

Regulations on the Supervision and Administration of Financing Guarantee Companies of the PRC

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Chapter I — General Provisions

Article 1 — These Regulations are formulated to support the development of inclusive finance, promote the accommodation of funds, regulate the conduct of financing guarantee companies, and prevent risks.

Article 2 — For the purposes of these Regulations, "financing guarantee" means the act of a guarantor providing a guarantee for debt financing by the guaranteed party, such as borrowing or issuing bonds; "financing guarantee company" means a limited liability company or a company limited by shares that is established in accordance with law and operates the financing guarantee business.

Article 3 — In carrying on business, a financing guarantee company shall comply with laws and regulations, operate prudently, be honest and trustworthy, and shall not harm the interests of the state, the public interest or the lawful rights and interests of others.

Article 4 — The department designated by the people's government of a province, autonomous region or municipality directly under the Central Government (hereinafter referred to as the "supervisory and administrative department") shall be responsible for the supervision and administration of financing guarantee companies within its region.

The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for formulating policy measures to promote the development of the financing guarantee industry in their respective regions, handling risks of financing guarantee companies, and urging the supervisory and administrative departments to strictly perform their duties.

The State Council shall establish an inter-ministerial joint conference for the regulation of the financing guarantee business, which shall be responsible for drafting the supervisory and administrative system for financing guarantee companies, coordinating the resolution of major issues in the supervision and administration of financing guarantee companies, and urging and guiding local people's governments to supervise, administer and handle the risks of financing guarantee companies. The inter-ministerial joint conference for the regulation of the financing guarantee business shall be led by the banking regulatory authority under the State Council, with the participation of the relevant departments under the State Council.

Article 5 — The state shall promote the establishment of a government financing guarantee system, develop government-supported financing guarantee companies, establish a cooperation mechanism among the government, banking financial institutions and financing guarantee companies, and expand the scale of financing guarantee business provided for small and micro enterprises and for agriculture, rural areas and farmers while maintaining a relatively low fee level.

The finance departments of the people's governments at all levels shall, by means of capital contributions, the establishment of risk-sharing mechanisms and the like, provide fiscal support to financing guarantee companies that mainly serve small and micro enterprises and agriculture, rural areas and farmers; the specific measures shall be formulated by the finance department under the State Council.

Chapter II — Establishment, Change and Termination

Article 6 — The establishment of a financing guarantee company shall be subject to the approval of the supervisory and administrative department.

The name of a financing guarantee company shall indicate the words "financing guarantee."

Without the approval of the supervisory and administrative department, no unit or individual may operate the financing guarantee business, and no unit may use the words "financing guarantee" in its name, unless the state provides otherwise.

Article 7 — The establishment of a financing guarantee company shall conform to the provisions of the Company Law of the People's Republic of China and satisfy the following conditions:

- (1) the shareholders have good credibility and no record of major violations of laws and regulations in the last three years;
- (2) the registered capital is not less than RMB 20 million and is paid-in monetary capital;
- (3) the proposed directors, supervisors and senior management personnel are familiar with the laws and regulations related to the financing guarantee business and have the professional experience and management capabilities required to perform their duties; and
- (4) there are sound internal management systems such as business rules and risk control.

Provinces, autonomous regions and municipalities directly under the Central Government may, based on the level of economic development of their regions and the actual situation of the development of the financing guarantee industry, raise the minimum registered capital prescribed in the preceding paragraph.

Article 8 — To apply for the establishment of a financing guarantee company, an application and materials proving that it meets the conditions prescribed in Article 7 of these Regulations shall be submitted to the supervisory and administrative department.

The supervisory and administrative department shall, within 30 days from the date of accepting the application, make a decision on whether to approve it. Where it decides to approve the application, it shall issue a financing guarantee business operating license; where it refuses to approve the application, it shall notify the applicant in writing and state the reasons.

A financing guarantee company established upon approval shall be publicly announced by the supervisory and administrative department.

Article 9 — The merger or division of a financing guarantee company, or the reduction of its registered capital, shall be subject to the approval of the supervisory and administrative department.

Where a financing guarantee company establishes a branch within the province, autonomous region or municipality directly under the Central Government where its domicile is located, changes its name, changes a shareholder holding 5 percent or more of its equity, or changes its directors, supervisors or senior management personnel, it shall file the matter with the supervisory and administrative department within 30 days from the date of the establishment of the branch or the change of the relevant matters; the relevant matters after the change shall conform to the provisions of paragraph 2 of Article 6 and Article 7 of these Regulations.

Article 10 — A financing guarantee company establishing a branch across provinces, autonomous regions or municipalities directly under the Central Government shall satisfy the following conditions and be subject to the approval of the supervisory and administrative department of the place where the branch is to be established:

- (1) its registered capital is not less than RMB 1 billion;
- (2) it has operated the financing guarantee business for three years or more and has been continuously profitable in the last two accounting years; and
- (3) it has no record of major violations of laws and regulations in the last two years.

The procedures and time limit for the approval by the supervisory and administrative department of the place where the branch is to be established shall be governed by Article 8 of these Regulations.

A financing guarantee company shall, within 30 days from the date of the establishment of the branch, report the relevant circumstances to the supervisory and administrative department of the place of its domicile.

The day-to-day supervision and administration of a branch established by a financing guarantee company across provinces, autonomous regions or municipalities directly under the Central Government shall be the responsibility of the supervisory and administrative department of the place where the branch is located, and the supervisory and administrative department of the place of the financing guarantee company's domicile shall cooperate.

Article 11 — Where a financing guarantee company is dissolved, a liquidation group shall be established in accordance with law to carry out liquidation, and explicit arrangements shall be made for the assumption of unexpired financing guarantee liabilities. The liquidation process shall be subject to the supervision of the supervisory and administrative department.

Where a financing guarantee company is dissolved or is declared bankrupt in accordance with law, it shall hand over its financing guarantee business operating license to the supervisory and administrative department for cancellation, and the supervisory and administrative department shall make a public announcement.

Chapter III — Business Rules

Article 12 — In addition to operating financing guarantee business such as loan guarantees and bond issuance guarantees, a financing guarantee company with sound operations and good financial conditions may also operate non-financing guarantee business such as bid guarantees, project performance guarantees and litigation preservation guarantees, as well as service business such as consulting related to the guarantee business.

Article 13 — A financing guarantee company shall, under the principle of prudent operation, establish and improve business rules for project evaluation, post-guarantee management, recovery of subrogated liabilities and the like, as well as internal control systems such as risk management.

Government-supported financing guarantee companies shall enhance their capacity to use modern information technology means such as big data, and serve the financing needs of small and micro enterprises and agriculture, rural areas and farmers.

Article 14 — A financing guarantee company shall measure its outstanding guarantee liabilities in accordance with the risk weights prescribed by the state.

Article 15 — The outstanding guarantee liabilities of a financing guarantee company shall not exceed 10 times its net assets.

With respect to financing guarantee companies that mainly serve small and micro enterprises and agriculture, rural areas and farmers, the multiple ceiling prescribed in the preceding paragraph may be raised to 15 times.

Article 16 — The ratio of a financing guarantee company's outstanding guarantee liabilities to the same guaranteed party to its net assets shall not exceed 10 percent, and the ratio of its outstanding guarantee liabilities to the same guaranteed party and its related parties to its net assets shall not exceed 15 percent.

Article 17 — A financing guarantee company shall not provide financing guarantees for its controlling shareholders or actual controllers, and the conditions for providing financing guarantees for other related parties shall not be more favorable than those for providing the same type of guarantees for non-related parties.

Where a financing guarantee company provides a financing guarantee for a related party, it shall report the matter to the supervisory and administrative department within 30 days from the date of providing the guarantee, and disclose it in the notes to its accounting statements.

Article 18 — A financing guarantee company shall set aside corresponding reserves in accordance with the relevant state provisions.

Article 19 — The financing guarantee fee rate shall be determined through negotiation between the financing guarantee company and the guaranteed party.

Financing guarantee companies included in the financing guarantee risk-sharing mechanism established with government promotion shall, in accordance with the relevant state provisions, reduce the financing guarantee fee rates for small and micro enterprises and agriculture, rural areas and farmers.

Article 20 — Where the guaranteed party or a third party provides counter-guarantee to a financing guarantee company by means of mortgage or pledge, and registration is required by law, the relevant registration authorities shall handle the registration in accordance with law.

Article 21 — A financing guarantee company shall have the right to require the guaranteed party to provide information on business activities and financial conditions related to the financing guarantee.

A financing guarantee company shall provide to the creditor of the guaranteed party information on business activities and financial conditions related to the financing guarantee.

Article 22 — The use of a financing guarantee company's own funds shall conform to the state provisions on the safety and liquidity of the assets of financing guarantee companies.

Article 23 — A financing guarantee company shall not engage in the following activities:

- (1) taking deposits or taking deposits in disguised form;
- (2) self-operated loans or entrusted loans; or
- (3) entrusted investment.

Chapter IV — Supervision and Administration

Article 24 — The supervisory and administrative department shall establish and improve the supervisory and administrative work systems, use modern information technology means such as big data to monitor risks in real time, strengthen off-site supervision and on-site inspection of financing guarantee companies, and establish coordination and information sharing mechanisms for supervision and administration with the relevant departments.

Article 25 — The supervisory and administrative department shall implement classified supervision and administration of financing guarantee companies according to their operating scale, main service targets, internal management level, risk status and the like.

Article 26 — The supervisory and administrative department shall, in accordance with the requirements of the state's financing guarantee statistics system, submit statistics on the financing guarantee companies in its region to the people's government at the same level and the banking regulatory authority under the State Council.

Article 27 — The supervisory and administrative department shall analyze and assess the development of the financing guarantee industry and the supervision and administration in its region, report to the people's government at the same level and the banking regulatory authority under the State Council on an annual basis, and publicize the matter to the public.

Article 28 — In conducting on-site inspections, the supervisory and administrative department may take the following measures:

- (1) entering a financing guarantee company to conduct inspections;
- (2) questioning the staff of a financing guarantee company and requiring them to explain the matters under inspection;
- (3) inspecting the computer information management system of a financing guarantee company; and
- (4) consulting and copying documents and materials related to the matters under inspection, and sealing up documents, materials and electronic equipment that may be transferred, concealed or damaged.

On-site inspections shall be subject to the approval of the person in charge of the supervisory and administrative department. There shall be no fewer than two inspectors, who shall present their lawful credentials and the inspection notice.

Article 29 — The supervisory and administrative department may, based on the need to perform its duties, hold supervisory and administrative talks with the directors, supervisors and senior management personnel of a financing guarantee company, requiring them to explain major matters concerning the business activities and risk management of the financing guarantee company.

The supervisory and administrative department may notify the creditors of the guaranteed parties of the violations of laws and regulations or the risk situation of a financing guarantee company.

Article 30 — Where the supervisory and administrative department finds that the business activities of a financing guarantee company may give rise to major risks, it may, with the approval of the principal person in charge of the supervisory and administrative department, take the following measures according to the circumstances:

- (1) ordering it to suspend part of its business;
- (2) restricting the scale and methods of the use of its own funds; or
- (3) ordering it to stop establishing additional branches.

The financing guarantee company shall take measures in a timely manner to eliminate the major risk hazards and report the relevant circumstances to the supervisory and administrative department. Where, upon acceptance inspection by the supervisory and administrative department, it is confirmed that the major risk hazards have been eliminated, the supervisory and administrative department shall, within three days from the completion of the acceptance inspection, lift the measures prescribed in the preceding paragraph.

Article 31 — A financing guarantee company shall, as required, submit to the supervisory and administrative department documents and materials such as operating reports, financial reports and annual audit reports issued by certified public accountants.

Where a financing guarantee company carries on business across provinces, autonomous regions or municipalities directly under the Central Government, it shall report its business operations to the supervisory and administrative department of the place of its domicile and the supervisory and administrative department of the place where the business is carried on on a quarterly basis.

Article 32 — A financing guarantee company shall cooperate with the supervision and inspection lawfully conducted by the supervisory and administrative department and shall not refuse or obstruct them.

Article 33 — The supervisory and administrative department shall establish and improve the credit record system for financing guarantee companies. The credit records of financing guarantee companies shall be incorporated into the national credit information sharing platform.

Article 34 — The supervisory and administrative department shall, in conjunction with the relevant departments, establish mechanisms for the early warning, prevention and handling of major risk events of financing guarantee companies, and formulate emergency plans for major risk events of financing guarantee companies.

Where a major risk event occurs to a financing guarantee company, it shall immediately take emergency measures and promptly report to the supervisory and administrative department. The supervisory and administrative department shall handle the matter in a timely manner and report to the people's government at the same level, the banking regulatory authority under the State Council and the People's Bank of China.

Article 35 — The supervisory and administrative department and its staff members shall keep confidential the trade secrets they become aware of in the course of supervision and administration.

Chapter V — Legal Liability

Article 36 — Where, in violation of these Regulations, a financing guarantee company is established or the financing guarantee business is operated without approval, the supervisory and administrative department shall ban it or order it to stop operating, impose a fine of not less than RMB 500,000 but not more than RMB 1 million, and confiscate the illegal gains, if any; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Where, in violation of these Regulations, the words "financing guarantee" are used in a name without approval, the supervisory and administrative department shall order rectification within a prescribed time limit; where rectification is not made within the time limit, a fine of not less than RMB 50,000 but not more

than RMB 100,000 shall be imposed, and the illegal gains, if any, shall be confiscated.

Article 37 — Under any of the following circumstances on the part of a financing guarantee company, the supervisory and administrative department shall order rectification within a prescribed time limit, impose a fine of not less than RMB 100,000 but not more than RMB 500,000, and confiscate the illegal gains, if any; where rectification is not made within the time limit, it shall order suspension of business for rectification, and where the circumstances are serious, it shall revoke the financing guarantee business operating license:

- (1) merging or dividing without approval;
- (2) reducing registered capital without approval; or
- (3) establishing a branch across provinces, autonomous regions or municipalities directly under the Central Government without approval.

Article 38 — Where a financing guarantee company changes relevant matters without filing in accordance with these Regulations, or the relevant matters after the change do not conform to these Regulations, the supervisory and administrative department shall order rectification within a prescribed time limit; where rectification is not made within the time limit, a fine of not less than RMB 50,000 but not more than RMB 100,000 shall be imposed, and where the circumstances are serious, suspension of business for rectification shall be ordered.

Article 39 — Where a financing guarantee company engages in entrusted investment, the supervisory and administrative department shall order rectification within a prescribed time limit, impose a fine of not less than RMB 500,000 but not more than RMB 1 million, and confiscate the illegal gains, if any; where rectification is not made within the time limit, it shall order suspension of business for rectification, and where the circumstances are serious, it shall revoke the financing guarantee business operating license.

Where a financing guarantee company takes public deposits or takes public deposits in disguised form, or engages in self-operated loans or entrusted loans, it shall be punished in accordance with the relevant laws and administrative regulations.

Article 40 — Under any of the following circumstances on the part of a financing guarantee company, the supervisory and administrative department shall order rectification within a prescribed time limit; where rectification is not made within the time limit, a fine of not less than RMB 100,000 but not more than RMB 500,000 shall be imposed, the illegal gains, if any, shall be confiscated, and suspension of business for rectification may be ordered, and where the circumstances are serious, the financing guarantee business operating license shall be revoked:

- (1) the ratio of its outstanding guarantee liabilities to its net assets does not conform to the provisions;
- (2) providing financing guarantees for its controlling shareholders or actual controllers, or providing financing guarantees for other related parties on terms more favorable than those for providing the same type of guarantees for non-related parties;
- (3) failing to set aside corresponding reserves in accordance with the provisions; or
- (4) the use of its own funds does not conform to the state provisions on the safety and liquidity of the assets of financing guarantee companies.

Article 41 — Where a financing guarantee company fails to submit to the supervisory and administrative department, as required, documents and materials such as operating reports, financial reports and annual audit reports, or its business operations, or fails to report a major risk event it has experienced, the supervisory and administrative department shall order rectification within a prescribed time limit and impose a fine of not less than RMB 50,000 but not more than RMB 200,000; where rectification is not made within the time limit, suspension of business for rectification shall be ordered, and where the circumstances are serious, the financing guarantee business operating license shall be revoked.

Article 42 — Under any of the following circumstances on the part of a financing guarantee company, the supervisory and administrative department shall order rectification within a prescribed time limit and impose a fine of not less than RMB 200,000 but not more than RMB 500,000; where rectification is not made within the time limit, suspension of business for rectification shall be ordered, and where the circumstances are serious, the financing guarantee business operating license shall be revoked; where the act constitutes a violation of public security administration, punishment shall be imposed in accordance with the Public Security Administration Punishments Law of the People's Republic of China; where a crime is constituted, criminal liability shall be pursued in accordance with law:

- (1) refusing or obstructing the supervision and inspection lawfully conducted by the supervisory and administrative department;
- (2) providing the supervisory and administrative department with false documents and materials such as operating reports, financial reports and annual audit reports; or
- (3) refusing to implement the measures taken by the supervisory and administrative department in accordance with paragraph 1 of Article 30 of these Regulations.

Article 43 — Where a fine is imposed on a financing guarantee company in accordance with these Regulations, a fine of not more than RMB 50,000 may, depending on the specific circumstances, be imposed simultaneously on the directors, supervisors and senior management personnel who bear direct liability.

Where a financing guarantee company violates these Regulations and the circumstances are serious, the supervisory and administrative department may prohibit the directors, supervisors and senior management personnel who bear direct liability from serving as directors, supervisors or senior management personnel of financing guarantee companies for a certain period, or prohibit them from doing so for life.

Article 44 — Where staff members of the supervisory and administrative department abuse their powers, neglect their duties or engage in malpractices for personal gain in the supervision and administration of financing guarantee companies, they shall be given sanctions in accordance with law; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Chapter VI — Supplementary Provisions

Article 45 — Financing guarantee industry organizations shall, in accordance with the provisions of laws, regulations and their charters, play the role of service, coordination and industry self-discipline, and guide financing guarantee companies to operate in accordance with law and compete fairly.

Article 46 — Where government funds or government departments directly establish operating institutions to carry on financing guarantee business for purposes such as promoting employment and entrepreneurship, the matter shall be handled in accordance with the relevant state provisions.

These Regulations shall not apply to the guarantee business carried on by rural mutual-aid financing guarantee organizations, or to the forest right acquisition and storage guarantee business carried on among forestry business entities.

Article 47 — Measures for the administration of financing re-guarantee companies shall be separately formulated by the banking regulatory authority under the State Council in conjunction with the relevant departments under the State Council and submitted to the State Council for approval.

Article 48 — Financing guarantee companies established before the implementation of these Regulations that do not meet the conditions prescribed in these Regulations shall meet those conditions within the time limit prescribed by the supervisory and administrative department; where they still fail to meet the prescribed conditions within the time limit, they shall not carry on new financing guarantee business.

Article 49 — These Regulations shall take effect as of October 1, 2017.

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