Regulations on the Administration of Foreign-Funded Banks of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Establishment and Registration 2

Chapter III — Business Scope and Operations 2

Chapter IV — Supervision and Administration 3

Chapter V — Dissolution and Liquidation 3

Chapter VI — Legal Liability 3

Chapter VII — Supplementary Provisions 3

Effective: February 1, 2002

Table of Contents

- Chapter I — General Provisions
- Chapter II — Establishment and Registration
- Chapter III — Business Scope and Operations
- Chapter IV — Supervision and Administration
- Chapter V — Dissolution and Liquidation
- Chapter VI — Legal Liability
- Chapter VII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are formulated in accordance with the Company Law of the People’s Republic of China and the Commercial Banking Law of the People’s Republic of China for the purposes of meeting the needs of opening-up and economic development, strengthening and improving the supervision and administration of foreign-funded banks, and promoting the sound operation of the banking industry.

Article 2 — For the purposes of these Regulations, “foreign-funded banks” means the following institutions established within the territory of China with the approval of the banking regulatory authority under the State Council:

Source: https://www.danyoungcpa.com/foreign-funded-banks-regulations-prc-2019-revision-english-translation/

(1) wholly foreign-funded banks established solely by a foreign bank or jointly by a foreign bank and another foreign financial institution;

(2) Sino-foreign joint venture banks established by a foreign financial institution and a Chinese company or enterprise;

(3) branches of foreign banks; and

(4) representative offices of foreign banks.

Article 3 — Foreign-funded banks shall comply with the laws and regulations of the People's Republic of China and shall not prejudice the public interest of the State. The lawful business activities and lawful rights and interests of foreign-funded banks shall be protected by the laws of the People's Republic of China.

Chapter II — Establishment and Registration

Article 4 — To establish a wholly foreign-funded bank or a Sino-foreign joint venture bank, the applicant or the Sino-foreign joint venture parties shall meet the following conditions:

(1) the applicant or the foreign joint venture party shall be a financial institution;

(2) the sole applicant or the foreign joint venture party shall have established a representative office within the territory of China;

(3) the total assets of the sole applicant at the end of the year preceding the application shall be not less than US$10 billion; and

(4) the country or region where the applicant is located shall have a sound financial supervision and administration system.

Article 5 — The minimum registered capital of a wholly foreign-funded bank or a Sino-foreign joint venture bank shall be RMB 1 billion or an equivalent amount in a freely convertible currency, and shall be paid-in capital.

Article 6 — To establish a branch of a foreign bank, the parent bank shall meet the following conditions:

(1) the total assets of the parent bank at the end of the year preceding the application shall be not less than US$20 billion;

(2) the parent bank shall have established a representative office within the territory of China for at least two years; and

(3) the country or region where the parent bank is located shall have a sound financial supervision and administration system.

Chapter III — Business Scope and Operations

Article 7 — A wholly foreign-funded bank or a Sino-foreign joint venture bank may engage in part or all of the following types of Renminbi and foreign currency businesses within the scope approved by the banking regulatory authority under the State Council:

(1) accepting deposits from the public;

(2) granting short-term, medium-term, and long-term loans;

(3) handling domestic and overseas settlements;

(4) handling acceptance and discounting of negotiable instruments;

(5) buying and selling government bonds and financial bonds;

(6) providing letters of credit services and guarantees;

Source: https://www.danyoungcpa.com/foreign-funded-banks-regulations-prc-2019-revision-english-translation/

(7) buying and selling foreign exchange on a proprietary basis or on behalf of customers;

(8) engaging in interbank lending; and

(9) other businesses approved by the banking regulatory authority under the State Council.

Article 8 — A foreign bank branch may engage in part or all of the foreign currency businesses and Renminbi businesses within the scope approved by the banking regulatory authority under the State Council. In respect of liability for civil obligations, the foreign bank's head office shall bear liability.

Chapter IV — Supervision and Administration

Article 9 — Foreign-funded banks shall comply with the relevant provisions of the State on deposit reserve requirements, loan loss provisioning, and asset-liability ratio management.

Article 10 — The ratio of the balance of Renminbi and foreign currency assets to the balance of Renminbi and foreign currency liabilities of a foreign-funded bank shall not be lower than 25 percent.

Article 11 — The balance of loans extended by a wholly foreign-funded bank or a Sino-foreign joint venture bank to any single customer shall not exceed 10 percent of the bank's net capital.

Article 12 — Foreign-funded banks shall submit financial statements, annual reports, business reports, and audit reports to the banking regulatory authority in accordance with the relevant provisions.

Chapter V — Dissolution and Liquidation

Article 13 — Where a wholly foreign-funded bank or a Sino-foreign joint venture bank is dissolved on its own initiative, ceases business operations due to closure, or is revoked, a liquidation committee shall be established and liquidation shall be conducted in accordance with the relevant provisions. The liquidation shall be subject to the supervision of the banking regulatory authority under the State Council.

Chapter VI — Legal Liability

Article 14 — Where a foreign-funded bank establishes a branch without authorization or conducts business operations without approval, the banking regulatory authority shall ban such operations and confiscate the illegal proceeds.

Article 15 — Where a foreign-funded bank violates these Regulations, the banking regulatory authority may order it to make rectification, confiscate illegal proceeds, impose fines, order it to suspend business for rectification, or revoke its business permit, depending on the circumstances.

Chapter VII — Supplementary Provisions

Article 16 — The specific measures for the implementation of these Regulations shall be formulated by the banking regulatory authority under the State Council.

Article 17 — These Regulations shall become effective as of February 1, 2002. The Regulations of the People's Republic of China on Foreign-Funded Financial Institutions promulgated by the State Council on February 25, 1994 shall be repealed simultaneously.

Disclaimer: This English translation is provided for informational and reference purposes only. It is not an official translation and may contain inaccuracies or omissions. The official Chinese text of the Regulations on the Administration of Foreign-Funded Banks of the People's Republic of China, as published by the State Council, shall prevail in all legal matters. Readers should consult qualified legal and financial professionals for advice on specific situations. Dan Young Business Consultancy makes no representations or warranties as to the accuracy or completeness of this translation and disclaims all liability for any reliance placed upon it.

Source: https://www.danyoungcpa.com/foreign-funded-banks-regulations-prc-2019-revision-english-translation/

Source: https://www.danyoungcpa.com/foreign-funded-banks-regulations-prc-2019-revision-english-translation/