

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

[法律, 2003.12.27., 修正]

## Chapter I General Provisions

Article 1 This Law is enacted in order to protect the lawful rights and interests of commercial banks, depositors and other clients, to standardize the behavior of commercial banks, to raise the quality of credit assets, to strengthen supervision and control, to ensure the stable and sound operation of commercial banks, to maintain financial order and to promote the development of the socialist market economy.

Article 2 For the purposes of this Law, the term “commercial banks” means enterprise legal persons that are established in conformity with this Law and the Company Law of the People’s Republic of China and that take in deposits from the general public, grant loans, handle settlements, etc.

Article 3 Commercial banks may engage in some or all of the following business operations:

- (1) taking in deposits from the general public;
- (2) granting short-term, medium-term and long-term loans;
- (3) handling domestic and foreign settlements;
- (4) handling the acceptance and discounting of negotiable instruments;
- (5) issuing financial bonds;
- (6) acting as an agent for the issue, honoring and underwriting of government bonds;
- (7) buying and selling government bonds and financial bonds;
- (8) engaging in interbank lending;
- (9) buying and selling foreign exchange and acting as an agent for the purchase and sale of foreign exchange;

- (10) engaging in the business of bank cards;
- (11) providing letter of credit services and guaranty;
- (12) acting as an agent for the receipt and payment of money and acting as an insurance agent;
- (13) providing safe deposit box services; and
- (14) other business operations as approved by the banking regulatory authority under the State Council.

The scope of business shall be specified in the articles of association of the commercial bank, and submitted to the banking regulatory authority under the State Council for approval.

Upon approval of the People's Bank of China, commercial banks may engage in the business of the settlement and sale of foreign exchange.

Article 4 The business operations of commercial banks shall be governed by the principles of safety, liquidity and efficiency. Commercial banks shall make their own decisions regarding their business operations, take responsibility for their own risks, assume

sole responsibility for their profits and losses and exercise self-restriction.

Commercial banks shall, pursuant to law, conduct business operations without interference from any unit or individual.

Commercial banks shall independently assume civil liability with their entire legal person property.

Article 5 Commercial banks shall adhere to the principles of equality, voluntariness, fairness and good faith in business dealings with their clients.

Article 6 Commercial banks shall safeguard the lawful rights and interests of depositors against infringement by any unit or individual.

Article 7 In credit transactions, commercial banks shall strictly examine the credit-worthiness of a borrower and implement the system of guaranty in order to ensure that the loan is recovered on schedule.

Commercial banks shall be protected by law when they recover the principal of loans that have become due and the interest thereon from the borrowers in accordance with legal provisions.

Article 8 In business transactions, commercial banks shall abide by the relevant provisions of laws and administrative rules and regulations and may not harm the interests of the State or of the public.

Article 9 In business transactions, commercial banks shall abide by the principle of fair competition and may not engage in illegitimate competition.

Article 10 Commercial banks shall, in accordance with law, accept supervision and control of the banking regulatory authority under the State Council, but where laws provide that their relevant business operations shall be subject to supervision and control of other regulatory departments or bodies, such provisions shall prevail.

## **Chapter II Establishment and Organizational Structure of Commercial Banks**

Article 11 The establishment of commercial banks shall be subject to examination and approval by the banking regulatory authority under the State Council.

No unit or individual may engage in commercial banking business such as taking in deposits from the general public, and no unit may use the word “bank” in its name, without approval of the banking regulatory authority under the State Council.

Article 12 A commercial bank shall meet the following requirements for establishment: (1) having articles of association that conform to this Law and the Company Law of the People’s Republic of China;

(2) having the minimum amount of registered capital as specified in this Law;

(3) having directors and other senior administrators with the expertise and experience in work commensurate with the positions they are holding;

(4) having a sound organizational structure and management system; and

(5) having the required place of business, security and precautionary measures and other facilities relevant to its business operations. The establishment of a commercial bank shall, in addition, meet other requirements of prudence.

Article 13 The minimum amount of registered capital required for the establishment of a national commercial bank shall be RMB one billion yuan. The minimum amount of registered capital required for the establishment of an urban commercial bank shall be 100 million yuan, and the minimum amount of registered capital required for the establishment of a rural commercial bank shall be 50 million yuan. Registered capital shall be paid-up capital.

The banking regulatory authority under the State Council may readjust the minimum amount of registered capital on the basis of the requirements of prudent supervision and control, however, the readjusted amount may not be lower than the amount specified in the preceding paragraph.

Article 14 To establish a commercial bank, the applicant shall provide the following documents and information to the banking regulatory authority under the State Council: (1) a written application, in which the name, location, registered capital, scope of business, etc. of the proposed commercial bank are clearly stated ;

(2) a feasibility study; and

(3) other documents and information to be provided as specified by the banking regulatory authority under the State Council.

Article 15 If an application for establishing a commercial bank is found, after examination, to be in conformity with the provisions of Article 14 of this Law, the applicant shall complete an official application form and provide the following documents and information:

- (1) a draft of the articles of association;
- (2) the qualification certificates of the director or other senior administrator who is to hold office; (3) an investment verification certificate issued by a statutory investment verification organization;
- (4) a list of the names, capital contributions and shares of shareholders;
- (5) credit-worthiness certificates and relevant information concerning the shareholders that hold five percent or more of the registered capital each;
- (6) business policies and plans;
- (7) information concerning the place of business, security and precautionary measures and other facilities relevant to business operations; and

(8) other documents and information as specified by the banking regulatory authority under the State Council.

Article 16 A commercial bank the establishment of which has been approved shall be issued a permit for operation by the banking regulatory authority under the State Council and, on the strength of such permit, register with the administrative department of industry and commerce and obtain a business license from it.

Article 17 The organizational form and structure of commercial banks shall be governed by the Company Law of the People’s Republic of China.

Commercial banks, established prior to the implementation of this Law, that do not entirely conform to the provisions of the Company Law of the People’s Republic of China in organizational form and structure may continue to be governed by previous regulations. The date on which the preceding paragraph shall apply to such commercial banks shall be specified by the State Council.

Article 18 A board of supervisors shall be established in a wholly State-owned commercial bank. Measures for forming the board of supervisors shall be formulated by the State Council.

The board of supervisors shall exercise supervision over the quality of credit assets of the wholly State-owned commercial bank, its assets-liabilities ratios and maintenance of and increase in the value of State-owned assets, and over the senior administrators of the commercial bank to see whether they violate any laws, administrative rules and regulations or the articles of association or commit any acts which harm the interests of the bank.

Article 19 Commercial banks may establish branches within and outside the People's Republic of China, in light of their needs in business operations. The establishment of such a branch shall be subject to examination and approval by the banking regulatory authority under the State Council. The establishment of branches within the People's Republic of China shall not be restricted by the administrative division of regions.

When a commercial bank establishes a branch within the People's Republic of China, it shall allocate operating funds in keeping with the scale of its business, in accordance with regulations. The sum total of operating funds allocated to all the branches may not exceed 60 percent of the total amount of the capital of the head office.

Article 20 To establish a branch of a commercial bank, the applicant

shall submit the following documents and information to the banking regulatory authority under the State Council:

(1) a written application, in which the name, amount of operating funds and scope of business of the proposed branch, the location of the head office and the branch, etc. are clearly stated;

(2) the applicant's financial and accounting reports of the preceding two years; (3) the qualification certificates of the senior administrators who are to hold office;

(4) business policies and plans;

(5) information concerning the place of business, security and precautionary measures and other facilities relevant to business operations; and

(6) other documents and information as specified by the banking regulatory authority under the State Council.

Article 21 A commercial bank's branch the establishment of which has been approved shall be issued a permit for operation by the banking regulatory authority under the State Council and, on the strength of such permit, register with the administrative department

of industry and commerce and obtain a business license from it.

Article 22 With respect to their branches, commercial banks shall apply across the board a financial system of centralized accounting and centralized movement of funds, and of management at different levels.

Branches of commercial banks shall not have the status of a legal person and shall lawfully conduct their business operations within the scope authorized by their head offices, and their civil liability shall be assumed by their head offices.

Article 23 The banking regulatory authority under the State Council shall announce its approval of the establishment of commercial banks and their branches.

If a commercial bank or branch thereof fails, without good reason, to commence business more than six months after the date of obtaining its business license or, after commencing business, suspends business without authorization for six months or more in succession, the banking regulatory authority under the State Council shall revoke its permit for operation and make it known to the public.

Article 24 A commercial bank shall obtain the approval of the banking

regulatory authority under the State Council for making any of the following changes:

- (1) change of name;
- (2) change in the registered capital;
- (3) change of location of the head office or a branch;
- (4) adjustment of the scope of business;
- (5) change of shareholders that hold five percent or more of the total amount of capital or shares each;
- (6) revision of the articles of association; or
- (7) changes in other matters as are governed by the regulations of the banking regulatory authority under the State Council.

When a director or a senior administrator is to be replaced, the qualifications of the substitute for the position shall be submitted to the banking regulatory authority under the State Council for examination.

Article 25 Division and merger of commercial banks shall be governed by the provisions of the Company Law of the People's Republic of China.

Division and merger of commercial banks shall be subject to examination and approval by the banking regulatory authority under the State Council.

Article 26 Commercial banks shall use their permits for operation in accordance with the provisions of laws and administrative rules and regulations. Forging, alteration, assigning, leasing out or lending of such permits is prohibited.

Article 27 None of the following persons may serve as a director or a senior administrator of a commercial bank:

(1) persons who have been sentenced to criminal punishment for the crime of embezzlement, bribery, seizure or misappropriation of property or disruption of the public and economic order, or persons who have been deprived of their political rights for committing a crime;

(2) directors of companies or enterprises, or factory directors or managers who have been subjected to bankruptcy liquidation due to

mismanagement, and who bear personal liability for the bankruptcy;

(3) legal representatives of companies or enterprises that had their business licenses revoked for breaking law, who bear personal liability therefor; and

(4) persons with comparatively large amounts of overdue personal debts .

Article 28 Purchase by any unit or individual of five percent or more of the total amount of the shares of a commercial bank shall be subject to prior approval by the People's Bank of China.

### **Chapter III Protection of Depositors**

Article 29 In handling savings deposits for individuals, commercial banks shall adhere to the principles of voluntary deposit, unimpeded withdrawal, interest payment on deposits and confidentiality for the depositors.

Commercial banks shall have the right to refuse to answer the inquiries into and to refuse to freeze, deduct or transfer an individual's savings deposits— as made or requested by any unit or

individual, except where otherwise provided for by law.

Article 30 Commercial banks shall have the right to refuse to answer the inquiries into a unit's deposits by any other unit or individual, except where otherwise provided for by laws and administrative rules and regulations, and shall have the right to refuse to freeze, deduct or transfer a unit's deposits as requested by any other unit or individual, except where otherwise provided for by law.

Article 31 Commercial banks shall determine the interest rates on deposits in accordance with the upper and lower limits interest rates on deposits specified by the People's Bank of China and make them known to the public.

Article 32 Commercial banks shall place a deposit reserve with the People's Bank of China and maintain sufficient provision for payment, in accordance with the regulations of the People's Bank of China.

Article 33 Commercial banks shall guaranty, and may not delay or refuse, payment of the principal of deposits and the interest thereon.

#### Chapter IV Basic Rules for Loans and Other Business Operations

Article 34 Commercial banks shall conduct their business of lending in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State.

Article 35 Before granting a loan, commercial banks shall strictly examine the borrower's purpose for the loan, ability to repay the loan, method of repayment, etc.

When granting a loan, commercial banks shall implement the system of separating the examination of a loan from the actual provision of the loan and the system of examination and approval at different levels.

Article 36 To obtain a loan from a commercial bank, a borrower shall provide a guaranty. The commercial bank shall strictly examine the surety's ability to repay the loan, the ownership and value of the mortgage or the collateral and the feasibility of realizing the right of mortgage or right of pledge.

If, after examination and appraisal by a commercial bank, a borrower's credit is found to be good, and the borrower is deemed truly able to repay the loan, the borrower need not provide a

guaranty .

Article 37 For granting a loan, the commercial bank shall conclude a written contract with the borrower. The contract shall stipulate the type, purpose, amount and interest rate of the loan, the time limit for repayment, the method of repayment, liability for breach of contract and other matters deemed necessary by the parties.

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

Article 39 When granting a loan, commercial banks shall abide by the following provisions on the control of assets–liabilities ratios:

- (1) the capital adequacy ratio may not be lower than 8 percent;
- (2) the ratio of the outstanding of loans to the outstanding of deposits may not exceed 75 percent;
- (3) the ratio of the balance of floating assets to the balance of floating liabilities may not be lower than 25 percent;
- (4) the ratio of the outstanding of loans granted to the same

borrower to the balance of the capital of the commercial bank may not exceed 10 percent; and

(5) other provisions of the banking regulatory authority under the State Council concerning the control of assets–liabilities ratios.

If, after the implementation of this Law, the assets–liabilities ratios of a commercial bank established prior to the implementation of this Law are found not in conformity with the provisions of the preceding paragraph, the bank shall make it conform to the provisions of the preceding paragraph within a certain time limit. The specific measures therefor shall be formulated by the State Council.

Article 40 Commercial banks may not grant fiduciary loans to their connections. The conditions for granting secured loans to their connections may not be more preferential than those for granting the same type of loans to other borrowers.

For the purposes of the preceding paragraph, the term “connections” means:

(1) directors, supervisors, administrators and loan officers of the commercial bank and close relatives of such persons;

(2) companies, enterprises and other economic organizations in which the persons mentioned in the preceding paragraph have invested or in which they hold senior administrative positions.

Article 41 No unit or individual may forcibly demand a commercial bank to grant a loan or to provide a guaranty. Commercial banks shall have the right to refuse to grant a loan or to provide a guaranty forcibly demanded by any unit or individual.

Article 42 Borrowers shall repay the loan principal and the interest thereon on schedule.

If a borrower fails to repay a secured loan upon maturity, the commercial bank shall lawfully have the right to require the surety to repay the loan principal and the interest thereon or the right to preferential compensation in respect of the collateral. Immovable property or stock rights obtained by a commercial bank through the exercise of the right of mortgage or the right of pledge shall be disposed of by it within two years from the date it obtains the same.

If a borrower fails to repay a fiduciary loan upon maturity, he shall bear liability in accordance with the provisions of the contract.

Article 43 No commercial banks may, within the territory of the

People's Republic of China, engage in trust investment or securities business, or invest in immovable property which is not for private use, in non-banking financial institutions or in enterprises, except where otherwise provided for in the regulations of the State.

Article 44 When handling matters of settlement such as acceptance or remittance of negotiable instruments or entrusted receipt of payment, etc., commercial banks shall encash the instruments and enter receipts and expenditures in their accounts within the specified time limits, and may not deliberately delay or withhold payment of bills and negotiable instruments or reject negotiable instruments in violation of regulations. Regulations relating to the time limits for encashing of instruments and entering of receipts and expenditures in the accounts shall be announced.

Article 45 To issue financial bonds or to raise loans from outside the People's Republic of China, commercial banks shall first submit applications for approval in accordance with the provisions of laws and administrative rules and regulations.

Article 46 Inter-bank lending shall be carried out in adherence to the regulations of the People's Bank of China. It is forbidden to use such loans for granting fixed assets loans or making investment.

Funds lent under such loans shall be limited to idle funds that remain after a sufficient reserve against deposit has been retained, sufficient provision for payment has been made and matured loans from the People's Bank of China have been repaid. Funds borrowed under such loans shall be used to make up deficiencies in the settlement of negotiable instruments and in the funds available for covering remittance differences with correspondent banks and to meet the temporary need for working capital.

Article 47 Commercial banks may not raise or lower interest rates in violation of regulations or use other improper means to take in deposits or grant loans.

Article 48 Enterprises and institutions may select for themselves the place of business of a commercial bank where to open a basic account for the day-to-day settlement of account transfers and for cash receipts and payments. They may not open more than one basic account.

No unit or individual may open an account in the name of an individual to deposit the funds of a unit therein.

Article 49 The business hours of commercial banks shall be such as to be convenient to clients and shall be announced. Commercial banks

shall carry out business during announced business hours; they may not suspend business or shorten their business hours without authorization.

Article 50 In carrying out business operations and providing services, commercial banks shall charge commissions in accordance with relevant regulations. The items and rates for such commissions shall be specified by the banking regulatory authority under the State Council and the People's Bank of China based on their division of responsibilities, in conjunction with the department of pricing under the State Council respectively.

Article 51 Commercial banks shall preserve their financial and accounting statements, business contracts and other materials in accordance with relevant regulations of the State.

Article 52 Employees of commercial banks shall abide by laws and administrative rules and regulations and all other regulations for the control of business operations; they may not:

(1) use their positions to demand, receive or accept bribes, or receive or accept rebates or commissions of any description in violation of State regulations;

(2) use their positions to embezzle, misappropriate or seize money belonging to the bank or any client;

(3) practise favoritism towards relatives or friends in granting loans or providing guaranty in violation of regulations;

(4) hold a concurrent position in another economic organization; or

(5) commit other acts in violation of laws, administrative rules and regulations or other regulations for the control of business operations.

Article 53 No employees of commercial banks may disclose State or business secrets that they come to know during their employment.

## **Chapter V Financial Affairs and Accounting**

Article 54 Commercial banks shall establish and perfect their own financial and accounting systems in accordance with laws, the uniform accounting system of the State and the relevant regulations of the banking regulatory authority under the State Council.

Article 55 Commercial banks shall, in accordance with relevant State regulations, truthfully record and give a complete account of their

business activities and financial position, draw up annual financial and accounting reports and, without delay, submit them to the banking regulatory authority under the State Council, the People's Bank of China and the department of finance under the State Council. Commercial banks may not establish any account books in addition to statutory account books.

Article 56 Within three months after the end of every fiscal year, commercial banks shall announce their business results and audit reports for that year in accordance with the regulations of the banking regulatory authority under the State Council.

Article 57 Commercial banks shall, in accordance with relevant State regulations make allocations to a doubtful account reserve, in order to set off doubtful accounts.

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

## **Chapter VI Supervision and Control**

Article 59 Commercial banks shall, in accordance with relevant regulations, formulate their own operating rules, and establish and

perfect their systems for risk management and internal control.

Article 60 Commercial banks shall establish and perfect their own systems for examination and inspection of deposits, loans, settlements, doubtful accounts, etc.

Commercial banks shall conduct routine examination, inspection and supervision with respect to their branches.

Article 61 Commercial banks shall, in accordance with relevant regulations, submit to the banking regulatory authority under the State Council and the People's Bank of China their balance sheets, profit accounts and other financial, accounting and statistical statements and information.

Article 62 The banking regulatory authority under the State Council shall have the right at any time to carry out inspection of and exercise supervision over the deposits, loans, settlements, doubtful accounts, etc. of commercial banks, in accordance with the provisions of Chapters III, IV and V of this Law. When carrying out inspection and supervision, the inspectors and supervisors shall produce their lawful identification papers. Commercial banks shall provide financial and accounting information, business contracts and other information concerning operation and management in compliance with the

requirements of the banking regulatory authority under the State Council.

The People's Bank of China shall have the power to inspect and supervise the commercial banks in accordance with the provisions of Articles 32 and 34 of the Law of the People's Republic of China on People's Bank of China.

Article 63 Commercial banks shall, according to law, accept supervision by audit institutions through auditing.

## **Chapter VII Assumption of Control and Termination**

Article 64 When a commercial bank has suffered or will possibly suffer, credit crisis, thereby seriously affecting the interests of the depositors, the banking regulatory authority under the State Council may assume control over the bank.

The purposes of assumption of control are, through taking such measures as are necessary in respect of the commercial bank over which control is assumed, to protect the interests of the depositors and to enable the commercial bank to resume normal business. The debtor-creditor relationship with regard to a commercial bank over

which control is assumed shall not change as a result of the assumption of control.

Article 65 The assumption of control shall be decided upon, and its implementation shall be arranged, by the banking regulatory authority under the State Council. In the decision made by the banking regulatory authority under the State Council to assume control shall be clearly stated the following particulars:

- (1) the name of the commercial bank over which control is to be assumed;
- (2) the reason for the assumption of control;
- (3) the organization that shall assume control; and
- (4) the period or time for the control.

The decision for the assumption of control shall be announced by the banking regulatory authority under the State Council.

Article 66 Control shall be assumed on the date of implementation of the decision to assume control.

Beginning on the date of assumption of control, the organization assuming control shall exercise the powers of operation and management of the commercial bank.

Article 67 The banking regulatory authority under the State Council may decide to extend the period of time for control upon expiration of the time specified. However, the maximum period of time for control shall be two years.

Article 68 The control shall be terminated under one of the following conditions:

(1) when the period of time specified in the decision for control has expired or the extended period of time for control decided upon by the banking regulatory authority under the State Council has expired;

(2) the commercial bank has already become able to resume normal business before expiration of the period of control; or

(3) the commercial bank is merged or is lawfully declared bankrupt before expiration of the period of control.

Article 69 If a commercial bank has to be dissolved as a result of division, merger or the occurrence of a cause for dissolution as

specified in the company's articles of association, it shall submit to the banking regulatory authority under the State Council an application for dissolution, which is to be accompanied with a statement of the reasons for dissolution and a plan for settlement of debts such as repaying of the principal of the deposits together with the interest thereon. The commercial bank shall be dissolved upon approval by the banking regulatory authority under the State Council.

If a commercial bank is to be dissolved, a liquidation team shall be established pursuant to law. The team shall, in accordance with the plan for settlement of debts, carry out liquidation and without delay pay debts such as the principal of the deposits and the interest thereon. The banking regulatory authority under the State Council shall supervise the process of liquidation.

Article 70 If a commercial bank is to be dissolved because its permit for operation is revoked, the banking regulatory authority under the State Council shall without delay arrange to establish a liquidation team pursuant to law, which shall, in accordance with the plan for settlement of debts, carry out liquidation and without delay pay debts such as the principal of the deposits and the interest thereon .

Article 71 If a commercial bank is unable to pay its debts as they fall due, a People's Court shall, after obtaining consent of the banking

regulatory authority under the State Council, lawfully declare it bankrupt. If a commercial bank is declared bankrupt, the People's Court shall arrange for relevant authorities, such as the banking regulatory authority under the State Council, and relevant persons to establish a liquidation team, which shall carry out liquidation.

When liquidation is carried out after a commercial bank is declared bankrupt, payment of the principal of savings deposits of individuals and the interest thereon shall be given priority after the liquidation expenses, the wages owed to the employees and labor insurance premiums have been paid.

Article 72 Commercial banks shall terminate if dissolved, closed down or declared bankrupt.

## Chapter VIII Legal Responsibility

Article 73 A commercial bank shall assume liability for payment of default interest and other civil liability if the property of depositors or other clients is damaged as a result of the commercial bank's:

(1) delay in or refusal of payment of the principal of a deposit and the interest thereon without good reason;

(2) violation of regulations concerning matters of settlement such as acceptance of negotiable instruments, etc. by refusing to encash the instruments, refusing to enter receipts and expenditures in its accounts, deliberately delaying or withholding payment under bills or negotiable instruments, or rejecting negotiable instruments in violation of regulations;

(3) illegal inquiries into, freezing, withholding or transfer of the savings deposits of individuals or the deposits of units; or (4) other acts in violation of this Law that cause damage to depositors or other clients.

If a commercial bank commits one of the acts specified in the preceding paragraph, it shall be instructed by the banking regulatory authority under the State Council to rectify and its unlawful gains shall be confiscated; if the unlawful gains exceed 50,000 yuan, it shall, in addition, be fined not less than the amount of such gains but not more than five times that amount; and if there are no unlawful gains or such gains are less than 50,000 yuan, it shall be fined not less than 50,000 yuan but not more than 500,000 yuan.

Article 74 If a commercial bank commits one of the following acts, it shall be instructed by the banking regulatory authority under the

State Council to rectify; if there are unlawful gains, such gains shall be confiscated; if the unlawful gains exceed 500, 000 yuan, it shall, in addition, be fined not less than the amount of such gains but not more than five times that amount; if there are no unlawful gains or such gains are less than 500,000 yuan, it shall be fined not less than 500,000 yuan but not more than 2,000,000 yuan; if the circumstances are particularly serious, or if the bank fails to rectify at the expiration of the time limit, the banking regulatory authority under the State Council may instruct it to suspend business for rectification or may revoke its business license; and if a crime is constituted, criminal responsibility shall be investigated according to law: (1) establishing a branch without approval; (2) dividing or merging without approval or, in violation of relevant regulations, failing to report for approval changes to be made; (3) raising or lowering interest rates in violation of relevant regulations or taking in deposits or granting loans by other illegitimate means; (4) leasing out or lending its business license; (5) buying and selling, or acting as an agent for the purchase and sale of, foreign exchange without approval; (6) buying or selling government bonds or issuing, buying or selling financial bonds without approval; (7) in violation of relevant State regulations, engaging in trust investment and the business of securities, investing in immovable property which is not for private use, or investing in non-banking financial institutions or enterprises ; and

(8) granting fiduciary loans to its connections or granting guaranteed loans to its connections on conditions that are more preferential than those for granting the same to other borrowers.

Article 75 If a commercial bank commits one of the following acts, it shall be instructed by the banking regulatory authority under the State Council to rectify and, in addition, be fined not less than 200,000 yuan but not more than 500,000 yuan; if the circumstances are particularly serious, or if the bank fails to rectify at the expiration of the time limit, the banking regulatory authority under the State Council may instruct it to suspend business for rectification or revoke its business license; and if a crime is constituted, criminal responsibility shall be investigated according to law: (1) refusing to accept, or hindering, inspection and supervision by the banking regulatory authority under the State Council; (2) providing financial and accounting reports, statements and statistical statements which are false or in which important facts are concealed; or (3) failing to observe the regulations governing the capital adequacy ratio, the ratio of deposits to loans, the asset liquidity ratio, the ratio concerning loans granted to the same borrower, or other regulations of the banking regulatory authority under the State Council relating to control of assets–liabilities ratio.

Article 76 If a commercial bank commits one of the following acts, it shall be instructed by the People's Bank of China to rectify; if there are unlawful gains, such gains shall be confiscated; if the unlawful gains exceed 500,000 yuan, it shall, in addition, be fined not less than the amount of such gains but not more than five times that amount; if there are no unlawful gains or such gains are less than 500,000 yuan, it shall be fined not less than 500,000 yuan but not more than 2,000,000 yuan; if the circumstances are particularly serious, or if the bank fails to rectify at the expiration of the time limit, the People's Bank of China may put forward a proposal that the banking regulatory authority under the State Council instruct it to suspend business for rectification or revoke its business license; and if a crime is constituted, criminal responsibility shall be investigated according to law: (1) engaging in the settlement and sale of foreign exchange without approval; (2) without approval, issuing, buying or selling financial bonds at inter-bank bond markets, or borrowing loans from abroad; or (3) in violation of relevant regulations, engaging in inter-bank lending. Article 77 If a commercial bank commits one of the following acts, it shall be instructed by the People's Bank of China to rectify and, in addition, be fined not less than 200, 000 yuan but not more than 500,000 yuan; if the circumstances are particularly serious, or if the bank fails to rectify at the expiration of the time limit, the People's Bank of China may put forward a proposal that the banking regulatory authority under

the State Council instruct it to suspend business for rectification or revoke its business license; and if a crime is constituted, criminal responsibility shall be investigated according to law: (1) refusing to accept, or hindering, inspection and supervision by the People's Bank of China; (2) providing financial and accounting reports, statements and statistical statements which are false or in which important facts are concealed; or (3) failing to place a deposit reserve in the proportion specified by the People's Bank of China.

Article 78 If a commercial bank commits one of the acts specified from Article 73 through Article 77 of this Law, the directors and senior administrators who are directly in charge and the other persons who are directly responsible shall be given disciplinary sanctions; and if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 79 Any unit or individual that commits one of the following acts shall be instructed by the banking regulatory authority under the State Council to rectify, if there are unlawful gains, such gains shall be confiscated; if the unlawful gains exceed 50,000 yuan, it shall, in addition, be fined not less than the amount of such gains but not more than five times that amount; and if there are no unlawful gains or such gains are less than 50,000 yuan, it shall be fined not less than 50,000 yuan but not more than 500,000 yuan: (1) using the

word “bank” in its name without approval; (2) purchasing 5 percent or more of the total amount of the shares of a commercial bank without approval; or

(3) opening an account in the name of an individual to deposit the funds of the unit.

Article 80 If a commercial bank fails to submit the relevant documents and information to the banking regulatory authority under the State Council in accordance with relevant regulations, it shall be instructed by the said authority to rectify; and if it fails to rectify at the expiration of the time limit, it shall be fined not less than 100, 000 yuan but not more than 300, 000 yuan.

If a commercial bank fails to submit the relevant documents and information to the People’s Bank of China in accordance with relevant regulations, it shall be instructed by the People’s Bank of China to rectify; and if it fails to rectify at the expiration of the time limit, it shall be fined not less than 100, 000 yuan but not more than 300, 000 yuan.

Article 81 Any unit or individual, without approval of the banking regulatory authority under the State Council, establishes a commercial bank, or illegally takes in deposits from the general

public or does so in disguised form, which is serious enough to constitute a crime, criminal responsibility shall be investigated according to law, and such a commercial bank shall be closed down by the banking regulatory authority under the State Council.

Any unit or individual that fabricates, counterfeits or transfers the business license of a commercial bank, which is serious enough to constitute a crime, criminal responsibility shall be investigated according to law.

Article 82 If a borrower uses fraudulent means to obtain a loan and a crime is constituted thereby, criminal responsibility shall be pursued according to law.

Article 83 Any unit or individual commits one of the acts specified in Articles 81 and 82 of this Law, which is not serious enough to constitute a crime, its/ his unlawful gains shall be confiscated by the banking regulatory authority under the State Council; if the unlawful gains exceed 500, 000 yuan, it / he shall, in addition, be fined not less than the amount of such gains but not more than five times that amount and; if there are no unlawful gains or such gains are less than 500,000 yuan, it / he shall be fined not less than 500,000 yuan but not more than 2,000,000 yuan.

Article 84 If an employee of a commercial bank, taking advantage of his duties, demands, receives or accepts bribes or, in violation of State regulations, receives or accepts rebates or commissions of any description, which is serious enough to constitute, criminal responsibility shall be investigated according to law; and if it is not serious enough to constitute a crime, a disciplinary sanction shall be imposed on him.

If anyone commits an act specified in the preceding paragraph and causes losses in granting a loan or providing a guaranty, the person shall be fully or partially liable for compensation.

Article 85 If an employee of a commercial bank, taking advantage of his duties, embezzles, misappropriates or takes into his possession money belonging to the bank or any client, which is serious enough to constitute a crime, criminal responsibility shall be investigated according to law; and if it is not serious enough to constitute a crime, a disciplinary sanction shall be imposed on him.

Article 86 If employees of a commercial bank cause losses by neglecting their duties in violation of the provisions of this Law, disciplinary measures shall be taken against them. If a crime is constituted, criminal responsibility shall be pursued according to law.

If anyone causes losses by practicing favoritism towards his relatives or friends in granting loans or providing guaranty in violation of regulations, the person shall be fully or partially liable for compensation.

Article 87 If employees of a commercial bank disclose State or business secrets that they come to know during their employment, disciplinary measures shall be taken against them. If a crime is constituted, criminal responsibility shall be pursued according to law.

Article 88 If any unit or individual forcibly demands a commercial bank to grant a loan or to provide a guaranty, disciplinary measures shall be taken against the leading members of the unit who are directly in charge and other persons of the unit who are directly responsible for the offense or the individual and, if losses are caused thereby, these persons shall be fully or partially liable for compensation.

If employees of a commercial bank fail to refuse to grant a loan or to provide a guaranty forcibly demanded by a unit or individual, disciplinary measures shall be taken against them and, if losses are caused thereby, they shall assume appropriate liability for compensation.

Article 89 If commercial banks violate the provisions of this Law, the banking regulatory authority under the State Council may, on the merits of each case, disqualify, for the positions for a certain period of time or even for the rest of their lives, the directors or senior administrators who are directly in charge, or prohibit the directors or senior administrators who are directly in charge and the other persons who are directly responsible from working in the banking industry for a certain period of time or even for the rest of their lives.

If the act committed by a commercial bank is not serious enough to constitute a crime, disciplinary warning shall be given to the director or senior administrator directly in charge or the other person directly responsible, and a fine of not less than 50, 000 yuan but not more than 500, 000 yuan shall be imposed. Article 90 If a commercial bank or its employees disagree with a decision on a punishment made by the banking regulatory authority under the State Council, or the People's Bank of China, they may institute proceedings with a People's Court in accordance with the provisions of the Administrative Procedure Law of the People's Republic of China.

## Chapter IX Supplementary Provisions

Article 91 Commercial banks established prior to the implementation of this Law, with approval granted in accordance with the regulations of the State Council, shall not be required to undergo examination and approval procedures again.

Article 92 The provisions of this Law shall be applicable to foreign-invested commercial banks, commercial banks of Chinese-foreign equity joint venture and branches of foreign commercial banks; and where other laws and administrative regulations provide otherwise, the provisions of those laws and administrative regulations shall prevail.

Article 93 In handling their business such as deposits, loans and settlements, urban credit cooperatives and rural credit cooperatives shall apply the relevant provisions of this Law.

Article 94 The relevant provisions of this Law shall be applicable to postal enterprises in handling relevant business of commercial banks.

Article 95 This Law shall go into effect as of July 1, 1995.