On the Accountability Mechanism of China's Financial Regulatory Agencies

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Abstract

Financial security is a key dimension of the national security system, and perfecting the accountability mechanism for financial regulatory agencies is a vital institutional guarantee to safeguard financial security. This paper organizes the normative documents of the current accountability mechanism of China's financial regulatory agencies and analyzes the status quo of its operation, finding that issues remain such as an incomplete legal system, unsound accountability subjects, and irregular accountability procedures. Thus, based on clarifying the three fundamental theoretical bases of the accountability mechanism, this paper recommends learning from the mature accountability mechanisms of foreign financial regulators, and proposes a systematic approach to improve China's financial regulatory accountability mechanism from multiple aspects including laws, accountability subjects, and procedures, aiming to ensure its vital function in maintaining financial security amid expanded financial opening.

Keywords: Financial regulatory agencies; Accountability mechanism; Improvement paths

1. Theoretical foundations of financial regulatory accountability mechanisms

With the rise of modern concepts of responsibility, "accountability" itself is a foreign concept that has entered academic and practical circles. As an institutional arrangement, the accountability mechanism started relatively late in China, and the understanding and application of administrative accountability is still in its early stages, leaving many theoretical and practical issues to be resolved.[1] The construction and operation of accountability mechanisms involves not only holding administrative violations accountable, but also emphasizes controlling and supervising administrative decision-making and processes. Essentially, financial regulatory accountability is a special form of administrative governance in the financial sector, and its mechanism is an institutional arrangement. The birth of an institution is necessarily supported by corresponding theories. The prerequisite for perfecting the financial regulatory accountability system is clarifying its theoretical foundation. The essence of financial regulatory accountability is the exercise of accountability power by regulatory agencies, which themselves are administrative bodies. General theories of administrative accountability apply, including principal-agent theory, public interest theory, and rule of law principles.

1.1 Principal-agent theory

The principal-agent theory emerged in the late 1960s and early 1970s and is one of the most important branches of contract theory. At that time, some economists were dissatisfied with the "black box" theory of enterprises in the Arrow-Debreu system, essentially questioning the explanatory power of enterprise theory on internal organization and production behaviors. Further study of internal information asymmetry and incentive issues led to principal-agent theory. Principal-agent relationships describe a contract under information asymmetry, where one person or group (principal) delegates certain activities to another (agent) based on the principal's interests, granting the agent certain decision-making powers. Based on this theory, because citizens have certain limitations and cannot directly exercise financial regulatory power, they delegate this regulatory power as principals. Considering the importance and public nature of the financial sector, specific financial regulatory agencies are established. Thus, a dual principal-agent relationship forms among citizens, the state, and the financial regulatory agencies. In this tripartite relationship, financial regulatory agencies, as administrative departments, exercise regulatory accountability authority to safeguard societal financial security and protect the legitimate rights and interests of financial consumers.

1.2 Public interest theory

Public interest theory holds that the essence of public policy is the authoritative allocation of social values, and decision-makers should aim for the "public good," coordinating multiple interests and maximizing social welfare. The process emphasizes fairness, transparency, and participation. Administrative departments are public organizations deliberately created by citizens to protect public interests and should uphold public interest supremacy to maintain legitimacy. Financial regulatory agencies, as administrative departments, should theoretically aim for public interest in regulation. However, in practice, they may not pursue public interest alone, sometimes acting unlawfully due to their own interests, causing regulatory actions to deviate from public interest optimization. Thus, there is a need to establish a modern, comprehensive accountability mechanism to ensure subjects promptly correct improper regulatory behaviors, balance regulatory power and responsibility, and maximize protection of the public interest.

1.3 Principle of rule of law

Great Greek philosopher Aristotle defined the rule of law as: "The rule of law has two meanings: the universal obedience to established laws, and those laws that are obeyed must themselves be good laws."[2] The modern principle of rule of law is multifaceted, with those relevant to financial regulatory accountability including power restraints, due process, and administrative rule of law. Firstly, as Montesquieu argued in 'The Spirit of Laws', "All who have power are prone to abuse it—this is an eternal truth."[3] It is necessary to effectively restrain the exercise of financial regulatory accountability powers to prevent deviation from social public interests. Secondly, accountability processes must follow the requirements of due process, including initiation, liability determination, public disclosure and social supervision, and legal remedies, all clearly stipulated and mechanized. Finally, as administrative bodies, financial regulatory agencies must adhere to administrative rule of law, a concrete manifestation of legal principles in administration, such as proportionality, reasonableness, and legality throughout the process.

2. Analysis of the current status of China's financial regulatory accountability mechanism

In the context of constructing a rule-of-law China, the maintenance of institutions relies on legal frameworks, usually stipulating subjects, procedures, and content as institutional elements. This analysis of financial regulatory agency accountability mechanisms is grounded in relevant laws and policies. Firstly, legislatively, the "formulation of a Financial Law" proposed aims to coordinate separate financial laws into a coherent and complete legal system. The newly drafted "Financial Stability Law," currently soliciting public comments, is China’s first law focused on financial systemic risk prevention, filling a legislative gap in financial stability.[4] Secondly, on the policy side, documents such as the "Decision of the State Council on Implementing Financial Work Arrangements and Further Strengthening Financial Regulatory Accountability" (2023) propose a "one-vote veto" for local financial risk prevention, strengthening the link between regulatory accountability and cadre assessment.

2.1 Status of legislation

Currently, China’s major financial laws include: the Law of the People's Bank of China, the Commercial Bank Law, the Securities Law, the Securities Investment Fund Law, the Futures and Derivatives Law, the Trust Law, the Anti-Money Laundering Law, and other separate laws—ten in total. In addition, the draft "Financial Stability Law" has been reviewed twice by the National People's Congress. Beneath these, nearly twenty administrative regulations exist. Organizing accountability-related clauses in these financial laws reveals that legislative provisions on regulatory accountability are fragmented. In other words, accountability norms have yet to form a unified, systematic set and are scattered among various statutes, regulations, and departmental rules. This reflects the "one core–many actors" structure of China’s financial regulatory agencies. For example, financial regulatory laws like the Banking Supervision Law, Securities Law, and Insurance Law all contain regulatory accountability provisions, but industry-specific laws result in "sectoral regulation-dominated legislation." The direct problem is increased complexity and cost for legal application, potentially weakening the authority and unity of accountability mechanisms. Close reading of accountability clauses shows that some are excessively vague or lack detailed procedures or feedback mechanisms, with some only backed by criminal law. The most prominent legislative issue is in the Banking Supervision Law: while it provides for supervision and restraint of banking regulators, its provisions are broad and lack clear stipulations on qualifications, subjects, regulatory content, requirements, limitations, and accountability for misconduct. Specific issues in regulatory agency accountability mechanisms are analyzed below.

2.2 Problem analysis

2.2.1 Incomplete legal system

Financial regulatory accountability falls under administrative accountability, and governing by law is the baseline principle of modern rule-of-law states. Improving and modernizing the accountability mechanism must rely on sound financial regulatory accountability laws. As previously mentioned, current legislation is fragmented and lacks systematization. The financial sector is interconnected and broad, so single-department accountability norms weaken the system's authority. Multi-level legislative norms exist: for example, the former banking regulator's accountability management methods are internal management rules of low legal rank and cannot strictly meet real accountability needs.

2.2.2 Unsound accountability subjects

Accountability subjects answer the question "who is responsible." Each financial department has corresponding legal norms of accountability, with most accountability carried out by the department itself or its superior, including vertical, horizontal, internal, or judicial accountability. This creates multiple types of subjects, but overlaps and deficiencies remain. Notably, judicial accountability is usually initiated by the supervising body or same-level department, and tends to be passive. Vertical and horizontal accountability lacks diversification among accountability subjects, so impartiality and independence may be compromised. Principal-agent theory highlights the importance of subject heterogeneity, especially supervision from other state organs or the public.

2.2.3 Incomplete accountability content

Accountability content answers "what is held accountable." If too narrow or rigid, accountability loses effectiveness. Most norms focus on overt violations and ignore risks from inaction. For instance, Chapter Five of the Banking Supervision Law (amended 2006) emphasizes accountability for clear violations and their consequences. Additionally, accountability is mainly post-hoc punishment, emphasizing enforcement rather than preventive or decision-making stages, making mechanisms more about appeasement than true corrective action.

2.2.4 Irregular accountability procedures

Accountability procedure is vital to effective implementation—answering "how to hold accountable." As a legal process, it should presuppose comprehensive steps and relationships. Procedures ensure authority and transparency, activating accountability's potential. Yet, legislative study shows vague provisions for procedure initiation, making practice arbitrary, unserious, and unstandardized—often only a simple internal notice. Likewise, there is no unified standard for cause, criteria, or publication, which impedes execution and can lead to cover-ups. Also, results disclosure is not mandated, defying transparency and information openness, usually being handled internally and diminishing deterrence.

2.2.5 Lack of accountability feedback

Feedback evaluates effectiveness and value. Accountability should correct and punish violations, enforce unity of power and responsibility, and prevent future violations. Current mechanisms focus on after-the-fact punishment, not prevention or feedback for improvement. Legislators have largely ignored feedback. If accountability only means punishment after a violation, its corrective and preventive functions are lost, reducing it to a mere tool for appeasing public concern and undermining core utility.

3. Lessons from foreign accountability mechanisms

Foreign accountability mechanisms emphasize subject heterogeneity—i.e., "external accountability." This stems from their political systems and capitalism. Constitutional review, for example, avoids parliament or reviews its norms, signaling distrust of legislatures. Foreign financial regulatory accountability thus stresses external accountability, distinct from the vertical/horizontal approach typical in China, and worth learning from as China improves its own mechanisms. Specific external accountability includes:

3.1 Accountability by legislative bodies

Given its core position within the national power structure, the legislature holds the authority to carry out performance accountability and investigative oversight over financial regulatory agencies. Particularly in countries and regions such as Europe and America, the legal frameworks under which financial regulatory institutions operate are centrally established by parliament, which uses its legislative power to set bottom-line constraints on financial regulatory actions and enforce accountability over regulatory agencies.[5] Accountability is chiefly exercised directly or indirectly, for example, by requiring financial regulatory authorities to periodically submit reports on their supervisory activities to the legislature or to answer inquiries and be questioned in person. For instance, in the United Kingdom, the Financial Services Authority

(FSA) does not report directly to Parliament, but first submits its annual regulatory report to the Treasury, which then forwards copies of the report to Parliament for review. The European Central Bank (ECB) submits annual reports to the European Parliament each year, detailing the implementation of monetary policy for both the current and previous years. Similarly, in the United States, Congress, as one of the three branches under the separation of powers, not only employs legal measures to formally enforce regulatory accountability, but also leverages its political influence to apply informal regulatory oversight that may not have the force of law, owing to its institutional position.

3.2 Accountability by executive agencies

As previously discussed, principal-agent and public interest theories both support the legitimacy of executive oversight. Foreign governments employ three main measures: First, they establish feedback and reporting mechanisms for financial information. Information is the basis of decision-making and oversight. For instance, America's Financial Services and Markets Act requires the Financial Regulatory Authority to submit annual regulatory reports to the Treasury. Second, they exercise appointment authority—directly appointing or dismissing heads of financial regulatory agencies, especially those engaged in misconduct—restraining regulatory behavior through personnel leadership. Third, they conduct administrative inspections based on market conditions, evaluating implementation of regulatory decisions, legality, and performance, thereby holding agencies accountable.

3.3 Accountability by judicial bodies

Under the Western system of separation of powers, judicial authorities exercise judicial power separately. Judicial accountability, which can be conducted retrospectively, ensures that the actions of financial regulatory institutions, including their accountability actions, are within the limits permitted by law. The most developed form of judicial accountability is the comprehensive judicial review in the United States. This type of judicial accountability, based on its history and evolution, has become a habitual, external, strictly procedurally safeguarded, and authoritative form of accountability. Specifically, the American judiciary may conduct procedural review to determine whether regulatory procedures are illegal, as well as substantive review regarding whether regulatory actions contain substantive errors. Secondly, in the United States, the judiciary may examine the abstract actions of the financial sector through individual cases, thereby effectively restraining the accountability powers of financial regulatory authorities. Similarly, the UK's Financial Services Authority (FSA) is also subject to judicial scrutiny and supervision. Meanwhile, the UK Financial Services and Markets Act stipulates that a specialized tribunal can be established, employing professionals with financial regulatory backgrounds to serve as judges, responsible for hearing dispute cases where stakeholders challenge regulatory decisions. This helps to enhance the professionalism and effectiveness of hearing related cases. To a certain extent, it also enables judicial authorities to supervise and hold financial regulatory institutions accountable. Judicial review not only plays a role in its actual application but also, by its very existence, encourages administrative law enforcement officials to exercise their power more cautiously. [6]

3.4 Accountability by coordinating agencies

The so-called coordinating body refers to mechanisms established among financial regulatory institutions to achieve mutual oversight and ensure independence. The initial purpose of setting up such coordination is, first, to restrain the monopolistic power of financial regulators. Within regulatory agencies, the principle of appropriate decentralization and checks and balances should be maintained to avoid the concentration of power, guarantee internal regulatory equilibrium, and thereby enhance the authority and effectiveness of regulatory accountability. Second, these mechanisms are meant to prevent financial regulatory bodies from being subjected to external interference during accountability procedures, thus ensuring a certain degree of independence. Regulatory accountability that lacks independence cannot truly realize the full value of the mechanism. Third, the coordinating body can effectively supervise the regulatory activities of other regulatory entities operating under its umbrella. In fact, current European and American countries have already established evaluation mechanisms for regulatory actions, as well as specialized agencies tasked with assessing the costs and benefits of regulatory activities. For example, in the United States, the Office of Management and Budget (OMB) and the Office of Information and Regulatory Affairs (OIRA) are established under the White House Office to be specifically responsible for reviewing rules and regulatory actions formulated by regulatory agencies.[7]

3.5 Accountability by the public

Western countries place great emphasis on public oversight in order to protect and sustain their systems. First, this is achieved by increasing the transparency of financial regulatory agencies themselves in order to realize information disclosure. Second, it is realized through legislation that ensures citizens' rights to oversight and specifies clear channels

for supervision. The UK's Financial Services and Markets Act provides a clear example of this: it stipulates that the Financial Services Authority (FSA), after preparing its annual report, must hold a public annual meeting within 90 days to discuss the contents of the report, and the minutes of the meeting must be made public within 30 days of its conclusion. The participation of the general public expands the scope of supervisory accountability in financial regulation and facilitates a healthier financial sector.

4. Improvement paths for China's financial regulatory accountability mechanism

4.1 Improving accountability subjects

First, financial regulatory accountability is essentially administrative accountability and must embed executive department accountability as a regular mechanism and core focus for regulatory agencies. For example, the Financial Committee and its provincial coordination mechanisms are institutional guarantees for routine, specialized accountability. Second, construction and allocation of external accountability subjects should be advanced—for instance, supervision commissions are now independent state organs rather than subordinated agencies following reforms. Discipline inspection and supervision groups are stationed in financial regulatory agencies, bearing both Party and state accountability functions.[8] Regarding judicial accountability, since Chinese courts cannot review regulations or abstract administrative actions of financial regulators, and it's unclear in legislation whether some regulatory measures qualify as reviewable specific actions, judicial accountability as a method still faces challenges.[9] Additionally, drawing from the UK, financial regulatory agencies could submit annual regulatory reports to the NPC, sending staff for inquiries and questioning. The NPC and its Standing Committee possess legitimacy both in powers and professional competence. Finally, regulatory legislation should consider granting the public supervisory and accountability rights, creating transparent channels and improving necessary information disclosures. Public participation can reduce arbitrariness and has been shown to be an integral part of financial regulatory accountability.[10]

4.2 Detailing accountability content

The ideal accountability mechanism should be routine and able to, through early reasoning and openness, prompt the accountable to self-reflect and make amends, making formal sanctions less necessary.[11] This requires further detail in accountability content—not only punishing post-hoc harms or neglecting the dangers of inaction. Such mechanisms should supervise the entire regulatory process. First, cover the whole process, emphasizing not only post-event accountability but also supervision and correction before and during events. Second, clarify accountability objects: both individuals (regulatory agency staff and leaders) and acts (including actions and inactions that cause harm). Third, monitor the implementation of accountability actions; as intra-departmental accountability dominates in China, more supervision is needed over enforcement to prevent "more talk than action." Internal checks and balances should prevent abuse of accountability power, balancing internal oversight and power.

4.3 Perfecting accountability procedures

Traditional appeals to procedure value tend to invoke fairness, arguing that fair procedures are the only solution recognized amid disputes about justice in the past.[12] But procedures also control goal realization; they are the soul of legal systems. Therefore, effective regulatory accountability requires comprehensive, scientific procedures—otherwise, arbitrariness and unchecked power ensue. Generally, accountability procedures can be divided into four stages: initiation, responsibility determination, result disclosure, and remedy. The author's intention is not to set out every detail, but to delineate procedural stages and recommend the Financial Committee to promptly enact "Financial Regulatory Agencies Accountability Measures," providing procedural guarantees and institutional basis. A sound procedure system will modernize accountability, maximize its value, and secure its authority.

4.4 Establishing accountability feedback

Feedback evaluates the impact and effectiveness of accountability after result disclosure. Optimal accountability mechanisms should be full-cycle; only focusing on results and neglecting their positive impacts is inappropriate. Feedback should be required post-accountability result, to assess how well problems were solved and violation corrected, and to ensure enforcement is not ignored. Subjects for feedback should be clearly identified, with the responsible party submitting timely reports or remedial measures, ensuring each accountability action truly resolves a category of issue.

4.5 Supporting laws and regulations

The financial regulatory accountability mechanism is systemic, involving not only subjects, content, and procedures, but related items such as power/responsibility lists and information openness. For example, public participation should be considered to improve the mechanism's effectiveness, but if agencies don't release necessary information, public oversight suffers. Thus, improving accountability requires comprehensive supporting laws and regulations. Transparency construction is especially key and can be promoted by publishing all regulatory rules, practices, major decisions, annual reports, and holding regular press conferences—these are essential features of any accountability system.[13] For instance, establishing a list of powers and responsibilities further specifies statutory duties and enforces the administrative law principle "no power without legal authorization," keeping accountability powers within the legal "cage." This can restrict financial violations at the source. Breaking information silos and mandating strong disclosure obligations, including forms, content, and channels, is also essential—the "Internet plus Information disclosure" approach is most effective. Lastly, forms of accountability should be specified: public apology or written self-examination, public notice or reprimand, revocation of unlawful administrative actions, correction of inappropriate/illegal actions, etc.[14] The forms of financial regulatory accountability should largely match those in administrative accountability, detailed according to levels—general, major, extremely major, and regulatory issues.

5. Conclusion

Financial technology also presents new challenges and impacts for regulatory authorities. The emergence of new types of financial institutions that rely on fintech undoubtedly increases the difficulty of supervision for regulators. The entry of a large number of technology companies into the financial sector is bound to bring brand new businesses and transactions, which may place some financial activities in regulatory grey areas. This poses a major challenge to existing regulatory accountability mechanisms. However, there is no doubt that fintech can also bring convenience and assistance to the regulation of financial institutions. If regulators can become proficient in applying new technologies promptly and early on—for example, using blockchain technology to track transaction data—they can ensure the transparency and security of transactions while also making it easier for regulatory authorities to conduct accountability and investigation. By leveraging technologies such as artificial intelligence learning, regulators can categorize financial companies for tailored regulatory accountability. With big data analysis and cloud computing technologies, regulatory authorities can more easily identify risks in transactions in advance and predict illegal activities that may cause losses, thereby safeguarding the security of the financial market and improving the stability of financial governance.

As financial risks grow more complex, innovation accelerates, and China's financial sector intertwines ever deeper with globalization, it is urgent to keep the accountability mechanism for financial regulatory agencies up to date and responsive to rapid changes. This paper has identified existing flaws and provided improvement paths, both at the theoretical level and by drawing from foreign models. Yet China's legal provision for regulatory accountability is insufficient and scattered, leading to unsound subjects, incomplete content, and irregular procedures. Based on lessons from abroad, this paper suggests improvements in five aspects: enhancing subjects, detailing content, perfecting procedures, establishing feedback, and supporting laws. Of course, these are not concrete measures but rather broad directions, as specifics such as the four procedural stages—initiation, determination, disclosure, remedy—require legislative design at the source. Meanwhile, financial technology's rapid development means that a single mechanism cannot meet the strategic need for financial security; regulatory tools must match the speed and direction of financial changes. Regulators face twin pressures—encouraging innovation and controlling risks—while current mechanisms lack foresight, have unclear objectives, and rigid responsibility paradigms.[15] The author believes the essence of the accountability mechanism is a dynamic game balancing financial efficiency and security. National financial regulatory authorities' accountability and regulation of financial institutions also need to be more comprehensive and precise due to fintech. For example, several banks were discovered and penalized by the central bank for violating customer identity verification, credit information collection regulations, and failing to report large transactions as required. This also indicates that there are still loopholes in the current regulatory accountability mechanisms in our country. Only through improved legal systems, technological empowerment, and conceptual innovation can regulators build a more resilient, adaptive, and forward-looking mechanism. This goal cannot be achieved by institutional design alone; it requires active engagement from regulators, financial institutions, market players, and the public, ultimately forming a modern accountability system. Finally, the author argues that rules alone cannot guarantee financial security—regulatory agency accountability tools must also keep pace, enhancing their effectiveness. In the era of digital economy, advanced regulatory technology should be applied to drive continuous progress, ensuring accountability mechanisms remain responsive and vital.

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