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Law of the People's Republic of China on Commercial Banks (2015 Amendment) [Effective]

中华人民共和国商业银行法(2015修正) [现行有效]

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Law of the People's Republic of China on Commercial Banks

(Adopted at the 13th Session of the Standing Committee of the Eighth National People's Congress on May 10, 1995, and amended according to the Decision on Modifying the Law of the People's Republic of China on Commercial Banks as adopted by the Sixth Session of the Standing Committee of the Tenth National People's Congress on December 27, 2003; amended according to the Decision on Amending the Law of the People's Republic of China on Commercial Banks as adopted by the 16th Session of the Standing Committee of the Twelfth National People's Congress on August 29, 2015)

中华人民共和国商业银行法

(1995年5月10日第八届全国人民代表大会常务委员会第十三次会议通过 根据2003年12月27日第十届全国人民代表大会常务委员会第六次会议《关于修改〈中华人民共和国商业银行法〉的决定》修正 根据2015年8月29日第十二届全国人民代表大会常务委员会第十六次会议《关于修改〈中华人民共和国商业银行法〉的决定》修正)

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Article 1 The present Law is hereby formulated for the purpose of protecting the legal rights and interests of commercial banks, depositors and other clients, standardizing the behaviors of commercial banks, improving the quality of loan assets, strengthening the supervision and management and thus ensuring the sound and stable operations of commercial banks, safeguarding financial order and promoting the development of the socialist market economy.

第一条 为了保护商业银行、存款人和其他客户的合法权益，规范商业银行的行为，提高信贷资产质量，加强监督管理，保障商业银行的稳健运行，维护金融秩序，促进社会主义市场经济的发展，制定本法。

Article 2 The "commercial banks" referred to in this Law are those enterprise legal persons which are established to absorb public deposits, make 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".

第二条 本法所称的商业银行是指依照本法和《中华人民共和国公司法》设立的吸收公众存款、发放贷款、办理结算等业务的企业法人。

Article 3 A commercial bank may have the following businesses in part or in whole:

第三条 商业银行可以经营下列部分或者全部业务：

1. Absorbing public deposits;
 2. Offering short-term, medium-term and long-term loans;
 3. Arranging settlement of both domestic and overseas accounts;
 4. Handling acceptance and discount of negotiable instruments;
 5. Issuing financial bonds;
 6. Issuing, cashing and undertaking the sale of government bonds as agents;
 7. Buying and selling government bonds or financial bonds;
 8. Undertaking inter-bank borrowing or lending;
 9. Buying and selling foreign exchange by itself or as agents;
 10. Engaging in bank card business;
 11. Offering L/C services and guarantee;
 12. Handling receipts and payments and insurance business as agents;
 13. Providing safe boxes services; and
 14. Other businesses as approved by the banking regulatory organ of the State Council.
- The business scope of a commercial bank shall be determined by the Articles of Association of the bank and reported to the banking regulatory organ of the State Council for approval.

- (一) 吸收公众存款；
 - (二) 发放短期、中期和长期贷款；
 - (三) 办理国内外结算；
 - (四) 办理票据承兑与贴现；
 - (五) 发行金融债券；
 - (六) 代理发行、代理兑付、承销政府债券；
 - (七) 买卖政府债券、金融债券；
 - (八) 从事同业拆借；
 - (九) 买卖、代理买卖外汇；
 - (十) 从事银行卡业务；
 - (十一) 提供信用证服务及担保；
 - (十二) 代理收付款项及代理保险业务；
 - (十三) 提供保管箱服务；
 - (十四) 经国务院银行业监督管理机构批准的其他业务。
- 经营范围由商业银行章程规定，报国务院银行业监督管理机构批准。

A commercial bank may undertake foreign exchange settlement and selling businesses after being approved by the People's Bank of China.

Article 4 Commercial banks shall work under the principles of safety, fluidity and efficiency, with full autonomy and assume sole responsibility for their own risks, profits and losses, and with self-restraint.

Commercial banks shall carry out business in accordance with laws free from any interference by entities or individuals.

Commercial banks shall bear civil legal liabilities independently with all their properties as legal persons.

Article 5 Commercial banks shall follow the principles of equality, free will, fairness, and good faith in their services to clients.

Article 6 Commercial banks shall protect the legal rights and interests of the depositors against the encroachment of any entity or individual.

Article 7 Commercial banks shall, in offering loans, make examination strictly on the credibility of the borrower, and provide loans on guarantee to ensure timely recovery of the loan.

Commercial banks are protected by laws in duly recovery of principals and interests of the loans they extended.

Article 8 Commercial banks shall carry out business in accordance with the relevant provisions of laws and administrative regulations, and shall not do harm to the interests of the state and the society.

Article 9 Commercial banks shall carry out business in light of the principle of fair competition, and shall not engage in any unfair competition.

Article 10 Commercial banks shall be subject to the supervision of the banking regulatory organ of the State Council according to law, unless otherwise the law prescribes that the relevant business thereof shall be subject to the supervision of any other regulatory department or organ, the provisions will prevail.

Chapter II Establishment and Organization of Commercial Banks

Article 11 The establishment of a commercial bank shall be subject to the examination and approval of the banking regulatory organ of the State Council.

No entity or individual may engage in absorbing public deposits or other businesses of a commercial bank, nor shall any entity use the word "bank" in its name without the approval of the banking regulatory organ of the State Council.

Article 12 The following requirements shall be met in establishing a commercial bank:

1. Having Articles of Association in accord with this Law and the provisions of the [Company Law of the People's Republic of China](#);
2. Having a registered capital that meets the minimum amount in accordance with the provisions of this Law;
3. Having directors and senior management personnel with professional knowledge for holding the post and work experiences;
4. Having perfect organizations and management systems; and

商业银行经中国人民银行批准，可以经营结汇、售汇业务。

第四条 商业银行以安全性、流动性、效益性为经营原则，实行自主经营，自担风险，自负盈亏，自我约束。商业银行依法开展业务，不受任何单位和个人的干涉。商业银行以其全部法人财产独立承担民事责任。

第五条 商业银行与客户的业务往来，应当遵循平等、自愿、公平和诚实信用的原则。

第六条 商业银行应当保障存款人的合法权益不受任何单位和个人的侵犯。

第七条 商业银行开展信贷业务，应当严格审查借款人的资信，实行担保，保障按期收回贷款。商业银行依法向借款人收回到期贷款的本金和利息，受法律保护。

第八条 商业银行开展业务，应当遵守法律、行政法规的有关规定，不得损害国家利益、社会公共利益。

第九条 商业银行开展业务，应当遵守公平竞争的原则，不得从事不正当竞争。

第十条 商业银行依法接受国务院银行业监督管理机构的监督管理，但法律规定其有关业务接受其他监督管理部门或者机构监督管理的，依照其规定。

第二章 商业银行的设立和组织机构

第十一条 设立商业银行，应当经国务院银行业监督管理机构审查批准。

未经国务院银行业监督管理机构批准，任何单位和个人不得从事吸收公众存款等商业银行业务，任何单位不得在名称中使用“银行”字样。

第十二条 设立商业银行，应当具备下列条件：

- (一) 有符合本法和《中华人民共和国公司法》规定的章程；
- (二) 有符合本法规定的注册资本最低限额；
- (三) 有具备任职专业知识和业务工作经验的董事、高级管理人员；
- (四) 有健全的组织机构和管理制度；

5. Having a place of business accompanied with safeguard measures meeting the requirements and other facilities in relation to the business.

Other sound conditions shall also be met for the establishment of a commercial bank.

Article 13 The minimum amount of registered capital for establishing a national commercial bank shall be RMB one billion Yuan. The minimum amount of registered capital for establishing a city commercial bank shall be RMB a hundred million Yuan, and for a rural commercial bank the minimum amount of registered capital shall be RMB 50 million Yuan.

The registered capital shall be paid-in capital.

The banking regulatory organ of the State Council may adjust the minimum amount of registered capital as required for sound supervision, but the amounts thereof shall be no less than that as prescribed in the preceding paragraph.

Article 14 An applicant shall submit the following documents and materials to the banking regulatory organ of the State Council for establishing a commercial bank:

1. An application, specifying the name, locations, amount of registered capital, and business scope of the commercial bank to be set up;
2. A feasibility study report; and
3. Other documents and materials that shall be submitted as required by the banking regulatory organ of the State Council.

Article 15 Where an application for establishment of a commercial bank is in accord with the provisions of Article 14 of this Law, an applicant shall fill in out a formal application, and submit the following documents and materials:

1. The draft of the Articles of Association;
2. Qualification certificates of the directors and senior management personnel to assume the posts;
3. Certificate of capital issued by a legal capital checking organ;
4. Name list of shareholders and the amount of capital contributions and shares thereof;
5. Certificates of credibility and relevant documents of the shareholders who hold more than 5% of the registered capital;
6. Business policies and plans;
7. Place of business accompanied with the safeguard measures and documents of other facilities in relation to the business; and
8. Other documents and materials as required by the banking regulatory organ of the State Council.

Article 16 Commercial banks established upon approval shall be issued permit for operation by the banking regulatory organ of the State Council, and go through registration formalities at the department of industry and commerce administration upon the strength of the permit and get the business license.

Article 17 The organization form and setup of a commercial bank shall be applicable to the provisions of the [Company Law of the People's Republic of China](#).

Where a commercial bank, which was established before the promulgation of this law has its organization form and setup not entirely in accordance with the provisions of the "[Company Law of the People's Republic of China](#)", it may continue to operate under the original form and

(五) 有符合要求的营业场所、安全防范措施和与业务有关的其他设施。

设立商业银行，还应当符合其他审慎性条件。

第十三条 设立全国性商业银行的注册资本最低限额为十亿元人民币。设立城市商业银行的注册资本最低限额为一亿元人民币，设立农村商业银行的注册资本最低限额为五千万元人民币。注册资本应当是实缴资本。

国务院银行业监督管理机构根据审慎监管的要求可以调整注册资本最低限额，但不得少于前款规定的限额。

第十四条 设立商业银行，申请人应当向国务院银行业监督管理机构提交下列文件、资料：

(一) 申请书，申请书应当载明拟设立的商业银行的名称、所在地、注册资本、业务范围等；

(二) 可行性研究报告；

(三) 国务院银行业监督管理机构规定提交的其他文件、资料。

第十五条 设立商业银行的申请经审查符合本法第十四条规定的，申请人应当填写正式申请表，并提交下列文件、资料：

(一) 章程草案；

(二) 拟任职的董事、高级管理人员的资格证明；

(三) 法定验资机构出具的验资证明；

(四) 股东名册及其出资额、股份；

(五) 持有注册资本百分之五以上的股东的资信证明和有关资料；

(六) 经营方针和计划；

(七) 营业场所、安全防范措施和与业务有关的其他设施的资料；

(八) 国务院银行业监督管理机构规定的其他文件、资料。

第十六条 经批准设立的商业银行，由国务院银行业监督管理机构颁发经营许可证，并凭该许可证向工商行政管理部门办理登记，领取营业执照。

第十七条 商业银行的组织形式、组织机构适用《[中华人民共和国公司法](#)》的规定。

本法施行前设立的商业银行，其组织形式、组织机构不完全符合《[中华人民共和国公司法](#)》规定的，可以继续沿用原有的规定，适用前款规定的日期由国务院规定。

setup, and when the provisions of the preceding paragraph should be applied is up to the determination of the State Council.

Article 18 A solely state-owned commercial bank shall set up a board of supervisors, the measures for its forming shall be prescribed by the State Council.

The board of supervisors shall make supervisions over the quality of the loan assets of the solely state-owned commercial bank, its assets liability ratio, present and added values of the state-owned assets, etc., and the acts of the senior management personnel in violation of laws, administrative regulations, or Articles of Association, as well as that acts damaging the interests of the bank.

Article 19 A commercial bank may set up branches both within and outside the territory of the People's Republic of China upon the need of business, which shall be subject to the examination and approval of the banking regulatory organ of the State Council. There is no need to set up branches in every administrative district within the territory of the People's Republic of China.

Where a commercial bank establishes branches within the territory of China, it shall allocate corresponding working capital catering for its business scale as required. And the total amount of working capital allocated to each branch shall not exceed 60% of the total amount of capital of the parent bank.

Article 20 An applicant shall submit the following documents and materials to the banking regulatory organ of the State Council for setting up branches of a commercial bank:

1. An application, specifying the name, amount of working capital, scope of business of the branches to be established, the parent bank and locations of the branches, etc;
2. Finance and accounting report of the applicant in the past two years;
3. Qualification certificates of senior management personnel to be appointed;
4. Business policy and plan;
5. Place of business accompanied with the safeguard measures and documents of other facilities related to the business; and
6. Other documents and materials as required by the banking regulatory organ of the State Council.

Article 21 The branches of a commercial bank established upon approval shall be issued a permit for operation by the banking regulatory organ of the State Council, and go through registration formalities at the department of industry and commerce administration upon the strength of the permit, and obtain a business license.

Article 22 A commercial bank shall adopt a financial system of unified accounting and fund disposition and hierarchical management in respect to its branches.

The branches of a commercial bank have no qualifications of a legal person, and shall carry out business according to law within the scope of authorization by the parent bank, which shall bear the civil legal liabilities thereof.

Article 23 The establishment of a commercial bank and its branches upon approval shall be announced by the banking regulatory organ of the State Council.

Where a commercial bank and its branches fail to start their business without good reason for more than 6 months from the date of getting their business license, or stop their business for more than six consecutive months after starting business, the banking regulatory organ of the State Council may revoke their permits for operation and make announcement thereto.

Article 24 A commercial bank shall be subject to the approval of the banking regulatory

第十八条 国有独资商业银行设立监事会。监事会的产生办法由国务院规定。

监事会对国有独资商业银行的信贷资产质量、资产负债比例、国有资产保值增值等情况以及高级管理人员违反法律、行政法规或者章程的行为和损害银行利益的行为进行监督。

第十九条 商业银行根据业务需要可以在中华人民共和国境内外设立分支机构。设立分支机构必须经国务院银行业监督管理机构审查批准。在中华人民共和国境内的分支机构，不按行政区划设立。

商业银行在中华人民共和国境内设立分支机构，应当按照规定拨付与其经营规模相适应的营运资金额。拨付各分支机构营运资金额的总和，不得超过总行资本金总额的百分之六十。

第二十条 设立商业银行分支机构，申请人应当向国务院银行业监督管理机构提交下列文件、资料：

- (一) 申请书，申请书应当载明拟设立的分支机构的名称、营运资金额、业务范围、总行及分支机构所在地等；
- (二) 申请人最近二年的财务会计报告；
- (三) 拟任职的高级管理人员的资格证明；
- (四) 经营方针和计划；
- (五) 营业场所、安全防范措施和与业务有关的其他设施的资料；
- (六) 国务院银行业监督管理机构规定的其他文件、资料。

第二十一条 经批准设立的商业银行分支机构，由国务院银行业监督管理机构颁发经营许可证，并凭该许可证向工商行政管理部门办理登记，领取营业执照。

第二十二条 商业银行对其分支机构实行全行统一核算，统一调度资金，分级管理的财务制度。

商业银行分支机构不具有法人资格，在总行授权范围内依法开展业务，其民事责任由总行承担。

第二十三条 经批准设立的商业银行及其分支机构，由国务院银行业监督管理机构予以公告。

商业银行及其分支机构自取得营业执照之日起无正当理由超过六个月未开业的，或者开业后自行停业连续六个月以上的，由国务院银行业监督管理机构吊销其经营许可证，并予以公告。

第二十四条 商业银行有下列变更事项之一的，应当

organ of the State Council for alteration of any of the following matters:

1. Alteration of the name;
 2. Alteration of the registered capital;
 3. Alteration of locations of the parent bank or the branches;
 4. Adjustment of the business scope;
 5. Alteration of shareholders who hold more than 5% of the total amount of capital or shares;
 6. Modification of Articles of Association; or
 7. Other matters altered as prescribed by the banking regulatory organ of the State Council.
- In case of replacing any director or senior management personnel, a commercial bank shall report to the banking regulatory organ of the State Council for examination on their qualifications for assuming the posts.

Article 25 The provisions of the [Company Law of the People's Republic of China](#) shall be applicable to the division or merger of a commercial bank.
The division and merger of a commercial bank shall be subject to the examination and approval of the banking regulatory organ of the State Council.

Article 26 A commercial bank shall use its permit for operation in accordance with the provisions of laws and administrative regulations. No permit for operation may be forged, altered, transferred, leased or lent.

Article 27 In any of the following circumstances, a person shall not be appointed as a director or senior management personnel of a commercial bank:

1. Being imposed a penalty for committing a crime of corruption, bribery, encroachment or embezzlement of properties or disrupting economic order of the society, or being deprived of political rights for committing a crime;

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经国务院银行业监督管理机构批准:

- (一) 变更名称;
 - (二) 变更注册资本;
 - (三) 变更总行或者分支行所在地;
 - (四) 调整业务范围;
 - (五) 变更持有资本总额或者股份总额百分之五以上的股东;
 - (六) 修改章程;
 - (七) 国务院银行业监督管理机构规定的其他变更事项。
- 更换董事、高级管理人员时,应当报经国务院银行业监督管理机构审查其任职资格。

第二十五条 商业银行的分立、合并,适用《[中华人民共和国公司法](#)》的规定。

商业银行的分立、合并,应当经国务院银行业监督管理机构审查批准。

第二十六条 商业银行应当依照法律、行政法规的规定使用经营许可证。禁止伪造、变造、转让、出租、出借经营许可证。

第二十七条 有下列情形之一的,不得担任商业银行的董事、高级管理人员:

- (一) 因犯有贪污、贿赂、侵占财产、挪用财产罪或者破坏社会经济秩序罪,被判处刑罚,或者因犯罪被剥夺政治权利的;

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