Law on Banking Supervision and Administration of the People’s Republic of China

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the law for the purposes of strengthening the supervision and administration of the banking industry, regulating the conduct of supervision and administration, preventing and mitigating financial risks in the banking industry, protecting the lawful rights and interests of depositors and other clients, and promoting the safe and sound operation of the banking industry.

Article 2 — The banking supervision and administration authority under the State Council shall be responsible for the supervision and administration of banking financial institutions and their business activities throughout the country. “Banking financial institutions” as used in this Law means the financial institutions established within the territory of the People’s Republic of China that take in deposits from the public, including commercial banks, urban credit cooperatives, rural credit cooperatives and policy banks, as well as financial asset management companies, trust and investment companies, finance companies, financial leasing companies and other financial institutions established with the approval of the banking supervision and administration authority under the State Council.

Article 3 — The objectives of banking supervision and administration are to promote the lawful and sound operation of the banking industry and maintain public confidence in the banking industry. Banking

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supervision and administration shall protect the fair competition in the banking industry and improve the competitiveness of the banking industry.

Article 4 — The banking supervision and administration authority shall carry out supervision and administration of banking financial institutions in accordance with the law on the principles of openness, fairness and efficiency. Banking supervision and administration activities shall be protected by law and shall not be subject to interference by any entity or individual.

Article 5 — The banking supervision and administration authority and its staff members engaged in supervision and administration shall, in performing their duties according to the law, strictly comply with the law and the administrative regulations, and shall keep confidential the State secrets and the trade secrets of the supervised institutions that come to their knowledge in the course of performing their duties.

Chapter II — Banking Supervision and Administration Authority

Article 6 — The banking supervision and administration authority under the State Council shall perform the following functions: (1) formulating and promulgating rules and regulations on the supervision and administration of the banking industry; (2) examining and approving the establishment, modification, termination and business scope of banking financial institutions; (3) examining the qualifications of the shareholders of banking financial institutions; (4) examining the qualifications of the directors and senior management personnel of banking financial institutions; (5) formulating the prudent operation rules for banking financial institutions; (6) carrying out on-site and off-site supervision of banking financial institutions; (7) investigating and punishing illegal acts in accordance with the law; and (8) other functions as prescribed by the State Council.

Article 7 — The banking supervision and administration authority under the State Council may establish dispatched offices. The dispatched offices shall perform the functions of supervision and administration within the scope of authorization of the banking supervision and administration authority under the State Council.

Article 8 — The banking supervision and administration authority under the State Council shall disclose its supervisory procedures and make public the items subject to administrative examination and approval, the conditions, operational procedures and time limits, and the list of the relevant materials to be submitted.

Article 9 — The banking supervision and administration authority under the State Council shall establish a system of internal supervision and an information disclosure system to supervise and administer the lawful performance of duties and compliance with disciplines by its staff members.

Chapter III — Supervision and Administration

Article 10 — The banking supervision and administration authority under the State Council shall, in accordance with the law, formulate the prudent operation rules for banking financial institutions. The prudent operation rules to be formulated by the banking supervision and administration authority under the State Council may include risk management, internal control, capital adequacy, asset quality, loan loss provisioning, risk concentration, connected transactions, and asset liquidity management.

Article 11 — The banking supervision and administration authority under the State Council shall establish a rating system and a risk warning mechanism for banking financial institutions, and shall, based on the rating and risk profile of banking financial institutions, determine the frequency and scope of on-site inspections and other supervisory measures to be taken.

Article 12 — The banking supervision and administration authority under the State Council shall establish a system for reporting and handling emergent events in the banking industry. The banking supervision and administration authority under the State Council shall, together with the People’s Bank of China and the finance department under the State Council, establish a system for reporting and handling emergent events

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in the banking industry.

Article 13 — The banking supervision and administration authority under the State Council shall compile and publish the national statistics and statements of banking financial institutions on a regular basis in accordance with the relevant provisions of the State. Banking financial institutions shall, in accordance with the provisions, truthfully report to the banking supervision and administration authority and other relevant authorities their balance sheets, income statements and other financial and accounting reports, statistical statements and other information, and shall be responsible for the truthfulness of the same.

Chapter IV — Supervisory Measures

Article 14 — The banking supervision and administration authority may, based on the needs of supervision and administration, take the following measures: (1) conducting on-site inspections of banking financial institutions; (2) conducting off-site surveillance of banking financial institutions; (3) interviewing the directors and senior management personnel of banking financial institutions and requiring them to explain the material matters concerning the business activities and risk management of the banking financial institutions; (4) ordering banking financial institutions to disclose information in accordance with the provisions; and (5) taking other supervisory measures in accordance with the law.

Article 15 — When conducting an on-site inspection of a banking financial institution, the inspector shall be not less than two persons and shall present their inspection credentials and inspection notice. The banking financial institution shall cooperate with the inspection and provide relevant documents and materials as required. The inspector shall keep confidential the trade secrets of the banking financial institution that come to their knowledge in the course of the inspection.

Article 16 — Where a banking financial institution is insolvent or is likely to be insolvent, thereby seriously affecting the interests of its depositors, the banking supervision and administration authority under the State Council may take over or restructure the institution in accordance with the law. Where a banking financial institution is illegally operated or its business management is disorderly, the banking supervision and administration authority under the State Council may revoke its financial business permit.

Chapter V — Legal Liability

Article 17 — Where a banking financial institution is established without the approval of the banking supervision and administration authority under the State Council, or illegally engages in the business activities of a banking financial institution, the banking supervision and administration authority under the State Council shall ban such establishment or activities. Where a crime is constituted, criminal liability shall be pursued in accordance with the law. Where a crime is not constituted, the illegal gains shall be confiscated and a fine imposed.

Article 18 — Where a banking financial institution commits any of the following acts, the banking supervision and administration authority under the State Council shall order it to make corrections and impose a fine: (1) establishing a branch office or changing its business scope without approval; (2) changing its registered capital without approval; or (3) changing its directors or senior management personnel without examination of their qualifications.

Article 19 — Where a banking financial institution violates the prudent operation rules, the banking supervision and administration authority under the State Council shall order it to make corrections within a specified time limit. Where the circumstances are serious, the banking supervision and administration authority may take measures such as ordering the institution to suspend part of its businesses, or revoking its financial business permit.

Chapter VI — Supplementary Provisions

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Article 20 — This Law shall apply to the supervision and administration of financial asset management companies, trust and investment companies, finance companies and financial leasing companies established with the approval of the banking supervision and administration authority under the State Council. The banking supervision and administration authority under the State Council shall formulate the measures for the supervision and administration of such institutions in accordance with this Law.

Article 21 — This Law shall apply to the supervision and administration of foreign-funded banking financial institutions, Sino-foreign equity joint venture banking financial institutions and branches of foreign banks established within the territory of the People's Republic of China, unless otherwise provided by laws or administrative regulations.

Article 22 — This Law shall come into force on February 1, 2004, and the Banking Supervision and Administration Law of the People's Republic of China adopted on December 27, 2003 shall be repealed simultaneously.

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