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## General Rules on Loans - 1996

*(Effective on August 1, 1996)*

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### Chapter I General Provisions

#### Article 1

Pursuant to the relevant provisions of such laws as the Law of the People's Republic of China on the People's Bank of China and the Law of the People's Republic of China on Commercial Banks, and for the purposes of regulating activities connected with loans, protecting the legitimate rights and interests of both parties to borrowing and lending, ensuring the safety of credit and loan assets, improving the overall results from loan utilization, and promoting the steady socio-economic development, these General Rules are enacted.

#### Article 2

For the purposes of these General Rules,

"a lender" means a Chinese-invested financial institution which is established and engaged in loan services in accordance with the law in the territory of the People's Republic of China;

"a borrower" means a legal person, any other economic organization, individual industrial and /or commercial household or a natural person, which or who gets a loan from a Chinese-invested financial institution which carries on loan services;

"a loan" means the currency fund which is provided by a lender to a borrower and shall be paid back, both principal and interests, according to the interest rate and duration as contracted;

"currencies for loans" shall include Renminbi and foreign currencies.

#### Article 3

The making and use of loans must comply with the laws and administrative regulations of the State and with the ordinances and rules promulgated by the People's Bank of China, and must conform to the principles of profitability, safety and liquidity.

#### Article 4

Borrowers and lenders shall, in their borrowing-lending transactions, follow the principles of equality, voluntariness, fairness, honesty and trustworthiness.

#### Article 5

Lenders carrying on loan services shall conform to the principles of fair competition and close co-operation, and may not engage in unfair competition.

## Article 6

The People's Bank of China and its branch offices shall be the supervision and administration authority for the operation of the General Rules on Loans.

## Chapter II Types of Loans

### Article 7

Self-made loan, commissioned loan and special-purpose loan:

"Self-made loan" means a loan which is made out of funds legally raised by the lender independently. In that case, the lender shall assume the risks and call in the principal and interest of the loan by itself.

"Commissioned loan" means a loan under which the commissioning party such as a governmental department, enterprise or undertaking unit or individual shall provide funds, and the lender (that is, the commissioned party) shall, in accordance with the eligible borrower, purpose of use, amount, duration and interest rate fixed by the commissioning party and on behalf of the commissioning party, grant, supervise the use of and assist to call in the loan. In that case, the lender (the commissioned party) shall get service charges and shall not assume risks thereof.

"Special-purpose loan" means a loan which is made by a fully-State-owned commercial bank with approval and authorization of the State Council and with necessary remedies having been taken in advance for any possible loan loss.

### Article 8

Short-, medium- and long-term loans:

"Short-term loan" means a loan with a period not exceeding one year (including one year).

"Medium-term loan" means a loan with a period exceeding one year (not including one year) but not exceeding five years (including five years).

"Long-term loan" means a loan with a period exceeding five years (not including five years).

### Article 9

Credit loan, secured loan and discount of note:

"Credit loan" means a loan made on the borrower's credit worthiness.

"Secured loan" includes guaranteed loan, mortgage loan and pledge loan.

"Guaranteed loan" means a loan made under the prerequisite that, if the borrower fails to repay the loan, the third party, according to the mode of guarantee set out in the Guarantee Law of the People's Republic of China, promises to bear general guarantee or joint and several liability as contracted.

"Mortgage loan" means a loan made with, according to the mode of mortgage set out in the Guarantee Law of the People's Republic of China, the property of the borrower or the third party as the mortgage.

"Pledge loan" means a loan made with, according to the mode of pledge set out in the Guarantee Law of the People's Republic of China, movables or rights of the borrower or the third party as the pledge.

"Discount of note" means a loan made by the lender through buying the borrower's undue commercial notes.

### Article 10

Except in the case of commissioned loans, all borrowers shall provide guarantee for the lenders' loans. The lenders shall carry out strict examination on the guarantor's ability to repay, ownership and value of the mortgaged or pledged materials, and the feasibility of realizing the mortgage and pledge rights.

No guarantee is required if, after loan examination and assessment, the borrower is verified to be of good credit worthiness and of being able to repay the loan.

## Chapter III Duration and Interest Rate of Loan

#### Article 11

##### Duration:

The duration of a loan shall be determined by both parties to borrowing and lending through negotiation in accordance with the borrower's production and operation cycle and ability to repay the loan and the lender's ability to supply the funds and specified in the loan contract.

As a general rule, the maximum duration for a self-made loan may not exceed 10 years. Those exceeding 10 years shall be reported to the People's Bank of China for the record.

The maximum duration for discount of note may not exceed 6 months, which begins from the day of discount and ends on the day of maturity.

#### Article 12

##### Extension of loan:

A borrower who is unable to repay a loan on time as contracted shall, prior to the maturity date of the loan, apply to the lender for an extension. The lender shall decide on whether or not to approve the extension. In the case of applying for an extension of guaranteed loan, mortgage loan or pledge loan, a written evidence of the guarantor, mortgagor or pledger shall also be required. If there is a previous agreement concerning extension, such agreement will apply.

Unless the State otherwise provides, the aggregate extension for a short-term loan may not exceed its original duration; the aggregate extension for a medium-term loan may not exceed half of its original duration; and the aggregate extension for a long-term loan may not exceed 3 years. If a borrower has not apply for a loan extension or its application for a loan extension has been denied, such a loan will, on the next date following the end of its duration, be entered into the overdue loan account.

#### Article 13

##### Determination of the loan interest rate:

A lender shall, pursuant to the "ceiling" and "floor" on loan interest rates fixed by the People's Bank of China, determine the interest rate for a loan, and shall specify it in the loan contract.

#### Article 14

##### Computation and collection of loan interests:

The lender and borrower shall, according to the loan contract and the regulations of the People's Bank of China on interest computation, compute and collect or pay interests on time.

If the extension of a loan plus its original duration reach the period for a new level of interest rate, the interests shall be computed and collected according to the new level of interest rate from the day of the extension.

In the case of overdue loans, penalty rate shall be charged according to the regulations.

#### Article 15

##### Interest subsidization on loan:

In accordance with the State's policy, relevant departments may subsidize interests on loans, with a view to promoting the growth of certain industries and economic development in some areas.

As to the loans to which relevant departments will subsidize interests, lending banks shall examine and arrange them independently, and shall strictly manage them in accordance with the relevant provisions of these General Rules.

#### Article 16

##### Termination, reduction, postponement and exemption of loan interests:

Except the State Council, no unit or person may have the right to decide on the termination, reduction, postponement or exemption of loan interests. Every lender shall, according to the State Council's decision and within the scope of its authority, make the termination, reduction, postponement or exemption of interest for a specific loan.

## **Chapter IV Borrower**

### **Article 17**

A borrower shall be an enterprise (undertaking) legal person, any other economic organization, individual industrial and/or commercial household, which has been approved by and registered at the industrial and commercial administration organ (or the competent authority), or a natural person who has the nationality of the People's Republic of China and has the full capacity of civil conduct.

An applicant for a loan shall, in addition to have its products that are in demand in the market, operate a profitable business, have no record in using credit funds for purposes of use other than previously agreed in the loan contract, and be credit worthy, be also required to satisfy the following conditions:

1. having the ability to repay the principle and interests of the loan on time, and having completely repaid its original loans interests payable and loans due; or having made repayment arrangements that the lender accepted if it has not yet repaid the interests and loans due;
2. with the exception of the natural persons or undertakings legal persons which do not need the verification, approval and registration of industrial and commercial administration departments, having passed the annual examination at the industrial and commercial administration department;
3. having opened a basic account or a general deposit account;
4. unless otherwise provided for by the State Council, the total outward investment of share capital equity nature for a limited liability company or a joint-stock limited company may not exceed 50% of its net value of assets;
5. its asset-liability ratio meets the requirement of the lender;
6. in the case of applying for a medium- or long-term loan, the proportion between the owner equity of an enterprise legal person in new construction project and the total investment needed by the project may not be lower than the capital ratio for investment project fixed by the State.

### **Article 18**

Rights of a borrower:

A borrower shall be entitled to--

1. apply, on its own, for loans to its loan bank or loan departments of other banks and get loans according to requirements;
2. draw and use all amounts of the loans as contracted;
3. refuse any extra requirement other than those stipulated in the loan contract;
4. report and inform relevant information to the superior authority of the lender and the People's Bank of China; and
5. transfer its debt to a third party with the consent of the lender.

### **Article 19**

Liability of a borrower

A borrower shall be liable for--

1. truthfully providing materials and information required by the lender (excluding those which may not be provided as laid down by the law), truthfully providing the lender with all information on its opening bank, account number and deposit and loan balance, and co-operating and assisting the lender to conduct investigation, examination and inspection;
2. accepting the lender's supervision over its use of credit funds as well as relevant production, operation and financial activities;
3. using the loan according to the purpose of use as contracted;
4. repaying timely the principal and interests as contracted;
5. where the debts are, completely or partially, to be transferred to a third party, obtaining the lender's consent; and
6. if there is any condition which may endanger the safety of the lender's claims, informing the lender timely thereof while taking preservation measures.

Article 20  
Restrictions on the borrower

No borrower may --

1. get loans from two or more than two branches of the same level within the jurisdiction of the same one lender;
2. provide the lender with a false and forged or important facts-concealed balance sheet and profit-loss statement;
3. use a loan to engage in investment of share capital equity nature, unless otherwise stipulated by the State;
4. use a loan to speculate in negotiable instruments, futures, and etc.;
5. use a loan to operate real estate business, when it has not obtained a license for operating such business; or use a loan to speculate in real estate business even if it has lawfully obtained a license for operating such business;
6. use a loan for inter-lending for the purpose of gaining illegal proceeds;
7. use a foreign-currency loan in violation of the regulations of the State on foreign exchange control; and
8. employ deceit and fraudulence in applying for a loan.

**Chapter V Lender**

Article 21

A lender intending to operate loan services must be approved by the People's Bank of China, have the ``Legal Person Certificate of Financial Institution" or ``Business License of Financial Institution" issued by the People's Bank of China, and be examined by and registered at the industrial and commercial administration department.

Article 22

Rights of a lender

A lender shall examine and decide to make a loan on its own judgment and pursuant to loan requirements and procedures and, with the exception of the special-purpose loans approved by the State Council, shall have the right to refuse any unit or person the demand of any loan or guarantee.

1. to require the borrower to provide materials and information related to the loan;
2. to decide, based on the conditions of the borrower, whether or not to make the loan, the loan amount, duration and interest rate;
3. to know the production, operation and financial activities of the borrower;
4. to call in the principal and interest of the loan from the borrower's account as contracted;
5. to demand, as contracted, the borrower to repay the loan before the maturity date or suspend the payment of the portion of loan not yet used by the borrower, if the borrower fails to fulfill the liability stipulated in the loan contract; and
6. to take appropriate measures, as contracted, to protect the loan, when it is about to suffer or has already suffered, a loss.

Article 23

Duties of a lender

A lender shall have the duty to --

1. announce such information as the types, duration and interest rates for all loans it provides, and offer consultancy services to borrowers;
2. make public the content of credit worthiness needed to be examined for loans and the loan terms;
3. examine the borrower's application for loan and timely give reply on whether or not to give out the loan. Unless otherwise stipulated by the State, the lender

should, within one month after it has received an application for a short-term loan or within six months after it has received an application for a medium- or long-term loan, give the reply on whether or not to give out the loan; and

4. keep secret and confidential the borrower's debts, financial, production and operation information. Notwithstanding, inquiry according to law shall be excluded.

#### Article 24

##### Restrictions on the lender

1. The making of loans shall comply strictly with the relevant provisions of Article 39 of the Law of the People's Republic of China on Commercial Banks on asset-liability ratio, and the provisions of Article 40 of same Law that issuance of credit loans to connected persons is prohibited and that the terms on guaranteed loans made to connected persons shall not be more favorable than the terms on similar-type loans to other borrowers.

2. No loan may be made to a borrower under any of the following circumstances:

(1). the borrower does not meet the qualification and requirements set out in the Article 17 of Chapter IV of these General Rules;

(2). the product the borrower turns out, or the project the borrower operates or invests in, is forbidden by the State;

(3). the borrower violates the State's regulations on foreign exchange control;

(4). the construction project of the borrower which, according to the State's regulations, shall be first submitted to relevant departments for approval, has not been issued a document of approval;

(5). the production and operation or investment project has not been approved by the environment protection department; and

(6). the borrower fails to repay, or to make lender-accepted arrangements on, or to provide a corresponding guarantee for, its original liability on borrowing, in the course of such structural changes as contract operation, leasing, joint operation, consolidation (merger), co-operation, split, transfer of property right in a paid manner, and reorganization into a joint-stock entity;

(7). the borrower has any other serious violation of law in its business operations.

3. Without approval of the People's Bank of China, no lender may make a loan in foreign currency to a natural person.

4. The lender giving out a self-made loan or special-purpose loan shall not charge any other fees on the borrower except the interest as computed in accordance with the regulations of the People's Bank of China; in the case of commissioned loans, no lender may collect any other fees other than service charges in accordance with the regulations.

5. No lender may advance funds to the commissioning party, unless otherwise stipulated by the State; and

6. All lenders must strictly control credit loans and promote guaranteed loans.

## Chapter VI Loan Processing

#### Article 25

##### Application for a loan

An applicant for a loan shall submit its application directly to its loan bank or the loan department of any other bank.

The applicant shall fill out an Application Form for a Loan which include such main particulars as the amount, purpose, its ability to repay and mode of repayment, and concurrently provide the following materials and information:

1. basic information about the applicant and the guarantor;

2. financial report of the previous year verified by the fiscal department or accounting (auditing) agency, and the financial report of the latest period before the application;

3. information on the correction of a loan which was previously and unreasonably utilized, if any;
4. detailed list of the mortgage and pledge, certificate of approval agreeing to the mortgage or pledge by the party having the right to dispose of, and relevant documentary evidences showing that the guarantor intends to agree on the guarantee;
5. The letter of suggestion on the project and the feasibility study report; and
6. Other materials and data which the lender deems necessary to be submitted.

#### Article 26

##### Credit rating on the borrower

The credit rating on the borrower shall be made according to such factors as the borrower's quality of leadership, economic strength, capital structure, performance of contract, operation efficiency and development prospect. Such a rating may be made independently by the lender and for self use, and may also be made by an agency approved by the authorized department.

#### Article 27

##### Lender's investigation

After accepting an application for a loan, the lender shall carry out investigations on the applicant's credit standing as well as the legality, safety and profitability of the loan, verify information on the mortgage, pledge and guarantor, and assess the degree of risk for the loan.

#### Article 28

##### Examination and approval

The lender shall establish a loan management system of examination and granting by different departments and examination and approval by different levels. The persons in charge of examination shall carry out verification and evaluation on materials and information provided by the persons in charge of investigation, re-assess the degree of risk of the loan, put forward opinions thereon, and report them for approval according to the limit of power.

#### Article 29

##### Conclusion of a loan contract

Loan contracts shall be made by the lender and borrower on all loans. A loan contract shall conclude the type of loan, the use purpose of the loan, amount, interest rate, duration, mode of repayment, rights and liabilities of both parties to the lending and borrowing, responsibility for breach of contract and other particulars deemed as necessary to be concluded by both parties.

In the case of a guaranteed loan, the guarantor and lender shall sign a guarantee contract or the guarantor shall clearly specify its guarantee negotiated with the lender in the loan contract, affix the loan contract with the legal person seal, and the legal representative of the guarantor or the agent authorized by the guarantor shall sign his name on the loan contract. In the case of a mortgage or pledge loan, the party offering the mortgage or pledge shall sign a mortgage or pledge contract with the lender, and accomplish, if necessary, registration procedures according to law.

#### Article 30

##### Granting of loan

The lender must grant the loan on time as contracted. A lender failing to do so shall pay a penalty for breach of contract. A borrower failing to use the loan according to the purpose of use as contracted shall pay a penalty for breach of contract.

#### Article 31

##### Inspection after granting

After the granting of a loan, the lender shall carry out follow-up survey and inspection on the borrower's execution of the loan contract and the business operation of the borrower.

#### Article 32

##### Loan recovery

A borrower shall repay the principal and interests of the loan on time and in full as contracted.

A lender shall, one week before the maturity date of a short-term loan or one month before the maturity date of a medium- and long-term loan, issue an advice of repayment of principal and interests to the borrower; the latter shall prepare funds to repay principle and interests of its loan without delay.

A lender shall issue timely an advice of pressing for the repayment of an overdue loan, and do a good job in pressing and calling in overdue loans.

A lender shall charge penalty rate on the overdue loan for the borrower's failure to repay the loan within the limit of time as contracted; in the case of a loan which can not be repaid or of which lender-accepted arrangements have not been made concerning the repayment of principle and interest, the lender shall also press for the repayment or bring an action according to law.

A borrower who intends to repay a loan ahead of time shall negotiate with the lender.

## **Chapter VII Supervision and Control over Bad Loans**

### **Article 33**

The lender shall establish and improve the supervision and control system over loan quality, and classify, register, control and press for the repayment of, bad loans.

### **Article 34**

Bad loans include doubtful loans, dead loans and overdue loans.

"Doubtful loan" means a loan which is classified, according to the relevant regulations of the Ministry of Finance, to be doubtful.

"Dead loan" means a loan which, according to the relevant regulations of the Ministry of Finance, is overdue (including maturity after extension) for a stipulated period or longer but still could not be repaid, or a loan which is not yet mature or overdue not up to the stipulated period, but the production and operation have already terminated or the construction of project has already stopped (not including the doubtful loan).

"Overdue loan" means a loan which is mature (including maturity after extension) but could not be repaid (not including the dead loan and doubtful loan) as contracted.

### **Article 35**

Registration of bad loans

Accounting and credit and loan departments shall provide data on bad loans, the auditing departments shall be responsible for examination and verification thereof according to the limits of power, and the lenders concerned shall fill out and submit statement on the bad loans on a quarterly basis. The lender, while reporting a bad loan to its superior bank, shall also submit a report to the local branch office of the People's Bank of China.

### **Article 36**

Control of bad loans

Doubtful loans, dead loans and overdue loans of a lender may not exceed the scale fixed by the People's Bank of China. All lenders shall determine and control the relevant limits of doubtful loans, dead loans and overdue loans for their subsidiary branch offices.

### **Article 37**

Pressing for the repayment of bad loans and writing off doubtful loans

The credit and loan departments shall be responsible for pressing for the repayment of bad loans, and the auditing departments shall be responsible for inspecting the work of such pressing. Every lender shall allocate doubtful account reserve funds according to the relevant regulations of the State, and write off doubtful loans according to the requirements and procedures on doubtful account writing-off.

Without approval of the State Council, no lender may grant immunity for a loan. Except the State Council, no unit or person may force a lender to grant such



immunity.

## **Chapter VIII System of Responsibility for Loan Management**

### **Article 38**

The system of responsibility of the governor (manager, director, the same below) shall be practiced in loan management.

Loans shall be managed and controlled at different levels. Governors at various levels shall assume their full responsibility for the making and recovery of loans within the scope of their authority. A governor may authorize a deputy governor or a loan management department to be responsible for examining and approving loans, and the deputy governor or the person in charge of the loan management department shall be accountable to the governor.

### **Article 39**

Organizations at various levels of a lender shall set up loan examination committees (groups) participated by governors (managers, directors, the same below) and persons in charge of relevant departments, which will be responsible for loan examination.

### **Article 40**

The system of examination and granting by different departments shall be established.

The persons in charge of loan investigation and assessment shall be responsible for loan investigation and assessment and assume the responsibility for errors in investigation and inaccuracy in assessment; the persons in charge of loan examination shall be responsible for examining the loan risks and assume the responsibility for errors in examination; and the persons in charge of loan granting shall be responsible for loan inspection and recovery and assume the responsibility for errors in inspection and incompetence in recovery.

### **Article 41**

The system of examination and approval by different levels shall be established.

A lender shall, in light of business volume, management level and degree of risks of loans, determine the scope of authority for its branch offices at various levels in respect of examination and approval of loans. If a branch office receives an application for a loan not falling the scope of its authority, it shall submit the application to its superior authority for examination and approval. Every branch office shall, in accordance with the type of the loan, credit standing of the borrower and the condition of the mortgage, pledge and guarantor, determine the degree of risk for each loan.

### **Article 42**

The system of personal responsibility of post for credit and loan work shall be established and improved.

Loan management departments at all levels shall delegate the management responsibility of loan at each link to the departments, posts and individuals, and shall strictly define the duties and liabilities of credit and loan persons at various levels.

### **Article 43**

The system of resident credit and loan officers shall be established for those big borrowers.

### **Article 44**

The system of auditing before quitting office shall be established.

A loan management officer who is to leave his office shall be audited in regard to the risk situation of loans made by him during his term of office and within his authority.

## **Chapter IX Management of the Preservation and Liquidation of Lender's Rights**

### **Article 45**

No borrower may, in violation of the provisions of laws, use merger, bankruptcy and reorganizing itself into a joint stock enterprise as a means to evade its bank debt or to usurp the credit fund; or use contracting or leasing operation as a means to evade the credit supervision of its lender or the repayment responsibility of principle and interests of the loan.

#### Article 46

A lender shall have the right to participate in the restructuring of debt structure of the borrower which is in the course of merger, bankruptcy or reorganization into joint-stock enterprises, and have the right to demand the borrower to make appropriate arrangements on the repayment of loan principle and interests.

#### Article 47

A lender shall require the borrower adopting contracting or leasing operation to make, in the corresponding contract, appropriate arrangements concerning the liability of repaying the original loans.

#### Article 48

A lender shall require the borrower carrying out shareholding transformation to sign a new loan contract, which will define the liability for the repayment of the original loans.

After a borrower carries out complete shareholding transformation, it shall be made clear that the unpaid liabilities shall be assumed by the new company completely; after a partial shareholding transformation is taken, the joint stock company after transformation shall, according to the percentage of capital or assets of the borrower taken for use, assume the liabilities of the original borrower.

#### Article 49

Where a borrower adopts joint operation and a new enterprise legal person is formed after the joint operation, the lender shall require the new enterprise legal person to assume, according to the percentage of the borrower's capital or assets taken for use, liabilities on borrowing.

#### Article 50

A lender shall require the borrower in the course of consolidation (merger), to pay off its liability on borrowing or supply guarantee accordingly before the consolidation (merger).

If a borrower fails to pay off its liability on borrowing or to supply corresponding guarantee, the lender shall require the consolidating (merging) enterprise or the new enterprise formed after the merger to assume the liability of repaying the loan of the original borrower, and shall sign a relevant contract or agreement again with the enterprise.

#### Article 51

A lender shall require the borrower which has formed joint venture (co-operative) with a foreign investor, to assume the liability of repaying the loan occurring prior to the formation, and also require the borrower to use its loan proceeds in priority to repay the loan. The approval of the lender shall be first obtained if the borrower desires to use the mortgaged or pledged property for loans to form joint venture (co-operative) with the foreign investor.

#### Article 52

A lender shall require the borrower in the course of split to pay off its liability on borrowing or supply a corresponding guarantee.

If a borrower fails to pay off its liability on borrowing or to supply a corresponding guarantee, the lender shall require the enterprises established after the split to assume the liability of repaying unpaid loans of the original borrower according to the proportion of capital or assets obtained or according to the agreement. In the case that a borrower establishes constituent companies, its constituent companies shall, according to the proportion of capital or assets obtained by them, be required to assume and pay off the corresponding liabilities on loans of their holding company.

#### Article 53

A lender shall require the borrower whose property right is to be transferred out in a paid manner or which is applying for a dissolution, to make appropriate arrangements on the repaying of the loans liability before the transfer of its property right or dissolution.

#### Article 54

A lender shall, pursuant to relevant laws, participate in the verification of the bankrupt borrower's property and the settlement of the creditor's right and liabilities of the bankrupt borrower, and shall have the priority repayment right for its loans to the borrower, that has been secured with mortgage, pledge or guarantee; other loans, which have not been guaranteed with property, shall be repaid according to the procedure and proportion stipulated by relevant laws.

## **Chapter X Special Provisions for Loan Management**

### **Article 55**

The leading loan bank system shall be established.

A borrower shall, in accordance with the regulations of the People's Bank of China, establish a leading loan bank relation with the lender at which it has opened its basic account.

A borrower that is to have a major economic activity such as split, reorganization into a joint-stock enterprise, or launching a large project, which will involve the use and safety of the credit funds, shall first solicit the opinion of its leading loan bank. One borrower shall have only one leading loan bank, and if and when it changes its basic account to another bank, the new bank will, then, be the leading loan bank.

The leading loan bank does not satisfy the borrower's need of funds, but shall, according to the regulations and in a planned manner, give out loans and provide such financial services as necessary information consultancy and agency to the borrower.

The leading loan bank system and implementing measures thereof shall be laid down by the People's Bank of China separately.

### **Article 56**

In the case of a syndicated loan, the lenders shall choose one lender as the leading loan bank, sign a syndicated loan agreement which defines the rights and duties of all lenders, and jointly examine the loan project. The leading loan bank shall, according to the proportion set out by the agreement, supervise the repayment of the loan. The measures on the management of syndicated loans shall be formulated by the People's Bank of China separately.

### **Article 57**

Management of special-purpose loans:

Fully-State-owned commercial banks shall, according to the regulations of the State Council, issue and manage the special-purpose loans.

Measures on the management of special-purpose loans shall be formulated separately.

### **Article 58**

The types, eligible borrower and range of loans made by non-banking financial institutions shall comply with the regulations of the People's Bank of China.

### **Article 59**

A lender which makes a loan or accepts a deposit in any other locality shall file a record with the local branch of the People's Bank of China.

### **Article 60**

No credit fund may be used for fiscal expenditure.

### **Article 61**

No administrative department at all levels, enterprise or undertaking unit, co-operative economic organization such as supply and marketing co-operative, rural co-operative fund or any other fund, may engage in deposit and loan services. Enterprises may not, among themselves, engage in borrowing and lending or in borrowing and lending in a disguised manner.

## **Chapter XI Provisions for Penalty**

### **Article 62**

Where a lender makes a loan in violation of the relevant regulations on assets-liability ratio, the People's Bank of China shall, pursuant to Article 75 of the Law of the People's Republic of China on Commercial Banks, order the lender to make corrections, impose a fine thereon, and confiscate its ill-got gains derived therefrom, if any, and shall concurrently, in accordance with Article 76, impose a penalty on the person directly in charge and on any other person directly responsible.

### **Article 63**

A lender who, in violation of the regulations, gave out a credit loan to a connected

person or gave out a guaranteed loan to a connected person on terms favorable than that of similar type of loans issued to any other borrower, shall be punished according to the Article 74 of the Law of the People's Republic of China on Commercial Banks and, in that case, the person directly responsible shall be punished in accordance with Article 76.

#### Article 64

Any person of the lender who fails to refuse the forced requirement for providing a loan or guarantee by any unit or person shall be given a disciplinary penalty in accordance with Article 85 of the Law of the People's Bank of China on Commercial Banks and shall be liable for the loss, if any.

#### Article 65

A person responsible of a lender, who violates a relevant provision of these General Rules, shall be imposed a disciplinary punishment and concurrently a fine; if the violation is serious or is committed for several times, the violator will be transferred from his post, with his professional qualification canceled; and if the violation has caused any severe economic loss or constituted an economic criminal crime, criminal responsibilities shall be investigated according to the relevant regulations of laws.

#### Article 66

If a lender is under any of the following circumstances, the People's Bank of China shall order it to make corrections, and if the lender fails to make the required corrections within the prescribed period, the People's Bank of China may impose thereon a fine of between 5,000 and 10,000 yuan:

1. failing to announce the types, duration and interest rates of the loans it provides;
2. failing to make public its loan terms and the contents needing to be examined and checked when providing loans; or
3. failing to give a reply to the loan application of a borrower within the specified time limit.

#### Article 67

If a lender is under any of the following circumstances, the People's Bank of China shall order it to make corrections; if there is any ill-got gains derived therefrom, such gains shall be confiscated and a fine of between 100 and 300 per cent of the amount of the ill-got gains shall be imposed thereon; if there is no ill-got gains, the lender shall be imposed a fine of between 50,000 and 300,000 yuan; if a crime is constituted, criminal responsibility shall be investigated according to law:

1. advancing funds for a commissioned loan in violation of the relevant regulations;
2. giving out a foreign-currency loan to a natural person without approval of the People's Bank of China; and
3. the lender, in violation of the regulations of the People's Bank of China, charge any extra fee other than the interests in the case of the self-made loan or special-purpose loan, or charge any extra fee other than service charges in the case of the commissioned loan.

#### Article 68

In a case that an unit or person forces a lender to make a loan or guarantee, disciplinary penalty shall, according to Article 85 of the Law of the People's Republic of China on Commercial Banks, be given to the person(s) in charge held directly responsible and any other person(s) directly responsible; if an economic loss is caused, the said responsible persons shall bear full or partial compensation responsibilities.

#### Article 69

A borrower who employs deceit or fraudulence in getting a loan and constitutes a crime shall be, according to Article 80 of the Law of the People's Republic of China on Commercial Banks, imposed a fine and concurrently investigated for its criminal responsibility.

#### Article 70

A borrower who, in violation of the regulations of Article 42 of Chapter IX of these General Rules, intentionally usurps credit funds through merger, bankruptcy or reorganization into a joint-stock enterprise, shall, according to the relevant regulations of laws, assume corresponding compensation responsibility and be concurrently imposed a fine; if severe economic loss is caused to the lender, the

persons directly responsible shall be investigated for their criminal responsibility according to the relevant regulations of laws.

Where a borrower violates any other provision of Chapter IX of these General Rules and causes the loan debts to be fruitless, the lender shall stop providing any additional loan and collect back previously-provided loans ahead of time. If any loss is caused to the credit assets, the borrower and the person(s) in charge or any other person responsible shall assume part or whole of the compensation responsibility. Before the borrower fulfills its compensation responsibility, no lender may provide a loan to the said borrower.

#### Article 71

Where a borrower is under any of the following circumstances, the lender shall charge extra interests on part or whole of the loan; if the case is extremely serious, the lender shall suspend the payment of the portion of loan that the borrower has not yet used and collect back either part of or whole of the loan ahead of time:

1. using the loan for purpose of use other than that as agreed on in the loan contract;
2. using the loan for investment of a share capital equity nature;
3. using the loan to speculate in negotiable instruments, futures, etc.;
4. using the loan to operate real estate business without having lawfully obtained the qualification of operating real estate business; or using the loan to speculate in real estate even having lawfully obtained the qualification for operating real estate business;
5. failing to repay off the principal and interests of the loan as contracted; and
6. using the loan for re-lending for the purpose of earning illegal proceeds.

#### Article 72

Where a borrower is under any of the following circumstances, the lender shall order it to make corrections. If the case is very serious or the borrower fails to make the required correction within the prescribed period, the lender shall suspend the payment of the portion of loan that the borrower has not yet used, and recover part or whole of the previously-provided loan ahead of time:

1. having provided the lender with a balance sheet or a profit-loss statement or any other material, which is false and forged or conceals an important fact;
2. failing to provide necessary materials and information to the lender on its opening bank, account number or deposit balance;
3. refusing to accept supervision by the lender over its use of credit funds and activities in production, operation and finance.

#### Article 73

In a case where an administrative department, enterprise or undertaking unit, shareholding co-operative economic organization, supply and marketing co-operatives, rural co-operative fund or any other fund grants a loan without authorization, or in a case where enterprises engage in borrowing and lending or borrowing and lending in a disguised manner without authorization, the People's Bank of China shall impose a fine on the lending party of between 100 and 500 per cent of its illegal proceeds, and concurrently, abolish the lending activity.

#### Article 74

A party concerned that disagrees with the penalty made by the People's Bank of China may, pursuant to the provisions of Measures of the People's Bank of China on Administrative Reconsideration (for trial implementation), apply for reconsideration, however, the penalty shall be executed during the reconsideration period.

### **Chapter XII Supplementary Provisions**

#### Article 75

Measures on the management of loan business of the State's policy-oriented banks and foreign-invested financial institutions (including foreign-funded and Sino-foreign financial institutions as well as branch organizations of foreign-funded financial institutions) shall be formulated by the People's Bank of China separately.

#### Article 76

Measures on the management of foreign government loans, export credit, foreign business men's discounted loans, external guarantee under the heading of export credit, as well as the international commercial loans matching the loans above, shall be formulated by the People's Bank of China separately.

#### Article 77

A lender may, pursuant to these General Rules, formulate detailed rules for implementation thereof and shall report them to the People's Bank of China for the record.

#### Article 78

Beginning from the date of entry into force of these General Rules, if any of the rules and regulations made previously by the People's Bank of China and all lenders contradicts these General Rules, the latter shall prevail.

#### Article 79

The People's Bank of China is responsible for the interpretation of these General Rules on Loans.

#### Article 80

These General Rules on Loans shall enter into force on August 1, 1996.



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