

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

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(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 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;
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 the timely 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

**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 r

egulations, 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

n 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.

**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.

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### 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 conformity 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 securit



ies 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.

**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 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.

**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 bank

ks 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 o

f bankruptcy.

## Chapter VIII Legal Liabilities

**Article 73** In any of the following circumstances, a commercial bank shall undertake to pay interest 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 au

thorization;

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 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

t, 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 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 by the 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.



**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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