

# 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)

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## 第一章 总 则

**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。

**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;

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。

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。

**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。

**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。

**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。

**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。

**第九条** 商业银行开展业务，应当遵守公平竞争的原则，不得从事不正当竞争。

**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。

## 第二章 商业银行的设立 和 组 织 机 构

**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。

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。

**第十二条** 设立商业银行，应当具备下列条件：

- (一) 有符合本法和《中华人民共和国公司法》规定的章程；
- (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。

**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。

**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、股份；

(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；

(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。

**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。

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，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。

**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。

**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。

**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，并凭该许可证向工商行政管理部门办理登记，领取营业执照。

**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。

**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。

**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；

(二) 变更注册资本；

(三) 变更总行或者分支行所在地；

(四) 调整业务范围；

(五) 变更持有资本总额或者股份总额百分之五以上的股东；

(六) 修改章程；

(七) 国务院银行业监督管理机构规定的其他变更事项。

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。

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。

**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许可证。禁止伪造、变造、转让、出租、出借经营许可证。

**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：

(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；

(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；

(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；

(四) 个人所负数额较大的债务到期未清偿的。

**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。

### 第三章 对存款人的保护

**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。

**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。

**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。

**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。

### 第四章 贷款和其他业务 的基本规则

**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。

**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。

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。

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的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超过百分之十；

(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。

**第四十一条** 任何单位和个人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。

**第四十二条** 借款人应当按期归还贷款的本金和利息。

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。

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。

**第四十四条** 商业银行办理票据承兑、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。

**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。

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

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。

**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。

**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。

**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。

**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。

**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。

**第五十二条** 商业银行的工作人员应当遵守法律、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。

**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。

## 第五章 财 务 会 计

**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。

**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。

**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。

**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。

## 第六章 监 督 管 理

**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。

**第六十三条** 商业银行应当依法接受审计机关的审计监督。

## 第七章 接 管 和 终 止

**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。

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。

**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。

**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。

**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。

**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决定的接管延期届满；
- (二) 接管期限届满前，该商业银行已恢复正常经营能力；
- (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。

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。

**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，按照清偿计划及时偿还存款本金和利息等债务。

**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。

**第七十二条** 商业银行因解散、被撤销和被宣告破产而终止。

## 第八章 法律 责 任

**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、拒绝支付存款本金和利息的；
- (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；
- (三) 非法查询、冻结、扣划个人储蓄存款或者单位存款的；
- (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。

**第七十六条** 商业银行有下列情形之一，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，由中国人民银行责令改正，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，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。

**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。

**第七十九条** 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：

(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。

**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。

**第八十一条** 未经国务院银行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。

**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。

**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。

**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。

**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。

## 第九章 附 则

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。

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。

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。

第九十四条 邮政企业办理商业银行的有关业务，适用本法有关规定。

第九十五条 本法自 2015 年 10 月 1 日起施行。

# 关于《中华人民共和国商业银行法修正案（草案）》的说明

——2015 年 8 月 24 日在第十二届全国人民代表大会常务委员会第十六次会议上

中国银行业监督管理委员会主席 尚福林

全国人民代表大会常务委员会：

我受国务院委托，现对《中华人民共和国商业银行法修正案（草案）》（以下简称草案）作说明。

国务院领导同志高度重视缓解企业融资难、融资贵工作，多次作出重要批示指示，强调要完善差异化信贷政策，增加存贷比指标弹性，增强金融机构对小微企业、“三农”等贷款的能力，进一步有针对性地缓解融资成本高问题，促进创新创业，带动群众收入提高。

2014 年 11 月，银监会向国务院报送《中华人民共和国商业银行法修正案（草案送审稿）》，提出删去 1995 年公布施行的《中华人民共和国商业银行法》（以下简称商业银行法）第三十九条中有关商业银行贷款余额与存款余额的比例不得超过 75% 的规定，将存贷比由法定监管指标

转变为流动性风险监测指标。主要考虑是，存贷比监管在当时对于约束商业银行信贷规模过快扩张，防范和控制商业银行流动性风险发挥了积极作用，但随着经济、金融的发展，存贷比监管已不适应当前商业银行资产负债多元化和业务创新发展的需要，取消存贷比监管指标是银行业改革以及更好地支持实体经济的需要，也符合国际惯例。

法制办收到此件后，通过书面征求意见、召开座谈会等方式，听取了中央财办、全国人大财经委、发展改革委、财政部、商务部、人民银行、审计署、国研室、发展研究中心、证监会、保监会、外汇局等有关部门，部分大中小型商业银行以及专家学者的意见。各方面均赞成删去商业银行法有关存贷比监管指标的规定，主要理由：



# Law of the People's Republic of China on Commercial Banks (2015 Amendment)

## 中华人民共和国商业银行法 (2015 修正)

### Law of the People's Republic of China on Commercial Banks

(Adopted at the 13th Session of the Standing Committee of the Eighth National People's Congress on May 10, 1995, and amended according to the Decision on Modifying the Law of the People's Republic of China on Commercial Banks as adopted by the Sixth Session of the Standing Committee of the Tenth National People's Congress on December 27, 2003; amended according to the Decision on Amending the Law of the People's Republic of China on Commercial Banks as adopted by the 16th Session of the Standing Committee of the Twelfth National People's Congress on August 29, 2015)

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#### Chapter IX Supplementary Provisions

#### Chapter I General Provisions

**Article 1** The present Law is hereby formulated for the purpose of protecting the legal rights and interests of commercial banks, depositors and other clients, standardizing the behaviors of commercial banks, improving the quality of loan assets, strengthening the supervision and management and thus ensuring the sound and stable operations of commercial banks, safeguarding financial order and promoting the development of the socialist market economy.

**Article 2** The "commercial banks" referred to in this Law are those enterprise legal persons which are established to absorb public deposits, make loans, arrange settlement of accounts and engage in other businesses in accordance with this law and the "[Company Law of the People's Republic of China](#)".

**Article 3** A commercial bank may have the following businesses in part or in whole:

1. Absorbing public deposits;
2. Offering short-term, medium-term and long-term loans;
3. Arranging settlement of both domestic and overseas accounts;
4. Handling acceptance and discount of negotiable instruments;



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5. Issuing financial bonds;
  6. Issuing, cashing and undertaking the sale of government bonds as agents;
  7. Buying and selling government bonds or financial bonds;
  8. Undertaking inter-bank borrowing or lending;
  9. Buying and selling foreign exchange by itself or as agents;
  10. Engaging in bank card business;
  11. Offering L/C services and guarantee;
  12. Handling receipts and payments and insurance business as agents;
  13. Providing safe boxes services; and
  14. Other businesses as approved by the banking regulatory organ of the State Council.
- The business scope of a commercial bank shall be determined by the Articles of Association of the bank and reported to the banking regulatory organ of the State Council for approval.
- A commercial bank may undertake foreign exchange settlement and selling businesses after being approved by the People's Bank of China.

**Article 4** Commercial banks shall work under the principles of safety, fluidity and efficiency, with full autonomy and assume sole responsibility for their own risks, profits and losses, and with self-restraint.

Commercial banks shall carry out business in accordance with laws free from any interference by entities or individuals.

Commercial banks shall bear civil legal liabilities independently with all their properties as legal persons.

**Article 5** Commercial banks shall follow the principles of equality, free will, fairness, and good faith in their services to clients.

**Article 6** Commercial banks shall protect the legal rights and interests of the depositors against the encroachment of any entity or individual.

**Article 7** Commercial banks shall, in offering loans, make examination strictly on the credibility of the borrower, and provide loans on guarantee to ensure timely recovery of the loan.

Commercial banks are protected by laws in duly recovery of principals and interests of the loans they extended.

**Article 8** Commercial banks shall carry out business in accordance with the relevant provisions of laws and administrative regulations, and shall not do harm to the interests of the state and the society.

**Article 9** Commercial banks shall carry out business in light of the principle of fair competition, and shall not engage in any unfair competition.

**Article 10** Commercial banks shall be subject to the supervision of the banking regulatory organ of the State Council according to law, unless otherwise the law prescribes that the relevant business thereof shall be subject to the supervision of any other regulatory department or organ, the provisions will prevail.

## Chapter II Establishment and Organization of Commercial Banks



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**Article 11** The establishment of a commercial bank shall be subject to the examination and approval of the banking regulatory organ of the State Council. No entity or individual may engage in absorbing public deposits or other businesses of a commercial bank, nor shall any entity use the word "bank" in its name without the approval of the banking regulatory organ of the State Council.

**Article 12** The following requirements shall be met in establishing a commercial bank:

1. Having Articles of Association in accord with this Law and the provisions of the [Company Law of the People's Republic of China](#);
2. Having a registered capital that meets the minimum amount in accordance with the provisions of this Law;
3. Having directors and senior management personnel with professional knowledge for holding the post and work experiences;
4. Having perfect organizations and management systems; and
5. Having a place of business accompanied with safeguard measures meeting the requirements and other facilities in relation to the business.

Other sound conditions shall also be met for the establishment of a commercial bank.

**Article 13** The minimum amount of registered capital for establishing a national commercial bank shall be RMB one billion Yuan. The minimum amount of registered capital for establishing a city commercial bank shall be RMB a hundred million Yuan, and for a rural commercial bank the minimum amount of registered capital shall be RMB 50 million Yuan. The registered capital shall be paid-in capital. The banking regulatory organ of the State Council may adjust the minimum amount of registered capital as required for sound supervision, but the amounts thereof shall be no less than that as prescribed in the preceding paragraph.

**Article 14** An applicant shall submit the following documents and materials to the banking regulatory organ of the State Council for establishing a commercial bank:

1. An application, specifying the name, locations, amount of registered capital, and business scope of the commercial bank to be set up;
2. A feasibility study report; and
3. Other documents and materials that shall be submitted as required by the banking regulatory organ of the State Council.

**Article 15** Where an application for establishment of a commercial bank is in accord with the provisions of Article 14 of this Law, an applicant shall fill in out a formal application, and submit the following documents and materials:

1. The draft of the Articles of Association;
2. Qualification certificates of the directors and senior management personnel to assume the posts;
3. Certificate of capital issued by a legal capital checking organ;
4. Name list of shareholders and the amount of capital contributions and shares thereof;
5. Certificates of credibility and relevant documents of the shareholders who hold more than 5% of the registered capital;
6. Business policies and plans;
7. Place of business accompanied with the safeguard measures and documents of other facilities in relation to the business; and
8. Other documents and materials as required by the banking regulatory organ of the



State Council.

**Article 16** Commercial banks established upon approval shall be issued permit for operation by the banking regulatory organ of the State Council, and go through registration formalities at the department of industry and commerce administration upon the strength of the permit and get the business license.

**Article 17** The organization form and setup of a commercial bank shall be applicable to the provisions of the [Company Law of the People's Republic of China](#). Where a commercial bank, which was established before the promulgation of this law has its organization form and setup not entirely in accordance with the provisions of the "[Company Law of the People's Republic of China](#)", it may continue to operate under the original form and setup, and when the provisions of the preceding paragraph should be applied is up to the determination of the State Council.

**Article 18** A solely state-owned commercial bank shall set up a board of supervisors, the measures for its forming shall be prescribed by the State Council. The board of supervisors shall make supervisions over the quality of the loan assets of the solely state-owned commercial bank, its assets liability ratio, present and added values of the state-owned assets, etc., and the acts of the senior management personnel in violation of laws, administrative regulations, or Articles of Association, as well as that acts damaging the interests of the bank.

**Article 19** A commercial bank may set up branches both within and outside the territory of the People's Republic of China upon the need of business, which shall be subject to the examination and approval of the banking regulatory organ of the State Council. There is no need to set up branches in every administrative district within the territory of the People's Republic of China. Where a commercial bank establishes branches within the territory of China, it shall allocate corresponding working capital catering for its business scale as required. And the total amount of working capital allocated to each branch shall not exceed 60% of the total amount of capital of the parent bank.

**Article 20** An applicant shall submit the following documents and materials to the banking regulatory organ of the State Council for setting up branches of a commercial bank:

1. An application, specifying the name, amount of working capital, scope of business of the branches to be established, the parent bank and locations of the branches, etc;
2. Finance and accounting report of the applicant in the past two years;
3. Qualification certificates of senior management personnel to be appointed;
4. Business policy and plan;
5. Place of business accompanied with the safeguard measures and documents of other facilities related to the business; and
6. Other documents and materials as required by the banking regulatory organ of the State Council.

**Article 21** The branches of a commercial bank established upon approval shall be issued a permit for operation by the banking regulatory organ of the State Council, and go through registration formalities at the department of industry and commerce administration upon the strength of the permit, and obtain a business license.

**Article 22** A commercial bank shall adopt a financial system of unified accounting and fund disposition and hierarchical management in respect to its branches. The branches of a commercial bank have no qualifications of a legal person, and shall carry out business according to law within the scope of authorization by the parent bank, which shall bear the civil legal liabilities thereof.

**Article 23** The establishment of a commercial bank and its branches upon approval shall be announced by the banking regulatory organ of the State Council. Where a commercial bank and its branches fail to start their business without good reason for more than 6 months from the date of getting their business license, or stop their business for more than six consecutive months after starting business, the banking regulatory organ of the State Council may revoke their permits for operation and make announcement thereto.

**Article 24** A commercial bank shall be subject to the approval of the banking regulatory organ of the State Council for alteration of any of the following matters:

1. Alteration of the name;
2. Alteration of the registered capital;
3. Alteration of locations of the parent bank or the branches;
4. Adjustment of the business scope;
5. Alteration of shareholders who hold more than 5% of the total amount of capital or shares;
6. Modification of Articles of Association; or
7. Other matters altered as prescribed by the banking regulatory organ of the State Council.

In case of replacing any director or senior management personnel, a commercial bank shall report to the banking regulatory organ of the State Council for examination on their qualifications for assuming the posts.

**Article 25** The provisions of the [Company Law of the People's Republic of China](#) shall be applicable to the division or merger of a commercial bank. The division and merger of a commercial bank shall be subject to the examination and approval of the banking regulatory organ of the State Council.

**Article 26** A commercial bank shall use its permit for operation in accordance with the provisions of laws and administrative regulations. No permit for operation may be forged, altered, transferred, leased or lent.

**Article 27** In any of the following circumstances, a person shall not be appointed as a director or senior management personnel of a commercial bank:

1. Being imposed a penalty for committing a crime of corruption, bribery, encroachment or embezzlement of properties or disrupting economic order of the society, or being deprived of political rights for committing a crime;
2. Assuming the post of director or factory director or manager of a company or enterprise, which is in bankruptcy liquidation due to misconduct, and being personally liable for the bankruptcy of the company or the enterprise;
3. Acting as the legal representative of a company or enterprise, which is revoked business license due to illegal acts, and being personally liable for it; or
4. Failing to pay large amount of personal debts due.



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**Article 28** Any entity or individual who wants to buy more than 5% of the total amount of shares of a commercial bank shall be subject to the approval of the banking regulatory organ of the State Council in advance.

### Chapter III Protections for the Depositors

**Article 29** Commercial banks shall follow the principles of voluntary deposit and free withdrawal, paying interest to depositors and keeping secret for depositors in handling individual savings deposits.

Commercial banks have the right to refuse any entity or individual to inquire about, freeze or deduct individual savings accounts, unless it is otherwise prescribed by laws.

**Article 30** A commercial bank has the right to refuse any entity or individual's inquiry about the account of an entity, unless it is otherwise prescribed by laws and administrative regulations; it also has the right to refuse any entity or individual's request for freezing or deducting the account, unless otherwise as prescribed by laws.

**Article 31** A commercial bank shall determine its own interest rates in accordance with the upper and lower limits for deposit interests set by the People's Bank of China and make announcement.

**Article 32** A commercial bank should pay a certain amount of deposit reserve fund to the People's Bank of China and keep adequate payment funds in accordance with the provisions of the PBC.

**Article 33** A commercial bank shall guarantee the payment of principals and interests of the deposits, and shall not delay or refuse to pay the principals or interests of the deposits.

### Chapter IV Basic Rules Governing Loans and Other Businesses

**Article 34** Commercial banks shall carry out their loan business upon the needs of national economy and the social development and under the guidance of the state industrial policies.

**Article 35** In offering loans to a borrower, a commercial bank shall strictly check the use of the loan by the borrower, the repayment ability of the borrower, and modes of repayment, etc..

When granting loans, a commercial bank shall separate the checking process with the actual lending, and make examination and approval level-by-level.

**Article 36** In granting loans, a commercial bank shall require the borrower to provide guarantee, and closely check the ability of the guarantor, the ownership and value of the guaranty, pledge, and the feasibility for realizing the right to mortgage or pledge. Where, after checking and evaluation by a commercial bank, a borrower is confirmed as having excellent credibility and can truly repay the loans, it may not provide guarantee.

**Article 37** In granting loans, a commercial bank shall sign written contract with a



borrower, which shall stipulate the kind of loans, its use, amount, interest rate, time limit and modes for repayment, liabilities for breach of the contract, and other matters concerned as believed necessary by both parties.

**Article 38** A commercial bank shall determine its loan rate in accordance with the upper and lower limit of loan rate set by the People's Bank of China.

**Article 39** In granting loans, a commercial bank shall observe the following provisions on the management of the asset-liability ratio:

1. The rate of capital sufficiency shall be no less than 8%;
2. The proportion of the balance of circulating assets and the balance of circulating liabilities shall not be lower than 25%;
3. The ratio of the balance of loans to the same borrower and the balance of capital of the commercial bank shall not exceed 10%; and
4. Other provisions of the banking regulatory organ of the State Council on the management of assets capital ratio.

The commercial banks established before the promulgation of this Law whose asset-capital ratio is in inconformity with the provisions of the preceding paragraph shall, after the promulgation of this Law, readjust its ratio to suit the provisions of the preceding paragraph within a certain period of time. The specific measures shall be made by the State Council.

**Article 40** No commercial bank shall offer credit loans to the affiliated party; and no secured loans granted to any connected party shall be superior to the similar loans to other borrowers.

The connected party as mentioned in the preceding paragraph refers to:

1. The directors, supervisors, management personnel, credit loan business dealers of a commercial bank and their close relatives;
2. The companies, enterprises and other economic organizations in which the persons listed in the preceding item have investment or holding senior management positions.

**Article 41** No entity or individual may coerce a commercial bank into granting loans or providing guarantee. A commercial bank shall have the right to refuse any entity or individual to force it to do so.

**Article 42** Borrowers of loans shall repay the principal and interest of the loans on time.

In case that a borrower fails to repay the guaranteed loan on time, the commercial bank making the loan shall have the right to ask the guarantor to repay the principal and interest of the loan or enjoy the priority of repayment by the guaranty according to law. Realities or share rights obtained by a commercial bank due to exercising the bank's ownership of mortgage or pledge shall be handled within two years as of the date of obtaining them by the bank.

A borrower shall be liable for his failure to repay the credit loan on time in term of the contract.

**Article 43** No commercial banks shall undertake the businesses of trust and investment and securities dealing business, nor shall they invest in the non-self-use real property or non-bank financial institutions and enterprises, unless it is otherwise prescribed by the state.



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**Article 44** In handling account settlement businesses such as acceptance, remittance and collections of negotiable instruments, a commercial bank shall cash in and enter the receipts and payment into the account book within the prescribed time limit and shall not hold down the bill or negotiable instruments or return them in violation of regulations. The provisions on the prescribed time limit for cashing in and entering the receipts and payment into the account books shall be announced.

**Article 45** In issuing financial bonds or getting loans overseas, a commercial bank shall file an application for approval in accordance with laws and administrative regulations.

**Article 46** Commercial banks shall observe the provisions of the People's Bank of China when making inter-bank borrowing or lending. No capital borrowed may be used for granting loans on fixed assets or for investment. The capitals lent shall be limited for the use of idle loans after fully paying deposit reserve funds, keeping payment funds and returning the loans due of the People's Bank of China. The capitals borrowed shall be used for offsetting the bill balance, the shortage of the inter-bank balance of foreign exchange position, and the temporary working funds.

**Article 47** No commercial bank may increase or decrease interest rate in violation of regulations or absorb deposit or make loans by other illegal means.

**Article 48** Enterprises and institutions may choose on their own will a commercial bank to open their own basic accounts for daily transference and settlement of accounts and cash receipts and payment, but they are prohibited to open two or more basic accounts. No entity or individual may deposit the capitals of an entity by opening an account in personal name.

**Article 49** Commercial banks shall publicize their business hours for the convenience of clients, and shall work at the business hours announced, no commercial bank may stop business or shorten the business hours without permission.

**Article 50** A commercial bank may charge handling fees as prescribed in handling business or providing services. The charging items and standards shall be formulated by the banking regulatory organ of the State Council, the People's Bank of China according to their own functions, or jointly with the departments in charge of the price under the State Council.

**Article 51** Commercial banks shall keep the financial statement, business contracts and other documents in accordance with the relevant state provisions.

**Article 52** Employees of the commercial banks shall abide by law, administrative regulations, and other provisions on various business management, and shall not perform the following acts:

1. Availing themselves of their own position to seek for or accept bribery or accept commissions or service charges under various titles in violation of state regulations;
2. Availing themselves of their own positions to defalcate, embezzle or encroach



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- capital of their own bank or the clients;
3. Privately granting loans to or provide guarantee for relatives and friends in violation of relative regulations;
  4. Serving concurrently in two or more economic organizations; or
  5. Other acts in violation of laws, administrative regulations, and provisions on business management.

**Article 53** No employee of a commercial bank may divulge any state or commercial secret they acquire during their term of service.

## Chapter V Finance and Accounting

**Article 54** Commercial banks shall, in accordance with laws and the unified accounting system of the state, as well as the relevant provisions of the banking regulatory organ of the State Council, establish and perfect the finance and accounting systems of their own.

**Article 55** A commercial bank shall, according to the relevant state provisions, truly record and reflect their business activities and financial status, work out annual financial report, and report to the banking regulatory organ of the State Council, the People's Bank of China, and the financial departments of the State Council in time. No commercial bank may set up any other accounting books in addition to the legal accounting books.

**Article 56** Commercial banks shall, within three months after the end of each fiscal year, announce their outstanding achievements of business and auditing report of the previous year.

**Article 57** Commercial banks shall draw reserve against bad debts to offset the bad debts in accordance with the relevant provisions of the state.

**Article 58** The fiscal year of a commercial bank shall start from January 1 and end on December 31 of the Gregorian calendar.

## Chapter VI Supervision and Management

**Article 59** A commercial bank shall, according to relevant provisions, formulate its own business regulations, and establish and perfect the risk control and internal control systems of the bank.

**Article 60** A commercial bank shall establish and perfect its own systems of auditing and inspection on various conditions concerning deposit, loans, settlement, and bad debts, etc..

A commercial bank shall make auditing and checking and supervision over its branches regularly.

**Article 61** A commercial bank shall report balance sheets, statements of profits, and other financial statements and statistical reports and documents to the banking regulatory organ of the State Council and the People's Bank of China.



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**Article 62** The banking regulatory organ of the State Council shall have the right to check on and supervise over the deposits, loans, settlement and bad debts, and other conditions of the commercial banks at any time in pursuance of the provisions of Chapter III, Chapter IV, and Chapter V of this Law. During their work of checking and supervision, the checkers and the supervisors shall show their legal certificates. Commercial banks should provide finance and accounting data, business contracts and other information with respect to their business and management in accordance with the requirements of the banking regulatory organ of the State Council. The People's Bank of China has the right to make examination on and supervision over the commercial banks in accordance with the provisions of [Article 32](#) and [Article 34](#) of the "[Law of the People's Republic of China on the People's Bank of China](#)".

**Article 63** A commercial bank shall accept auditing and supervision by the auditing departments according to law.

## Chapter VII Take-over and Termination

**Article 64** In case a commercial bank has occurred or may occur creditability crisis, which may seriously influence the interests of the depositors, the banking regulatory organ of the State Council may take over the bank.

The take-over of a commercial bank is for the purpose of taking necessary measures to protect the interests of depositors and resume the ordinary business ability of the commercial bank. The relations of creditor rights and debts of the commercial bank being taken over shall not be changed due to the take-over.

**Article 65** The banking regulatory organ of the State Council shall determine and organize the implementation of the take-over. The decision of the banking regulatory organ of the State Council on the take-over shall specify the following contents:

1. The name of the commercial bank being taken over;
2. The reasons for the take-over;
3. The organization of the take-over; and
4. The term of the take-over.

The decision on taking over a commercial bank shall be announced by the banking regulatory organ of the State Council.

**Article 66** The take-over shall begin as of the date of the implementation of the take-over decision.

The take-over organizations shall exercise the business management power of the commercial banks from the date of take-over.

**Article 67** At the expiration of the take-over term, the banking regulatory organ of the State Council may determine to extend the term, but the maximum term for the take-over shall not exceed two years.

**Article 68** In any of the following circumstances, the take-over shall be terminated:

1. The term prescribed in the take-over decision expires, or the extended term of take-over as determined by the banking regulatory organ of the State Council expires;
2. The commercial bank has resumed ordinary business ability before the expiration of the term for take-over;
3. Before the expiration of the term for take-over, the commercial bank has been



merged or adjudicated bankrupt according to law.

**Article 69** A commercial bank should apply to the banking regulatory organ of the State Council for dissolution due to division or merger or other reasons as set down in the Articles of Association of the bank, and the application should be accompanied with the reasons for the dissolution and the plan for balance settlement such as paying the principal and interest of the deposits. And then the bank shall dissolve upon approval of the banking regulatory organ of the State Council.

The commercial bank to be dissolved shall set up a group for liquidation in accordance with laws and pay its debts such as the principal and interest of deposits in time according to the repayment plan. The banking regulatory organ of the State Council shall make supervision over the settling process.

**Article 70** In the event that a commercial bank is dissolved due to revocation of the permit for operation, the banking regulatory organ of the State Council shall organize to form a liquidation group according to law to make liquidation and pay its debts such as the principals and interests of deposits in time according to the repayment plan.

**Article 71** Where a commercial bank is unable to pay the debts due, it may be adjudicated bankrupt by the people's courts according to law with the consent of the banking regulatory organ of the State Council. In this process, the people's courts shall organize the banking regulatory organ of the State Council and other relevant departments and personnel to form a liquidation group to make liquidation. In the bankruptcy liquidation of a commercial bank, the bank shall, after paying the liquidation expenses, the wages of the employees, and labor insurance fees, pay in priority the principals and interests of individual savings deposits.

**Article 72** A commercial bank shall be terminated due to dissolution, cancellation, or adjudication of bankruptcy.

## Chapter VIII Legal Liabilities

**Article 73** In any of the following circumstances, a commercial bank shall undertake to pay interests for the deferred payment and other civil legal liabilities to the property losses of depositors or other clients:

1. Delaying or refusing to pay the principal and interest of deposits without reason;
2. Failing to cash in instrument or record receipts and payments into account books in violation of the provisions on bill acceptance and other provisions on settlement business, holding down bills or instruments or returning the instruments in violation of the regulations;
3. Illegally inquiring about, freezing, or deducting personal savings deposit account or entity deposit account; or
4. Other acts in violation of the provisions of this Law, which do harm to the depositors or other clients.

In the circumstances as prescribed in the preceding paragraph, the banking regulatory organ of the State Council shall order the commercial banks to correct, and confiscate the illegal gains if any, or impose a fine of one time up to five times the illegal gains if the illegal gains are more than RMB 50,000 Yuan; if there are no illegal gains or the illegal gains are less than RMB 50,000 Yuan, a fine of RMB 50,000 Yuan up to RMB



500,000 Yuan shall be imposed.

**Article 74** In case a commercial bank has any one of the following circumstances, the banking regulatory organ of the State Council shall order it to correct, and confiscate the illegal gains if any, or impose a fine of one time up to five times the illegal gains if the illegal gains are more than RMB 500,000 Yuan; if there are no illegal gains or the illegal gains are less than RMB 500,000 Yuan, a fine of RMB 500,000 Yuan up to RMB 2 million Yuan shall be imposed; if the circumstances are especially serious or the bank fails to correct within a prescribed time limit, the banking regulatory organ of the State Council may order it to straighten out by stopping business operation or revoke its permit for operation; in case it constitutes a crime, it shall be subject to criminal liabilities:

1. Establishing branches without authorization;
2. Making division or merger without authorization or failing to apply for approval for matters altered in violation of regulations;
3. Increasing or decreasing interest rate in violation of regulations or absorbing deposits or granting loans by any other illegal means;
4. Leasing or lending permit for operation;
5. Buying and selling foreign exchange by itself or as an agent without authorization;
6. Buying and selling government bonds or issuing or buying and selling financial bonds without authorization;
7. Engaging in trust & investment or securities dealing business, investing to non-self-use realty or non-bank financial institutions and enterprises in violation of state provisions; or
8. Granting credit loans or surety loans to any of its connected parties on conditions superior to the similar loans extended to other borrowers.

**Article 75** In case a commercial bank has any of the following acts, the banking regulatory organ of the State Council shall order it to correct and impose a fine of RMB 200,000 Yuan up to RMB 500,000 Yuan; if the circumstances are especially serious or the bank refuses to correct within a prescribed time limit, the banking regulatory organ of the State Council may order them to straighten out by stopping business operation or revoke its permit for operation; if it constitutes a crime, it shall be subject to criminal liabilities according to law:

1. Refusing or impeding the inspection and supervision of the banking regulatory organ of the State Council;
2. Providing financial statement, or report forms and statistical report, which are false or conceal any important facts;
3. Failing to abide by the provisions on capital sufficiency, assets fluidity ratio, proportion of loans granted to a same borrower, and other provisions of the banking regulatory organ of the State Council on the management of the assets liability proportions.

**Article 76** In case a commercial bank has any of the following circumstances, the People's Bank of China shall order it to correct, and confiscate the illegal gains if any, or impose a fine of one time up to five times the illegal gains if the illegal gains are more than RMB 500,000 Yuan; if there are no illegal gains or the illegal gains are less than RMB 500,000 Yuan, a fine of RMB 500,000 Yuan up to RMB 2 million Yuan shall be imposed; if the circumstances are especially serious or the bank refuses to correct within a prescribed time limit, the People's Bank of China may suggest the



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banking regulatory organ of the State Council ordering it to straighten out by stopping business operation or revoking its permit for operation; in case it constitutes a crime, it shall be subject to criminal liabilities:

1. Handling exchange settlement or selling without authorization;
2. Issuing, buying or selling financial bonds at the inter-bank bonds markets or seeking loans overseas without authorization; or
3. Making inter-bank borrowing or lending in violation of regulations.

**Article 77** In case a commercial bank has any of the following circumstances, the People's Bank of China shall order it to correct, and impose a fine of RMB 200,000 Yuan up to RMB 500,000 Yuan; if the circumstances are especially serious or the bank refuses to correct within a prescribed time limit, the People's Bank of China may suggest the banking regulatory organ of the State Council to order it to straighten out by stopping its business operations or revoking its permit for operation; in case it constitutes a crime, it shall be subject to criminal liabilities:

1. Refusing or impeding the inspection and supervision of the banking regulatory organ of the State Council;
2. Providing financial report or statement and statistical report which are false or conceal any important facts; or
3. Failing to pay deposit reserve funds according to the proportion as prescribed by the People's Bank of China.

**Article 78** In case a commercial bank has the circumstances as prescribed in Article 73 to Article 77 of this Law, the directors or senior management personnel directly responsible and other persons directly liable shall be imposed disciplinary punishment; if it constitutes a crime, they shall be subject to criminal liabilities according to law.

**Article 79** In any of the following circumstances, the banking regulatory organ of the State Council shall order the commercial banks to correct, and confiscate the illegal gains if any, or impose a fine of one time up to five times the illegal gains if the illegal gains are more than RMB 50,000 Yuan; if there are no illegal gains or the illegal gains are less than RMB 50,000 Yuan, a fine of RMB 50,000 Yuan up to RMB 500,000 Yuan shall be imposed:

1. Using the word "bank" in its name without authorization;
2. Buying more than 5% of the total shares of the commercial bank without authorization; or
3. Opening an account to deposit the capital of the entity in any individual person's name.

**Article 80** In the event that a commercial bank fails to report relevant documents and materials to the banking regulatory organ of the State Council as required, the banking regulatory organ of the State Council shall order it to correct, or impose a fine of RMB 100,000 Yuan up to RMB 300,000 Yuan if it refuses to correct within a prescribed time limit.

In case a commercial bank fails to report relevant documents or materials to the People's Bank of China as required, the PBC shall order it to correct, or impose a fine of RMB 100,000 Yuan up to RMB 300,000 Yuan if it refuses to correct within a prescribed time limit.

**Article 81** Those who set up a commercial bank without the approval of the banking



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regulatory organ of the State Council or absorb public deposits illegally or in any disguised form, which constitute a crime, shall be subject to criminal liabilities according to law; and the bank shall be banned the by banking regulatory organ of the State Council.

Those who fabricate, change or transfer the permit for operation of a commercial bank, which constitutes a crime, shall be subject to criminal liabilities according to law.

**Article 82** In case a borrower obtains loans by cheating and the case is so serious as to constitute a crime, he shall be subject to criminal liabilities according to law.

**Article 83** In case a commercial bank has any act as prescribed in Article 81 and Article 82 of this Law, which is not serious enough to constitute a crime, the banking regulatory organ of the State Council shall confiscate the illegal gains if any, or impose a fine of one time up to five times the illegal gains if the illegal gains are more than RMB 500,000 Yuan; if there are no illegal gains or the illegal gains are less than RMB 500,000 Yuan, a fine of RMB 500,000 Yuan up to RMB 2 million Yuan shall be imposed.

**Article 84** Where an employee of a commercial bank seeks for or accepts bribery by availing himself of his position or accepts discounts or service charges of any kind as in violation of state provisions, which constitutes a crime, he shall be subject to criminal liabilities according to law; or shall be imposed disciplinary punishment if his acts are not serious enough to constitute a crime.

If loans or guarantees provided as mentioned in the preceding paragraph have caused losses, those who are liable shall bear all or part of the liabilities for compensation.

**Article 85** In case an employee of a commercial bank defalcates, embezzles or encroaches the capital of the bank or the clients by availing himself of his position, which constitutes a crime, he shall be subject to criminal liabilities according to law; or shall be imposed a disciplinary punishment if his act is not serious enough to constitute a crime.

**Article 86** In case an employee of a commercial bank who violates this law and is derelict of his duty, causing losses; he shall be imposed a disciplinary punishment, or shall be subject to criminal liabilities if the case is so serious as to constitute a crime. Those who cause losses due to granting loans to or providing guarantee for relatives and friends shall bear all or part of the liabilities for compensation.

**Article 87** In case an employee of a commercial bank divulges state or commercial secrets he acquires during his service, he shall be imposed disciplinary punishment; or shall be subject to criminal liabilities if his act is so serious as to constitute a crime.

**Article 88** Any entity or individual who coerces a commercial bank into issuing loans or providing guarantee, the person directly in charge or other persons of the entity or individual directly liable shall be imposed disciplinary punishment; those who cause losses for their actions shall bear all or part of the liabilities for compensation. Where an employee of a commercial bank who does not refuse to provide the forced loans or guarantees, shall be imposed a disciplinary punishment; those who cause damages for their actions shall bear corresponding liabilities for compensation.



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**Article 89** In case a commercial bank violates the provisions of this Law, the banking regulatory organ of the State Council may disqualify the directors or senior management personnel directly responsible for holding the post for a certain period of time or even disqualify them for lifetime for holding the post, or prohibit the directors or senior management personnel directly responsible and other persons directly liable from holding the post for a certain period of time or even ban them from undertaking the banking work for lifelong in light of the specific circumstances.  
In case the act of a commercial bank is not serious enough to constitute a crime, the directors or senior management personnel directly responsible and other persons directly liable shall be given warnings or imposed a fine of RMB 50,000 Yuan up to RMB 500,000 Yuan.

**Article 90** If a commercial bank and its employees refuse to accept the decisions of punishment by the banking regulatory organ of the State Council or the People's Bank of China, they may lodge a complaint to the people's court in accordance with the [Administrative Procedure Law of the People's Republic of China](#)".

#### Chapter IX Supplementary Provisions

**Article 91** Commercial banks established upon approval according to the regulations of the State Council before the promulgation of this Law do not need to go through formalities for examination and approval any more.

**Article 92** The provisions of this Law shall be applicable to the foreign invested commercial banks, Sino-foreign joint venture commercial banks, and branches of the foreign commercial banks, unless otherwise there are provisions by laws and administrative regulations, the provisions shall prevail.

**Article 93** The relevant provisions of this Law is applicable to the city credit cooperatives and rural credit cooperatives for their handling of the deposits, loans, settlement, and other businesses.

**Article 94** The relevant provisions of this Law shall be applicable to the postal enterprises for their handling of the relevant business of commercial banks.

**Article 95** This Law will come into force as of July 1, 1995.



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