

中华人民共和国商业银行法（2015修正）

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中华人民共和国商业银行法

（1995年5月10日第八届全国人民代表大会常务委员会第十三次会议通过根据2003年12月27日第十届全国人民代表大会常务委员会第六次会议《关于修改〈中华人民共和国商业银行法〉的决定》第一次修正根据2015年8月29日第十二届全国人民代表大会常务委员会第十六次会议《关于修改〈中华人民共和国商业银行法〉的决定》第二次修正）

Commercial Banking Law of the People's Republic of China

第一章 总则

CHAPTER I — GENERAL PRINCIPLES

第一条 为了保护商业银行、存款人和其他客户的合法权益，规范商业银行的行为，提高信贷资产质量，加强监督管理，保障商业银

Article 1. This Law is formulated for the purposes of protecting the legal rights and interests of commercial banks, depositors and other clients, regulating the activities of commercial banks, improving the quality of credit assets, strengthening supervision and administration, ensuring secure operations of commercial banks, maintenance of financial order and promotion of socialist market economy development.

行的稳健运行，维护金融秩序，促进社会主义市场经济的发展，制定本法。

第二条 本法所称的商业银行是指依照本法和《中华人民共和国公司法》设立的吸收公众存款、发放贷款、办理结算等业务的企业法人。

Article 2. "Commercial banks" referred to in this Law shall refer to corporate entities established to accept public deposits, grant loans and handle settlements and other business in accordance with provisions of this Law and the Company Law of the People's Republic of China.

第三条 商业银行可以经营下列部分或者全部业务：

- （一）吸收公众存款；
- （二）发放短期、中期和长期贷款；
- （三）办理国内外结算；
- （四）办理票据承兑与贴现；
- （五）发行金融债券；
- （六）代理发行、代理兑付、承销政府债券；
- （七）买卖政府债券、金融债券；

Article 3. Commercial banks may conduct all or part of the following business operations:

- (1) accepting public deposits;
- (2) granting short-term, medium-term and long-term loans;
- (3) conducting domestic and overseas settlements;
- (4) handling acceptance and discounts on negotiable instruments;
- (5) issuing financial bonds;
- (6) acting as agents to issue, honour and underwrite government bonds;
- (7) buying and selling government bonds and financial bonds;
- (8) engaging in inter-bank loans;
- (9) buying and selling foreign exchange for own purposes or as agents;
- (10) engaging in bank card business;

（八）从事同业拆借；	(11) providing letter of credit services and guarantees;
（九）买卖、代理买卖外汇；	(12) acting as agents for receipts and payments and insurance business operations;
（十）从事银行卡业务；	(13) providing safety deposit box services; and
（十一）提供信用证服务及担保；	(14) other business operations approved by the banking supervision and administration authority of the State Council.
（十二）代理收付款项及代理保险业务；	The scope of business operations shall be stipulated in the articles of association of the commercial bank and submitted to the banking supervision and administration authority of the State Council for approval.
（十三）提供保管箱服务；	Subject to the approval of the People's Bank of China, commercial banks may engage in settlement and sale of foreign exchange.
（十四）经国务院银行业监督管理机构批准的其他业务。	
经营范围由商业银行章程规定，报国务院银行业监督管理机构批准。	
商业银行经中国人民银行批准，可以经营结汇、售汇业务。	

第四条 商业银行以安全性、流动性、效益性为经营原则，实行自主经营，自担风险，自负盈亏，自我约束。

Article 4. Commercial banks shall operate on the basis of the principles of security, liquidity and efficiency, exercise autonomous management, bear their own risks, assume full responsibility for profits and losses and exercise self-regulation.

Commercial banks shall conduct their operations in accordance with laws and be free from interference by any organisation or

商业银行依法开展业务，不受任何单位和个人的干涉。 商业银行以其全部法人财产独立承担民事责任。	individual. Commercial banks shall bear civil liabilities independently with their entire corporate assets.
第五条 商业银行与客户的业务往来，应当遵循平等、自愿、公平和诚实信用的原则。	Article 5. Commercial banks shall comply with the principles of equality, voluntary participation, fairness, honesty and trustworthiness in business transactions with their clients.
第六条 商业银行应当保障存款人的合法权益不受任何单位和个人的侵犯。	Article 6. Commercial banks shall protect the legal rights and interests of their depositors and ensure that such rights and interests are not infringed upon by any organisation or individual.
第七条 商业银行开展信贷业务，应当严格审查借款人的资信，实行担保，保障按期收回贷款。 商业银行依法向借款人收回到期贷款的本金和利息，受法律保护。	Article 7. Commercial banks shall examine the creditworthiness of borrowers closely in their credit business activities and implement guarantees to ensure the prompt recovery of loans. Commercial banks shall be protected by laws in their lawful recovery of principal and interest on matured loans from borrowers.
第八条 商业银行开展业务，应当遵守法律、行政法规的有关规定，不得损害国家利益、社会公共利益。	Article 8. Commercial banks shall comply with the relevant provisions of laws and administrative regulations and shall not harm national or social interests in their business activities.
第九条 商业银行开展业务，	Article 9. Commercial banks shall abide by the principles of fair competition and shall not engage in unfair rivalry in their business

应当遵守公平竞争的原则，不得从事不正当竞争。

activities.

第十条 商业银行依法接受国务院银行业监督管理机构的监督管理，但法律规定其有关业务接受其他监督管理部门或者机构监督管理的，依照其规定。

Article 10. Commercial banks shall be subject to supervision and administration of the banking supervision and administration authority of the State Council in accordance with laws, unless otherwise provided by laws that the relevant business operation shall be subject to supervision and administration of another supervision and administration department or authority.

第二章 商业银行的设立和组织机构

CHAPTER II — ESTABLISHMENT AND ORGANISATION STRUCTURE OF COMMERCIAL BANKS

第十一条 设立商业银行，应当经国务院银行业监督管理机构审查批准。

Article 11. Establishment of commercial banks shall be subject to examination and approval by the banking supervision and administration authority of the State Council.

未经国务院银行业监督管理机构批准，任何单位和个人不得从事吸收公众存款等商业银行业务，任何单位不得在名称中使用“银行”字样。

No organisation or individual shall engage in commercial bank business operations such as acceptance of public deposits or use the word "bank" in its name without approval of the banking supervision and administration authority of the State Council.

第十二条 设立商业银行，应当具备下列条件：

Article 12. Establishment of commercial banks shall satisfy the following requirements:

（一）有符合本法和《中华人民共和国公司法》规定的章程；

- (1) the articles of association shall comply with the provisions of this Law and the Company Law of the People's Republic of China.;
- (2) the registered capital shall comply with the minimum amount stipulated in this Law;

（二）有符合本法规定的注册
资本最低限额；

（三）有具备任职专业知识和
业务工作经验的董事、高级管理人
员；

（四）有健全的组织机构和管
理制度；

（五）有符合要求的营业场所
、安全防范措施和与业务有关的其
他设施。

设立商业银行，还应当符合其
他审慎性条件。

(3) the directors and senior management personnel shall possess professional knowledge and relevant work experience;

(4) the organisation structure and management system shall be properly established; and

(5) the business premises, safety and preventive measures and other relevant operational facilities shall comply with requirements.

Establishment of commercial banks shall also satisfy all other cautionary requirements.

第十三条 设立全国性商业银
行的注册资本最低限额为十亿元人
民币。设立城市商业银行的注册资
本最低限额为一亿元人民币，设立
农村商业银行的注册资本最低限额
为五千万元人民币。注册资本应当
是实缴资本。

国务院银行业监督管理机构根
据审慎监管的要求可以调整注册资
本最低限额，但不得少于前款规定

Article 13. The minimum amount of registered capital for establishment of national commercial banks shall be RMB1 billion. The minimum amount of registered capital for establishment of urban commercial banks shall be RMB100 million and the minimum amount of registered capital for establishment of rural commercial banks shall be RMB50 million. The registered capital shall be paid up in full.

The banking supervision and administration authority of the State Council may adjust the minimum amount of registered capital in accordance with the requirements of cautionary supervision, provided that the minimum amounts stipulated in the preceding paragraph shall be satisfied.

的限额。

第十四条 设立商业银行，申请人应当向国务院银行业监督管理机构提交下列文件、资料：

（一）申请书，申请书应当载明拟设立的商业银行的名称、所在地、注册资本、业务范围等；

（二）可行性研究报告；

（三）国务院银行业监督管理机构规定提交的其他文件、资料。

Article 14. Applications for establishment of commercial banks shall be submitted with the following documents and information to the banking supervision and administration authority of the State Council:

(1) application stating the name, address, registered capital and scope of business of the proposed commercial bank;

(2) feasibility study report; and

(3) other documents and information required by the banking supervision and administration authority of the State Council.

第十五条 设立商业银行的申请经审查符合本法第十四条规定的，申请人应当填写正式申请表，并提交下列文件、资料：

（一）章程草案；

（二）拟任职的董事、高级管理人员的资格证明；

（三）法定验资机构出具的验资证明；

（四）股东名册及其出资额、

Article 15. Where the application for establishment of a commercial bank has complied with the provisions of Art 14, the applicant shall complete and submit an official application form with the following documents and information:

(1) draft articles of association;

(2) certificates showing credentials of the proposed directors and senior management personnel;

(3) capital verification certificate issued by an official capital verification authority;

(4) list of shareholders, capital subscription and shareholdings;

(5) certificates of creditworthiness and relevant materials for shareholders who hold more than 5% of the registered capital;

(6) management principles and plans;

股份；

(7) information on business premises, safety and preventive measures and other relevant operational facilities; and

(五) 持有注册资本百分之五以上的股东的资信证明和有关资料

(8) other documents and information required by the banking supervision and administration authority of the State Council.

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(六) 经营方针和计划；

(七) 营业场所、安全防范措施和与业务有关的其他设施的资料

；

(八) 国务院银行业监督管理机构规定的其他文件、资料。

第十六条 经批准设立的商业

银行，由国务院银行业监督管理机构颁发经营许可证，并凭该许可证向工商行政管理部门办理登记，领取营业执照。

Article 16. Commercial banks approved for establishment shall be issued with a business permit by the banking supervision and administration authority of the State Council and shall apply with the business permit to the industrial and commercial administration for registration and a business licence.

第十七条 商业银行的组织形式、组织机构适用《中华人民共和国公司法》的规定。

Article 17. The organisation structure and institutional framework of commercial banks shall comply with provisions of the Company Law of the People's Republic of China.

本法施行前设立的商业银行，其组织形式、组织机构不完全符合《中华人民共和国公司法》规定的

Commercial banks established prior to the implementation of this Law and which do not comply completely with the provisions on organisation structure and institutional framework in the Company Law of the People's Republic of China. may continue to comply with original provisions and the provisions of the preceding paragraph shall apply on a date determined by the State Council.

，可以继续沿用原有的规定，适用前款规定的日期由国务院规定。

第十八条 国有独资商业银行设立监事会。监事会的产生办法由国务院规定。

监事会对国有独资商业银行的信贷资产质量、资产负债比例、国有资产保值增值等情况以及高级管理人员违反法律、行政法规或者章程的行为和损害银行利益的行为进行监督。

Article 18. Wholly State-owned commercial banks shall establish a supervisory committee. The method of establishment of such committee shall be stipulated by the State Council.

The supervisory committee shall supervise the quality of credit capital, asset liability ratios and preservation and appreciation of the value of State-owned assets of the wholly State-owned commercial bank. The committee shall also monitor the activities of senior management personnel to detect any violation of laws and administrative regulations or articles of association or any behaviour detrimental to the bank's interests.

第十九条 商业银行根据业务需要可以在中华人民共和国境内外设立分支机构。设立分支机构必须经国务院银行业监督管理机构审查批准。在中华人民共和国境内的分支机构，不按行政区划设立。

商业银行在中华人民共和国境内设立分支机构，应当按照规定拨付与其经营规模相适应的营运资金额。拨付各分支机构营运资金额的总和，不得超过总行资本金总额的百分之六十。

Article 19. Commercial banks may establish branches within and outside the People's Republic of China in accordance with their operational requirements. Establishment of branches shall be examined and approved by the banking supervision and administration authority of the State Council. Establishment of branches within the People's Republic of China may not be in accordance with administrative divisions.

Commercial banks establishing branches within the People's Republic of China shall allocate an appropriate sum of working capital based on the scale of operation of the branch. The total working capital allocated for branches of a commercial bank shall not exceed 60% of the total amount of capital of the head office.

第二十条 设立商业银行分支机构，申请人应当向国务院银行业监督管理机构提交下列文件、资料：

（一）申请书，申请书应当载明拟设立的分支机构的名称、营运资金额、业务范围、总行及分支机构所在地等；

（二）申请人最近二年的财务会计报告；

（三）拟任职的高级管理人员的资格证明；

（四）经营方针和计划；

（五）营业场所、安全防范措施和与业务有关的其他设施的资料；

（六）国务院银行业监督管理机构规定的其他文件、资料。

Article 20. Applications for establishment of branches for commercial banks shall be submitted with the following documents and information to the banking supervision and administration authority of the State Council:

(1) application stating the name, working capital and scope of business of the proposed branch and the addresses of the head office and the branch, etc;

(2) finance and accounting reports of the applicant for the last 2 years;

(3) certificates of credentials of proposed senior management personnel;

(4) management principles and plans;

(5) information on business premises, safety and preventive measures and other relevant operational facilities; and

(6) other documents and information required by the banking supervision and administration authority of the State Council.

第二十一条 经批准设立的商业银行分支机构，由国务院银行业监督管理机构颁发经营许可证，并

Article 21. Branches of commercial banks approved for establishment shall be issued with a business permit by the banking supervision and administration authority of the State Council and shall apply with the business permit to the industrial and commercial administration for registration and a business

凭该许可证向工商行政管理部门办理登记，领取营业执照。

licence.

第二十二条 商业银行对其分支机构实行全行统一核算，统一调度资金，分级管理的财务制度。

商业银行分支机构不具有法人资格，在总行授权范围内依法开展业务，其民事责任由总行承担。

Article 22. Commercial banks shall implement centralised accounting and fund allocation and decentralised financial management for their branches.

Branches of commercial banks do not have legal person status and shall develop their business operations in accordance with laws within the scope authorised by the head office. The head office shall bear civil liability incurred by the branches.

第二十三条 经批准设立的商业银行及其分支机构，由国务院银行业监督管理机构予以公告。

商业银行及其分支机构自取得营业执照之日起无正当理由超过六个月未开业的，或者开业后自行停业连续六个月以上的，由国务院银行业监督管理机构吊销其经营许可证，并予以公告。

Article 23. The banking supervision and administration authority of the State Council shall make a public announcement of the list of commercial banks and their branches approved for establishment.

Where a commercial bank or its branch has not commenced business within 6 months from the issue of business licence without valid justification or where a commercial bank or its branch has voluntarily suspended its business for more than 6 consecutive months following commencement of business, the banking supervision and administration authority of the State Council shall revoke its business permit and make a public announcement of such revocation.

第二十四条 商业银行有下列变更事项之一的，应当经国务院银行业监督管理机构批准：

（一）变更名称；

Article 24. Commercial banks shall obtain the approval of the banking supervision and administration authority of the State Council for any of the following alteration matters:

- (1) change of name;
- (2) change of registered capital;

（二）变更注册资本；	(3) change of address of the head office or branches;
（三）变更总行或者分支行所在地；	(4) adjustment of the scope of business operations;
（四）调整业务范围；	(5) change of shareholders who hold more than 5% of the total capital or the total shares;
（五）变更持有资本总额或者股份总额百分之五以上的股东；	(6) amendments to the articles of association; and
（六）修改章程；	(7) other alteration matters stipulated by the banking supervision and administration authority of the State Council.
（七）国务院银行业监督管理机构规定的其他变更事项。	The certificates of credentials for replacement directors or senior management personnel shall be subject to examination by the banking supervision and administration authority of the State Council.
更换董事、高级管理人员时，应当报经国务院银行业监督管理机构审查其任职资格。	

第二十五条 商业银行的分立、合并，适用《中华人民共和国公司法》的规定。	Article 25. Sub $\square$ division and merger of commercial banks shall comply with the provisions of the Company Law of the People's Republic of China..
商业银行的分立、合并，应当经国务院银行业监督管理机构审查批准。	Sub $\square$ division and merger of commercial banks shall be examined and approved by the banking supervision and administration authority of the State Council.

第二十六条 商业银行应当依照法律、行政法规的规定使用经营	Article 26. Commercial banks shall use their business permits in accordance with the provisions of laws and administrative regulations. Forgery, alteration, assignment, leasing and lending of
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许可证。禁止伪造、变造、转让、出租、出借经营许可证。

business permits shall be prohibited.

第二十七条 有下列情形之一的，不得担任商业银行的董事、高级管理人员：

Article 27. The following persons shall not hold the position of a director or senior management personnel in a commercial bank:

（一）因犯有贪污、贿赂、侵占财产、挪用财产罪或者破坏社会经济秩序罪，被判处刑罚，或者因犯罪被剥夺政治权利的；

(1) a person who has been convicted of and punished for the crimes of corruption, bribery, appropriation of property, embezzlement of assets or undermining of social economic order, or stripped of political rights following criminal offence;

（二）担任因经营不善破产清算的公司、企业的董事或者厂长、经理，并对该公司、企业的破产负有个人责任的；

(2) a person who held the position of a director, factory director or manager of a company or enterprise which has been declared bankrupt and liquidated due to poor management and who bears personal liability for the bankruptcy of the company or enterprise;

（三）担任因违法被吊销营业执照的公司、企业的法定代表人，并负有个人责任的；

(3) a person who has hold the position of the legal representative of a company or enterprise with business licence revoked due to a breach of law and who bears personal liability for such violation; and/or

（四）个人所负数额较大的债务到期未清偿的。

(4) a person who owes a large amount of personal debts.

第二十八条 任何单位和个人购买商业银行股份总额百分之五以上的，应当事先经国务院银行业监督管理机构批准。

Article 28. Any organisation or individual intending to purchase more than 5% of the total amount of shares of a commercial bank shall obtain prior approval of the banking supervision and administration authority of the State Council.

第三章 对存款人的保护

CHAPTER III — PROTECTION FOR DEPOSITORS

第二十九条 商业银行办理个人储蓄存款业务，应当遵循存款自愿、取款自由、存款有息、为存款人保密的原则。

对个人储蓄存款，商业银行有权拒绝任何单位或者个人查询、冻结、扣划，但法律另有规定的除外。

Article 29. Commercial banks shall abide by the principles of voluntary deposits, freedom of withdrawal, interest on deposits and confidentiality of depositors for their personal savings deposit business.

Commercial banks shall have the right to reject the enquiry of any organisation or individual, freeze or withhold personal savings deposits, unless otherwise provided by the laws.

第三十条 对单位存款，商业银行有权拒绝任何单位或者个人查询，但法律、行政法规另有规定的除外；有权拒绝任何单位或者个人冻结、扣划，但法律另有规定的除外。

Article 30. Commercial banks shall have the right to reject the enquiry of any organisation or individual in respect of the deposits of any other organisation, unless otherwise provided by the laws or administrative regulations. Commercial banks shall have the right to refuse freezing or withdrawal of deposits for any organisation or individual, unless otherwise provided by the laws.

第三十一条 商业银行应当按照中国人民银行规定的存款利率的上下限，确定存款利率，并予以公告。

Article 31. Commercial banks shall determine and publish their deposit interest rates in accordance with the upper and lower limits stipulated for deposit interest rates by the People's Bank of China.

第三十二条 商业银行应当按照中国人民银行的规定，向中国人民银行交存存款准备金，留足备付

Article 32. Commercial banks shall lodge deposit reserves with the People's Bank of China and maintain adequate provision for payments in accordance with provisions of the People's Bank of China.

金。

第三十三条 商业银行应当保证存款本金和利息的支付，不得拖延、拒绝支付存款本金和利息。

Article 33. Commercial banks shall ensure payment of principal and interest on deposits and shall not delay or refuse payment of principal and interest on deposits.

第四章

贷款和其他业务的基本规则

CHAPTER IV — FUNDAMENTAL RULES FOR LOANS AND OTHER BUSINESS OPERATIONS

第三十四条 商业银行根据国民经济和社会发展的需要，在国家产业政策指导下开展贷款业务。

Article 34. Commercial banks shall develop their loan operations in accordance with the guidance of national industrial policies and the requirements of national economy and social development.

第三十五条 商业银行贷款，应当对借款人的借款用途、偿还能力、还款方式等情况进行严格审查。

Article 35. Commercial banks shall conduct strict examination of the borrower such as the purposes of the loan, repayment ability and method etc for provision of loans.

Commercial banks shall implement examination and granting of loans separately and a multi-tier examination and approval system.

商业银行贷款，应当实行审贷分离、分级审批的制度。

第三十六条 商业银行贷款，借款人应当提供担保。商业银行应当对保证人的偿还能力，抵押物、质物的权属和价值以及实现抵押权、质权的可行性进行严格审查。

Article 36. Commercial banks shall require provision of guarantee by borrowers. Commercial banks shall conduct strict examination of the guarantor's repayment ability, the rights attaching to and value of mortgaged or pledged property, and the feasibility of realisation of rights under the mortgage or pledge.

Borrowers considered to be creditworthy and able to make repayment following examination and valuation by the commercial bank may not be required to provide a guarantee.

经商业银行审查、评估，确认

借款人资信良好，确能偿还贷款的，可以不提供担保。

第三十七条 商业银行贷款，应当与借款人订立书面合同。合同应当约定贷款种类、借款用途、金额、利率、还款期限、还款方式、违约责任和双方认为需要约定的其他事项。

第三十八条 商业银行应当按照中国人民银行规定的贷款利率的上下限，确定贷款利率。

第三十九条 商业银行贷款，应当遵守下列资产负债比例管理的规定：

（一）资本充足率不得低于百分之八；

（二）流动性资产余额与流动性负债余额的比例不得低于百分之二十五；

（三）对同一借款人的贷款余额与商业银行资本余额的比例不得

Article 37. Commercial banks shall enter into a written contract with the borrowers. The contract shall stipulate the type and purposes, amount and interest rate, term and method of repayment, liabilities for breach of contract and other relevant items agreed by the parties for the loan.

Article 38. Commercial banks shall determine their loan interest rates in accordance with the upper and lower limits stipulated by the People's Bank of China.

Article 39. Commercial banks shall comply with the following provisions on administration of asset liability ratios:

(1) the capital adequacy rate shall not be less than 8%;

(2) the ratio of current assets to current liabilities shall not be less than 25%;

(3) the ratio of loan balance of a single borrower to the capital balance of a commercial bank shall not exceed 10%; and

(4) other provisions of the banking supervision and administration authority of the State Council on administration of asset liability ratios.

Commercial banks established prior to the implementation of this Law which do not comply with the provisions of the preceding paragraph on asset liability ratio shall ensure their compliance with the provisions of the preceding paragraph within a stipulated period following implementation of this Law. Detailed measures

超过百分之十；

shall be stipulated by the State Council.

（四）国务院银行业监督管理机构对资产负债比例管理的其他规定。

本法施行前设立的商业银行，在本法施行后，其资产负债比例不符合前款规定的，应当在一定的期限内符合前款规定。具体办法由国务院规定。

第四十条 商业银行不得向关系人发放信用贷款；向关系人发放担保贷款的条件不得优于其他借款人同类贷款的条件。

前款所称关系人是指：

（一）商业银行的董事、监事、管理人员、信贷业务人员及其近亲属；

（二）前项所列人员投资或者担任高级管理职务的公司、企业和其他经济组织。

Article 40. Commercial banks shall not issue credit loans to related parties. Terms of secured loans granted to related parties shall not be more favourable than the terms of similar loans granted to other borrowers.

"Related parties" referred to in the preceding paragraph shall refer to:

(1) directors, supervisors, management personnel, credit operation personnel of the commercial bank and their close relatives; and

(2) companies, enterprises and other economic organisations invested by the aforesaid persons or in which they hold senior management positions.

第四十一条 任何单位和个人

Article 41. No organisation or individual shall compel the commercial banks to grant loans or provide guarantees.

不得强令商业银行发放贷款或者提供担保。商业银行有权拒绝任何单位和个人强令要求其发放贷款或者提供担保。

Commercial banks shall have the right to refuse the request of any organisation or individual for granting of loans or provision of guarantees.

第四十二条 借款人应当按期归还贷款的本金和利息。

Article 42. Borrowers shall repay the loan principal and interest within the specified time schedule.

借款人到期不归还担保贷款的，商业银行依法享有要求保证人归还贷款本金和利息或者就该担保物优先受偿的权利。商业银行因行使抵押权、质权而取得的不动产或者股权，应当自取得之日起二年内予以处分。

Where the borrower failed to repay secured loan within the specified time schedule, the commercial bank shall request the guarantor to repay the loan principal and interest or make recovery from the collateral with priority over other creditors in accordance with laws. Immovable property or share rights obtained by commercial banks in the exercise of mortgage or pledge rights shall be disposed within 2 years from the date of obtaining such immovable property or share rights.

Borrowers who failed to repay credit loan within the specified time schedule shall be liable in accordance with the contract provisions.

借款人到期不归还信用贷款的，应当按照合同约定承担责任。

第四十三条 商业银行在中华人民共和国境内不得从事信托投资和证券经营业务，不得向非自用不动产投资或者向非银行金融机构和企业投资，但国家另有规定的除外。

Article 43. Commercial banks shall not engage in trust and investment business and securities operations or invest in immovable property other than for own use or invest in non-banking financial institutions and enterprises within the People's Republic of China, unless otherwise provided by the State.

第四十四条 商业银行办理票

Article 44. Commercial banks shall redeem and enter receipts and payments into the account books within the stipulated time limit for

据承兑、汇兑、委托收款等结算业务，应当按照规定的期限兑现，收付入账，不得压单、压票或者违反规定退票。有关兑现、收付入账期限的规定应当公布。

settlement operations such as acceptance of bills, remittance and collection etc and shall not shelve bills and cheques or dishonour bills in breach of regulations. Public announcement of the provisions on time limits for redemption and entering receipts and payments into the account books shall be made.

第四十五条 商业银行发行金融债券或者到境外借款，应当依照法律、行政法规的规定报经批准。

Article 45. Commercial banks shall obtain approval for issue of financial bonds or taking overseas loans in accordance with provisions of laws and administrative regulations.

第四十六条 同业拆借，应当遵守中国人民银行的规定。禁止利用拆入资金发放固定资产贷款或者用于投资。

Article 46. Interbank loans shall comply with the provisions of the People's Bank of China. Interbank loans shall not be used for granting of fixed asset loans or making investments

拆出资金限于交足存款准备金、留足备付金和归还中国人民银行到期贷款之后的闲置资金。拆入资金用于弥补票据结算、联行汇差头寸的不足和解决临时性周转资金的需要。

Capital for lending shall be limited to idle capital after full payment of deposit reserves, preservation of adequate provision for payments and repayment of matured loans to the People's Bank of China. Borrowed capital shall be used to cover bill settlements and interbank exchange rate differential and to settle temporary circulating funds.

第四十七条 商业银行不得违反规定提高或者降低利率以及采用其他不正当手段，吸收存款，发放贷款。

Article 47. Commercial banks shall not accept deposits and grant loans by means of increasing or reducing interest rates or through other improper means.

第四十八条 企业事业单位可以自主选择一家商业银行的营业场所开立一个办理日常转账结算和现金收付的基本账户，不得开立两个以上基本账户。

任何单位和个人不得将单位的资金以个人名义开立账户存储。

Article 48. Enterprises and institutions may open a basic account for day-to-day settlement of account transfers and receipt and payment of cash with any commercial bank voluntarily but shall not open two or more basic accounts.

No organisation or individual shall open a personal savings account using the capital of an organisation.

第四十九条 商业银行的营业时间应当方便客户，并予以公告。商业银行应当在公告的营业时间内营业，不得擅自停止营业或者缩短营业时间。

Article 49. The business hours of commercial banks shall be convenient for customers and announced to the public. Commercial banks shall operate their business within the announced business hours and shall not cease business or reduce business hours without authorisation.

第五十条 商业银行办理业务，提供服务，按照规定收取手续费。收费项目和标准由国务院银行业监督管理机构、中国人民银行根据职责分工，分别会同国务院价格主管部门制定。

Article 50. Commercial banks shall charge service fees for provision of business services in accordance with relevant provisions. The rates and standards for service fees shall be formulated by the banking supervision and administration authority of the State Council and the People's Bank of China respectively in accordance with their duties and jointly with the pricing department of the State Council.

第五十一条 商业银行应当按照国家有关规定保存财务会计报表、业务合同以及其他资料。

Article 51. Commercial banks shall keep financial accounting statements, business contracts and other information in accordance with relevant State regulations.

第五十二条 商业银行的工作

Article 52. Employees of commercial banks shall comply with laws, administrative regulations and other provisions on various

人员应当遵守法律、行政法规和其他各项业务管理的规定，不得有下列行为：

（一）利用职务上的便利，索取、收受贿赂或者违反国家规定收受各种名义的回扣、手续费；

（二）利用职务上的便利，贪污、挪用、侵占本行或者客户的资金；

（三）违反规定徇私向亲属、朋友发放贷款或者提供担保；

（四）在其他经济组织兼职；

（五）违反法律、行政法规和业务管理规定的其他行为。

business operations and shall not engage in any of the following activities:

(1) take advantage of their job position in extorting money or accepting bribes or rebates or commissions under various disguises in violation of State regulations;

(2) take advantage of their job position in accepting bribes or embezzling or appropriating funds of the bank or customers;

(3) violate regulations in practising favouritism to grant loans or provide guarantees to relatives and friends;

(4) hold concurrent posts in other economic organisations; and/or

(5) engage in other activities which are in violation of laws, administrative regulations and operational provisions.

第五十三条 商业银行的工作人员不得泄露其在任职期间知悉的国家秘密、商业秘密。

Article 53. Employees of commercial banks shall not disclose State and commercial secrets acquired during their tenure of office.

第五章 财务会计

CHAPTER V — FINANCE AND ACCOUNTING

第五十四条 商业银行应当依照法律和国家统一的会计制度以及国务院银行业监督管理机构的有关

Article 54. Commercial banks shall establish and improve their finance and accounting system in accordance with laws, unified State accounting system and relevant provisions of the banking supervision and administration authority of the State Council.

规定，建立、健全本行的财务、会计制度。

第五十五条 商业银行应当按照国家有关规定，真实记录并全面反映其业务活动和财务状况，编制年度财务会计报告，及时向国务院银行业监督管理机构、中国人民银行和国务院财政部门报送。商业银行不得在法定的会计账册外另立会计账册。

Article 55. Commercial banks shall record and report their business activities and financial situation fully and accurately, compile an annual financial and accounting report and submit such reports to the banking supervision and administration authority of the State Council, the People's Bank of China and the finance department of the State Council promptly in accordance with relevant State regulations. Commercial banks shall not establish account books other than those stipulated by laws.

第五十六条 商业银行应当于每一会计年度终了三个月内，按照国务院银行业监督管理机构的规定，公布其上一年度的经营业绩和审计报告。

Article 56. Commercial banks shall announce their business performance and audit reports within 3 months from the financial year-end in accordance with provisions of the banking supervision and administration authority of the State Council.

第五十七条 商业银行应当按照国家有关规定，提取呆账准备金，冲销呆账。

Article 57. Commercial banks shall accrue reserves for bad debts to offset bad debts in accordance with relevant State regulations.

第五十八条 商业银行的会计年度自公历1月1日起至12月31日止。

Article 58. The financial year of commercial banks shall commence on 1 January and end on 31 December of the Gregorian calendar.

第六章 监督管理

CHAPTER VI — SUPERVISION AND ADMINISTRATION

第五十九条 商业银行应当按照有关规定，制定本行的业务规则，建立、健全本行的风险管理和内部控制制度。

第六十条 商业银行应当建立、健全本行对存款、贷款、结算、呆账等各项情况的稽核、检查制度。

商业银行对分支机构应当进行经常性的稽核和检查监督。

第六十一条 商业银行应当按照规定向国务院银行业监督管理机构、中国人民银行报送资产负债表、利润表以及其他财务会计、统计报表和资料。

第六十二条 国务院银行业监督管理机构有权依照本法第三章、第四章、第五章的规定，随时对商业银行的存款、贷款、结算、呆账等情况进行检查监督。检查监督时，检查监督人员应当出示合法的证件。商业银行应当按照国务院银行业监督管理机构的要求，提供财务

Article 59. Commercial banks shall formulate their business principles and establish and improve their risk management and internal control systems in accordance with relevant regulations.

Article 60. Commercial banks shall establish and improve their verification and examination systems for deposits, loans, settlements, bad debts, etc.

Commercial banks shall conduct regular verification and examination of branch offices.

Article 61. Commercial banks shall submit a balance sheet, profit and loss statement and other accounting and statistical statements and information to the banking supervision and administration authority of the State Council and the People's Bank of China in accordance with relevant regulations.

Article 62. The banking supervision and administration authority of the State Council shall have the discretion to conduct examination and supervision of deposits, loans, settlements, bad debts, etc pursuant to the provisions of Chapters III, IV, and V. The examining and supervising officers shall produce legal credentials when they conduct examination and supervision. Commercial banks shall provide financial and accounting documents, business contracts and other business information in accordance with the requirements of the banking supervision and administration authority of the State Council.

The People's Bank of China shall be authorised to conduct

会计资料、业务合同和有关经营管理方面的其他信息。

中国人民银行有权依照《中华人民共和国中国人民银行法》第三十二条、第三十四条的规定对商业银行进行检查监督。

inspection and supervision of commercial banks in accordance with the provisions of Art 32 and 34 of the Law of the People's Republic of China on the People's Bank of China.

第六十三条 商业银行应当依法接受审计机关的审计监督。

Article 63. Commercial banks shall be subject to audit supervision of the audit authority in accordance with laws.

第七章 接管和终止

CHAPTER VII — TAKEOVER AND TERMINATION

第六十四条 商业银行已经或者可能发生信用危机，严重影响存款人的利益时，国务院银行业监督管理机构可以对该银行实行接管。

Article 64. Where a commercial bank has experienced or is likely to experience a credit crisis which will have serious effects on the interests of depositors, the banking supervision and administration authority of the State Council may effect a takeover of the bank.

接管的目的是对被接管的商业银行采取必要措施，以保护存款人的利益，恢复商业银行的正常经营能力。被接管的商业银行的债权债务关系不因接管而变化。

The purpose of the takeover shall be adopting of necessary measures for the subject bank to protect the interests of depositors and restore the normal operating capabilities of the bank. The debtor-creditor relationships of the commercial bank shall not be affected by the takeover.

第六十五条 接管由国务院银行业监督管理机构决定，并组织实施。国务院银行业监督管理机构的

Article 65. The banking supervision and administration authority of the State Council shall decide and implement the takeover. The decision of the banking supervision and administration authority of the State Council on the takeover shall state the following:

接管决定应当载明下列内容：

（一）被接管的商业银行名称；

（二）接管理由；

（三）接管组织；

（四）接管期限。

接管决定由国务院银行业监督管理机构予以公告。

(1) name of the subject bank for take-over;

(2) reasons for the take-over;

(3) organisation responsible for the take-over; and

(4) duration of the take-over period.

The banking supervision and administration authority of the State Council shall make a public announcement of the decision to effect the take-over.

第六十六条 接管自接管决定实施之日起开始。

自接管开始之日起，由接管组织行使商业银行的经营管理权力。

Article 66. The take-over shall commence on the date of implementation of the take-over decision.

The organisation responsible for the take-over shall exercise the operational and managerial powers of the commercial bank from the date of commencement of the take-over.

第六十七条 接管期限届满，国务院银行业监督管理机构可以决定延期，但接管期限最长不得超过二年。

Article 67. Upon expiry of the take-over period, the banking supervision and administration authority of the State Council may decide to extend the take-over period, provided that the take-over period shall not exceed 2 years.

第六十八条 有下列情形之一的，接管终止：

（一）接管决定规定的期限届满或者国务院银行业监督管理机构

Article 68. The take-over shall terminate under any of the following circumstances:

(1) expiry of the take-over period as stipulated in the take-over agreement or expiry of the extension period decided by the banking supervision and administration authority of the State

决定的接管延期届满；

Council;

（二）接管期限届满前，该商

(2) the commercial bank has resumed normal operating capabilities prior to expiry of the take-over period; and/or

业银行已恢复正常经营能力；

(3) the commercial bank has been merged or declared bankrupt prior to expiry of the take-over period.

（三）接管期限届满前，该商

业银行被合并或者被依法宣告破产

。

第六十九条 商业银行因分立

、合并或者出现公司章程规定的解散事由需要解散的，应当向国务院银行业监督管理机构提出申请，并附解散的理由和支付存款的本金和利息等债务清偿计划。经国务院银行业监督管理机构批准后解散。

Article 69. Where a commercial bank is to be dissolved following a sub-division or merger or the occurrence of any other event stipulated in the company's articles of association requiring dissolution of the bank, an application shall be made to the banking supervision and administration authority of the State Council. The application shall be supported by the reasons for the dissolution and a scheme of repayment of principal and interest of deposits and other debts. The dissolution shall be subject to approval of the banking supervision and administration authority of the State Council.

商业银行解散的，应当依法成立清算组，进行清算，按照清偿计划及时偿还存款本金和利息等债务。国务院银行业监督管理机构监督清算过程。

A liquidation group shall be established in accordance with laws to carry out the dissolution of the commercial bank. The interest and principal of deposits and other debts shall be repaid promptly in accordance with the debt repayment scheme. The banking supervision and administration authority of the State Council shall supervise the liquidation proceedings.

第七十条 商业银行因吊销经

营许可证被撤销的，国务院银行业监督管理机构应当依法及时组织成立清算组，进行清算，按照清偿计

Article 70. Where a commercial bank has been dissolved following revocation of the business permit, the banking supervision and administration authority of the State Council shall establish a liquidation group promptly in accordance with laws to carry out the liquidation and repay the principal and interest of deposits and other debts promptly in accordance with the debt repayment

划及时偿还存款本金和利息等债务

scheme.

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第七十一条 商业银行不能支付到期债务，经国务院银行业监督管理机构同意，由人民法院依法宣告其破产。商业银行被宣告破产的，由人民法院组织国务院银行业监督管理机构等有关部门和有关人员成立清算组，进行清算。

商业银行破产清算时，在支付清算费用、所欠职工工资和劳动保险费用后，应当优先支付个人储蓄存款的本金和利息。

Article 71. A commercial bank which is unable to repay its matured debts shall be declared bankrupt by the People's Court subject to the agreement of the banking supervision and administration authority of the State Council. Where a commercial bank is declared bankrupt, the People's Court shall appoint the banking supervision and administration authority of the State Council and relevant departments and personnel to form a liquidation group for carrying out the liquidation.

The bankrupt commercial bank in liquidation shall give priority to payment of principal and interest of personal savings deposits, following payment of liquidation expenses, wages and labour insurance expenses.

第七十二条 商业银行因解散、被撤销和被宣告破产而终止。

Article 72. The operations of a commercial bank which is dissolved, cancelled or declared bankrupt shall be terminated.

第八章 法律责任

CHAPTER VIII — LEGAL LIABILITY

第七十三条 商业银行有下列情形之一，对存款人或者其他客户造成财产损害的，应当承担支付迟延履行的利息以及其他民事责任：

（一）无故拖延、拒绝支付存

Article 73. Under any of the circumstances which result in losses incurred by a depositor or client, the commercial bank shall be liable for payment of interest in arrears and bear civil liability:

(1) delayed payment or non-payment of principal and interest on deposits without valid reasons;

(2) shelving of bills and cheques or dishonour bills or refusing to cash bills or enter receipts and payments into accounts in breach of regulations on acceptance of bills and settlement business bills

款本金和利息的；

and cheques or dishonouring bills in breach of provisions;

（二）违反票据承兑等结算业务规定，不予兑现，不予收付入账，压单、压票或者违反规定退票的；

(3) illegal enquiries, freezing or withholding of personal savings deposits or corporate deposits; or

(4) engaging in other activities which are in violation of the provisions of this Law and resulting in losses incurred by depositors or other clients.

（三）非法查询、冻结、扣划个人储蓄存款或者单位存款的；

Under any of the aforesaid circumstances, the banking supervision and administration authority of the State Council shall order the bank to make correction and confiscate the illegal income. Where the illegal income is RMB50,000 or more, a fine ranging from 2 to 5 times the amount of illegal income shall be imposed. Where there is no illegal income or where the amount of illegal income is less than RMB50,000, a fine ranging from RMB50,000 to RMB500,000 shall be imposed.

（四）违反本法规定对存款人或者其他客户造成损害的其他行为。

有前款规定情形的，由国务院银行业监督管理机构责令改正，有违法所得的，没收违法所得，违法所得五万元以上的，并处违法所得一倍以上五倍以下罚款；没有违法所得或者违法所得不足五万元的，处五万元以上五十万元以下罚款。

第七十四条 商业银行有下列情形之一，由国务院银行业监督管理机构责令改正，有违法所得的，没收违法所得，违法所得五十万元以上的，并处违法所得一倍以上五

Article 74. Where a commercial bank engages in any of the following activities, the banking supervision and administration authority of the State Council shall order the bank to make correction and confiscate the illegal income; where the amount of illegal income is RMB500,000 or more, a fine ranging from 2 to 5 times the amount of illegal income shall be imposed; where there is no illegal income or where the amount of illegal income is less than RMB500,000, a fine ranging from RMB500,000 to

倍以下罚款；没有违法所得或者违法所得不足五十万元的，处五十万元以上二百万元以下罚款；情节特别严重或者逾期不改正的，可以责令停业整顿或者吊销其经营许可证；构成犯罪的，依法追究刑事责任：

（一）未经批准设立分支机构的；

（二）未经批准分立、合并或者违反规定对变更事项不报批的；

（三）违反规定提高或者降低利率以及采用其他不正当手段，吸收存款，发放贷款的；

（四）出租、出借经营许可证的；

（五）未经批准买卖、代理买卖外汇的；

（六）未经批准买卖政府债券或者发行、买卖金融债券的；

（七）违反国家规定从事信托

RMB2,000,000 shall be imposed; where the case is serious or where the bank failed to make correction by the stipulated deadline, the bank may be ordered to cease business and make correction, failing which its business permit may be revoked; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with laws:

(1) establishment of a branch without approval;

(2) participating in a sub $\square$ division or merger without approval or failure to comply with the provisions to obtain approval for alteration matters;

(3) accepting deposits or granting loans by means of increasing or reducing interest rates or by the use of other dishonest means which are in violation of regulations;

(4) leasing or lending of business permit;

(5) buying and selling foreign currency without approval for own purposes or as an agent;

(6) buying and selling government bonds or financial bonds or issue of financial bonds without approval;

(7) engaging in trust and investment business and securities operations, investing in immovable property other than for own use or investing in non $\square$ banking financial institutions and enterprises which are in violation of State regulations; or

(8) granting credit loans or secured loans to related parties for privileged conditions as compared to similar loans granted to other borrowers.

投资和证券经营业务、向非自用不动产投资或者向非银行金融机构和企业投资的；

（八）向关系人发放信用贷款或者发放担保贷款的条件优于其他借款人同类贷款的条件。

第七十五条 商业银行有下列情形之一，由国务院银行业监督管理机构责令改正，并处二十万元以上五十万元以下罚款；情节特别严重或者逾期不改正的，可以责令停业整顿或者吊销其经营许可证；构成犯罪的，依法追究刑事责任：

（一）拒绝或者阻碍国务院银行业监督管理机构检查监督的；

（二）提供虚假的或者隐瞒重要事实的财务会计报告、报表和统计报表的；

（三）未遵守资本充足率、资产流动性比例、同一借款人贷款比例和国务院银行业监督管理机构有关资产负债比例管理的其他规定的

Article 75. Where a commercial bank engages in any of the following activities, the banking supervision and administration authority of the State Council shall order the bank to make correction and impose a fine ranging from RMB200,000 to RMB500,000; where the case is serious or where the bank failed to make correction by the stipulated deadline, the bank may be ordered to cease business and make correction, failing which its business permit may be revoked; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with laws:

(1) refusing or obstructing inspection or supervision by the banking supervision and administration authority of the State Council;

(2) providing financial and accounting statements, report forms or statistical reports which are fraudulent or conceal important facts;

(3) failing to comply with the provisions on capital sufficiency rate, asset liquidity ratio, loan ratio for single borrower, etc of the banking supervision and administration authority of the State Council on administration of asset liability ratios.

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第七十六条 商业银行有下列情形之一的，由中国人民银行责令改正，有违法所得的，没收违法所得，违法所得五十万元以上的，并处违法所得一倍以上五倍以下罚款；没有违法所得或者违法所得不足五十万元的，处五十万元以上二百万元以下罚款；情节特别严重或者逾期不改正的，中国人民银行可以建议国务院银行业监督管理机构责令停业整顿或者吊销其经营许可证；构成犯罪的，依法追究刑事责任：

（一）未经批准办理结汇、售汇的；

（二）未经批准在银行间债券市场发行、买卖金融债券或者到境外借款的；

（三）违反规定同业拆借的。

第七十七条 商业银行有下列情形之一的，由中国人民银行责令改正，并处二十万元以上五十万元以

Article 76. Where a commercial bank engages in any of the following activities, the People's Bank of China shall order the bank to make correction and confiscate the illegal income; where the amount of illegal income is RMB500,000 or more, a fine ranging from 2 to 5 times the amount of illegal income shall be imposed; where there is no illegal income or where the amount of illegal income is less than RMB500,000, a fine ranging from RMB500,000 to RMB2,000,000 shall be imposed; where the case is serious or the bank has failed to make correction by the stipulated deadline, the People's Bank of China may recommend that the banking supervision and administration authority of the State Council order the bank to cease business and make correction, failing which its business permit may be revoked; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with laws:

(1) handling exchange settlement and sale without approval;

(2) issuing, buying or selling financial bonds on the interbank securities market or taking overseas loans without approval; or

(3) engaging in interbank loans which are in violation of regulations.

Article 77. Where a commercial bank engages in any of the following activities, the People's Bank of China shall order the bank to make correction and impose a fine ranging from RMB200,000 to RMB500,000; where the case is serious or where the bank failed to make correction by the stipulated deadline, the People's Bank of

下罚款；情节特别严重或者逾期不改正的，中国人民银行可以建议国务院银行业监督管理机构责令停业整顿或者吊销其经营许可证；构成犯罪的，依法追究刑事责任：

（一）拒绝或者阻碍中国人民银行检查监督的；

（二）提供虚假的或者隐瞒重要事实的财务会计报告、报表和统计报表的；

（三）未按照中国人民银行规定的比例交存存款准备金的。

China may recommend that the banking supervision and administration authority of the State Council order the bank to cease business and make correction or revoke its business permit; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with laws:

(1) refusing or obstructing inspection or supervision by the People's Bank of China;

(2) providing financial and accounting statements, report forms or statistical reports which are fraudulent or conceal important facts; or

(3) failure to lodge deposit reserves in accordance with the ratio stipulated by the People's Bank of China.

第七十八条 商业银行有本法第七十三条至第七十七条规定情形的，对直接负责的董事、高级管理人员和其他直接责任人员，应当给予纪律处分；构成犯罪的，依法追究刑事责任。

Article 78. For commercial banks guilty of any of the activities listed in Art 73 to 77, disciplinary measures shall be taken against the directors, senior management personnel and other personnel directly responsible; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with laws.

第七十九条 有下列情形之一的，由国务院银行业监督管理机构责令改正，有违法所得的，没收违法所得，违法所得五万元以上的，并

Article 79. Under any of the following circumstances, the banking supervision and administration authority of the State Council shall order the offender to make correction and confiscate the illegal income; where the amount of illegal income is RMB50,000 or more, a fine ranging from 2 to 5 times the amount of illegal income shall be imposed; where there is no illegal income or where the

处违法所得一倍以上五倍以下罚款；没有违法所得或者违法所得不足五万元的，处五万元以上五十万元以下罚款：

（一）未经批准在名称中使用“银行”字样的；

（二）未经批准购买商业银行股份总额百分之五以上的；

（三）将单位的资金以个人名义开立账户存储的。

amount of illegal income is less than RMB50,000, a fine ranging from RMB50,000 to RMB500,000 shall be imposed:

(1) use of the word "bank" in a business name without approval;

(2) purchase of commercial bank shares amounting to more than 5% of the total amount of shares without approval; or

(3) opening of a personal savings account using the funds of an organisation.

第八十条 商业银行不按照规定向国务院银行业监督管理机构报送有关文件、资料的，由国务院银行业监督管理机构责令改正，逾期不改正的，处十万元以上三十万元以下罚款。

商业银行不按照规定向中国人民银行报送有关文件、资料的，由中国人民银行责令改正，逾期不改正的，处十万元以上三十万元以下罚款。

Article 80. Where a commercial bank failed to submit documents and information to the banking supervision and administration authority of the State Council in accordance with regulations, the banking supervision and administration authority of the State Council shall order the bank to make correction and impose a fine ranging from RMB100,000 to RMB300,000 if the bank failed to make correction by the stipulated deadline.

Where a commercial bank failed to submit documents and information to the People's Bank of China in accordance with regulations, the People's Bank of China shall order the bank to make correction and impose a fine ranging from RMB100,000 to RMB300,000 if the bank failed to make correction by the stipulated deadline.

第八十一条 未经国务院银行

Article 81. For establishment of a commercial bank or illegal

业监督管理机构批准，擅自设立商业银行，或者非法吸收公众存款、变相吸收公众存款，构成犯罪的，依法追究刑事责任；并由国务院银行业监督管理机构予以取缔。

伪造、变造、转让商业银行经营许可证，构成犯罪的，依法追究刑事责任。

acceptance of public deposits or covert acceptance of public deposits without approval of the banking supervision and administration authority of the State Council which constitutes a criminal offence, criminal liability shall be pursued in accordance with laws, and the banking supervision and administration authority of the State Council shall ban such activities.

For forgery, alteration or transfer of commercial bank business permit which constitutes a criminal offence, criminal liability shall be pursued in accordance with laws.

第八十二条 借款人采取欺诈手段骗取贷款，构成犯罪的，依法追究刑事责任。

Article 82. Borrowers which adopt dishonest practices to obtain loans fraudulently shall be prosecuted for criminal liability in accordance with laws if the case constitutes a criminal offence.

第八十三条 有本法第八十一条、第八十二条规定的行为，尚不构成犯罪的，由国务院银行业监督管理机构没收违法所得，违法所得五十万元以上的，并处违法所得一倍以上五倍以下罚款；没有违法所得或者违法所得不足五十万元的，处五十万元以上二百万元以下罚款。

Article 83. For any of the acts listed in Art 81 and 82 which does not constitute a criminal offence, the banking supervision and administration authority of the State Council shall confiscate the illegal income; where the amount of illegal income is RMB500,000 or more, a fine ranging from 2 to 5 times the amount of illegal income shall be imposed; where there is no illegal income or the amount of illegal income is less than RMB500,000, a fine ranging from RMB500,000 to RMB2,000,000 shall be imposed.

第八十四条 商业银行工作人员利用职务上的便利，索取、收受贿赂或者违反国家规定收受各种名

Article 84. Employees of commercial banks who violate State regulations in taking advantage of their professional position to extort money and accept bribes or receive rebates and commissions under various disguises shall be prosecuted for

义的回扣、手续费，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，应当给予纪律处分。

有前款行为，发放贷款或者提供担保造成损失的，应当承担全部或者部分赔偿责任。

第八十五条 商业银行工作人员利用职务上的便利，贪污、挪用、侵占本行或者客户资金，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，应当给予纪律处分。

第八十六条 商业银行工作人员违反本法规定玩忽职守造成损失的，应当给予纪律处分；构成犯罪的，依法追究刑事责任。

违反规定徇私向亲属、朋友发放贷款或者提供担保造成损失的，应当承担全部或者部分赔偿责任。

第八十七条 商业银行工作人员泄露在任职期间知悉的国家秘密、商业秘密的，应当给予纪律处分；构成犯罪的，依法追究刑事责任

criminal liability if the case constitutes a criminal offence; where the case does not constitute a criminal offence, disciplinary measures shall be taken.

Where the aforesaid activity involves granting of loan or provision of guarantee which results in losses, the offender shall be liable for full or partial compensation of the losses.

Article 85. Employees of commercial banks who take advantage of their professional position in accepting bribes or embezzling or appropriating funds of the bank or customers shall be prosecuted for criminal liability if the case constitutes a criminal offence; where the case does not constitute a criminal offence, disciplinary measures shall be taken.

Article 86. Employees of commercial banks guilty of dereliction of duties in violation of this Law and causing losses shall be subject to disciplinary measures and prosecuted for criminal liability if the case constitutes a criminal offence.

Employees of commercial banks guilty of practising favouritism to grant loans or provide guarantees to friends and relatives in violation of regulations and causing losses shall be liable for full or partial compensation of the losses.

Article 87. Employees of commercial banks guilty of disclosure of State secrets or confidential information of the bank acquired during their tenure of office shall be subject to disciplinary measures and prosecuted for criminal liability where the case constitutes a crime.

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第八十八条 单位或者个人强令商业银行发放贷款或者提供担保的，应当对直接负责的主管人员和其他直接责任人员或者个人给予纪律处分；造成损失的，应当承担全部或者部分赔偿责任。

商业银行的工作人员对单位或者个人强令其发放贷款或者提供担保未予拒绝的，应当给予纪律处分；造成损失的，应当承担相应的赔偿责任。

第八十九条 商业银行违反本法规定的，国务院银行业监督管理机构可以区别不同情形，取消其直接负责的董事、高级管理人员一定期限直至终身的任职资格，禁止直接负责的董事、高级管理人员和其他直接责任人员一定期限直至终身从事银行业工作。

商业银行的行为尚不构成犯罪的，对直接负责的董事、高级管理人员和其他直接责任人员，给予警

Article 88. Where an organisation or individual compels a commercial bank to grant loans or provide guarantees, the person in charge and other personnel directly responsible shall be subject to disciplinary measures and be liable for full or partial compensation.

Employees of commercial banks who did not put up resistance when coerced by any organisation or individual to grant loans or provide guarantees shall be subject to disciplinary measures and be liable to full or partial compensation of losses.

Article 89. The banking supervision and administration authority of the State Council shall assess violation of the provisions of this Law by commercial banks on a case by case basis and may revoke the qualifications of the directors and senior management personnel directly responsible temporarily or permanently or prohibit the directors and senior management personnel directly responsible from taking up bank positions temporarily or permanently.

Where the case does not constitute a criminal offence, the directors, senior management personnel and other personnel directly responsible shall be issued a warning and be liable to a fine ranging from RMB50,000 to RMB500,000.

告，处五万元以上五十万元以下罚款。

第九十条 商业银行及其工作人员对国务院银行业监督管理机构、中国人民银行的处罚决定不服的，可以依照《中华人民共和国行政诉讼法》的规定向人民法院提起诉讼。

Article 90. Commercial banks or their employees with objections to the disciplinary decision of the banking supervision and administration authority of the State Council or the People's Bank of China may initiate a lawsuit with a people's court in accordance with provisions of the Administrative Litigation Law of the People's Republic of China.

第九章 附则

CHAPTER IX — SUPPLEMENTARY PROVISIONS

第九十一条 本法施行前，按照国务院的规定经批准设立的商业银行不再办理审批手续。

Article 91. Commercial banks approved for establishment in accordance with provisions of the State Council prior to the implementation of this Law shall not be required to complete examination and approval procedures.

第九十二条 外资商业银行、中外合资商业银行、外国商业银行分行适用本法规定，法律、行政法规另有规定的，依照其规定。

Article 92. The provisions of this Law shall apply to foreign-funded commercial banks, Sino-foreign joint equity commercial banks and branches of foreign commercial banks, unless otherwise provided by laws and administrative regulations.

第九十三条 城市信用合作社、农村信用合作社办理存款、贷款和结算等业务，适用本法有关规定。

Article 93. The relevant provisions of this Law shall apply to urban credit cooperatives and rural credit cooperatives undertaking deposit, loan and settlement businesses.

第九十四条 邮政企业办理商业银行的有关业务，适用本法有关

Article 94. The relevant provisions of this Law shall apply to post office enterprises undertaking the relevant commercial bank businesses.

规定。

第九十五条 本法自2015年10月1日起施行。

Article 95. This Law shall be effective 1 July 1995.



扫一扫，手机阅读更方便