International Journal of Law, Ethics and Social Sciences

Article

Legal Issues Concerning the Supplementary Filing of Claims in Bankruptcy Reorganization Proceedings

Ang Xiong[1,*]

[1] Southwest Petroleum University, Chengdu, China
* Correspondence: Ang Xiong, Southwest Petroleum University, Chengdu, China

Abstract: The current system for the supplementary filing of claims in bankruptcy reorganization proceedings seeks to protect the lawful rights and interests of creditors who fail to file on time. This accords with one of the purposes of bankruptcy law: protecting creditors' lawful rights and interests. In light of the legislation and judicial practice, however, the current system raises several legal problems. The conditions for supplementary filing are too permissive; payment to creditors who file late on the same terms as claims of the same class is difficult to implement; and the costs of supplementary filing are unclear. These problems may harm creditors who file on time, upset the balance among interested parties, and hinder the legislative purposes of reorganization. This article examines those problems from the perspective of the values underlying bankruptcy reorganization and offers proposals for improving the supplementary filing system.

Keywords: bankruptcy reorganization; supplementary filing of claims

1. Introduction

Bankruptcy reorganization is an important legal mechanism for protecting creditors, rescuing distressed enterprises, and restoring their vitality. It also provides legal support for high-quality development and an improved business environment. The filing of claims is an indispensable part of bankruptcy proceedings. Yet the current Enterprise Bankruptcy Law and related judicial interpretations contain unsatisfactory provisions on claim filing, especially supplementary filing in reorganization. For various reasons, the legislature has placed excessive emphasis on creditors who fail to file on time, while drafting the relevant rules in broad terms. Different interpretations and practices have resulted. In practice, the protection of creditors, such as reserving funds for repayment, must be weighed against the rehabilitation of the enterprise, such as through a sale-based reorganization. It is difficult to achieve both objectives effectively under the current rules. As a result, reorganization has not fully performed its function, to the detriment of high-quality development and the business environment. The supplementary filing system should therefore be improved to protect late-filing creditors reasonably while advancing the purposes of reorganization.

Received: 17 September 2026
Revised: 26 October 2026
Accepted: 05 November 2026
Published: 12 November 2026

Copyright: © 2026 by the authors. Submitted for possible open access publication under the terms and conditions of the Creative Commons Attribution (CC BY) license (https://creativecommons.org/licenses/by/4.0/).

2. Overview of Supplementary Claim Ciling in Reorganization

2.1. Meaning of Supplementary Claim Filing

Filing a claim is the act by which a creditor who believes that it holds a valid substantive claim, or its agent, declares that claim to the court or an institution designated by the court within a specified period after bankruptcy proceedings begin, thereby expressing an intention to exercise rights through those proceedings. It is the necessary procedure through which an ordinary claim under civil law becomes a bankruptcy claim entitled to protection under bankruptcy law. Filing identifies the creditors entitled to participate, establishes the order of payment, and helps ensure fair and orderly payment to creditors collectively. To encourage prompt filings and orderly proceedings, Chinese bankruptcy law specifies a filing period and the consequences of missing it. Article 45 of

the Enterprise Bankruptcy Law provides for the filing period. Article 56 provides that a creditor who fails to file in accordance with the Law may not exercise rights under its procedures. Such a creditor consequently loses procedural rights, including participation, voting, and objection rights at creditors' meetings. Bankruptcy proceedings, however, govern the realization of claims and do not extinguish substantive rights; this is widely accepted in scholarship. A remedy for creditors who miss the filing period is therefore needed, giving rise to supplementary claim filing [1].

Supplementary filing provides a remedy throughout bankruptcy proceedings, including liquidation, compromise, and reorganization. In reorganization, it refers to a creditor who believes that it has a valid substantive claim, or its agent, declaring the claim to the court or its designated institution after the prescribed filing period in the hope of receiving payment through the reorganization. The system principally offers relief to creditors who miss the deadline for legitimate reasons, such as force majeure or circumstances attributable to the administrator or the court. It reflects respect for the principle of protecting the parties' rights as fully as possible and is consistent with the purposes of bankruptcy law.

2.2. Reasons for Supplementary Filing

In practice, the reasons why creditors fail to file claims on time in reorganization may be divided, from the creditor's perspective, into subjective and objective reasons.

Subjective reasons arise from the creditor's own conduct and include intent and negligence. For example, a creditor with a small claim may believe that the prospects of recovery are poor and that the costs of filing and participating in reorganization outweigh any benefit, and thus choose not to file. Another creditor may deliberately withhold part of its claim in the hope of obtaining a higher payment rate. Negligence occurs when a creditor fails to pay sufficient attention to matters concerning its claim against the debtor and misses the deadline. For example, after receiving a filing notice, a creditor might confuse the filing deadline with the date of the creditors' meeting and file only when that meeting begins.

Objective reasons do not arise from the creditor's own conduct. They may be attributable to the debtor, the administrator, or the court, or to force majeure. Examples include disordered financial management by the debtor or the intentional concealment or destruction of corporate records; an administrator's failure to notify a creditor who should have been notified; and inadequate notice or publication by the court. Force majeure refers to objective circumstances that are unforeseeable, unavoidable, and insurmountable, such as a creditor's loss of civil capacity during the filing period.

These are only common examples. The reasons why creditors miss the filing deadline are varied and cannot be listed exhaustively.

2.3. Justification for Supplementary Filing

First,As discussed above, the loss of the right to participate in bankruptcy proceedings for failure to file on time is intended chiefly to encourage timely filing and ensure the orderly progress of the proceedings. A sanction may be justified when a creditor misses the deadline for subjective reasons. It is unreasonable, however, to penalize a creditor whose delay was caused by circumstances beyond its control. It is impossible to require a creditor who lacks notice or faces force majeure to file on time; depriving that creditor of rights in those circumstances also conflicts with legal principle. Supplementary filing therefore has a legitimate role.

Second, In its nature, filing a claim is an exercise of a procedural right to seek judicial protection. By filing and participating in bankruptcy proceedings, a creditor seeks protection for a claim that may otherwise go unpaid. The filing period is accordingly procedural. Its expiry results in the loss of procedural rights, but does not extinguish the underlying substantive claim. The continuing existence of that claim provides both the practical and the legal justification for supplementary filing.

Finally, Supplementary filing also accords with the purposes of reorganization. First, bankruptcy proceedings displace ordinary individual enforcement against the debtor's

property, so that creditors can be paid fairly through a collective process. Once the court accepts a bankruptcy petition, creditors must seek relief through that process; supplementary filing allows creditors who missed the original deadline to seek such treatment. Second, those creditors remain bound by the reorganization plan. Article 92(1) of the Enterprise Bankruptcy Law provides that a reorganization plan approved by court ruling binds the debtor and all creditors. Late-filing creditors are therefore bound as well. Reorganization often requires concessions from creditors, including partial debt forgiveness or reduced payment. If creditors whose lawful interests are diminished by the plan cannot file supplementary claims, the balance among creditors will be upset [2].

In short, supplementary filing is justified and consistent with the legislative purposes of bankruptcy law.

3. Current Legislation and Problems in Supplementary Claim Filing during Reorganization

3.1. Current Legislation

The provisions of the Enterprise Bankruptcy Law concerning supplementary filing appear principally in Articles 45, 56, 92, and 100. A systematic reading suggests that the rule specifically governing claims not filed in reorganization is Article 92(2): "A creditor who has not filed a claim in accordance with this Law may not exercise its rights during implementation of the reorganization plan; after implementation of the reorganization plan is completed, it may exercise its rights under the payment terms prescribed by the plan for claims of the same class." This provision has both procedural and substantive aspects. Procedurally, failure to file on time entails the loss of certain rights. Substantively, the creditor may seek payment after the plan has been implemented on the terms applicable to claims of the same class. The Law thus adopts an unrestricted approach to supplementary filing: a creditor may file late regardless of the reason for the delay. Although this approach seeks both to preserve the progress of reorganization and to protect late-filing creditors, its permissive conditions and same-class payment rule create substantial practical and legal problems and may frustrate the legislature's aims [3].

3.2. Existing Problems

3.2.1. Problems Caused by Overly Permissive Conditions for Supplementary Filing

The conditions for supplementary filing are overly permissive in two respects: every creditor may file late regardless of the reason, and there is no clear deadline for doing so. These features undermine fair payment to all creditors and the realization of reorganization's objectives.

Where supplementary filing is permitted without regard to cause, the substantive result is the same for every late-filing creditor: payment at the rate applicable to comparable claims. Several adverse consequences follow. First, requiring a late-filing creditor to bear the costs of supplementary filing under Article 56, denying it procedural rights, and preventing it from exercising rights while the reorganization plan is being implemented under Article 92 do not impose a meaningful sanction on creditors who missed the deadline through their own fault. Second, if late filers ultimately receive the same proportional payment, creditors have less incentive to file on time, impairing the filing system and the progress of reorganization. Third, creditors whose delay resulted from objective circumstances nevertheless lose procedural rights and must pay the supplementary filing costs themselves. This conflicts with the principle of fairness in bankruptcy proceedings.

As to timing, the provision that late-filing creditors cannot exercise rights while the reorganization plan is being implemented appears to allow supplementary filings at other times without an express deadline. This can cause several difficulties. Repeated supplementary filings before approval of the plan may require the administrator and creditors' meeting to review and confirm newly asserted claims continually, amend the plan repeatedly, and recalculate payment rates. This impedes the proceedings and conflicts with efficiency. Claims filed after implementation of the plan may also be

impossible to review and confirm, as explained in Section 2.2.2. An unlimited period further undermines rehabilitation. Successful reorganizations often depend on strategic investors. New claims leave the debtor's liabilities uncertain, increase investors' risks, and may discourage investment. If an investor withdraws, reorganization may fail and the case may proceed to liquidation, ultimately harming all creditors. Some creditors may also exploit the rules to obtain greater payment; even a successful reorganization may face a second bankruptcy as newly asserted debts fall due.

3.2.2. Problems with Payment on the Terms for Claims of the Same Class

Article 92(2) of the Enterprise Bankruptcy Law allows a late-filing creditor to receive payment on the terms applicable to claims of the same class. This reflects the principle that loss of a procedural right does not extinguish a substantive right. In theory it protects the creditor, and it may work when the supplementary claim is filed before approval of the plan. In practice, however, payment on the same-class terms is difficult for a claim filed after the plan has been implemented. Under Articles 45, 57, and 58, an ordinary claim must be filed with and examined by the administrator, reviewed at the creditors' meeting, and confirmed by the court before it becomes a bankruptcy claim eligible for payment. A supplementary claim must also pass through this process. Before approval of the plan, the administrator and creditors' meeting may still examine the claim. Approval of the plan, however, ends the reorganization procedure. Once implementation has been completed, conversion of a newly filed claim into a confirmed bankruptcy claim is nearly impossible. The administrator's work has ended, so it may neither accept a filing nor be obliged to do so. Even if it accepts the filing, the claim is difficult to review: the creditors' meeting has dispersed and is difficult to reconvene. With the debtor's assets unchanged, every additional claim reduces the potential recovery of creditors who filed on time, leaving them little incentive to examine it. The late-filing creditor thus lacks an effective remedy. In practice, some reorganization plans reserve funds to pay possible supplementary claims. Such a reserve is an amount allocated under the plan by creditors, investors, and other interested parties for that purpose. For example, the reorganization of Chongqing Gongyi Real Estate Group Co., Ltd. reserved RMB 120 million. A reserve can make the same-class payment rule workable, protect late-filing creditors, and reduce investor uncertainty. Scholars nevertheless question its legitimacy because it lacks an express statutory basis and may conflict with the adverse consequences for nonfiling contemplated by Article 56. Others argue that it leaves late filers unsanctioned and encourages deliberate delay. These objections have force: the reserve effectively shifts the risk of nonpayment of supplementary claims onto creditors who filed on time, contrary to fair collective payment [4].

3.2.3. Uncertainty Concerning Liability for and Calculation of Supplementary Filing Costs

Supplementary filing costs are the expenses actually incurred in examining, reviewing, and confirming a claim filed after the deadline. Article 56 of the Enterprise Bankruptcy Law provides: "The expenses of examining and confirming a supplementary claim shall be borne by the creditor who files the supplementary claim." This rule aims to encourage timely filing and improve procedural efficiency. Applying it to all creditors regardless of the reasons for delay, however, cannot effectively serve that aim and has drawn scholarly criticism. A creditor can file proactively only if it knows or should know that the debtor has entered bankruptcy proceedings. The rule can encourage a creditor who knowingly fails to act; applying it to one who lacked notice or was unable to file for objective reasons conflicts with fairness and with its intended purpose. Moreover, the Law does not specify how these expenses should be calculated, leading to inconsistent practice. Some administrators treat them directly as bankruptcy expenses rather than charging the late filer, contrary to Article 56. Others require payment of all anticipated expenses before the amount is known. Without a clear standard, creditors and the debtor may be harmed and implementation remains difficult.

4. Improving the Supplementary Filing System in Reorganization

The problems under Article 92 show that permissive supplementary filing may protect late filers, but excessive permissiveness upsets the balance among creditors and seriously impedes reorganization. Payment on the same-class terms may also be impracticable. The existing system therefore needs improvement.

4.1. Starting Point for Reform

Values Underlying Bankruptcy Reorganization: The values of bankruptcy reorganization are the goals the system seeks to achieve. One purpose of the current bankruptcy law is to settle claims and debts fairly and protect the lawful interests of all creditors. Liquidation gives effect to this purpose by converting the debtor's assets into proceeds for fair distribution. Reorganization must also pursue fairness, but it has a distinct mission: to revive an enterprise approaching insolvency that remains capable of rescue and has value. Efficiency therefore deserves particular attention alongside fairness, because reorganization also seeks to advance society's broader interests. As production and specialization develop, enterprises become more closely connected. The collapse of one enterprise may cause dependent enterprises to fail, leading to unemployment and serious social disruption and harming the market economy. Liquidation limits further losses when rescue is impossible. Reorganization instead seeks broader economic benefits by restoring the enterprise's operations. Timely action is central to that objective. In this sense, the interests of individual creditors are secondary to the efficiency of reorganization, although fairness remains relevant. The Minutes of the National Courts' Conference on Civil and Commercial Trial Work, issued in November 2019, likewise call for the timely use of reorganization's rescue function and for balancing the interests of creditors, debtors, investors, employees, and other parties to maximize overall social value [2].

Reform of supplementary filing should accordingly reflect the values of reorganization: it should pursue fairness while giving particular weight to efficiency and the successful rehabilitation of the enterprise. Achieving broader social value can itself be understood as a form of fairness.

4.2. Appropriate Limits on Supplementary Filing

4.2.1. Presuming Fault to Distinguish Creditors' Reasons for Late Filing

Some scholars propose using gross negligence or bad faith as a criterion: a creditor that intentionally, maliciously, or through gross negligence fails to file on time would be barred from supplementary filing. I agree that a creditor's state of mind may justify adverse consequences and serve substantive justice, but directly depriving a creditor at fault of the right to file is inappropriate. It conflicts with the principle that a procedural lapse does not extinguish a substantive claim. It would also prevent payment of that claim through reorganization and cause a substantial loss. Even where the creditor's conduct is blameworthy, complete deprivation of payment is neither legally nor practically justified. A creditor whose delay was intentional or grossly negligent should instead bear the costs of supplementary filing and the additional expenses it causes. In the case of ordinary negligence, the creditor could bear a specified proportion of those costs, with the remainder paid as bankruptcy expenses [5].

How should the creditor's state of mind be determined? In my view, the principle of presumed fault, drawn from civil tort law, could be applied so that the late-filing creditor bears the burden of proof. French bankruptcy law also uses a presumption of fault to assess a creditor's subjective fault, suggesting that the approach is feasible. Requiring an explanation and proof would encourage timely filings, reduce supplementary claims, and improve the efficiency of reorganization.

Where objective circumstances cause the delay, liability for supplementary filing costs should depend on the cause. Costs resulting from force majeure or the debtor's conduct could be paid as bankruptcy expenses; costs resulting from the court's or administrator's conduct should be borne by that party. To keep the proceedings moving,

the late-filing creditor or the bankruptcy estate could advance the costs, with recovery from the responsible party after reorganization concludes.

Presumed fault would thus distinguish the reasons for late filing, allow claims to receive fair treatment through bankruptcy proceedings, encourage timely filing, and support both fairness and efficiency.

4.2.2. Limiting the Period for Supplementary Filing

Scholarly views on the deadline for supplementary filing in reorganization fall into three main groups: before the draft reorganization plan is submitted to the creditors' meeting for a vote; before that draft is submitted to the court for approval; or before implementation of the plan is completed. On a cost-benefit analysis, some scholars favor the first deadline. I agree, for the following reasons in light of the problems under Article 92 [6].

First, as discussed above, the deadline should promote efficiency, enable timely rescue, and restore the debtor's operations promptly. Setting it before submission of the draft plan to the creditors' meeting offers less protection to late filers than the other options, but entails lower costs, avoids repeated procedural steps, and improves efficiency. A creditor whose claim is affected can still participate and protect its rights, avoiding loss of procedural rights while preserving fairness. Second, compared with allowing claims after plan implementation on the same-class terms, an earlier deadline prevents a creditor from exploiting the rules to obtain a higher recovery at the expense of those who filed on time. It also avoids the difficulty of examining and reviewing claims after the reorganization procedure has ended. Finally, completion of supplementary filings before the creditors' meeting makes the debtor's liabilities ascertainable. That helps the debtor and administrator attract strategic investors, reduces investment risk, and promotes timely funding and successful reorganization. It may also reduce reliance on reserved repayment funds and sale-based reorganizations and the disputes associated with them.

For these reasons, supplementary claims should be filed before the draft reorganization plan is submitted to the creditors' meeting. This would address many of the problems associated with Article 92 of the current Enterprise Bankruptcy Law.

4.2.3. Clarifying Who Bears Supplementary Filing Costs and How They Are Calculated

Once creditors' reasons for delay are distinguished and a deadline for supplementary filing is set, liability for the resulting costs follows from the analysis above. The remaining issue is the basis on which the costs should be calculated.

Supplementary filing costs are procedural expenses and should in principle be paid as bankruptcy expenses. A creditor at fault should bear them as an adverse consequence of late filing. These costs arise from examining and confirming the claim and may include the administrator's travel, accommodation, and meal expenses. Because their amount is uncertain, they should not be collected in advance; actual expenditure should provide the basis for payment. Specifically, costs charged to a creditor at fault should be accounted for separately from bankruptcy expenses and the administrator's remuneration. The administrator should retain supporting receipts and explain the expenditure so that it can later be settled with the late-filing creditor.

5. Conclusion

Late-filing creditors should be permitted to submit supplementary claims regardless of the reasons for delay, while those responsible for the delay should bear appropriate adverse consequences. The deadline should be set before the draft reorganization plan is submitted to the creditors' meeting for a vote. These measures would protect creditors' interests, balance the interests of the parties, and advance the legislative purposes of reorganization.

References

1. M. Liu, "A Study of the System for Filing Bankruptcy Claims," *Hubei Social Sciences*, no. 7, pp. 148–150, 2006.
2. X. Wang, *Bankruptcy Law*, 4th ed. Beijing, China: China Renmin University Press, Oct. 2019, pp. 3, 14.

3. L. Chai, "On the Supplementary Filing System for Bankruptcy Claims," *Journal of Puyang Vocational and Technical College*, vol. 27, no. 3, pp. 14–16, 2014.
4. C. Han and X. Zhang, "A Study of Payment Rules for Unfiled Claims in Reorganization Proceedings," *Journal of Law Application*, no. 9, pp. 25–35, 2021.
5. W. Xi, "On the Treatment of Claims Not Filed on Time in Bankruptcy Reorganization," *Studies in Law and Business*, vol. 29, no. 6, pp. 85–92, 2012.
6. S. Zhang and Y. Zhai, "The Selection and Design of Approaches to Claims Not Filed on Time in Bankruptcy Reorganization," *Journal of Henan University of Economics and Law*, no. 4, p. 35, 2020.

Disclaimer/Publisher's Note: The statements, opinions and data contained in all publications are solely those of the individual author(s) and contributor(s) and not of Publisher and/or the editor(s). Publisher and/or the editor(s) disclaim responsibility for any injury to people or property resulting from any ideas, methods, instructions or products referred to in the content.