

Difficulties and Optimization Paths of the Application of "Cross-default" Clause in Chinese Real Estate Corporate Bonds

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Abstract. Since the second half of 2021, the collapse of the Chinese real estate market has resulted in a large number of bond defaults by real estate companies. Among many constraint clauses, the "cross-default" clause has caused considerable problems in triggering and enforcement due to its late introduction in China and the lack of guidance on its application. This paper analyzes the difficulties in the application of the real estate "cross-default" clause and proposes optimization paths based on the differences and similarities of regulations between domestic and foreign markets. This will help Chinese real estate companies to use the "cross-default" clause more effectively and protect the interests of bond issuers and holders. The paper adopts the method of legal regulation analysis and case analysis, focusing on the actual application of the "cross-default" clause in the Chinese market including unclear triggering conditions and a lack of effective enforcement methods. The paper proposes optimization plans including strengthening government supervision, improving laws and regulations, optimizing bond issuance mechanisms, and enhancing credit ratings of bond issuers. The significance of the research lies in providing practical recommendations and measures to improve the operation mechanism of the Chinese bond market, and to provide reference and guidance for Chinese real estate companies in risk management.

Keywords: cross-default, USD bonds, real estate corporate bonds

1. Introduction

Since the second half of 2021, with the dramatic changes in the Chinese real estate industry, a large number of private real estate companies have defaulted on their debts. The research on the cross-default clause in bonds has been an ongoing topic in the academic community for a while. The current situation in the Chinese real estate industry has further highlighted the importance of this clause and its effectiveness in protecting the interests of bond issuers and investors.

Scholars such as Yan Weibo and Nan Yumei have contributed to the analysis of the cross-default clause in bonds. Yan Weibo's research delved into the history and development of the clause, its functions, and its limitations.[1] Nan Yumei's research focused on the independence of the bond management system and proposed legislative improvements to enhance the protection of

bondholders' rights and interests.[2] Based on these studies and others, this paper analyzes the differences in the stipulated content and actual effects of the cross-default clause in domestic and foreign bonds issued by Xuhui Group. The research looks at the academic and social context of the issue, the various aspects of the problem, and the scholars' research dynamics. The paper also outlines the research methods used and the overall structure and argumentation.

Overall, the current research consensus is that the cross-default clause is an essential protective measure for bond issuers and investors. However, the differences in regulations between domestic and foreign markets have resulted in significant variations in the stipulated content and actual effects of the clause. This research aims to propose suggestions for better use of the clause by real estate companies, which can benefit the improvement of the Chinese bond market and better protect the interests of bond issuers and investors.

2. Background of Chinese Real Estate Companies' Bond Financing Defaults

Due to the heavy capital and financial nature of the real estate industry and the widely used presale sales model in China, Chinese real estate companies, especially private ones, have adopted a high-debt, high-leverage, and high-turnover operating model, which has long formed a wrong business orientation of pursuing excessive scale and urgent need for funds. Bond financing, including domestic bond financing and US dollar bond financing, has always been one of the important financing channels for private real estate companies. According to Wind statistics, from January to December 2022, the cumulative default amount of US dollar bonds issued by Chinese real estate companies was USD 43 billion, involving 48 issuers, all of which were among the top 100 Chinese private real estate enterprises. Most of these real estate companies that defaulted on their US dollar bonds also defaulted on their domestic bonds, other financial debts, and non-financial debts. The main reason for the above defaults is the significant mistakes in the companies' own business strategies, but there are also policy and financial reasons.

2.1. Major Mistakes in the Business Strategy of the Enterprise

Overly aggressive business strategies are the main reason for the default of real estate enterprise bonds. In the past decade, there has been a phenomenon of blind pursuit of scale among Chinese real estate enterprises. Real estate companies believe that the larger the scale of the enterprise and the higher the operating income, the higher the brand awareness and the easier it is to gain favor from home buyers and financial institutions. At first, it can attract more consumers to purchase their products. Besides, it can use the scale advantage to obtain higher ratings, thereby reducing financing costs and expanding financing scale. After experiencing several economic cycles and macroeconomic regulation of the real estate industry, the vast majority of private real estate enterprises still have firm confidence in the market, ignoring the objective reality of the continuous accumulation of the real estate bubble. They have purchased a large amount of land, hoping to achieve rapid growth in operating income by increasing land reserves. This obviously overly aggressive business strategy, when encountering the "three red lines" policy restrictions at the end of 2020, has led to widespread financing constraints for real estate enterprises. The impact of the pandemic has made the sales market cool down, exacerbating the cash flow tension of real estate enterprises.

2.2. Lack of Coordinated Macroeconomic Policies and the Impact of the Pandemic

The lack of coordination and transparency in macroeconomic policies and the sudden outbreak of the COVID-19 pandemic triggered the current crisis. Since the end of 2016, the central government has proposed the policy of "houses are for living, not for speculation" as the core policy for macroeconomic regulation of the real estate market, but there have been problems with inconsistent

implementation. Since the end of 2020, a series of macroeconomic policies have been successively issued by the central government and economic management departments. These policies included the "three red lines" policy, the centralized land auction policy, the land transfer payment collected into the national treasury policy, and the tightening of mortgage loan policy. These policies were intended to implement the "houses are for living, not for speculation" policy from the perspective of each department's regulatory responsibilities. However, due to the lack of coordination, a large number of policies unfavorable to real estate enterprises were issued at the same time, resulting in the objective consequences of policy stomping, and multiple adverse results including weak sales, difficulty in obtaining mortgage loans, and limited financing channels.

The sudden outbreak of the COVID-19 pandemic in early 2020 caused real estate sales to stagnate in the first quarter of 2020. Over the following two years, the pandemic has repeatedly fluctuated, seriously affecting residents' income and making real estate sales even weaker. Moreover, the pandemic has prolonged the turnover cycle of real estate enterprises, further increasing their financial pressure.

2.3. Undergone Significant Changes in the Bond Regulatory Policies, and A Serious Phenomenon of Financial Statement Manipulation

Chinese real estate companies' bond issuers, both domestic and overseas, have long been subject to strict government regulation. Domestic bond issuers are managed by different authorities such as the People's Bank of China, China Securities Regulatory Commission, and stock exchanges, depending on the trading venue. Since 2015, domestic bond issuers in the real estate industry have been strictly regulated, and a large number of real estate companies have faced great pressure to repay their debts upon maturity, as they were unable to refinance through the capital market. Overseas bond issuers require approval and examination from the National Development and Reform Commission and the State Administration of Foreign Exchange before issuance. Since 2018, such approvals have become increasingly strict, making it even more difficult for real estate companies to issue US dollar bonds.[3]

China's current accounting standards are difficult to accurately reflect the operating conditions of real estate enterprises over a period of time, as there is a long-standing phenomenon of falsifying financial statements in the real estate industry. Typically, real estate projects are sold within 6-12 months after land acquisition, and the sales receipts are not recognized as revenue in the year of sale, but are recorded as accounts receivable, and only recognized as revenue when the property is actually delivered to the buyer. This process usually takes about three years, so when a real estate project should recognize revenue and how much profit it generates often has a certain degree of maneuverability. Large real estate enterprises often undertake multiple projects at the same time, which increases the possibility of artificially adjusting revenue, cost and profit across projects, years and regions. In order to meet the requirements of regulatory authorities and domestic and foreign investors, real estate companies often artificially adjust financial statements. In addition to the adjustments caused by the lack of rigor in the standards, more serious situations include hiding off-balance sheet liabilities, misappropriation of regulatory funds, and temporary accounting adjustments.

3. Significant Changes in Bond Regulation Policies and a Serious Problem of Financial Statement Manipulation

3.1. Comparison of "Cross-Default" Provisions for Domestic and Overseas Bonds of Real Estate Companies

After comparison, it was found that the cross-default provisions in the prospectus for overseas bonds are relatively clear, while those in the prospectus for domestic bonds are relatively brief and rough.

The main differences are mainly reflected in the related debtors, debt content, and execution methods. Taking the example of the same issuer, CIFI Holdings Group's US dollar bonds issued in April 2022 and CIFI's domestic bonds issued in June 2022, the following differences were found.

Firstly, there are some differences in the construction of cross-default provisions. When designing cross-default provisions for domestic and overseas bonds, a general approach was adopted for the scope of subjects. The default subjects not only include the debtor under this contract, but also other related companies of the debtor. There are two points worth noting here. Firstly, the defined subjects do not include the controlling shareholder of the issuer. Secondly, there are differences in the identification of the scope of related parties. The subsidiaries identified by the US dollar bonds are considered as affiliates, which have different meanings in different legal jurisdictions. It is a concept between subsidiaries within the scope of consolidated financial statements and related parties under Chinese law, and does not extend to the breadth of related parties under Chinese law.[4]

Secondly, there are some the difference in debt structure of cross-default clauses. The specificity of cross-default clauses determines that any default in the debts agreed within the scope of the clause will trigger a default of the contract. Therefore, the scope of the debts covered by the clause is crucial. Domestic bonds first specify that the scope of the debt is limited to monetary payment obligations, and then use an enumerated approach to clarify that it is within the scope of financial debts, especially noteworthy is that this provision excludes various types of private loans common in the private real estate industry. The US dollar bond adopts the most extensive definition standard, including all debts within the possible default range including the issuer's financial debts and various operating liabilities.

Outside the scope of debt coverage, another factor that affects the triggering effect of the cross-default clause is the agreement on the amount of the debt. In this regard, the US dollar bond adopts a fixed starting amount standard, with a trigger standard of \$30 million for cross-default, while the domestic bond adopts a dual standard of fixed amount and dynamic ratio, requiring the default amount to reach RMB 50 million and account for more than 10% of the issuer's most recent audited net assets of the parent company. The issuer's parent company had audited net assets of RMB 15,997,822,040.00 (approximately US\$2.45 billion) in 2021.[5]

Thirdly, there are some differences in the Execution Choice of Cross-default Pro-visions. Cross-default provisions establish a set of early warning systems, and the actual effectiveness and efficiency of these provisions depend on the choice of execution. In this regard, US dollar bonds choose to enhance the rights and responsibilities of the trustee, explicitly giving the trustee the right to take action on behalf of bondholders, while also giving bondholders a certain proportion of the power to demand that the trustee fulfill its duties, clearly favoring the interests of bondholders. Besides, domestic bonds first give the issuer a grace period of 10 trading days, allowing the issuer to resolve the default issue on its own during that period, thus avoiding triggering the cross-default provisions. Secondly, the rights and responsibilities of the trustee are weakened. After the issuer notifies the trustee of the cross-default information, the trustee has no right to take direct action, but can only require the issuer to take the agreed-upon reconciliation measures by convening a bondholders' meeting and passing a resolution. The bondholders' meeting becomes the core decision-making body, while the main rights and responsibilities of the trustee become to urge the issuer to fulfill its disclosure obligations in a timely manner and to disclose information to the bondholders in a timely manner. It should be noted that in US dollar bonds, bondholders holding over 25% have the right to demand that the issuer take measures to protect their interests through the trustee, while in domestic bonds, this standard is over 30%, which is higher than the US dollar bond standard.

3.2. Difficulties in the Application of "Cross-Default" Clauses in Domestic and Foreign Bonds of Real Estate Enterprises

The complex business models of real estate companies make it difficult to identify the subject range of cross-default in practice. In practice, it is difficult for either the subsidiary standard or the standard of the consolidated financial statements to comprehensively cover the actual control of issuers in the real estate industry and the scope of related parties. The bond issuers in the real estate industry are generally holding companies, which themselves do not serve as the development subject of specific projects, but usually only serve as the financing subject for management and public markets. Traditionally, Chinese real estate companies generally adopt a two-tier or three-tier management system. The so-called two-tier management system means that under the controlling entity, a project company is established to be re-sponsible for the development, operation, and financing of a specific real estate project. When the management radius is too large, some real estate companies will choose to establish regional companies between the holding company and the project company according to administrative regions or geographical regions to be responsible for the management of a certain region. Their functions are similar to those of the holding company.

The current management structure has resulted in the emergence of two-tier financing structures in the real estate industry. Bond issuers typically have holding companies, which are primarily responsible for consolidating financial statements, expanding asset scales, improving their credit ratings, and conducting direct financing. Besides, project companies are responsible for operating specific projects, completing individual accounting, and conducting indirect financing. After the holding company completes direct financing, it generally injects funds to various project companies through equity and debt investments for operation, forming a two-layer capital structure in which the holding company has liabilities but no actual assets, and the project companies have assets and direct liabilities.

In the actual operation of real estate companies, there are also a large number of artificial expansions or contractions of the scope of consolidation. For project companies that cannot generate revenue and profits in a timely manner during the early investment period, the real estate issuers will choose to have third parties who can control them on a cooperative basis or who are not related in form but can control them in substance to hold their equity to avoid affecting the company's annual report profits. Conversely, for project companies that can make positive contributions to the consolidated financial statements, real estate issuers will choose to include them in the scope of consolidation by holding the equity of other parties or directly acquiring them when the project's revenue can be confirmed.

Real estate issuers also have the phenomenon of establishing non-related third-party wealth management companies for their own financing. Due to the tightening of real estate financing, many real estate companies choose to establish wealth management companies that are formally unrelated to themselves for financing. These companies often have no direct relationship with the issuer in terms of equity, but the projects they promote to the outside world are often closely related to the issuer in the real estate industry. The projects they issue are often guaranteed by project companies or regional companies, and the actual funds raised flow into the accounts of various parent and subsidiary companies of real estate issuers through various means. These debts or implicit guarantees are generally difficult to reflect in financial reports, but once there is operational risk at the group level of the issuer, the potential risks of these implicit debts will be quickly exposed. Because the financing itself is not standardized, the issuer itself has the risk of violating laws and regulations. In addition, the investors of these wealth management companies often include employees of real estate companies themselves and ordinary residents in local project companies. Indeed, in recent years, the high leverage and debt expansion in the Chinese real estate market, coupled with tightening regulatory

policies, have led some real estate developers to face cash flow stress and increased debt pressure. To address this situation, some developers have raised funds through issuing high-yield bonds, wealth management products, and other means, while also collaborating with third-party wealth management companies to transfer their debt through channels such as "bank wealth management + asset management plans" to investors. However, this model carries certain risks, and if there is market turbulence or operational difficulties, developers may be unable to repay their debts on time, which could have an impact on investors' interests.

Especially after the debt crisis of large private real estate enterprises such as Evergrande and Kasia, some companies may prioritize solving the repayment problems of third-party wealth management companies, potentially neglecting the interests of bondholders. In this case, bondholders may not be able to receive timely payment and face the risk of loss. Therefore, investors need to conduct thorough research and evaluation of the issuer's credit rating, financial condition, and operational capabilities when investing in financial products such as bonds or wealth management products to avoid risks.

The application dilemma of the cross-default clause as follows is caused by the complex business model mentioned above. The arbitrary debt structure weakens the enforce ability of the cross-default clause. The debt structure of the cross-default clause should be based on basic business logic and market consensus. In principle, the debt structure of the cross-default clause belongs to the commercial field of autonomy of both the bond issuer and holders, and is effective as long as it does not violate mandatory provisions of laws and regulations. However, when setting the actual clause terms, commercial logic and the inherent characteristics of the real estate industry should be fully considered in order to make the terms more targeted and operable. The scope of the cross-default clause's associated debts should not be too broad, as this leads to widespread non-compliance and weakens the clause's enforce ability. Nor should it be too narrow, as this leads to many important warning signals being excluded from the early warning system, which is not conducive to the function of the cross-default clause. Taking the aforementioned CIFI Holdings Group as an example, the provisions of the US dollar bonds are too broad, as they include all other debts of the issuer including financial and operational debts. In fact, this is unnecessary and impossible. Due to the special nature of the real estate industry including material suppliers that supply various raw materials, construction units responsible for construction, financial institutions providing financing, local governments that transfer land, and house buyers who pay for their homes, debt types are also very complex. Different project companies may face various debt problems at different stages of real estate development, most of which can be re-solved through project operations and negotiation. Due to the involvement of a large number of commercial secrets, the issuer generally does not want to disclose too much about these situations subjectively and is objectively difficult to disclose one by one. Therefore, such normal operational debts, even if the amounts are large, should not be included in the associated debt scope as long as they do not affect the overall operation of the issuer. The scope of domestic bonds is too narrow, not only limiting debts to monetary payment obligations, but also narrowing the scope to the six types of financial debts listed. As mentioned earlier, a large amount of the issuer's financial debts in practice are actually hidden in transactions with affiliated parties, commercial acceptance bills, and private borrowing debts. The default of these debts actually constitutes extremely important risk warning information. The issuer's deliberate exclusion of these important debts from the scope of associated debts is seriously detrimental to protecting the interests of bondholders.

In determining the trigger amount for cross-default, the issuer and underwriter should establish a reasonable trigger amount standard based on the issuer's objective operating conditions, rather than setting standards with significant differences between different markets. The trigger standard for Country Garden's US dollar bonds is only equivalent to 12.2% of the trigger amount for domestic bonds, which is clearly disadvantageous to domestic bondholders. Generally, there are three ways to

set the trigger amount for cross-default: fixed amount mode, proportional mode, and a combination of the two. [1]

Under the fixed amount mode, low-rated issuers tend to set higher default amounts, which helps them to have a higher self-protection threshold while obtaining financing. High-rated issuers tend to set lower default amounts because they are confident that they will not default, and lower default thresholds will help them reduce financing costs. Under normal market conditions, issuers with high ratings and low trigger thresholds will always be more easily financed. The proportional mode links the default amount to a financial indicator of the issuer (generally net assets), which is closer to the issuer's real financial situation and compensates for the short-comings of fixed amount standards. However, since the more financially distressed the issuer is, the more likely they are to commit financial fraud, the accuracy, truthfulness, and timeliness of financial reports are increasingly difficult to ensure, and the adoption of this standard alone may also lead to difficulties in triggering cross-default clauses. The mixed mode combines the two standards relatively well and has a relatively wide range of applications.

Overall, regardless of which standard is adopted, issuers should treat bondholders fairly and not artificially create differences between different markets. If cross-default is triggered for overseas bonds but domestic bondholders cannot protect their own interests in the same situation, it will undoubtedly create new legal issues and harm the issuer's business credit.

When cross-default clauses are actually enforced, there is a lack of clear systems and support to back them up. Cross-default clauses are imported elements and China's current legal system has not established an efficient bond management system from a systematic perspective, making the enforcement of cross-default clauses very difficult. The prominent feature of direct financing is that an issuer corresponds to many bondholders, which is significantly different from indirect financing where multiple financial institutions correspond to one borrower. Therefore, publicly issued bonds by companies are more likely to include cross-default clauses. This is because by linking bonds to bank financing with higher information acquisition capabilities and lower renegotiation costs, it is possible to significantly increase the level of protection for bondholders and achieve "delegate monitoring". [6] This indirectly reflects that the difficulty of bond management is significantly higher than that of indirect financing.

Currently, bond management systems in various countries mainly consist of two models including bondholder meeting center model and trustee center model. The former emphasizes the autonomy of bondholders' intentions during the bond performance period, where bondholders are responsible for their own decision-making actions, and bondholders' intentions are the basis of bond management. The latter emphasizes the construction of independent bond management protection organizations, with the ultimate results of bond management as the benchmark for evaluating the fulfillment of the management obligations of bond management organizations. Business efficiency is the focus of building bond management systems. [7] In fact, the frequency of using restrictive clauses is closely positively related to the efficiency of bond management systems. Scholars have pointed out that if greater authority is given to trustees to carry out supervision and negotiation more efficiently, it will make restrictive clauses more widely adopted and achieve more comprehensive protection for bondholders.[8]

Currently, China does not have a clear legislative direction and is in a state of neither here nor there. At first, the bondholders' meeting is the highest organizational form representing the interests of all holders, but its operational efficiency is directly affected by the level of responsibility of the trustee. If the trustee fails to perform their duties adequately, the bondholders' meeting will have difficulty in timely convening and forming effective resolutions. Besides, the trustee, which was introduced into China from the Anglo-American legal system, is nominally a permanent specialized management organization, but in practice, it tends to be passively responsible for executing

resolutions made at bondholders' meetings. Moreover, trustees are often appointed by the issuer, who is often the same as the lead underwriter of the bonds, which presents a significant conflict of interest. Without clear rules on judging conflicts of interest, trustees, who are designed to represent the interests of bondholders, may exploit their informational advantages for their own benefit, making it difficult for them to fulfill their supervisory responsibilities.

Regarding this significant theoretical and practical issue, laws and regulations have long been absent, and there is no clear agreement or division of rights and responsibilities between bondholders and trustees. Currently, the most authoritative agreement on this issue is the "Investor Protection Code of Conduct" (2019 version) issued by the Securities Association of China, which stipulates that if a bondholders' meeting passes a resolution to give one or more remedies, the issuer should unconditionally accept them. [9] This text is a demonstration text and does not have mandatory force, but serves as a demonstration of the parties' reaching an agreement. There are no provisions for the consequences if the issuer does not accept them. Additionally, from the perspective of balancing the interests of both parties, this clause deprives the issuer of the right to object and negotiate, which itself is worth discussing.

4. In-Depth Analysis of the Reasons for Setting and Applying Cross-Default Clauses in Real Estate Enterprises

4.1. Incomplete Information Disclosure System and Weak Subjective Initiative of Real Estate Enterprises

The foundation of the capital market is based on open and transparent information and commercial credit. A sound information disclosure system is the basis for the overall benign operation of the market. The introduction and development of cross-default clauses in China also indicates the continuous progress of information transparency and commercial credit. Although China has established the basic information disclosure system for corporate bonds based on the Securities Law, it is still relatively crude and incomplete. Strict temporary disclosure requirements have not been established for the large amount of non-standard debt that exists in real estate enterprises. At the same time, it is undeniable that due to the industry characteristics of the real estate industry itself and the non-disclosure of information by some real estate enterprises, the negative impact of their long-term bad behavior in this round of real estate defaults has already been revealed. The serious impact on the credit of the Chinese real estate industry cannot be repaired in the short term.

4.2. Ambiguity of the Rights and Responsibilities of the Administrator and Holder

The current wave of defaults in private real estate enterprise bonds has exposed the imperfection of the bond management system and the adverse effects on the protection of the interests of bondholders. The key to improving this system lies in the independence of the bond management system. [10]

Firstly, the validity of bondholder meeting resolutions has not been clearly specified in Chinese law for a long time. It was only mentioned in the Summary of the National Court Conference on Hearing Bond Dispute Cases issued by the Supreme People's Court in 2020 that the resolutions made by the bondholder meeting based on the scope, method, and voting procedures specified in the bond prospectus are binding on all bondholders unless there are legal grounds for invalidity. [11] This provision has low legal effect and is currently only a judicial rule rather than a legal rule. Its content is also controversial in the legal community, as some scholars believe that the change of bond principal and interest is the disposal of the creditor's property right, and property rights are fundamental rights, and it is questionable whether they can be changed. [12]

Secondly, bondholders are relatively dispersed. According to the regulations, the bondholder meeting can generally be organized by the trustee or the holder who holds a certain amount of bonds.

However, in practice, except for the trustee, other bondholders are generally unable to know the situation of other holders. The efficiency of convening a holder meeting is highly dependent on the trustee's self-discipline and responsibility.

Thirdly, the decision made by the bondholder meeting does not have mandatory binding force on the issuer, especially when the issuer has already defaulted and its commercial credit is in doubt. Even if the bondholder meeting makes a valid decision, there is still the embarrassment of the issuer refusing to perform.

4.3. Real Estate Companies Have Insufficient Research on Cross-default Provisions

Regarding the obvious differences in the use of cross-default provisions domestically and internationally, the reasons could be multifaceted. It may be because issuers are not familiar enough with foreign capital market regulations, lack research on unilateral format provisions, and thus overly burden themselves. It could also be due to the insufficiently widespread application of cross-default provisions in China, leading to greater arbitrariness in their application and a lack of serious consent from both parties. However, in any case, the emergence of the above situation is not in line with general business rules, is not conducive to issuers' information disclosure, and is even more detrimental to the long-term healthy development of the market.

5. The Way to Improve the Application of Cross-Default Clauses in China's Real Estate Industry

It is found that the particularity of the real estate industry and the arbitrariness of the cross-default rules make the cross-default system completely fail to play its due role. The introduction of cross-default in bond raising is a financial system arrangement originally intended to prevent the risk of corporate debt default and protect the interests of bond investors. However, in fact, cross-default will increase the risk of corporate default, resulting in the interests of bond investors not really protected, but also exacerbated the systemic risk of the industry. To better utilize the positive impact of this clause, it is essential to continually enhance its comprehension and application.

5.1. Regulators Guide Issuers and Holders to Jointly Form an Accurate Understanding and Expectation of Regulating Cross-Default Clauses

At present, as a self-regulatory rule drawn up by the Traders Association from the perspective of financial institutions, the Model Text, which regulates cross-default clauses, lacks both mandatory and specific application guidelines for specific industries. It is still rough on the whole. To address this situation, it is suggested that the real estate industry association, the exchange, and the Development and Reform Commission jointly conduct a comprehensive study on the investor protection mechanism of both US dollar bonds and domestic bonds, including cross-default clauses. This study should take into account the differences between different markets and the objective reality of the industry, and issue more instructive guidelines. In order to better protect the legitimate interests of issuers and bondholders, and then promote the long-term healthy development of China's bond market and China's real estate industry.

First of all, in terms of clause design, we should respect the actual situation of the industry. Issuing enterprises cannot independently choose all trigger conditions. They must also specify the trigger scope of different clauses according to the default risks of the enterprise. This includes dynamically adjusting the starting point amount of default and identifying the main body of debt that impacts bond issuance. Doing so can prevent excessive clauses from being set up for real estate enterprises and reduce the possibility of chain debt default risk after the event.

Secondly, in the understanding of the terms, regulators should help issuers to strengthen their understanding of the implied obligation of good faith. As an outsider of the company, the realization of bondholders' bond rights depends procedure ally on the issuer's timely performance of the obligation to inform stipulated in the contract, and substantively on the issuer's sound operation. Therefore, it is necessary to help the issuer strengthen its understanding of its implied obligation of good faith and recognize its own responsibilities.

Thirdly, when using the terms, balance the interests of both sides. Cross-default clauses have the characteristics of standard clauses, which play a significant role in reducing transaction costs and promoting the rapid development of the market. However, at the same time, due to the characteristics of standard clauses, it is generally difficult to fully reflect the real ideas of both sides. Therefore, in the specific use of the clause, attention should be paid to the balance between maintaining the normal order of the market and respecting the intention of both parties.

5.2. Efforts by Issuers and Regulators to Improve Information Disclosure Mechanisms

The fundamental and most effective way to address this objective situation is to restructure the information disclosure mechanism, taking into account the characteristics of the real estate industry and improving the information disclosure system. In the context of the lack of top-level design, real estate industry enterprises should adjust the scope of their information disclosure obligations and the frequency of disclosure during the bond tenure based on their own circumstances, actively improving the quality of information disclosure beyond the requirements of guidelines and exchange rules.

Regulatory authorities should also consider the industry's special characteristics, and promote the establishment of information disclosure rules at a higher level, as well as establish appropriate reward and punishment mechanisms. They should create two systems. One is focused on debt-paying ability and temporary reporting for unresolved debts. This should include long-term information beyond current disclosure requirements, such as equity pledging, off-balance-sheet financing, and equity holding. These systems should be based on existing accounting standards and industry characteristics. Additionally, they should enhance law enforcement and manage domestic and foreign bond disclosures. They should also increase penalties for non-disclosure and encourage issuers to actively disclose information to ensure cross-default clauses function effectively.

5.3. Strengthening the Responsibilities and Powers of Trustees

To address the problem of ambiguous responsibilities and rights between trustees and holders, it is recommended to refer to the way dollar bond contracts are agreed upon. It is recommended to clearly stipulate in the bond prospectus that, while ensuring the highest effectiveness of bondholders' meeting resolutions, the bond trustees are authorized to deal with emergencies in accordance with the authorization.

Improvements are needed to support bond trustees and prevent them from acting in their own self-interest. This includes strengthening their independent status, clarifying their responsibilities and rights, isolating conflicts of interest, and solidifying their rights basis. These measures will enable bond trustees to effectively monitor changes in a company's debt-paying ability during the bond tenure, supervise the fulfillment of clauses, and intervene in debt restructuring negotiations when necessary.

In short, the realization of cross-default clause protection function depends on the efficient operation of the bond management system. The efficient operation of the bond management system will also help the cross-default clause become a tool to restart negotiations and achieve dynamic balance of interests among bond financing parties, promoting issuers to actively introduce cross-default clauses in bond con-tracts.

6. Conclusion

The main research problem of this article is how to improve the application of cross-default clauses in China's real estate industry. The article discusses the shortcomings of the current cross-default system and how it fails to play its due role due to the industry's particularity and the arbitrariness of the cross-default rules. The main solution proposed is to constantly improve the use and understanding of cross-default clauses to better play their positive role. The article suggests that regulators guide issuers and holders to form an accurate understanding and expectation of regulating cross-default clauses, efforts by issuers and regulators to improve information disclosure mechanisms, and strengthening the responsibilities and powers of trustees.

The research significance of this article is to promote the long-term healthy development of China's bond market and real estate industry by protecting the legitimate interests of issuers and bondholders. The expected effect of this research is to help reduce the possibility of chain debt default risk and promote a balance between maintaining the normal order of the market and respecting the intention of both parties. The research results will be of interest to regulators, issuers, and bondholders.

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