academia, the corporate formal consent model better respects the legislative intent of the 2023 Company Law revision and provides a doctrinally more defensible framework. Taken together, this interpretive approach not only enhances the internal coherence of China’s company law system but also contributes to a more workable balance between transaction efficiency and organizational governance in practice.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

References

- Beijing High People’s Court (2022). *Civil Ruling No. (2022) Jing Min Shen No. 1857*.
- Borland’s Trustee v. Steel Bros & Co Ltd [1901] 1 Ch 279; Re Sussex Brick Co Ltd [1904] 1 Ch 598.
- Changji Hui Autonomous Prefecture Intermediate People’s Court of Xinjiang Uygur Autonomous Region (2024). *Civil Judgment No. (2024) Xin 23 Min Zhong No. 2792*.
- Chengdu Intermediate People’s Court of Sichuan Province (2021). *Civil Judgment No. (2021) Chuan 01 Min Zhong No. 4017*.
- Civil Division No. 2 of the Supreme People’s Court of China (2024). *Understanding and Application of the Company Law of the People’s Republic of China* (pp. 394, 397-398). People’s Court Press.
- Cooke, C. A. (1951). *Corporation, Trust and Company: An Essay in Legal History* (p. 57). Harvard University Press.
- Federal Commissioner of Taxation v. Patcorp Investments Ltd. (1976). 140 CLR 247.
- Gesetz betreffend die Gesellschaften mit beschränkter Haftung (GmbHG), §16(3).
- Gong, H. C. (2025). The Company’s Right of Consent in the External Transfer of Equity in

- Limited Liability Companies. *Tribune of Political Science and Law*, No. 2, 77.
- Lin, Y. Y. et al. (2023). *Comparison and Interpretation of the Old and New Company Law* (pp. 56-57). Law Press China.
- Liu, B. (2024). *Annotated Commentary on the New Company Law* (pp. 387-388). China Legal Publishing House.
- Liu, J. H. (2022). On the Rules of Equity Change in Equity Transfer: The Triple Dimensions of Freedom of Contract, Company Confirmation, and Registration Publicity. *Journal of Shanghai University of Political Science & Law (Forum on Rule of Law)*, No. 5, 104.
- Lobban, M. (2010). Commercial Law. In W. Cornish, et al. (Eds.), *The Oxford History of the Laws of England, Vols. XI-XIII: 1820-1914* (pp. 613-614). Oxford University Press.
- Schüßler, J. (2011). *Der gutgläubige Erwerb von GmbH-Geschäftsanteilen* (p. 65).
- Shi, J. C. (2024). *Article-by-Article Annotation and Practical Guide to the Company Law of the People's Republic of China* (p. 187). China Legal Publishing House.
- Supreme People's Court of China (2021). *Civil Ruling No. (2021) Zui Gao Fa Min Shen No. 4643*.
- Wang, C. J. et al. (2024). Shareholder Registers and Equity Changes: The Significance, Impact, and Response to Article 86 of the New Company Law. *People's Judicature*, No. 13, 104.
- Wang, R. H. (2024). *Interpretation of the Company Law of the People's Republic of China* (p. 125). Law Press China.
- Xi, X. M. (2014). *Understanding and Application of the Minutes on the Company Law Judicial Interpretation (III) and Liquidation Issued by the Supreme People's Court* (p. 403). People's Court Press.
- Zhou, Y. (2025). The Fragmentation of Equity Transfer Models: A Practical Examination and Doctrinal Interpretation. *Legal Science Journal*, No. 1, 110-114.