

# **China - Law on Commercial Banks, 1995**

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## Contents

<b>Law of the People’s Republic of China on Commercial Banks (&gt; (Adopted at the 13th Meeting of the Standing Committee of the Eighth National People’s Congress on May 10, 1995, Promulgated by Decree No. 47 of the President of the People’s Republic of China on May 10, 1995)</b>	<b>1</b>
<b>Chapter I - General Provisions</b>	<b>1</b>
Article 1 . . . . .	1
Article 2 . . . . .	1
Article 3 . . . . .	1
Article 4 . . . . .	2
Article 5 . . . . .	2
Article 6 . . . . .	2
Article 7 . . . . .	2
Article 8 . . . . .	2
Article 9 . . . . .	2
Article 10 . . . . .	3
<b>Chapter II - Establishment and Organization of Commercial Banks</b>	<b>3</b>
Article 11 . . . . .	3
Article 12 . . . . .	3
Article 13 . . . . .	3
Article 14 . . . . .	4
Article 15 . . . . .	4
Article 16 . . . . .	4
Article 17 . . . . .	4
Article 18 . . . . .	5
Article 19 . . . . .	5
Article 20 . . . . .	5
Article 21 . . . . .	5
Article 22 . . . . .	6
Article 23 . . . . .	6
Article 24 . . . . .	6
Article 25 . . . . .	6
Article 26 . . . . .	7
Article 27 . . . . .	7
Article 28 . . . . .	7
<b>Chapter III - Protections for the Depositors</b>	<b>7</b>
Article 29 . . . . .	7
Article 30 . . . . .	7
Article 31 . . . . .	8
Article 32 . . . . .	8
Article 33 . . . . .	8

<b>Chapter IV - Basic Rules Governing Loans and Other Businesses</b>	<b>8</b>
Article 34 . . . . .	8
Article 35 . . . . .	8
Article 36 . . . . .	8
Article 37 . . . . .	9
Article 38 . . . . .	9
Article 39 . . . . .	9
Article 40 . . . . .	9
Article 41 . . . . .	10
Article 42 . . . . .	10
Article 43 . . . . .	10
Article 44 . . . . .	11
Article 45 . . . . .	11
Article 46 . . . . .	11
Article 47 . . . . .	11
Article 48 . . . . .	11
Article 49 . . . . .	11
Article 50 . . . . .	12
Article 51 . . . . .	12
Article 52 . . . . .	12
Article 53 . . . . .	12
 <b>Chapter V - Finance and Accounting</b>	 <b>12</b>
Article 54 . . . . .	12
Article 55 . . . . .	13
Article 56 . . . . .	13
Article 57 . . . . .	13
Article 58 . . . . .	13
 <b>Chapter VI - Supervision and Management</b>	 <b>13</b>
Article 59 . . . . .	13
Article 60 . . . . .	13
Article 61 . . . . .	13
Article 62 . . . . .	14
Article 63 . . . . .	14
 <b>Chapter VII - Take-Over and Termination</b>	 <b>14</b>
Article 64 . . . . .	14
Article 65 . . . . .	14
Article 66 . . . . .	15
Article 67 . . . . .	15
Article 68 . . . . .	15
Article 69 . . . . .	15
Article 70 . . . . .	15
Article 71 . . . . .	16

Article 72 . . . . .	16
<b>Chapter VIII - Legal Liabilities</b>	<b>16</b>
Article 73 . . . . .	16
Article 74 . . . . .	16
Article 75 . . . . .	17
Article 76 . . . . .	17
Article 77 . . . . .	18
Article 78 . . . . .	18
Article 79 . . . . .	18
Article 80 . . . . .	18
Article 81 . . . . .	18
Article 82 . . . . .	19
Article 83 . . . . .	19
Article 84 . . . . .	19
Article 85 . . . . .	19
Article 86 . . . . .	19
<b>Chapter IX - Supplementary Provisions</b>	<b>20</b>
Article 87 . . . . .	20
Article 88 . . . . .	20
Article 89 . . . . .	20
Article 90 . . . . .	20
Article 91 . . . . .	20
<b>Metadata</b>	<b>21</b>
SiSU Metadata, document information . . . . .	21

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Eighth National People's Congress on May 10, 1995, Promulgated  
by Decree No. 47 of the President of the People's Republic of  
China on May 10, 1995)**

**Chapter I - General Provisions 2**

**Article 1 3**

This law is formulated to protect the legal rights and interests of the commercial banks, 4  
depositors and other clients, standardize the behaviors of the commercial banks, im-  
prove the quality of loan assets, strengthen the supervision and management and thus  
ensure the sound and stable operations of the commercial banks, safeguard financial  
order and promote the growth of socialist market economy.

**Article 2 5**

Commercial banks referred to in this law are those enterprise legal persons which are 6  
established to absorb public deposits, issue 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 7**

Commercial banks may have the following businesses in part or in whole: 8

- (1) Absorb public deposits; 9
- (2) Issue short-term, medium-term and long-term loans; 10
- (3) Arrange settlement of both domestic and overseas accounts; 11
- (4) Handle the discount of negotiable instruments; 12
- (5) Issue financial bonds; 13
- (6) Issue, cash and sell government bonds as agents; 14
- (7) Buy and sell government bonds as agents; 15
- (8) Do inter-bank lending and borrowing; 16
- (9) Buy and sell per se or as agents foreign exchanges; 17
- (10) Provide letter of credit (L/C) service and guarantee; 18
- (11) Handle receipts and payments and insurance businesses as agents; 19
- (12) Provide safe boxes; and 20

(13) Undertake other businesses approved by the People's Bank of China. 21

Business scopes of the banks are to be defined in the articles of association of the banks and reported to the People's Bank of China for approval. 22

**Article 4** 23

Commercial banks should work under the principles of efficiency, safety and fluid with full autonomy and full responsibility for their own risks, profits and losses and self-restraint. 24

Commercial banks do business in accordance with laws free from any interference by units and individuals. 25

Commercial banks undertake civil legal liabilities independently with their all properties as legal persons. 26

**Article 5** 27

Commercial banks follow the principles of equality, voluntariness, fair, faithfulness and credibility in their services to clients. 28

**Article 6** 29

Commercial banks should protect the legal rights and interests of their depositors against encroachment by any unit and individual. 30

**Article 7** 31

In issuing loans, commercial banks should made reliable checks on the creditability of the borrowers, and provide the loans on guarantee to ensure timely recovery of the loans. 32

Commercial banks are protected by law in duly recovery of principal and interest of the loans they extended. 33

**Article 8** 34

Commercial banks should abide by relevant stipulations of laws and administrative regulations in their businesses and must not do any harm to the interests of the State and the society. 35

**Article 9** 36

Commercial banks should follow the principle of fair competition in their business and should not be engaged in unfair competition. 37

**Article 10** 38

Commercial banks accept the supervision and administration of the People's Bank of China in accordance with laws. 39

**Chapter II - Establishment and Organization of Commercial Banks** 40

**Article 11** 41

The establishment of commercial banks should go through the process of examination and approval by the People's Bank of China. 42

Without the approval of the People's Bank of China, no unit or individual is allowed to do the business of a commercial bank such as absorbing the public deposit or call itself a bank. 43

**Article 12** 44

The establishment of a commercial bank should have the following conditions: 45

(1) A set of articles of association which accord with this law and the "Company Law of the People's Republic of China"; 46

(2) The lowest amount of the registered capital as stipulated by this law; 47

(3) Chairman (president), general manager and other senior management personnel of the bank are available with professional knowledge and work experience; 48

(4) A complete organizational setup and management system; 49

(5) A business site as required accompanied with suitable safety and other relevant facilities. 50

In approving the application for establishing a commercial bank, the People's Bank of China should take into consideration the need of economic development and the competition in banking industry. 51

**Article 13** 52

The minimum registered capital for setting up a commercial bank is RMB 1 billion yuan. The minimum registered capital for setting up an urban cooperative commercial bank is RMB 100 million yuan, and the minimum registered capital for setting up a rural cooperative commercial bank is RMB 50 million yuan. The registered capital should be the actually paid capital. 53

The People's Bank of China may readjust the amount of minimum registered capital in accordance with the economic development, but the amount must not be lower than that stipulated in the preceding clause. 54



**Article 14**

55

In application for setting up a commercial bank, the following documents and data should be presented to the People's Bank of China:

56

(1) An application completed with the name, site, amount of registered capital, and business scope of the commercial bank to be set up;

57

(2) A feasibility study report; and

58

(3) Other documents and data as stipulated by the People's Bank of China.

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**Article 15**

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Should an application for setting up a commercial bank have been found in accordance with the stipulations of Article 14 through examination, the applicant should fill out an application form and present the following documents and data:

61

(1) Draft articles of association;

62

(2) Credentials of the proposed senior management personnel;

63

(3) Certificate of capital issued by a legal capital inspection organ;

64

(4) List of names of shareholders and the amount of capital and number of stocks they each shared;

65

(5) Credibility certificates and relevant data of the shareholders who hold more than 10% of the registered capital;

66

(6) Business policy and plan;

67

(7) Data about the business site, safety and other relevant business facilities; and

68

(8) Other documents and data as stipulated by the People's Bank of China.

69

**Article 16**

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The People's Bank of China will issue a license to the commercial bank which has been approved to be set up and the bank concerned should register with the State Administration for Industry and Commerce and get the business license.

71

**Article 17**

72

The stipulations of the "Company Law of the People's Republic of China" apply to the organizational forms and setups of the commercial banks.

73

If a commercial bank, which was set up before the promulgation of this law has its organization form and setup not entirely in accordance with the stipulations 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 stipulations of the preceding clause should be strictly applied is up to the decision of the State Council.

74

**Article 18**

75

A solely State owned commercial bank should set up a board of supervisors formed by representatives of the People's Bank of China and relevant government departments and specialists and representatives of the Bank's employees. The method of forming the board of supervisors is to be set by the State Council.

76

The board supervises over the quality of loan assets, proportion between assets and liability, present and added values of the State assets, and the bank's senior management personnel's violations of laws and administrative regulations and their damages to the interests of the bank.

77

**Article 19**

78

Commercial banks may set up branches both inside and outside of the People's Republic of China in accordance with the need of their business. The establishment of branches must be made under the examination and approval of the People's Bank of China. Branches of the commercial banks inside the People's Republic of China have no need to be set up in every administrative district.

79

The commercial banks should, according to relevant stipulations, allocate a suitable amount of operation funds to their branches which are set up inside the People's Republic of China. The aggregate sum of operation funds allocated to the branches must not exceed 60% of the total capital of the headquarters of a commercial bank.

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**Article 20**

81

For setting up a branch of the commercial bank, the following documents and data should be presented to the People's Bank of China.

82

(1) An application clearly indicating the name, the amount of operational capital, the business scope and the site of the branch to be set up;

83

(2) Financial and accounting statements of the applicant in the recent two years;

84

(3) The credentials of the proposed senior management personnel;

85

(4) Operational policies and plans;

86

(5) The business site, safety and other relevant business facilities of the branch; and

87

(6) Other documents and data as stipulated by the People's Bank of China.

88

**Article 21**

89

Upon its approval of setting up, a branch of a commercial bank should get a license from the People's Bank of China and register itself with the license with the department of industry and commerce to get the business license.

90

**Article 22**

91

A commercial bank should exercise a financial system of unified accounting and fund control and level-to-level management in relevant to its branches.

92

A branch of a commercial bank does not have the qualifications of a legal person and thus shall operate within the business scope entrusted by the headquarters of the commercial bank in accordance with law. Its civil liabilities are to be undertaken by the headquarters.

93

**Article 23**

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The approved establishment of the commercial banks and their branches will be announced by the People's Bank of China.

95

The People's Bank of China will revoke the operation licenses of a commercial bank or its branches and make an announcement of this if they fail to start their business in more than six months as from the date of getting the business licenses without justified reasons, or they stop their business for more than six consecutive months after they start their business.

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**Article 24**

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A commercial bank should have the approval of the People's Bank of China for one of the following changes:

98

(1) The change of its name;

99

(2) The change of its registered capital;

100

(3) The change of the site of the headquarters or branches;

101

(4) The readjustment of its business scope;

102

(5) The change of a shareholder who holds more than 10% of the total capital or the total amount of stocks;

103

(6) The revision of articles of association; and

104

(7) Other changes as stipulated by the People's Bank of China.

105

The change of chairman (president) and general manager should be reported to the People's Bank of China for an examination of their credentials.

106

**Article 25**

107

The separate and merge of commercial banks should follow the stipulations of the "Company Law of the People's Republic of China".

108

The separate and merge of commercial banks should be made under the examination and approval of the People's Bank of China.

109

**Article 26** 110

A commercial bank should use its operation license in accordance with the stipulations of laws and administrative regulations and is forbidden to falsify, fabricate, transfer, lease or lend the license. 111

**Article 27** 112

People involved in one of the following cases cannot be senior management personnel: 113

(1) People who have been declared guilty or fined for corruption, bribery, encroachment upon and embezzling property or undermining social economic order, or those who have been deprived of political rights because of committing crimes; 114

(2) People who have been chairman of directors or factory director or manager of a company or enterprise which has gone bankrupt because of poor management and are held responsible for the bankruptcy themselves; 115

(3) People who have been legal representatives of companies or enterprises whose business licenses had been revoked because of violations of laws and are held responsible for this themselves; and 116

(4) People who owe comparatively large amount of debt which is overdue. 117

**Article 28** 118

Purchase of more than 10% of the total shares of a commercial bank by any unit or individual should be made upon the approval of the People's Bank of China in advance. 119

**Chapter III - Protections for the Depositors** 120

**Article 29** 121

A commercial bank should follow the principles of voluntary deposit and free withdrawal, paying interest to depositors and keeping secret for depositors in handling individual deposits. 122

The commercial bank has the right to refuse any unit or individual to inquire about, freeze and deduct from individual deposits except the cases as stipulated by laws. 123

**Article 30** 124

A commercial bank has the right to refuse any unit or individual to inquire about the deposits of any other unit except the cases as stipulated by laws and administrative 125

regulations; the commercial bank has the right to refuse any unit or individual to freeze and deduct the deposits of any other unit except the cases as stipulated by laws.

**Article 31** 126

A commercial bank should decide its own interest rates and announce them in accordance with the upper and lower limits for deposit interest set by the People's Bank of China. 127

**Article 32** 128

A commercial bank should pay a certain amount of deposit reserve funds to the People's Bank of China and keep adequate payment funds in accordance with the latter's stipulations. 129

**Article 33** 130

A commercial bank should guarantee the payment of the principal and interest of the deposits and must not delay and refuse to pay the principal and interest of the deposits. 131

**Chapter IV - Basic Rules Governing Loans and Other Businesses** 132

**Article 34** 133

A commercial bank should issue loans in accordance with the need of the national economy and social development and under the guidance of the State industrial policies. 134

**Article 35** 135

In issuing loans, a commercial bank should closely check the use of the loan by the borrower, the repayment ability of the borrowers and the mode of repayment of the loans. 136

For extending a loan, a commercial bank should clearly separate the process of checking and actual lending and the lending should go through checking and approval by various levels. 137

**Article 36** 138

A borrower should provide guarantee for commercial bank loans. A commercial bank 139

should strictly check the repayment ability of the guarantors, the ownership and value of the mortgage and working assets and the possibility of claims to them.

A borrower which has been proved having sure creditability for repayment through checks and assessments by the commercial bank may not provide guarantee for the commercial bank. 140

**Article 37** 141

Upon a loan, the commercial bank and borrower concerned should strike a written contract to clearly define the category, purpose, amount interest rate, repayment period and mode of repayment of the loan, liabilities in case of violating the contract and other stipulations which both sides deem in necessary. 142

**Article 38** 143

A commercial bank should decide the interest rates of loans in accordance with the upper and lower limits of loan interest set by the People's Bank of China. 144

**Article 39** 145

A commercial bank should abide by the following stipulations in ratio between assets and liabilities: 146

(1) Capital sufficiency rate must not be less than 8%; 147

(2) The ratio between the balance of loans and the balance of deposits must not exceed 75%; 148

(3) The ratio between the balance of circulating assets and the balance of circulating liabilities must not be lower than 25%; 149

(4) The ratio between the balance of loan of one borrower and the balance of capital of the commercial bank must not exceed 10%; and 150

(5) Other stipulations of the People's Bank of China governing such ratios. 151

If a commercial bank which was set up before the promulgation of this law has a ratio between assets and liabilities not in accordance with the stipulations of the preceding clause it should readjust the ratio to suit the stipulations in a certain period of time. The specific methods for such an adjustment are to be decided by the State Council. 152

**Article 40** 153

Commercial banks are not allowed to issue credit loans to people who have connections with the bank and the conditions for issuing guaranteed loans to people who have 154

connections with the bank must not be more favorable than those for such loans to other borrowers.

The people who have connections with the bank as referred to in the preceding clause are: 155

(1) The directors, supervisors, management personnel, credit loan business dealers of the commercial bank and their close relatives; and 156

(2) Companies, enterprises and other economic organizations which have the people mentioned in the preceding clause as investors or senior management personnel 157

**Article 41** 158

No unit or individual is allowed to force the commercial banks to issue loans or provide guarantees. In other words the commercial banks have the rights to refuse any unit or body to force it to do so. 159

The solely State owned commercial banks should issue loans to special projects which have been approved by the State Council. The State Council will adopt corresponding measures to make up for the losses of the banks because of issuing the loans. To adopt what measures is up to the decision of the State Council. 160

**Article 42** 161

Borrowers of loans should repay the principal and interest of the loans on time. 162

If a borrower cannot repay the guaranteed loan on time, the commercial bank which issues the loan has the right to ask the guarantor to repay the principal and interest of the loan or enjoy the priority of repayment by security in accordance with law. Fixed assets or stocks obtained by a commercial bank in the course of exercising the banks ownership of mortgage must be handled within one year as of the date of obtaining them by the bank. 163

A borrower should undertake liabilities in accordance with the contract if cannot repay the credit loan on time. 164

**Article 43** 165

Commercial banks are not allowed to make trust investment, trade in shares or make investment in fixed assets of non-self use within the People's Republic of China. 166

Commercial banks are not allowed to make investment in non-banking institutions and enterprises within the People's Republic of China. For investments in the kind made before the promulgation of this law the State Council will work out rules to deal with them. 167

**Article 44**

168

In handling account settlement businesses such as honor, remittance and trust acceptance negotiable instruments, a commercial bank should honor and enter the receipts and payment into the account book within the set period of time and must not hold down the bill or money order or return them in violating the law. The stipulations about the set period for honoring and entering the receipts and payment into the account book should be announced.

169

**Article 45**

170

A commercial bank should have the approval for issuing monetary bonds or for borrowing from overseas in accordance with laws and administrative regulations.

171

**Article 46**

172

Inter-bank lending should be made in accordance with the time limit as set by the People's Bank of China, and the longest time limit should not be more than four months. It is forbidden to use the borrowed inter-bank funds to issue fixed assets loans or to make investment.

173

Funds for inter-bank lending should be restricted to those idle funds after fully paying the deposit reserve funds, standing funds and the due loans to the People's Bank of China. Funds borrowed from interbank lendings\* should be used for making up for the settlement of the accounts, shortage of the inter-bank balance and the need of temporary working funds.

174

**Article 47**

175

Commercial banks must not raise or lower interest rate as against the stipulations or absorb deposits and issue loans through unjustified means.

176

**Article 48**

177

Enterprises and institutions can 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 cannot open two or more basic accounts.

178

No unit or individual is allowed to open a private account for the deposits of the funds of a unit.

179

**Article 49**

180

The business hours of commercial banks should be convenient to clients and should

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be publicly announced. Commercial banks should be fully open to business within the announced business hours and not to close or shorten the business hours on their own will.

**Article 50** 182

In handling business and providing services, a commercial bank will charge service fees in accordance with the stipulations of the People's Bank of China. 183

**Article 51** 184

Commercial banks should keep financial accounting reports, business contracts and other data in accordance with relevant State regulations. 185

**Article 52** 186

Employees of commercial banks should abide by laws and administrative regulations and other operational rules and must not perform the followings: 187

(1) Use their own position to ask for or accept bribery or accept commissions or service charges under various titles in violation of State regulations; 188

(2) Use their own position to embezzle, divert and encroach upon the funds of the banks and clients; 189

(3) Privately issue loans to or provide guarantee for relatives and friends in violation of relative regulations; 190

(4) Serve concurrently in other economic organizations; and 191

(5) Engage in other behaviors that violate laws, administrative regulations and rules governing business management. 192

**Article 53** 193

Employees of commercial banks must not leak the State and commercial secrets they acquire during their term of service. 194

**Chapter V - Finance and Accounting** 195

**Article 54** 196

Commercial banks should establish and improve their own financial accounting system in accordance with laws, the unified accounting system formulated by the State and the relevant stipulations of the People's Bank of China. 197

**Article 55** 198

Commercial banks should, in accordance with the relevant State stipulations, truly record and totally report its business activities and financial affairs, prepare its annual financial affairs report and timely send the report to the People's Bank of China and Ministry of Finance. Commercial banks must not set up other accounting books other than that set up according to law. 199

**Article 56** 200

Commercial banks should publish their business and auditing reports for the previous accounting fiscal year in accordance with the regulations of the People's Bank of China within the last three months of every accounting fiscal year. 201

**Article 57** 202

Commercial banks should draw bad debt reserve funds to reverse the bad debt in accordance with relevant State regulations. 203

**Article 58** 204

The accounting fiscal year of a commercial bank begins on January 1 and ends on December 31 of the Gregorian calendar. 205

**Chapter VI - Supervision and Management** 206

**Article 59** 207

Commercial banks should, in accordance with the regulations of the People's Bank of China, formulate their own business regulations and establish and improve their operation, cash management and safety systems. 208

**Article 60** 209

Commercial banks should establish and improve their own auditing and checking system on deposits, loans, account settling and bad debts. 210

Commercial banks should keep regular auditings,\* checkings\* and supervisions on the work of their branches. 211

**Article 61** 212

Commercial banks should regularly send statements of assets and liabilities, losses 213

and benefits and financial accounting as well as other data to the People's Bank of China.

**Article 62**

214

The People's Bank of China has the right to check and supervise the deposits, loans, account settling and bad debts of the commercial banks at any time in accordance with the stipulations of Chapters III, IV and V of this law. During their work of checking and supervision the checkers and the supervisors should present their legal certificates. Commercial banks should provide financial accounting data, business contracts and other information about its business and management in accordance with the requirements of the People's Bank of China.

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**Article 63**

216

Commercial bank should accept the auditing and supervision of the auditing departments in accordance with laws.

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**Chapter VII - Take-Over and Termination**

218

**Article 64**

219

The People's Bank of China may take over a commercial bank whenever a creditity\* crisis which would seriously affect the interests of the depositors has happened or may happen.

220

The purpose of a take-over is to take necessary measures against the commercial bank which is to be taken over to protect the interests of the depositors, and restore the normal operation ability of the bank. The right and liabilities of the taken-over bank will not change because of the take-over.

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**Article 65**

222

The People's Bank of China decides to organize and carry out the take-over. The take-over decision should have the following contents:

223

(1) The name of the commercial bank which is to be taken over;

224

(2) The reason for the take-over;

225

(3) The organization to execute the take-over; and

226

(4) The time limit for the take-over.

227

The take-over decision will be published by the People's Bank of China.

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**Article 66** 229

The take-over will begin at the date of execution of the take-over decision. 230

The organization which executes the take-over will execute the business and management power of the commercial bank beginning from the date of taking over. 231

**Article 67** 232

The People's Bank of China may decide to extend term of the take-over upon its expiration but the term of extension cannot exceed two years. 233

**Article 68** 234

The take-over terminates in one of the following cases: 235

(1) The term set by the take-over decision expires or the extension of the term decided by the People's Bank of China expires; 236

(2) The commercial bank concerned has restored its normal business ability before the term of the take-over expires; and 237

(3) The commercial bank is emerged or declares bankrupt before the end of the term of the take-over. 238

**Article 69** 239

A commercial bank should apply to the People's Bank of China for a disbandment due to merger, separation or reasons set in the articles of association of the bank and the application should be accompanied with the reasons for the disbandment and the plan for balance settlement such as paying the principal and interest of the deposits. And then the bank shall disband upon approval of the People's Bank of China. 240

The commercial bank to be disbanded should set up a group for settling accounts in accordance with laws and pay its debts such as the principal and interest of deposits. The People's Bank of China shall supervise over the settling process. 241

**Article 70** 242

If a commercial bank is dismantled because of a revoke of its business license, the People's Bank of China should, in accordance with law, set up a group for settling accounts in time, and pay its debts such as the principal and interest of deposits in time according to the plan for accounts settlement. 243

**Article 71**

244

If the commercial bank cannot pay the due debts, it will be declared bankrupt by the people's court in accordance with law and with the agreement of the People's Bank of China. When a commercial bank is declared bankrupt, the people's court will organize the People's Bank of China and other relevant departments to set up a group for settling accounts with the bank.

245

While the bankrupt commercial bank is undergoing the process of account settlement it should first pay the principal and interest of the individual depositors after paying the fees for account settling, employees' wages and labor insurance which are in arrears.

246

**Article 72**

247

Commercial banks should terminate their operations upon a disbandment, dismantlement and bankruptcy.

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**Chapter VIII - Legal Liabilities**

249

**Article 73**

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Whenever the appearance of one of the following cases that would do harm to the property of the depositors and other clients occurs, commercial banks concerned should undertake to pay the delayed interest and other civil liabilities:

251

(1) The bank delays or refuses to pay the principal and interest of the deposits without any reasons;

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(2) The bank refuses to honor instruments, does not enter receipts and payments into account book, holds down bills or instruments or returns the instruments in violation of the stipulations governing account settling;

253

(3) The bank illegally inquires about, freezes or deducts deposits of individuals or units; and

254

(4) Other behaviors of the bank that would violate the stipulations of this law and do harm to the depositors and other clients.

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**Article 74**

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The People's Bank of China shall order a commercial bank to correct one of the following cases, confiscate its illegal earnings if any and impose a fine which is anything between one to five times the illegal earnings or between RMB100, 000 yuan and 500, 000 yuan if no illegal earnings. The People's Bank of China may order the bank to stop its business or revoke its business license if the case is especially serious and the bank refuses to

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correct within a set time; and criminal responsibilities will be affixed if the case is so serious to constitute a crime:

- (1) The bank issues financial bonds or borrows funds from overseas without approval; 258
- (2) The bank buys and sells government bonds or buys and sells and acts as an agent to buy and sell foreign exchanges without approval; 259
- (3) The bank is engaged in trust investment and stock business or invests in fixed assets of non-self use within the country; 260
- (4) The bank makes investment in non-banking financial institutions and enterprises; 261
- (5) The bank issues credit loans or guaranteed loans with better condition than those to similar borrowers to people who have connections with the bank; 262
- (6) The bank provides an accounting report that is fake or with important facts held back; 263
- (7) The bank refuses the auditing, checking and supervising of the People's Bank of China, and 264
- (8) The bank leases or lends out business license. 265

**Article 75** 266

The People's Bank of China shall order a commercial bank to correct one of the cases stated in Article 73 of this law or one of the following cases, and confiscates its illegal earnings if any and impose a fine which is one to three times the illegal earnings, or impose a fine between RMB 50, 000 yuan and 300, 000 yuan if no illegal earnings: 267

- (1) The bank does not pay the deposit reserve funds in accordance with the proportion set by the People's Bank of China; 268
- (2) The bank does not operate with the set ratios in concern of capital, deposits and loans, fluid of assets, loans to the same borrower, and balance sheet as set by the People's Bank of China; 269
- (3) The bank sets up a branch without approval; 270
- (4) The bank separates or merges without approval; 271
- (5) The bank engages in inter-bank lending exceeding the set time limit or uses the borrowed interbank money to issue fixed assets loans; and 272
- (6) The bank raises or lowers interest rates in violation of stipulations or resorts to unjustified means to absorb deposits and issue loans. 273

**Article 76** 274

Disciplinary actions shall be taken against the leading and other personnel of a com- 275

mercial bank who have direct responsibilities for the cases in the preceding three articles; criminal responsibilities shall be affixed if the case is so serious to constitute a crime.

**Article 77**

276

The People's Bank of China shall order the correction of one of the following cases, and confiscate illegal earnings and impose a fine of one to three times the illegal earnings, or between RMB 50, 000 yuan and 300, 000 yuan if no illegal earning:

277

(1) The word "bank" is used in a title without approval;

278

(2) Purchase more than 10% of the total volume of the shares of a commercial bank without approval; and

279

(3) Opening of a private account for the funds of a unit.

280

**Article 78**

281

The People's Bank of China shall order a commercial bank to correct if it does not send relevant documents and data to the People's Bank of China in accordance with relevant stipulations or violates the stipulations of Article 24 of this law and does not report the changes for approval; if it refuses to correct within a set time, the People's Bank of China will impose a fine of RMB10, 000 yuan to 100, 000 yuan against the commercial bank.

282

**Article 79**

283

Criminal responsibilities shall be affixed on those who set up a commercial bank on their own without the approval of the People's Bank of China or illegally absorb public deposits or absorb public deposits in a disguised way; and the above actions shall be banned by the People's Bank of China.

284

Criminal responsibilities shall be affixed on those who fabricate, change and transfer the business license of a commercial bank.

285

**Article 80**

286

If a borrower obtains loans by cheating and the case is so serious as to constitute a crime, criminal responsibilities shall be affixed.

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**Article 81**

288

Criminal responsibilities shall be affixed on employees of commercial banks who, taking

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advantage of their own position, ask for and accept bribery or violate State regulations to accept various forms of discount and service charges.

If loans or guarantees provided as mentioned in the preceding clause have caused damages those who are responsible shall undertake the whole or part of the responsibilities of repayment. 290

**Article 82** 291

Criminal responsibilities shall be affixed on employees of the commercial banks who, by taking advantage of their own position, embezzle, divert or encroach upon the funds of the bank or the clients and the cases are so serious as to constitute a crime; and disciplinary action shall be taken against those whose case does not constitute a crime. 292

**Article 83** 293

Disciplinary action shall be taken against employees of a commercial bank who violate this law and are derelict of their duty, causing damages; criminal responsibilities shall be affixed if the case is so serious as to constitute a crime. 294

Those who cause damage because of issuing loans to or providing guarantee for relatives and friends should undertake the whole or part of the responsibilities of repayment. 295

**Article 84** 296

Disciplinary action shall be taken against employees of a commercial bank who leak the State and commercial secrets they have accessed to during their service; criminal responsibilities shall be affixed if the case is so serious as to constitute a crime. 297

**Article 85** 298

Disciplinary action shall be taken against those who are directly in charge or responsible for forcing commercial banks to issue loans or provide guarantee; those who cause damages for the actions should undertake the whole or part of the responsibilities of repayment. 299

Disciplinary action shall be taken against employees of a commercial bank who do not refuse to provide forced loans or guarantees; those who cause damages for the action should undertake relevant responsibilities of repayment. 300

**Article 86** 301

Upon refusal to the decisions of punishments by the People's Bank of China, commer- 302



cial banks and their employees may take the procedures to the people's court in accordance with the " Administrative Procedure Law of the People's Republic of China".

## **Chapter IX - Supplementary Provisions**

303

### **Article 87**

304

Commercial banks which were set up with approval in accordance with the regulations of the State Council need not go through the formalities of check and approval before this law is promulgated.

305

### **Article 88**

306

This law applies to the foreign-funded commercial banks, Sino-foreign joint venture commercial banks and the branches of foreign commercial banks in china, and if there are special laws and administrative regulations governing them, they should follow such special laws and regulations.

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### **Article 89**

308

The relevant regulations of this law apply to both urban and rural credit cooperative in their businesses such as handling deposits, issuing loans and settling accounts.

309

### **Article 90**

310

The relevant regulations of this law apply to the postal enterprises in their postal deposits and remittance services.

311

### **Article 91**

312

This law goes into force as of July 1, 1995.

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