

SIFIs the function and revelation of international rules for crisis disposal

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Abstract: SIFIs Crisis Disposal International rules are an important part of the international rules of financial Regulation , But these international rules are in the legal The nature remains controversial . from the principles of international law and existing research can be summed up the , These rules should belong to international practice . See the applicable effects and rule requirements in practice for These international rules , SIFIs Crisis Disposal International rules are bound to strengthen governance norms in international financial governance Force and Balance " power diversity Important features of the conflict of interest in the pattern . so , the study of such rules should focus on the rules content of the Hardening of concrete design and rules actual constraint effects ,Actively promote China's role in rule design and international financial governance .

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For a long time , The International Rules for financial regulation, including the Basel Agreement, are International financial governance , The establishment of financial supervision system in countries provides important reference standards , play an important role in promoting the development of financial law in all countries . Although most scholars agree that such rules fall under the category of international financial soft law , But because of this type of international rule Congenital missing " International law " element , makes them legal and applicable has always been disputed . non-delivery post-crisis , leaders actively pushing Basel Committee (bcbs) , Financial Stability Council (FSB) organizations such as should have a "" " file , recommendation , framework , to maintain global financial security and stability . these [] International rules on Financial Regulation , focus on global financial governance practices To function , and has become an extremely important in theoretical research and practice exploration Research Object .

The outbreak of the international financial crisis and its widespread harmful consequences , prompting countries to rethink " Large and no mechanism Regulatory validity issues for , The also spawned a system Importance financial institution "(Systemic importance a financial Institutions , to under abbreviation SIFIs)," Large without reverse mechanism no More Myths , financial institution occurrence crisis should be dealt with properly , Any one of the market bodies can exit Market . based on 2009 year | MF ,BIS and FSB and other organizations jointly published evaluation system importance financial institution , Initial comments on market and tool guidance the rule , SIFIs refers to the failure of a financial institution or problems in operation that can cause widespread The crisis of or the source of infection for the overall risk . Financial institution disposition is the government to the gold the The market failure appropriate thousand pre , is the collective irrational line of government handling markets to . in accordance with the Basel Committee's interpretation , Financial institutions crisis disposal mainly referring to country a home institution to maintain financial stability or deal with endangering financial institutions normal by Battalion's serious problem action , mainly includes special disposition mechanism , Special Tube mechanism and mixed disposition mechanism three kinds of . SIFIs Crisis

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Disposal is when recognized as The has " system Importance The operation and management of financial institutions of the triggers the legal provisions of the Criteria or other violations , and possible institutional survival , , system Persistent supply of sexual functions , and even the financial system is stable, and so on. , The state's disposal or regulatory authority will take the necessary actions against it . from in the nature of the organization itself is transnational and scale , so ,on SIFIs The central banking system of different sovereign States is often involved in crisis disposal , conflicts on regulatory regime , Effective cooperation between the home country and the host State disposition Authority , Domestic Disposal The difference and convergence of bankruptcy procedures , This determines the SIFIs crisis disposition is both 1 International Issues , also 1 Internal issues , It involves international gold Governance , International Financial stability and security issues , also involves a new international financial order build , and sovereign countries financial rule of law internationalization issues . SIFIs crisis disposition International rules have become an important reference in the reform of financial regulation in various countries content , Research SIFIs International regulation of crisis disposal reform of international financial governance , Perfection of national Financial Law , The development of international financial law is of great significance .

1. SIFIs emergence and development of international rules for crisis disposal

International rule means the international community to stabilize the international order (includes political , by ,, security , Environment Protection) Promoting common development of the international community an institutional arrangement with a certain binding effect established by . so , Broadly speaking , International rules include official international sources such as international treaties , also includes international habits An informal rule such as the example, . and the object studied in this article is the latter , that's the non-positive system arrangement under laws , They help countries to comply with international affairs rules then , Promote international coordination and cooperation . The source of international rules can be traced to back to Global governance " , It basically means solving global problems. , To promote Implementation of global common interests , all kinds of primary body , Through the development and implementation of binding formal or informal international mechanisms , Multi-tiered coordination and joint action on areas covered by global issues . in the Concrete practice of the International rules apply , has the International environmental law field " human ring " Boundary declaration , with international trade Law field incoterms " , Uniform Convention on documentary credits and so on . These so-called " declarations " and " Convention " Although it does not have the basic characteristics required by traditional international law , However, they do play an important role in the maintenance of international social order in their respective practices . this some widely implemented and applicable international rules , Although it may be a few developed countries Leading game results , but from the effect of international order stability , on special Fixed historical period , They all have intrinsic rationality and inevitability , has They have special meaning , They are in the maintenance and coordination of the international order of security all stability aspects , has some important and beneficial effects . For example , with beauty , UK , method , ,, Day, etc. ten Basel Banking supervision of the major developed countries Management Committee decisions by issuing various meetings , Consulting recommendations, etc. , to Gold The latest research on financial regulation , Regulatory technology permeates various national legislation when in the , plays an important role in promoting international financial regulatory cooperation .

with the development of countries ' economies and the development of financial markets , Security for global finance All and stability become an issue of general concern to the international community , Basel Committee , Golden International organizations such as the Stability Council begin to strengthen international standards and technologies in the financial Field research , and with file , recommendations , The framework forms a series of international rules . in the international rules of banking regulation , to " Core principles of effective Banking Supervision " "" Most representative and influential . in insurance regulatory area ,2009 Year 6 month , Barcelona the Committee with the International Deposit Insurance Association on the existing | MF Deposit Insurance System Status quo and good

practices "" FSB Referring to the establishment of an effective deposit insurance system South " based on , has published jointly Core principles of the effective deposit insurance system , is the establishment and improvement of the deposit insurance system in countries provides a guiding framework . in security Regulatory aspects , to international SFC (IOSCO)published a large number of guidelines most representative . because the world is more than the The the "" Stock exchange are all | Osco members of , so the various technical guidance documents issued by the Agency are for enhanced securities Regulatory International cooperation has an important role to play . For example, ,2013 year | osco Union BCBS publish Longevity Risk transfer market : Market Structure , growth Drivers and obstacles , potential risk , 2014 year credit rating agency behavior Basic code" and so on " .

after the bitter lessons of the non-delivery crisis , countries pay more attention to macro audit guard against Prudential and systemic risk . changes to the security of the financial system leather , to financial institution large without falling The rethinking of principles becomes a post-crisis era An important part of the reform of financial regulatory system . where , to have system importance of large without reverse mechanism provides an orderly crisis-disposal mechanism to become a country The focus of the inter-social Focus . Hannan (+) Professor View , " in the International business Regulatory Practice , reform of the international insolvency issue remains an important element .. in institutional bankruptcy , There may be several options for bankruptcy initiation criteria ; can there can be several different insolvency programs . then , exist in this insolvency system conflicts , When there is no good coordination mechanism , can greatly increase bankruptcy cost . ² and SIFIs Cross-border disposal If you cannot select the applicable law in a timely manner laws or rules not only increases in disposal costs , also quickly expand financial wind risk Range , even threaten the security and stability of the international financial system . therefore , Financial Stability Council in at the summit of the Cannes to strengthen these systems importance of the supervision of financial institutions , and has published a series of instructional files successively , mainly includes year reduce system importance recommendations for financial institutions ' moral hazard and Timesheet , Year Global System importance Bank : Evaluate methods and additional loss absorption requirements , Year " key attributes for effective disposal of financial institutions , % Year Recovery and disposition plan : promote effective execution of key properties , % Year Domestic system importance Bank disposition Framework , 2013 Year system Importance Financial Institution recovery and disposal plan : Develop effective disposal policy recommendations ,2013 year system importance financial institution recovery and disposal plan : critical features and key uniforms to identify recommendations " et cetera " . with FSB| The most representative of the year Gold key attributes for effective disposal of institutions "" for example , its established SIFIs Crisis Disposal The contents of the international rules mainly include :Clear SIFIs legal disposition in crisis disposition Organization , Secure SIFIs disposition power in crisis disposal , Enrich SIFIs Crisis Disposal To dispose of the source of the funds ,SIFIs disposal of crisis institutions in crisis management estimate , Recovery and disposition plan , implements SIFIs key to crisis disposal , actively push The construction of a cross-border disposition cooperation legal framework, etc. . at the same time , from year start , includes Barclays Bank , Deutsche Bank , BNP Paribas , Swiss Letter , Swiss Union Bank , British Insurance Association , Global Financial Markets Association , International a Number of large financial institutions and financial organizations such as the banking union have financial stability the " Recovery and disposition plan Series files respond . China banking regulator meeting 2014 yearly Commercial Bank global System importance assessment indicators Disclosure the guideline also provides " Global System importance " The evaluation index applies to the relevant provisions of the Baxter ("") , and the related regulations of the Committee are as such . summary , around Basel Committee , Financial Stability The international financial organizations such as the Council design the SIFIs Crisis disposal rules in the world states received universal attention , and gradually infiltrate the legislation of sovereign states .

2. SIFIs Legal attributes of international rules for crisis disposal

whether SIFIs Crisis Disposal International rules , or Basel Capital Accord , None of them belong to the strict sense of international law . but , This class international rulesplays an important role in the practice of international

financial governance . so , pin the controversy over the nature of such international rules has always been an area of international financial Law Important issues . The doctrines of the legal nature of such international rules mainly include the following views with :

The first view is that international practice says . scholars who hold the view that the , states The sources of international law in the Inter-financial law include the Treaties and international financial practices of the World , The financial supervision standard represented by the Basel agreement , Rule International Example . Basel Committee with " Capital Agreement " | , | | , | | Capital for delegates Standards and Basic principles , The has been widely accepted by the international community and the world hasset a "" Law or practice universal Reference , Its properties with international banking regulatory Practices . and and Basel agreement except to constrain Member States , can be otherwise non- Member State accept , is recognized by the international community , A binding recommendation . The second type of is a special file said . scholars who hold the view that , Basel Committee the rules for ,, files are not international treaties , Is also not international practice , But in special cases (compliance with certain standards to a certain size) can A special file that results from international conventions or custom, . It is mainly a plug member States to address some of the new problems in the financial sector , new risk and common Special files developed and adhered to with no international treaty binding effect . The third is Global Financial Law said . scholars who hold the view that the , non-delivery after the crisis , the has new progress in the study of financial Regulatory International Rules , as a state of international soft law inter-financial regulatory standards rather than international conventions after years of development and several times Gold Merge , After the ordeal of the economic crisis , through 2008 year with Summit of the group of countries will be the core of the global financial governance system of reflection and reconstruction ,Summit recognition the international financial Regulatory standard has the national will to act as the law. sex , Justification and enforcement , These international financial regulatory standards also become global Financial Law .

for International practice says This article is more in favor of , considers the Basel agreement to international custom , is an important part of the source of international law . but , should This focuses on the actual effects of these international rules with broad applicability . page Two kinds " Special file Say "" Understanding values applicable to international conventions and Basel agreements is open to discussion . This view is clearly lacking for the Basel accord. , Development vs . dynamic analysis with an angle of effect . on the one hand , from legal source angle Analysis , International law " Custom , with " is a different . The custom is a clear and persistent inertia for a certain action , and this inertia is where these actions follow the International law under the necessary and legitimate faith to form the ; behavior inertia , This inertia is not in the form of the of these acts that must be or legitimate in accordance with international law . Basel Agreement is an international financial organization in the total the knot , based on the historical experience and realistic needs of international financial Regulation , is Global Financial security and stability file , They didn't get the sovereign Home approved case , should be international practice , rather than international customary category ; on the other , Basel agreement does belong to file , But the contents of these files The stipulates a series of international financial fields , universally accepted by the international community to or code of conduct , and should not be detached from " file Form " to talk about content with a Convention . Global Financial Law, "" views on international rules in the financial field the Application of the has important implications , but , Global Financial Law The nature of the definition is worth the discussion . on the one hand , from the perspective of the subject consciousness of international law ,Gm Peakmeeting on " recognition of heads of state " " and "state will express " " in the Elements of international law State Consent There is a fundamental difference between ; On the other hand , A of international law is important to determine the rights and obligations between different principals , , Global finance Law "" the rights and obligations of the countries are not obvious , also the national financial master right Benefit coordination There are obstacles . These all weaken " Global Financial Law " " Properties . however , One thing to be sure of and to emphasize is , in the area of international Financial Regulation , the study of the country rules should focus on its actual effects ,instead of just staying in the discuss its legal nature , The legitimacy of rule application should be an important

issue in the post-Crisis era International finance Law Study .

A comparison of the relevant doctrines concerning the legal attributes of international rules mentioned above can be known, except "Special file say "" All other doctrines are from different angles to Basel Committee, International financial regulatory organizations such as Financial Stability Council rule validation, They can get a consensus in the following two areas. On the one hand, Basel Committee, Financial Stability Council, and other international financial regulatory organizations set up International financial Regulation system in modern international financial stability and international finance Order Build more and more the, is increasingly recognized by the international community and sure. On the other hand, the above financial regulation rules through long practice with countries The Objective fact that the rules are referenced by legislation, Even if it's not an international treaty, not effective in international law, But it is a form of international practice accepted by the international community, already has a Soft Method Properties and features of, to enough to be binding on both participating and non-participating countries, is International Finance Soft scope, The characteristics of international rules of financial regulation are more and more obvious.

3. SIFIs Crisis Disposal International rules in international financial governance major features

3.1 Strengthening the binding force of governance norms in international financial governance

from a mandatory perspective of the law, Soft Method does not have a "Hard Method First The authoritative features of the days. by French scholar Francis Snyder Understanding, soft law is Formal review without legally binding effect, But with practice-bound rows to specification. International Financial soft law "soft", is mainly in three areas: page one, from effect, Soft law is not legally binding. second, from representations, Soft Law consists of general principles rather than specific rules. third, from performance, Soft law usually cannot be enforced directly by a binding dispute settlement mechanism. Practice, International financial soft law performance in various forms, mostly by Basel members will, International Commission, Organizations or institutions such as the Financial Stability Council to file, recommendation, Comments, standard, Framework, The principles or guidelines appear in the form. The causes this pair to be a item rule that denies its Legal Properties and acknowledge its quasi-legal effect case The reason for is that it is limited by the basic form of international law, people are not from conclusive No doubt the legal nature of international law., seize the opportunity to challenge the laws underlying concept accuracy, But repeatedly refused to recognize between countries, Supranational international The legal nature of the law. If financial globalization is a situation that countries must address, is an external driver of international cooperation in financial regulation in all countries, in the financial sovereignty (in particular currency sovereignty) difficult to form jurisdictional coordination, to The definition of traditional international treaties is worth rethinking. because, Finance as modern economy core, It requires an international set of legal standards to ensure global financial stability set with security.

Whether a rule can produce universal binding, The first examines the rule as The does not belong to the legal Origin. Pound says, generally makes the in five ways withlaw 's Origin One word. where, first, Analytic Jurisprudence's position is called for the legal source of things, is the real source of the authority of the legal norm, is country. second, is authoritative literature, The traditional elements of a legal system On the basis of the development of the doctrine. third, indicates raw material, includes a documented and custom, The judge developed the decision from the case by. Fourth of, meaning a specification-making body, rules formed from this organization, principle or concept, and give them authority by legislative or judicial decision. Fifth of, means related works, in these books, We can find The method the rule and the form to express this rule of law. In fact, Five source of laws The difference between the and the legal understanding in different scenarios is the. the first and fourth, are based on the mandatory nature of the legal norm itself, To seek this mandatory source, that "State authority and " Authority. the

other three types of Use the origin of the law from the perspective of the Law the Law specification content , is only a different scope , that is authoritative documents , raw materials and related works . so , source should include Mandatory authority and legal regulation of the law content source two aspects , the latter often often behaves as a requirement for law .

so , to analyze from a mandatory authoritative perspective , generally considers international financial soft The method has the following two features , that is soft law is not strictly legally binding ; Two is in practice , Soft methods can produce actual constraint effects . at the same time ,, Equator principle " The development of also enriches the content of international financial soft law , The principle has no sovereign State participation , can be completely " self-regulation. This also fully illustrates the international the The particularity of Financial soft law in global financial governance , that emphasizes actual effect constraint . plus , View from legal requirements , " Soft method vs" " Hard Act " to complement each other , Soft law is an irreplaceable behavior specification . Soft compliance The legal requirements , Soft law has the basic characteristics of the law , It differs from hard method The way embodies the common features of the law , and have personality features that are not hard to do ,, and play an important role in the public domain , both in legal functional advantage complementary , Convert from one legal specification to another . long , International Financial Regulation The practice of Non-Treaty international rules, where plays a major role , fully embodies this The specific constraint effects and legal requirements for the . with emerging markets and development China's rise , The pattern of power multipolarity in the international political economy has quietly formed , The international financial order, led by the United States of America, is bound to be the calendar History . But in the short term , power multipolarity and composite interdependent international relations pattern leads to sovereign states in international finance " hard Law " " Difficulty in agreeing on , Achieving global financial governance through hard paths is clearly a difficult one . so , from SIFIs International rule features for crisis disposal , a aspect , These rules can be all countries SIFIs Crisis Disposal legislation provides important reference standards ; another aspect , Major financial market countries refer to these standards for relevant legislation or policy , countries SIFIs the criteria for crisis disposal are largely consistent increases . Although national financial and sovereign interest coordination is still a matter of disposal Important issues , But the applicability of these international rules and the ongoing intensification of the actual effects will be Benefits SIFIs cooperation for cross-border disposal of crises . so , on include SIFIs crisis The disposition of international rules of Financial Regulation , International Finance The idea of soft law or international practice is more trustworthy . But in concrete practice ,should focus on SIFIs practical effects and functions of international rules for crisis disposal , instead of Are entangled in the nature of these rules . because of financial sovereign benefits issues unlike human rights , International crime , legislation on issues such as national equality is clearly mandatory . with G20 The New international financial governance mechanism for the core of breaks through G 7 era developed country leading governance situation , to push international financial soft law to a more operational Development Direction , and the international financial soft law mentioned here should be G lead (now G The level of has been determined by the Ministerial The is upgraded to Fuhrer , Yuguo Inter -IMF, Basel Committee , Financial Stability Council International Group Weaving research , set governance standards , The is intended to protect soft method actual constraint fruit , To enhance the binding nature of regulatory standards and the applicability of Universal . Practice Review , Countries in the financial institutions crisis management system reform , also have these standards as for important references ,SIFIs crisis Disposal International rules for international financial governance The specification system of the provides a systematic framework for .

3.2 balancing " Power Diversification " in the context of international financial governance conflicts of interest for

Finance is the core of the economy , Effective international financial governance is the implementation of international gold the key to stable development . in post-crisis era , Financial risk " regulation vs disposition becomes the primary content of system perfection . on the one hand , International political pattern The diversity of and the changes in economic power , make traditional rules of international financial governance hard to adapt to new

environment, Hard Law Coordination effect on conflict of interests appear " Strong no gas ". other one aspect, s old s are the core subjects of financial structure in each country, and SIFIs features such as with Cross-border ,complexity also require the disposition must have effective international cooperation. so, with system importance " for representations SIFIs crisis Disposal Also, of course, as an important group of international financial governance in parts and " hard nut to crack .

First, with hegemonism is the time of the unilateral governance pattern in manifestation generation is gone, established on this basis the traditional international rules are bound to be sent Live changes. 2008 non-delivery Global financial crisis triggered by the US crises The machine poses a great threat to the stability and development of the global economy, also to the seven-nation Group (G 7) presents a daunting challenge to the core international financial governance model. and at this time, A group of 20 countries that have not been taken seriously. (G) in this empty field before crisis disposal plays an irreplaceable role, International financial Governance Mechanism has occurred from "" 7 mode to G mode significant transitions to, was once a pole for a moment hegemonic International financial governance mechanisms have also quietly declined. but No no denying is, different governance patterns play their part in different contexts. apply cost and Benefit methods, at the beginning of economic and financial globalization, powerful governance brings higher returns to the world financial system, but with depth full Spherical development, The governance of multilateralism will prove more reasonable. at the same time, with economic globalization, and World diversity of power patterns, BRICS countries, The role of major emerging developing countries in international financial governance is widely watched, and increasingly become the maintenance of international financial stability, important to build a new international financial order Force.

Second, with Power Diversification The New international order in which the is the main feature is in form. Just as countries can shape and manipulate markets., Market same to country The home has shaping and constraining effects. organization of the world market and its evolution, to state right The effect of the force and its selection is extensive and varied .. with economic all Development and deepening of the ball, World This big Market makes the more closely related to each other in a country. Relations between countries are more complex, sovereign states to external Environment (including other countries) The degree of dependency of is also deepened. The rise of emerging countries is breaking the international power structure established by Western countries, it, is one of the most basic characteristics of the current national politics., with technology, Wealth in the world The international hierarchy of powers that is based on the uneven distribution of the Technology, The global expansion of information changes. in this context, " power " pattern diversity "" is the inevitable choice of world political, economic and social development, is an economymultipolarization Results. and, economic Base decision superstructure The core argument apply in the evolution of world power structure. based on IMF Official Statistics : 2013 year China GDP Total 9.4 trillion dollar, per capita GDP to 6958 USD ; and Forecast, to 2019 year, GDP Total will reach 15.5 trillion-dollar, per capita GDP will up 11070USD ; past 20 Year development, China economy implemented fast Fast growth. in terms of international political and economic status 1971 year, China reverts to legally eligible seats in the country, Beginning to play the role of great powers in the international political arena ;2001 year China joins WTO (WTO), Implement, economic opening. in International gold governance aspects, China | MF Share (SDRs) and the percentage of voting rights are also changed in : up to now, China MF percent of total SDRs is 4%, takes a voting percentage of 3.81%, and 2001 Year, Voting rights in China The scale is only 2.94%. The increase of China's international discourse power and the national economic Strength Promotion is positively related. can say, The increase in the international status of a country is based on the Economic growth is the prerequisite for. Rapid rise of emerging developing countries such as China, breaking in the world economy by the developed countries ,, Opens a New era of the development of Multi-polarization. in the face of the most severe gold in the world's history meltdown, If none of these emerging countries participate in governance, Rely on a few developedthe power of the country itself is hard to get through this. This also requires developed countries extend global financial governance inclusiveness, Consider the interests of developing countries, re - Assigning representation and decision rights to global governance,

Advancing the international economic order to a more Add Justice to the trend .

Third , Interest Coordination in the new international economic order calls for new global governance mode , with SIFIs International rules for crisis disposal the international financial soft law is represented by the The important content of international financial governance diversification , vs. traditional hard law a mechanism totalplay a role . in a single-polarized era , Few developed countries control international Social order , the resolution of international conflicts of interest depends mainly on the organizations of a few developed countries. or ruling to resolve the conflict . but , with developed and developing countries change in power interdependence , Traditional benefit of Western minority countries The benefits coordination mechanism is no longer fully adapted to the new international political and economic environment . For example , IMF Positive change , and dramatically increase voting rights for emerging developing countries ; is similar to to APEC (The regional mechanism for (co- APEC) has become an important international hair Show cooperation platform ; The BRIC countries are adding to the world economy by the year , with the United States Euro Form is evenly matched Potential .

along with the largest scale in history , The outbreak of the worst crisis and its treatment ,, Basel Committee , Systems developed by international organizations such as the Financial Stability Council importance Financial institutions disposal of various documents and guidance recommendations , Enhanced Gold The possibility of cooperation for cross-border disposal of institutions , enriched Global financial governance content , to reflect the international financial sector soft law in achieving financial stability and risk mitigation The important role of .. and , The governance path for this soft method has become global gold One of the main modes of governance . The requirement of the Globalization era for international economic and legal rules demand calls for the emergence of a new pluralistic international economic legislation model . The legislative mode of, which is a new,, still persists " Country-centric legislative path , but for "" For the International economic field " consensus "," need country to transfer part of legislative power to non-State actors , by which they make related rules , with Soft Method The shape of the to govern global economic issues . at the same time , Global Governance is also a pluralist international economy Theoretical basis of legislation ; Global Governance Theory emphasizes diversity and governance of governing subjects ways to diversify ; where , diversity as a single sovereign state has been difficult to apply Diverse and complex global issues , and diversified to address multiple on a path sex , that is to achieve global governance consensus , to take a " soft " vs hard [] knot The Multidimensional way . post-Crisis era international financial regulatory reform has entered the key period , and in International rules , A certain breakthrough in the consensus on international standards . ³ The existing international financial regulatory regime and the international financial order will face a certain degree of adjust . Promotion of the status of emerging developing countries in international financial activities will affect countries Decisions on some of the major issues in the financial field , and Deep Impact on international financial architecturechanges .

Fourth , SIFIs application and promotion of international rules , for international economic and financial new The build of order creates a favorable opportunity . International Financial governance to international economic and financial Services The importance of a new order building is self-evident . This is not just because of finance to the significance of sovereign states , More importantly , power game and power in all countries An interdependent relationship can be reflected in international financial governance in the most vivid . can be to say , Resolution of international financial governance issues is the foundation of a new international financial order, base , This is mainly about a few things : One is the establishment of a new international economic and financial order in Authority Reform (such as | MF Reform) and international financial governance interest rates related . Second, power balance and benefit in the construction of new international economic and financial order The core of the problem is the international financial governance Problem . Three is the new platform for International financial Governance . New method , New path is necessary to build a new international economic and financial order elements . and SIFIs International Rules on crisis disposal G Platform , One-line column files and recommendations , and Soft Method The governance path for is in line with international finance new The basic requirements for order construction , help

promote international financial governance towards a more public ping , Fair direction . For example ,@ year , Financial Stability Council (FSB) on "" key attributes for effective disposal of financial institutions set up CMGs (Crisis Management Groups) Recommendations of the crisis management Group ,CMGs supervised by countries organization , Central bank , Disposition Authority , The Ministry of Finance and the governing security mechanism are composed of the Public Sector . CMGs requirements SIFIs home country and key host measures and procedures for establishing effective cross-border disposition cooperation between . at the same time , CMGs main tasks three : First, coordination and information for Cross-border disposal cooperation enjoy . Two is the cooperation agreement on the development Recovery and disposition plan . Three is a system important Analysis of the scalability of financial institutions . FSB on 2014 year Ten The month publishes a new version of Key Properties for effective disposal of financial institutions , Appendix Section adds a lot of content, The consists primarily of the Key Properties Specific instructions for execution , and financial Infrastructure (FMIs) Insurance company , Customer assets, and other specific disposition of guidance to build discussion . CMGs and on the basis of the coags (cross-border cooperation agreements) provides the implementation of effective governance for international finance The underlying you want . four , SIFIs The Revelation of international rules of crisis disposal to China

3.3 Actively promote China's role in international financial governance

SIFIs Important features of international rules for crisis disposal , determines it is an integral Part of perfecting Global financial governance . with BRICS countries , new The rise of developing economies , a single country or a few developed countries " dictatorship " The situation in world financial markets has been broken . at the same time ,different degrees of development The balance of power in the international financial arena will also have significant changes , based " National Comprehensive strength established " not called the dependencies of the A will also be issued live Change . For example , on Year G at Summit , International Monetary Fund , The main contents of the reform of organizational share include : from developed to emerging development Relief transfer exceeding 6% share ; Bric shares all in the top 10 ; China hold | MFshare rose to 6.39% , To become | MF third largest shareholder of .

| MF The reform of the recognizes the importance of emerging developing countries in global financial governance bit , It also means " | MF as the core of the international financial system will gradually realize the right The multipolar development of the force structure . at the same time , rights and responsibilities are concomitant , in states increase voting rights at the same time as , will also assume more international responsibilities , Should play a greater role in international financial governance , maintain home and vast Benefits for developing countries . SIFIs has a System Importance , feature , The has defined its specificity and importance in international financial governance. because , A certain system Unified importance the crisis or bankruptcy of financial institutions often involves multinational interests . with , International cooperation in crisis management of such institutions is particularly important . then , All of these decisions SIFIs with significant technical value and Directive International The important position of the rule in today's international financial governance , These International rules enable provide support for technical standards for international financial problems and cross-border cooperation with the ping table . in the context of the ever-intensifying applicability of international financial soft laws , China in order to enough to play a greater role in international financial governance , Express more national finance benefits , Must actively participate in the research and development of relevant international rules , strive for play a more active role in international financial governance .

3.4 push China SIFIs Building a legal regime for crisis management

SIFIs Crisis Disposal International rules are not Treaty Formal international law of , But it does have a fairly restrictive effect . The important position of the institutions in financial markets and gold in the system , determines the SIFIs Crisis Disposal legal system construction Necessity . SIFIs Relevant international rules for the reform and perfection of the financial law of the countries provided by International technical standards , helps reduce the SIFIs

Cross-border disposal of the home country and Conflict of laws between host countries , enhanced disposition of cooperation possibilities . so , in reference SIFIs on the basis of international rules , Promote China S old S DispositionThe Law building has important practical significance . SIFIs Disposition International rule to The revelation of the construction of the relevant legal system in China mainly includes three aspects : first , Legislation revelation on system . China should develop " Financial stability Law " as financial law Basic Law , in which clear SIFIs legal status ,Regulatory Requirements , and the basic principles and methods determined by the disposition organization , from macro SIFIs basic positioning . second , revelation of legislative content . in the specifics of the legal system content, should explicitly have permission to participate in the SIFIs The legal institutions for crisis disposal ; should A Detailed division of responsibilities for different disposal institutions , scope of disposition power Line specific specification ; Should be designed in legislation " Recovery and disposition framework " to the class bodies " evaluation system Design . last , Legislative technology revelations on . essentially ,SIFIs is not an unfamiliar market body , Itbasically with Large without falling financial institutions can be universal . is just , This type of machine construct " system importance " " features and " Systemic risk "hazards in Non-delivery get unprecedented exposure in the machine . with large without falling Policy and Large and Reverse mechanism Research and legislative experience issues , China not yet with experience and Technical Advantage . SIFIs Crisis Disposal International rules are by the Financial Stability Council in the G20,IMF, delegates under BIS and so on , base on the analysis of financial developments in countries on top Developing technical results for research . can say , The contents of such international rulesis based on the development of different financial markets in the world , Also taking into account the different development of the national financial market capability of the phase , has been universally recognized by the countries of the world . because this , China's relevant legislation should have the SIFIs Disposition International rules as alimportant technical sources , Includes assessment and identification of the organization , stress test and available Placement Assessment methods and techniques , Essential features and basic requirements for critical service identification and standards, and so on .

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1. This article is a fund project : Department of Education's major scientific research course title Project (jzd 012); Department of Education " Excellent talent support for the new century Schedule (ncet -11-1010); Justice Department " National rule of law and jurisprudence research " key items (SFB 1006).

2. See Hannah L. (a) (a) (+) () buxbaum.rethinking International Insolvency : the neglected role of Choice -of-law Rules and theory[@] . Stanford Journal a International , STAN. J . INT ' LL : 23-24.

3.2014 Year 1 Month Day , Basel Committee released by Member States first Brain and regulatory authorities (the Group to governors then Heads The supervision (ghos)) important arrangements for post-crisis regulatory reform in the post-crisis era . specifically include :Basel III Leverage ratio Framework and Disclosure requirements, Basel III: The Net stable funding Ratio - Consultativedocument, liquidity, Coverage ratio Disclosure

Standards, guidance For supervisors on market-based indicators to liquidity and restricted-use committed Liquidity Facilities.

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