Commercial Banking Law of the PRC

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Chapter I — General Provisions

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Article 1 — This Law is enacted for the purposes of protecting the lawful rights and interests of commercial banks, depositors, and other clients, regulating the conduct of commercial banks, improving the quality of credit assets, strengthening supervision and administration, ensuring the sound and stable operation of commercial banks, maintaining financial order, and promoting the development of the socialist market economy.

Article 2 — For the purposes of this Law, the term "commercial bank" means an enterprise legal person established in accordance with this Law and the Company Law of the People's Republic of China to engage in the business of accepting deposits from the public, granting loans, handling settlements, and other businesses. The transformation of existing urban credit cooperatives and rural credit cooperatives into commercial banks shall be governed by this Law.

Article 3 — A commercial bank may engage in part or all of the following businesses: (1) accepting deposits from the public; (2) granting short-term, medium-term, and long-term loans; (3) handling domestic and overseas settlements; (4) handling bill acceptance and discounting; (5) issuing financial bonds; (6) acting as agent for the issuance, cashing, and underwriting of government bonds; (7) trading in government bonds and financial bonds; (8) engaging in interbank lending; (9) trading in foreign exchange on its own account or as agent; (10) engaging in bank card business; (11) providing letter of credit services and guarantees; (12) acting as an agent for collection and payment of payments and insurance business; (13) providing safe deposit box services; and (14) other businesses approved by the financial regulatory authority under the State Council. The business scope shall be specified in the articles of association of the commercial bank and shall be reported to the financial regulatory authority under the State Council for approval. A commercial bank may, with the approval of the People's Bank of China, engage in foreign exchange settlement and sales business.

Article 4 — Commercial banks shall take safety, liquidity, and profitability as their operating principles and shall operate on their own, bear their own risks, be responsible for their own profits and losses, and exercise self-discipline. Commercial banks shall conduct their business in accordance with the law and shall not be subject to interference by any entity or individual. Commercial banks shall independently bear civil liability with all of their legal person property.

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

Article 6 — Commercial banks shall protect the lawful rights and interests of depositors and shall not be subject to interference by any entity or individual. Commercial banks shall protect the lawful rights and interests of their clients in handling the savings deposit business of individuals.

Article 7 — When conducting credit business, commercial banks shall strictly examine the creditworthiness of borrowers and implement the guarantee system to ensure that loans are repaid on schedule. Commercial banks shall, in accordance with the law, recover the principal and interest of due loans from borrowers and shall be protected by law.

Article 8 — Commercial banks shall comply with laws and administrative regulations in their business activities and shall not damage the national interest or the public interest of society.

Article 9 — Commercial banks shall carry out their business in accordance with the principles of fair competition and shall not engage in unfair competition.

Article 10 — Commercial banks shall, in accordance with the law, accept the supervision and administration of the financial regulatory authority under the State Council, unless otherwise provided by law for the acceptance of supervision and administration of relevant businesses.

Chapter II — Establishment and Organizational Structure

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Article 11 — The establishment of a commercial bank shall be subject to the examination and approval of the financial regulatory authority under the State Council. Without the approval of the financial regulatory authority under the State Council, no entity or individual may engage in the business of accepting deposits from the public or other commercial banking business, nor may the words "bank" be used in the name.

Article 12 — The establishment of a commercial bank shall meet the following conditions: (1) having articles of association that comply with this Law and the Company Law of the People's Republic of China; (2) having a minimum registered capital that complies with the provisions of this Law; (3) having directors and senior management personnel who possess the professional knowledge and business experience required for their positions; (4) having a sound organizational structure and management system; and (5) having business premises, safety protection measures, and other facilities that comply with the relevant requirements.

Article 13 — The minimum registered capital for the establishment of a national commercial bank shall be 1 billion yuan. The minimum registered capital for the establishment of an urban commercial bank shall be 100 million yuan. The minimum registered capital for the establishment of a rural commercial bank shall be 50 million yuan. The registered capital shall be paid-in capital. The financial regulatory authority under the State Council may adjust the minimum registered capital amounts in accordance with the needs of prudent supervision, provided that the adjustment shall not be lower than the amounts set out in the preceding paragraph.

Article 14 — The organizational structure of a commercial bank shall be governed by the provisions of the Company Law of the People's Republic of China. A commercial bank shall establish a board of supervisors in accordance with the law.

Article 15 — A commercial bank may establish branch offices within or outside the territory of China in accordance with the needs of its business. The establishment of branch offices shall be subject to the examination and approval of the financial regulatory authority under the State Council.

Article 16 — The chairman of the board of directors, president, and other senior management personnel of a commercial bank shall meet the qualifications for their positions prescribed by the financial regulatory authority under the State Council. No person shall serve as a director or senior management personnel of a commercial bank under any of the circumstances specified in the Company Law of the People's Republic of China.

Chapter III — Protection of Depositors

Article 17 — Commercial banks shall follow the principles of voluntary deposit, freedom of withdrawal, interest on deposits, and confidentiality for depositors when handling personal savings deposit business. Commercial banks shall have the obligation to keep confidential the information of their depositors. Commercial banks shall have the authority to refuse any inquiry, freeze, or deduction of personal savings deposits by any entity or individual, unless otherwise provided by law. Commercial banks shall have the authority to refuse any inquiry of entity deposits by any entity or individual, unless otherwise provided by laws or administrative regulations; and shall have the authority to refuse any freeze or deduction of entity deposits, unless otherwise provided by law.

Article 18 — Commercial banks shall, in accordance with the interest rates prescribed by the People's Bank of China, determine the interest rates for deposits and shall make public announcements. A commercial bank shall not raise or lower interest rates or use other improper means to absorb deposits or grant loans in violation of the provisions.

Article 19 — Commercial banks shall pay the principal and interest of deposits to depositors in accordance with the provisions of the People's Bank of China and on the agreed terms.

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Article 20 — Commercial banks shall maintain adequate reserves against deposits and maintain sufficient liquidity in their assets to ensure the payment of deposits due.

Chapter IV — Basic Rules for Loans and Other Businesses

Article 21 — When granting loans, commercial banks shall strictly examine the borrowing purpose, borrowing capacity, and repayment method of the borrower in accordance with the provisions of the People's Bank of China. When granting loans, commercial banks shall implement the system of separating the examination of loans from the granting of loans and the system of graded examination and approval. A credit committee shall be established within the commercial bank as the deliberation and decision-making body for credit business.

Article 22 — When a commercial bank grants a loan, the borrower shall provide a guarantee. The commercial bank shall strictly examine the repayment ability of the guarantor, the ownership and value of the collateral or the property right of the pledge, and the feasibility of realizing the security interest. Where a commercial bank is satisfied after examination and appraisal that a borrower has a good credit standing and is indeed capable of repaying the loan, the borrower need not provide a guarantee.

Article 23 — A commercial bank shall enter into a written contract with the borrower for the granting of a loan. The contract shall specify the type, purpose, amount, interest rate, term, repayment method, liabilities for breach of contract, and other matters agreed upon by both parties.

Article 24 — Commercial banks shall not grant unsecured loans to related parties; nor shall they grant loans to related parties on conditions more favorable than those for similar loans to other borrowers. For the purposes of the preceding paragraph, the term "related parties" means directors, supervisors, management personnel, credit business personnel, and their close relatives of the commercial bank; and companies, enterprises, and other economic organizations in which the persons listed in the preceding item have invested or hold senior management positions.

Article 25 — The borrower shall repay the principal and interest of the loan on schedule. Where a borrower fails to repay a loan on schedule, the commercial bank shall have the right to demand repayment and exercise the security interest in accordance with the law. Where a commercial bank exercises the right of mortgage or pledge, it may obtain repayment through legal disposal of the collateral or the property right of the pledge in accordance with the law.

Chapter V — Finance and Accounting

Article 26 — Commercial banks shall, in accordance with the provisions of laws and the uniform accounting system of the State, establish their own financial and accounting systems.

Article 27 — Commercial banks shall, within three months after the end of each fiscal year, publish their annual business reports and audit reports. Commercial banks shall prepare and submit to the financial regulatory authority under the State Council and the People's Bank of China their balance sheets, income statements, and other financial and accounting statements and reports.

Chapter VI — Supervision and Administration

Article 28 — Commercial banks shall, in accordance with the relevant provisions, formulate their own business rules, establish and improve their own risk management and internal control systems.

Article 29 — Commercial banks shall establish and improve their own systems for examining the safety of deposits, loans, settlements, and other businesses in accordance with the relevant provisions. Commercial banks shall establish a sound internal audit system and an internal control system for their branch offices.

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Article 30 — The financial regulatory authority under the State Council shall have the authority to inspect the deposit, loan, settlement, and other businesses of commercial banks at any time. When conducting inspections, inspectors shall produce their credentials. Commercial banks shall provide the financial regulatory authority under the State Council with the financial and accounting information, business contracts, and other information relating to business management as required.

Article 31 — Where a commercial bank has suffered or is likely to suffer a credit crisis, thereby seriously affecting the interests of depositors, the financial regulatory authority under the State Council may take over the commercial bank. The purpose of a takeover is to take necessary measures for the commercial bank being taken over to protect the interests of depositors and restore the normal operation capability of the commercial bank. The claims and debts of the commercial bank being taken over shall not change as a result of the takeover.

Chapter VII — Takeover and Termination

Article 32 — A commercial bank shall be terminated due to dissolution, revocation, or declaration of bankruptcy. Where a commercial bank is terminated due to dissolution, a liquidation group shall be established in accordance with the law to carry out liquidation. The financial regulatory authority under the State Council shall supervise the liquidation process.

Article 33 — Where a commercial bank obtains its business license by fraudulent means or seriously violates laws or administrative regulations, the financial regulatory authority under the State Council may revoke its business license. A commercial bank that is unable to pay its due debts may, with the consent of the financial regulatory authority under the State Council, be declared bankrupt by the people's court in accordance with the law.

Chapter VIII — Legal Liability

Article 34 — Where a commercial bank causes damage to depositors or other clients, it shall bear civil liability for compensation such as payment of interest on overdue debts.

Article 35 — Where a commercial bank commits any of the following acts, the financial regulatory authority under the State Council shall order it to make corrections, and where there is illegal income, confiscate the illegal income and impose a fine of not less than one time but not more than five times the illegal income; where there is no illegal income or the illegal income is less than 500,000 yuan, a fine of not less than 500,000 yuan but not more than 2 million yuan shall be imposed; where the circumstances are particularly serious or corrections are not made within the prescribed time limit, the financial regulatory authority under the State Council may order it to suspend business for rectification or revoke its business license: (1) engaging in business activities beyond the approved business scope without approval; (2) raising or lowering interest rates or using other improper means to absorb deposits or grant loans in violation of the provisions; (3) refusing or obstructing the inspection and supervision by the financial regulatory authority under the State Council; (4) failing to submit financial statements or submit financial statements with false records to the financial regulatory authority under the State Council; or (5) failing to maintain adequate deposit reserves in violation of the provisions.

Article 36 — Where any of the following acts is committed, criminal liability shall be investigated in accordance with the law if a crime is constituted: (1) unlawfully accepting deposits from the public or accepting deposits from the public in disguised form without approval; or (2) obtaining funds through fraudulent means and causing significant losses.

Chapter IX — Supplementary Provisions

Article 37 — This Law shall not apply to foreign-funded commercial banks, Chinese-foreign equity joint venture commercial banks, or branches of foreign banks, unless otherwise provided by laws or

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administrative regulations. Urban credit cooperatives and rural credit cooperatives that conduct deposit, loan, settlement, and other businesses in accordance with this Law shall be governed by the relevant provisions of this Law.

Article 38 — This Law shall come into force on October 1, 2015.

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