

中华人民共和国银行业监督管理法（2006修订）

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)

Law of the People's Republic of China on Banking Regulation (Amended in 2006)

(Adopted at the 6th session of the Standing Committee of the 10th
National People's Congress of the People's Republic of China and
promulgated on 27 December 2003, amended on 31 October 2006
and effective 1 January 2007.)

第一章 总 则

Chapter 1 General Provisions

第一条 为了加强对银行业的
监督管理，规范监督管理行为，防
范和化解银行业风险，保护存款人
和其他客户的合法权益，促进银行
业健康发展，制定本法。

Article 1 This Law is formulated in order to strengthen regulation
of the banking industry, to standardize regulation, to prevent and
dispel banking risks, to protect the lawful rights and interests of
depositors and other clients, and to encourage the sound
development of the banking industry.

第二条 国务院银行业监督管

Article 2 The banking regulatory authority of the State Council
shall be responsible for regulating all financial institutions in the

理机构负责对全国银行业金融机构及其业务活动监督管理的工作。

本法所称银行业金融机构，是指在中华人民共和国境内设立的商业银行、城市信用合作社、农村信用合作社等吸收公众存款的金融机构以及政策性银行。

对在中华人民共和国境内设立的金融资产管理公司、信托投资公司、财务公司、金融租赁公司以及经国务院银行业监督管理机构批准设立的其他金融机构的监督管理，适用本法对银行业金融机构监督管理的规定。

国务院银行业监督管理机构依照本法有关规定，对经其批准在境外设立的金融机构以及前二款金融机构在境外的业务活动实施监督管理。

第三条 银行业监督管理的目标是促进银行业的合法、稳健运行，维护公众对银行业的信心。

banking industry throughout the country and their business activities.

For the purposes of this Law, the term "financial institutions in the banking industry" shall mean financial institutions that take deposits from the public such as commercial banks, urban credit cooperatives and rural credit cooperatives, and policy banks that are established in the People's Republic of China.

The provisions on regulation of financial institutions in the banking industry hereof shall apply to financial asset management companies, trust and investment companies, finance companies, lease financing companies as well as other financial institutions established upon approval of the banking regulatory authority of the State Council, that are established in the People's Republic of China.

The banking regulatory authority of the State Council shall, in accordance with the relevant provisions hereof, implement regulation of financial institutions it has approved for establishment outside China, and of the business activities outside China of the financial institutions specified in the two preceding paragraphs.

Article 3 The objectives of regulation of the banking industry shall be to promote the legal and stable operation of the banking industry and to safeguard the confidence of the public in the banking industry.

Regulation of the banking industry shall protect fair competition in

银行业监督管理应当保护银行业公平竞争，提高银行业竞争能力。

the banking industry and enhance the competitiveness of the banking industry.

第四条 银行业监督管理机构对银行业实施监督管理，应当遵循依法、公开、公正和效率的原则。

Article 4 When implementing regulations governing the banking industry, banking regulatory authority shall abide by the principles of legality, openness, impartiality and efficiency.

第五条 银行业监督管理机构及其从事监督管理工作的人员依法履行监督管理职责，受法律保护。地方政府、各级政府部门、社会团体和个人不得干涉。

Article 5 The performance of regulatory duties of banking authority authorities and their personnel engaging in regulatory work according to law shall be protected by the law, and shall not be subject to interference by any local government, government departments at any level, social organization or individual.

第六条 国务院银行业监督管理机构应当和中国人民银行、国务院其他金融监督管理机构建立监督管理信息共享机制。

Article 6 The banking regulatory authority of the State Council shall establish a regulatory information sharing mechanism with the People's Bank of China and other financial regulatory authorities of the State Council.

第七条 国务院银行业监督管理机构可以和其他国家或者地区的银行业监督管理机构建立监督管理合作机制，实施跨境监督管理。

Article 7 The banking regulatory authority of the State Council may establish mechanisms for cooperation in regulation with the banking regulatory authority of other countries or regions to implement cross-border regulation.

第二章 监督管理机构

Chapter 2 Regulatory Authorities

第八条 国务院银行业监督管理机构根据履行职责的需要设立派

Article 8 The banking regulatory authority of the State Council shall establish agencies according to the needs of performance of duties. The banking regulatory authority of the State Council shall

出机构。国务院银行业监督管理机构对派出机构实行统一领导和管理。

国务院银行业监督管理机构的派出机构在国务院银行业监督管理机构的授权范围内，履行监督管理职责。

implement unified leadership and administration over its agencies.

The agencies of the banking regulatory authority of the State Council shall perform regulatory duties within the scope authorized by the banking regulatory authority of the State Council.

第九条 银行业监督管理机构从事监督管理工作的人员，应当具备与其任职相适应的专业知识和业务工作经验。

Article 9 Personnel of banking regulatory authority that engage in regulatory work shall possess the professional knowledge and working experience appropriate to their post.

第十条 银行业监督管理机构工作人员，应当忠于职守，依法办事，公正廉洁，不得利用职务便利牟取不正当的利益，不得在金融机构等企业中兼任职务。

Article 10 Working personnel of banking regulatory authority shall be faithful in their performance of duties, carry out their work according to law, and be impartiality and honest. They shall not seek improper benefits by taking advantage of their position, and shall not concurrently hold a position in a financial institution or other enterprises.

第十一条 银行业监督管理机构工作人员，应当依法保守国家秘密，并有责任为其监督管理的银行业金融机构及当事人保守秘密。

Article 11 Working personnel of banking regulatory authority shall maintain State secrets in accordance with the law, and shall be responsible for maintaining the confidentiality of the financial institutions in the banking industry and the parties involved under their regulation.

国务院银行业监督管理机构同其他国家或者地区的银行业监督管

When the banking regulatory authority of the State Council exchanges regulatory information with the banking regulatory authority of other countries or regions, it shall make arrangements for maintaining the confidentiality of information.

理机构交流监督管理信息，应当就信息保密作出安排。

第十二条 国务院银行业监督管理机构应当公开监督管理程序，建立监督管理责任制度和内部监督制度。

Article 12 The banking regulatory authority of the State Council shall publicize the procedures for regulation and establish a regulatory responsibility system and an internal supervisory system.

第十三条 银行业监督管理机构在处置银行业金融机构风险、查处有关金融违法行为等监督管理活动中，地方政府、各级有关部门应当予以配合和协助。

Article 13 When the banking regulatory authority is carrying out regulatory activities such as management of risks in financial institutions in the banking industry and investigation and handling of relevant illegal financial acts, local governments and relevant departments at all levels shall provide coordination and assistance.

第十四条 国务院审计、监察等机关，应当依照法律规定对国务院银行业监督管理机构的活动进行监督。

Article 14 The audit and supervisory authorities of the State Council shall supervise the activities of the banking regulatory authority of the State Council in accordance with the provisions of law.

第三章 监督管理职责

Chapter 3 Regulatory Duties

第十五条 国务院银行业监督管理机构依照法律、行政法规制定并发布对银行业金融机构及其业务活动监督管理的规章、规则。

Article 15 The banking regulatory authority of the State Council shall formulate and promulgate regulations and rules on the regulation of financial institutions in the banking industry and their business activities in accordance with laws and administrative regulations.

第十六条 国务院银行业监督管理机构依照法律、行政法规规定

Article 16 The banking regulatory authority of the State Council shall examine and approve the establishment of, changes in, termination of and scope of business of financial institutions in the

的条件和程序，审查批准银行业金融机构的设立、变更、终止以及业务范围。

banking industry in accordance with the criteria and procedures stipulated in laws and regulations.

第十七条 申请设立银行业金融机构，或者银行业金融机构变更持有资本总额或者股份总额达到规定比例以上的股东的，国务院银行业监督管理机构应当对股东的资金来源、财务状况、资本补充能力和诚信状况进行审查。

Article 17 In the case of an application for establishment of a financial institution in the banking industry, or where a financial institution in the banking industry changes the total amount of capital it holds or the total number of shares of a shareholder reaches or exceeds the stipulated proportion, the banking regulatory authority of the State Council shall examine the source of funds, the financial status, the capacity to supplement capital and the creditworthiness of the shareholders.

第十八条 银行业金融机构业务范围内的业务品种，应当按照规定经国务院银行业监督管理机构审查批准或者备案。需要审查批准或者备案的业务品种，由国务院银行业监督管理机构依照法律、行政法规作出规定并公布。

Article 18 The types of services within the scope of business of financial institutions in the banking industry shall be examined and approved by, or filed for record with, the banking regulatory authority of the State Council according to provisions. The types of services that need to be examined and approved or filed for record shall be stipulated and announced by the banking regulatory authority of the State Council in accordance with laws and administrative regulations.

第十九条 未经国务院银行业监督管理机构批准，任何单位或者个人不得设立银行业金融机构或者从事银行业金融机构的业务活动。

Article 19 No entity or individual may establish a financial institution in the banking industry or engage in the business activities of financial institutions in the banking industry without the approval of the banking regulatory authority of the State Council.

第二十条 国务院银行业监督管理机构对银行业金融机构的董事

Article 20 The banking regulatory authority of the State Council shall implement administration of qualifications on the directors and senior management personnel of financial institutions in the

和高级管理人员实行任职资格管理。具体办法由国务院银行业监督管理机构制定。

banking industry. Specific procedures therefor shall be formulated by the banking regulatory authority of the State Council.

第二十一条 银行业金融机构的审慎经营规则，由法律、行政法规规定，也可以由国务院银行业监督管理机构依照法律、行政法规制定。

Article 21 Prudent operation rules for financial institutions in the banking industry shall be stipulated in laws and administrative regulations, and may also be formulated by the banking regulatory authority of the State Council in accordance with laws and administrative regulations.

For the purposes of the preceding paragraph, prudent operation rules shall include risk management, internal control, capital adequacy ratio, quality of assets, reserves for losses, risk concentration, affiliated transactions, liquidity of assets, etc.

前款规定的审慎经营规则，包括风险管理、内部控制、资本充足率、资产质量、损失准备金、风险集中、关联交易、资产流动性等内容。

Financial institutions in the banking industry shall strictly abide by the prudent operation rules.

银行业金融机构应当严格遵守审慎经营规则。

第二十二条 国务院银行业监督管理机构应当在规定的期限，对下列申请事项作出批准或者不批准的书面决定；决定不批准的，应当说明理由：

Article 22 The banking regulatory authority of the State Council shall, within the stipulated time limit, issue a written decision on whether or not to approve the following application items. Where it decides not to approve an application, it shall state the reasons therefor:

(1) within six months of the date of receipt of application documents in the case of establishment of a financial institution in the banking industry;

（一）银行业金融机构的设立，自收到申请文件之日起六个月内

(2) within three months of the date of receipt of application documents in the case of changes in or termination of a financial

institution in the banking industry, or scope of business or addition of types of services within the scope of business; and

(二) 银行业金融机构的变更、终止，以及业务范围和增加业务范围内的业务品种，自收到申请文件之日起三个月内；

(3) within 30 days of the date of receipt of application documents in the case of examination of the qualifications of directors and senior management personnel.

(三) 审查董事和高级管理人员的任职资格，自收到申请文件之日起三十日内。

第二十三条 银行业监督管理机构应当对银行业金融机构的业务活动及其风险状况进行非现场监管，建立银行业金融机构监督管理信息系统，分析、评价银行业金融机构的风险状况。

Article 23 The banking regulatory authority shall conduct off-site regulation of the business activities and risk profile of financial institutions in the banking industry, establish a system for information on regulation of financial institutions in the banking industry, and analyze and evaluate the risk profile of financial institutions in the banking industry.

第二十四条 银行业监督管理机构应当对银行业金融机构的业务活动及其风险状况进行现场检查。

Article 24 The banking regulatory authority shall conduct on-site inspection of the business activities and risk profile of financial institutions in the banking industry.

国务院银行业监督管理机构应当制定现场检查程序，规范现场检查行为。

The banking regulatory authority of the State Council shall formulate the procedures for on-site inspection and standardize on-site inspection.

第二十五条 国务院银行业监督管理机构应当对银行业金融机构

Article 25 The banking regulatory authority of the State Council shall implement regulation of consolidated statement on financial institutions in the banking industry.

实行并表监督管理。

第二十六条 国务院银行业监督管理机构对中国人民银行提出的检查银行业金融机构的建议，应当自收到建议之日起三十日内予以回复。

Article 26 The banking regulatory authority of the State Council shall give a reply to the proposals of inspection of financial institutions in the banking industry from the People's Bank of China within 30 days of the date of receipt of the proposal.

第二十七条 国务院银行业监督管理机构应当建立银行业金融机构监督管理评级体系和风险预警机制，根据银行业金融机构的评级情况和风险状况，确定对其现场检查的频率、范围和需要采取的其他措施。

Article 27 The banking regulatory authority of the State Council shall establish a rating system and a risk alert mechanism for regulation of financial institutions in the banking industry, and shall determine the frequency and scope of on-site inspection, and other measures that need to be adopted on the basis of the rating and risk profile of the financial institution in the banking industry.

第二十八条 国务院银行业监督管理机构应当建立银行业突发事件的发现、报告岗位责任制度。

Article 28 The banking regulatory authority of the State Council shall set up personal responsibility systems for the discovery and reporting of sudden incidents in the banking industry.

银行业监督管理机构发现可能引发系统性银行业风险、严重影响社会稳定的突发事件的，应当立即向国务院银行业监督管理机构负责人报告；国务院银行业监督管理机构负责人认为需要向国务院报告的，应当立即向国务院报告，并告知

Where the banking regulatory authority discovers a sudden incident that may trigger systematic risk in the banking industry or seriously affect social stability, it shall immediately report to the person in charge of the banking regulatory authority of the State Council. Where the person in charge of the banking regulatory authority of the State Council considers that it is necessary to report to the State Council, he shall do so immediately and notify relevant authorities such as the People's Bank of China and the finance department of the State Council.

中国人民银行、国务院财政部门等
有关部门。

第二十九条 国务院银行业监督管理机构应当会同中国人民银行、国务院财政部门等有关部门建立银行业突发事件处置制度，制定银行业突发事件处置预案，明确处置机构和人员及其职责、处置措施和处置程序，及时、有效地处置银行业突发事件。

Article 29 The banking regulatory authority of the State Council shall, in conjunction with relevant authorities such as the People's Bank of China and the finance department of the State Council, establish a system for handling sudden incidents in the banking industry, formulate a proposal for handling sudden incidents in the banking industry, clarify the handling authorities and personnel and their duties, and the measures and procedures for handling, and handle sudden incidents in the banking industry in a timely and effective manner.

第三十条 国务院银行业监督管理机构负责统一编制全国银行业金融机构的统计数据、报表，并按照国家有关规定予以公布。

Article 30 The banking regulatory authority of the State Council shall be responsible for the unified preparation of statistical data and statements of financial institutions in the banking industry throughout the country, and shall announce the same in accordance with the relevant State provisions.

第三十一条 国务院银行业监督管理机构对银行业自律组织的活动进行指导和监督。

银行业自律组织的章程应当报国务院银行业监督管理机构备案。

Article 31 The banking regulatory authority of the State Council shall guide and supervise the activities of self-regulated associations of the banking industry.

The charter of self-regulated associations of the banking industry shall be submitted to the banking regulatory authority of the State Council for record filing.

第三十二条 国务院银行业监督管理机构可以开展与银行业监督管理有关的国际交流、合作活动。

Article 32 The banking regulatory authority of the State Council may engage in international exchange and cooperation activities related to banking regulation.

第四章 监督管理措施

Chapter 4 Regulatory Measures

第三十三条 银行业监督管理机构根据履行职责的需要，有权要求银行业金融机构按照规定报送资产负债表、利润表和其他财务会计、统计报表、经营管理资料以及注册会计师出具的审计报告。

Article 33 The banking regulatory authority shall, in accordance with the needs of performance of duties, have the right to request a financial institution in the banking industry to submit balance sheets, profit and loss statements and other financial and accounting and statistical statements, and operation and management information as well as audit reports issued by certified public accountants according to provisions.

第三十四条 银行业监督管理机构根据审慎监管的要求，可以采取下列措施进行现场检查：

Article 34 The banking regulatory authority may adopt the following measures during on-site inspection in accordance with the requirements for prudent regulation:

（一）进入银行业金融机构进行检查；

(1) to enter into a financial institution in the banking industry to conduct inspection;

（二）询问银行业金融机构的工作人员，要求其对有关检查事项作出说明；

(2) to question the working personnel of a financial institution in the banking industry, and to request them to give explanations on the relevant matters being inspected;

（三）查阅、复制银行业金融机构与检查事项有关的文件、资料，对可能被转移、隐匿或者毁损的文件、资料予以封存；

(3) to review and duplicate the documents and information related to the matters being inspected of the financial institution in the banking industry, and to seal up documents and information that might be transferred, concealed or destroyed; and

（四）检查银行业金融机构运用电子计算机管理业务数据的系统

(4) to inspect the system of financial institution in the banking industry that uses electronic computer to administer business data.

On-site inspection shall be approved by the person in charge of the financial institution in the banking industry. When conducting on-site inspection, there shall be at least two inspection personnel, and they shall produce legal identity documents and written notification of inspection. Where there are less than two inspection personnel or they have not produced legal identity documents and written notification of inspection, the financial

。

进行现场检查，应当经银行业监督管理机构负责人批准。现场检查时，检查人员不得少于二人，并应当出示合法证件和检查通知书；检查人员少于二人或者未出示合法证件和检查通知书的，银行业金融机构有权拒绝检查。

institution in the banking industry shall have the right to refuse inspection.

第三十五条 银行业监督管理机构根据履行职责的需要，可以与银行业金融机构董事、高级管理人员进行监督管理谈话，要求银行业金融机构董事、高级管理人员就银行业金融机构的业务活动和风险管理的重大事项作出说明。

Article 35 The banking regulatory authority may, in accordance with the needs of performance of duties, have regulatory dialogue with the directors and senior management personnel of financial institutions in the banking industry, and request them to give explanations on major matters regarding the business activities and risk management of the financial institution in the banking industry.

第三十六条 银行业监督管理机构应当责令银行业金融机构按照规定，如实向社会公众披露财务会计报告、风险管理状况、董事和高级管理人员变更以及其他重大事项等信息。

Article 36 The banking regulatory authority shall order financial institutions in the banking industry to truthfully disclose to the public information such as financial and accounting reports, risk management status, changes in directors and senior management personnel and other major matters according to provisions.

第三十七条 银行业金融机构违反审慎经营规则的，国务院银行

Article 37 Where a financial institution in the banking industry violates the prudent operation rules, the banking regulatory authority of the State Council or its highest agency at provincial

业监督管理机构或者其省一级派出机构应当责令限期改正；逾期未改正的，或者其行为严重危及该银行业金融机构的稳健运行、损害存款人和其他客户合法权益的，经国务院银行业监督管理机构或者其省一级派出机构负责人批准，可以区别情形，采取下列措施：

（一）责令暂停部分业务、停止批准开办新业务；

（二）限制分配红利和其他收入；

（三）限制资产转让；

（四）责令控股股东转让股权或者限制有关股东的权利；

（五）责令调整董事、高级管理人员或者限制其权利；

（六）停止批准增设分支机构。

银行业金融机构整改后，应当向国务院银行业监督管理机构或者

level shall order rectification within a stipulated time limit. Where rectification is not carried out within the stipulated time limit, or its act seriously endangers the stable operation of the financial institution in the banking industry or harms the lawful rights and interests of depositors or other clients, the following measures may be adopted upon approval of the banking regulatory authority of the State Council or the person in charge of its highest agency at provincial level, depending on the circumstances:

(1) to order suspension of part of its businesses or to halt approval of its engagement in new businesses;

(2) to restrict the distribution of dividends and other revenue;

(3) to restrict the transfer of assets;

(4) to order the transfer of equity of controlling shareholders or to restrict the rights of the relevant shareholders;

(5) to order the adjustment of directors or senior management personnel or to restrict their rights; and

(6) to halt approval of the establishment of additional branches.

After a financial institution in the banking industry has carried out rectification, it shall submit a report to the banking regulatory authority of the State Council or its highest agency at provincial level. After the banking regulatory authority of the State Council or its highest agency at provincial level has checked and accepted the report as having fulfilled the relevant prudent operation rules, the relevant measures stipulated in the preceding paragraph that have been adopted shall be removed within three days of the date of completion of checking and acceptance.

其省一级派出机构提交报告。国务院银行业监督管理机构或者其省一级派出机构经验收，符合有关审慎经营规则的，应当自验收完毕之日起三日内解除对其采取的前款规定的有关措施。

第三十八条 银行业金融机构已经或者可能发生信用危机，严重影响存款人和其他客户合法权益的，国务院银行业监督管理机构可以依法对该银行业金融机构实行接管或者促成机构重组，接管和机构重组依照有关法律和国务院的规定执行。

Article 38 Where a financial institution in the banking industry has or may have a creditability crisis that will seriously affect the lawful rights and interests of depositors and other clients, the banking regulatory authority of the State Council may assume control over such financial institution or facilitate reorganization in accordance with the law. Assumption of control and reorganization shall be implemented in accordance with the relevant laws and the regulations of the State Council.

第三十九条 银行业金融机构有违法经营、经营管理不善等情形，不予撤销将严重危害金融秩序、损害公众利益的，国务院银行业监督管理机构有权予以撤销。

Article 39 Where a financial institution in the banking industry operates in violation of the law or its operations are mismanaged, and failure to shut it down will seriously endanger the financial order or harm the public interest, the banking regulatory authority of the State Council shall have the right to shut it down.

第四十条 银行业金融机构被接管、重组或者被撤销的，国务院银行业监督管理机构有权要求该银行业金融机构的董事、高级管理人

Article 40 Where a financial institution in the banking industry have been taken over, or is reorganized or shut down, the banking regulatory authority of the State Council shall have the right to request the directors, senior management personnel and other working personnel of such financial institution to perform their duties in accordance with the requirements of the banking

员和其他工作人员，按照国务院银行业监督管理机构的要求履行职责。

在接管、机构重组或者撤销清算期间，经国务院银行业监督管理机构负责人批准，对直接负责的董事、高级管理人员和其他直接责任人员，可以采取下列措施：

（一）直接负责的董事、高级管理人员和其他直接责任人员出境将对国家利益造成重大损失的，通知出境管理机关依法阻止其出境；

（二）申请司法机关禁止其转移、转让财产或者对其财产设定其他权利。

regulatory authority of the State Council.

During the period of assumption of control, reorganization or shut down for liquidation, the following measures may be adopted against the directly liable directors and senior management personnel, and other directly liable personnel upon the approval of the person in charge of the banking regulatory authority of the State Council:

(1) if the departure of the directly liable directors and senior management personnel, and other directly liable personnel from China will cause major losses to State interests, the immigration authorities shall be notified to prevent their departure according to law; and

(2) apply to the judicial authorities to prohibit their transfer or assignment of property or attachment of other rights to their property.

第四十一条 经国务院银行业监督管理机构或者其省一级派出机构负责人批准，银行业监督管理机构有权查询涉嫌金融违法的银行业金融机构及其工作人员以及关联行为人的账户；对涉嫌转移或者隐匿违法资金的，经银行业监督管理机构负责人批准，可以申请司法机关

Article 41 Upon the approval of the banking regulatory authority of the State Council or its highest agency at provincial level, the banking regulatory authority shall have the right to inquire the bank accounts of financial institutions in the banking industry, their working personnel and other affiliated persons that are suspected of engaging in illegal financial activity. In case of persons suspected of transferring or concealing illegal funds, application may be made to the judicial authorities to freeze their funds upon the approval of the person in charge of banking regulatory authority.

予以冻结。

第四十二条 银行业监督管理机构依法对银行业金融机构进行检查时，经设区的市一级以上银行业监督管理机构负责人批准，可以对与涉嫌违法事项有关的单位和个人采取下列措施：

（一）询问有关单位或者个人，要求其对有关情况作出说明；

（二）查阅、复制有关财务会计、财产权登记等文件、资料；

（三）对可能被转移、隐匿、毁损或者伪造的文件、资料，予以先行登记保存。

银行业监督管理机构采取前款规定措施，调查人员不得少于二人，并应当出示合法证件和调查通知书；调查人员少于二人或者未出示合法证件和调查通知书的，有关单位或者个人有权拒绝。对依法采取的措施，有关单位和个人应当配合，如实说明有关情况并提供有关文

Article 42 When inspections of financial institutions in the banking industry are being carried out pursuant to the law, the banking regulatory department may, subject to the approval of the person in charge of the banking regulatory department at the level of municipalities divided into districts or above, adopt the following measures against entities and individuals in suspicion of being connected to an illegal matter:

(1) question the relevant entities or individuals and require them to provide explanations to the relevant issue;

(2) inspect and reproduce the documents and materials in relation to finance and accounting and registration of property rights;

(3) register and retain in advance documents and materials that may likely be removed, concealed, damaged or forged.

When the banking regulatory authority adopts the measures in the preceding provision, the investigating personnel shall not be less than two persons, and the legal identification documents and notice of investigation shall be presented. Where the number of investigation personnel is less than two or the investigation personnel fail to present the legal identification document and notice of investigation, the relevant entity or individual shall have a right of refusal. Where the measure is adopted pursuant to the law, the relevant entity and individual shall cooperate, explain the facts and provide the relevant documents and materials, and shall not refuse or hinder the investigation or conceal any facts.

件、资料，不得拒绝、阻碍和隐瞒

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第五章 法律责任

第四十三条 银行业监督管理

机构从事监督管理工作的人员有下列情形之一的，依法给予行政处分；构成犯罪的，依法追究刑事责任：

（一）违反规定审查批准银行业金融机构的设立、变更、终止，以及业务范围和业务范围内的业务品种的；

（二）违反规定对银行业金融机构进行现场检查的；

（三）未依照本法第二十八条规定报告突发事件的；

（四）违反规定查询账户或者申请冻结资金的；

（五）违反规定对银行业金融机构采取措施或者处罚的；

（六）违反本法第四十二条规

Chapter 5 Legal Liability

Article 43 Where personnel of banking regulatory authority that engage in regulatory work commit any of the following acts, he shall be subjected to administrative penalty in accordance with the law. Where a criminal offence is constituted, criminal liability shall be pursued in accordance with the law:

(1) examine and approve the establishment of, changes in or termination of financial institutions in the banking industry, or the scope of business or the types of services within the scope of business of such financial institutions in violation of provisions;

(2) conduct on-site inspection of financial institutions in the banking industry in violation of provisions;

(3) fail to report sudden incidents in accordance with Article 28 hereof;

(4) inspect bank accounts or apply to freeze funds in violation of provisions;

(5) adopt measures against or penalize financial institutions in the banking industry in violation of provisions; or

(6) conduct investigation on the relevant entity or individual in violation of the provisions of Article 42 hereof;

(7) other acts that constitute an abuse of power or dereliction of duty.

Personnel of the banking regulatory authority of the State Council engaging in supervision and administration duties who are guilty of fund embezzlement or corrupt practices, disclosure of State or commercial secrets and personal privacy shall be liable for criminal

定对有关单位或者个人进行调查的；

（七）滥用职权、玩忽职守的其他行为。

银行业监督管理机构从事监督管理工作的人员贪污受贿，泄露国家秘密、商业秘密和个人隐私，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

prosecution according to laws if the case constitutes a criminal offence; where the case does not constitute a criminal offence, administrative sanctions shall be imposed in accordance with laws.

第四十四条 擅自设立银行业金融机构或者非法从事银行业金融机构的业务活动的，由国务院银行业监督管理机构予以取缔；构成犯罪的，依法追究刑事责任；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 44 In case of establishment of a financial institution in the banking industry without authorization or illegal engagement in the business activities of financial institutions in the banking industry, such financial institution shall be banned by the banking regulatory authority of the State Council. Where a criminal offence is constituted, criminal liability shall be pursued in accordance with the law. Where it is insufficient to constitute a criminal offence, the banking regulatory authority of the State Council shall confiscate the illegal income. If the illegal income is more than 500,000 yuan, a fine of not less than one time and not more than five times the illegal income shall be imposed. If there is no illegal income or the illegal income is less than 500,000 yuan, a fine of not less than 500,000 yuan and not more than 2 million yuan shall be imposed.

第四十五条 银行业金融机构有下列情形之一，由国务院银行业

Article 45 Where a financial institution in the banking industry is in any of the following circumstances, the banking regulatory authority of the State Council shall order it to make rectification. If

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）未经批准变更、终止的；

（三）违反规定从事未经批准或者未备案的业务活动的；

（四）违反规定提高或者降低存款利率、贷款利率的。

there is illegal income, the illegal income shall be confiscated. For illegal income more than 500,000 yuan, a fine of not less than one time and not more than five times the illegal income shall be imposed. If there is no illegal income or the illegal income is less than 500,000 yuan, a fine of not less than 500,000 yuan and not more than 2 million yuan shall be imposed. Where the circumstances are exceptionally serious or rectification is not carried out within the time limit, the banking regulatory authority of the State Council may order suspension of business for reorganization or may revoke its operating permit. Where a criminal offence is constituted, criminal liability shall be pursued in accordance with the law:

(1) establishing a branch without approval;

(2) carrying out changes or termination without approval;

(3) engaging in business activities that have not been approved or submitted for record filing in violation of provisions; or

(4) raising or lowering the interest rate on deposits or loans in violation of provisions.

第四十六条 银行业金融机构有下列情形之一，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

Article 46 Where a financial institution in the banking industry is in any of the following circumstances, the banking regulatory authority of the State Council shall order rectification, and shall impose a fine of not less than 200,000 yuan and not more than 500,000 yuan. If the circumstances are exceptionally serious or rectification is not carried out within the time limit, the banking

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：	regulatory authority of the State Council may order suspension of business for reorganization or may revoke its operating permit. Where a criminal offence is constituted, criminal liability shall be pursued in accordance with the law:
（一）未经任职资格审查任命董事、高级管理人员的；	(1) appointing directors or senior management personnel without examining their qualifications;
（二）拒绝或者阻碍非现场监管或者现场检查的；	(2) refusing or obstructing off-site regulation or on-site inspection;
（三）提供虚假的或者隐瞒重要事实的报表、报告等文件、资料的；	(3) providing documents and information such as statements and reports that are false or that conceal important facts;
（四）未按照规定进行信息披露的；	(4) failure to carry out information disclosure according to provisions;
（五）严重违反审慎经营规则的；	(5) serious violation of the prudent operation rules; or
（六）拒绝执行本法第三十七条规定的措施的。	(6) refusing to implement the measures stipulated in Article 37 hereof.

第四十七条 银行业金融机构不按照规定提供报表、报告等文件、资料的，由银行业监督管理机构责令改正，逾期不改正的，处十	Article 47 Where a financial institution in the banking industry fails to provide documents and information such as statements and reports according to provisions, the banking regulatory authority of the State Council shall order rectification. And if the rectification is not carried out within the time limit, a fine of not less than 100,000 yuan and not more than 300,000 yuan shall be imposed.
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元以上三十万元以下罚款。

第四十八条 银行业金融机构违反法律、行政法规以及国家有关银行业监督管理规定的，银行业监督管理机构除依照本法第四十四条至第四十七条规定处罚外，还可以区别不同情形，采取下列措施：

（一）责令银行业金融机构对直接负责的董事、高级管理人员和其他直接责任人员给予纪律处分；

（二）银行业金融机构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告，处五万元以上五十万元以下罚款；

（三）取消直接负责的董事、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。

Article 48 Where a financial institution in the banking industry violates laws, administrative regulations or the State provisions on banking regulation, banking regulatory authority may, in addition to imposing the penalties stipulated in Articles 43 to 46 hereof, adopt the following measures, depending on the circumstances:

(1) order the financial institution in the banking industry to impose disciplinary punishment on the directly liable directors and senior management personnel, and other directly liable personnel;

(2) if the act committed by the financial institution in the banking industry is insufficient to constitute a criminal offence, the directly liable directors and senior management personnel and other directly liable personnel shall be imposed a warning and subjected to a fine of not less than 50,000 yuan and not more than 500,000 yuan; and

(3) revoke the qualification of the directly liable directors and senior management personnel for a certain period or for life, or prohibit the directly liable directors and senior management personnel, and other directly liable personnel from engaging in the banking industry for a certain period or for life.

第四十九条 阻碍银行业监督

Article 49 Persons who hinder legitimate inspection and investigation by personnel of the banking regulatory authority shall

管理机构工作人员依法执行检查、调查职务的，由公安机关依法给予治安管理处罚；构成犯罪的，依法追究刑事责任。

be subject to security administrative punishment imposed by the public security department pursuant to the law; where the case constitutes a criminal offence, criminal liability shall be imposed according to the law.

第六章 附 则

Chapter 6 Supplementary Provisions

第五十条 对在中华人民共和国境内设立的政策性银行、金融资产管理公司的监督管理，法律、行政法规另有规定的，依照其规定。

Article 50 Where there are other stipulations in laws and administrative regulations on the regulation of policy banks and financial asset management companies established in the People's Republic of China, such stipulations shall prevail.

第五十一条 对在中华人民共和国境内设立的外资银行业金融机构、中外合资银行业金融机构、外国银行业金融机构的分支机构的监督管理，法律、行政法规另有规定的，依照其规定。

Article 51 Where there are other stipulations in laws and administrative regulations on the regulation of foreign-invested financial institutions in the banking industry, Sino-foreign equity joint financial institutions in the banking industry and branches of foreign financial institutions in the banking industry established in the People's Republic of China, such stipulations shall prevail.

第五十二条 本法自2004年2月1日起施行。

Article 52 This Law shall be effective 1 February 2004.



扫一扫，手机阅读更方便