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Law of the People's Republic of China on the People's Bank of China

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(Unofficial Translation)

(2003-12-27)

Adopted at the 3rd Session of the 8th National People's Congress on March 18, 1995, and amended in accordance with the "Decision to Amend the *Law of the People's Republic of China on the People's Bank of China*" made at the 6th meeting of the Standing Committee of the 10th National People's Congress on December 27, 2003

Chapter I General Provisions

Article 1 This Law is enacted in order to define the status and functions of the People's Bank of China, ensure the correct formulation and implementation of monetary policy, establish and improve the macroeconomic management system of the central bank and maintain financial stability.

Article 2 The People's Bank of China is the central bank of the People's Republic of China. The People's Bank of China shall, under the leadership of the State Council, formulate and implement monetary policy, prevent and mitigate financial risks, and maintain financial stability.

Article 3 The objective of the monetary policy is to maintain the stability of the value of the currency and thereby promote economic growth.

Article 4 The People's Bank of China assumes the following functions:

- (1) Promulgate decrees, rules and regulations that are related to fulfilling its functions;
- (2) Formulate and implement monetary policy in accordance with law;
- (3) Issue the currency and administer its circulation;
- (4) Regulate and supervise the inter-bank lending market and the inter-bank bond market;

- (5) Execute foreign exchange administration, regulate and supervise the inter-bank foreign exchange market;
- (6) Regulate and supervise the gold market;
- (7) Hold, administer and manage the state foreign exchange reserves and gold reserves;
- (8) Manage the State treasury;
- (9) Ensure normal operation of the payment and settlement systems;
- (10) Guide and arrange anti-money laundering work in the financial sector and monitor of fund movement for anti-money laundering purpose;
- (11) Conduct statistics, survey, analysis and forecasts of the financial industry;
- (12) Participate in related international financial activities in the capacity of the central bank of the State;
- (13) Perform other functions assigned by the State Council.

To implement monetary policy, the People's Bank of China may engage in financial operations in accordance with the relevant provisions of Chapter IV of this Law.

Article 5 The People's Bank of China shall report to the State Council its decisions concerning annual monetary supply, interest rate, exchange rate and other important issues specified by the State Council for approval before they are implemented.

The People's Bank of China may, on its own, make and put into immediate effect decisions on other monetary policy issues other than those specified in the preceding paragraph, provided it reports to the State Council for record.

Article 6 The People's Bank of China shall submit work reports to the Standing Committee of the National People's Congress on monetary policy and performance of the financial sector.

Article 7 The People's Bank of China shall, under the leadership of the State Council, independently implement monetary policy, perform its functions and carry out its business operations according to law and be free from intervention by local governments, government departments at various levels, non-governmental organizations and individuals.

Article 8 All capital of the People's Bank of China is funded by the State and owned by the State.

Article 9 The State Council shall establish a coordinating mechanism for financial supervision and regulation. The details of the mechanism shall be determined by the State Council.

Chapter II Organizational Structure

Article 10 The People's Bank of China shall have one Governor and a certain number of Deputy Governors. The Governor of the People's Bank of China shall be nominated by the Premier of the State Council and decided by the National People's Congress. When the National People's Congress is in adjournment, the Governor shall be decided by the Standing Committee of the National People's Congress and appointed or removed by the President of the People's Republic of China. The Deputy Governors of the People's Bank of China shall be appointed or removed by the Premier of the State Council.

Article 11 The People's Bank of China adopts a governor accountability system. The Governor shall be the chief officer of the People's Bank of China, while the Deputy Governors shall assist the Governor in fulfilling his or her duty.

Article 12 The People's Bank of China is to establish a monetary policy committee, whose responsibilities, composition and working procedures shall be prescribed by the State Council and reported to the Standing Committee of the National People's Congress for record.

The Monetary Policy Committee shall play an important role in macroeconomic management as well as in the formulation and adjustment of the monetary policy.

Article 13 The People's Bank of China shall establish branch offices as its representative organs in light of the need to perform its functions, and shall administer these branch offices on a centralized basis.

The branch offices of the People's Bank of China shall, as authorized by the People's Bank of China, undertake to maintain financial stability in their respective jurisdictions and conduct relevant business operations.

Article 14 The Governor, Deputy Governors and other employees of the People's Bank of China shall faithfully fulfill their duties and shall not abuse their power or seek illegitimate personal gains. They shall not assume positions in any other financial institutions, enterprises or foundations.

Article 15 The Governor, Deputy Governors and other employees of the People's Bank of China shall protect the State secrets and these secrets of the financial institutions and parties obtained in performing the functions of the People's Bank of China.

Chapter III The Renminbi

Article 16 The legal tender of the People's Republic of China is the Renminbi. No institution or individual shall reject the Renminbi as a medium of payment for any public or private debts within the territory of the People's Republic of China.

Article 17 The unit of the Renminbi is yuan and the fractional units of the Renminbi are Jiao and Fen.

Article 18 The Renminbi shall be printed and issued solely by the People's Bank of China.

When issuing a new edition of the Renminbi, the People's Bank of China shall make known to the public the issuing date, face values, designs, patterns and specifications.

Article 19 It is prohibited to counterfeit or alter the Renminbi. It is prohibited to sell or purchase counterfeit and altered Renminbi. It is prohibited to transport, hold or use counterfeit and altered Renminbi. It is prohibited to deliberately destroy or damage the Renminbi. It is prohibited to illegally use images of the Renminbi in advertisement, publications or other commodities.

Article 20 No institutions or individuals may print or issue substitute money to replace the renminbi in market circulation.

Article 21 The damaged renminbi shall be exchanged in accordance with the regulations of the People's Bank of China, and shall be recalled and destroyed by the People's Bank of China.

Article 22 The People's Bank of China shall establish a renminbi issue vault and shall establish subsidiary issue vaults at its branch offices. The subsidiary issue vaults shall, in allocating renminbi issue fund, act on the order of allocation from their superior vault. No institutions or individuals may use the issue fund in violation of regulations.

Chapter IV Business Operations

Article 23 To implement monetary policy, the People's Bank of China may apply the following monetary policy instruments:

- (1) Require banking institutions to place deposit reserves at a given ratio;
- (2) Determine the benchmark interest rate of the central bank;
- (3) Conduct rediscount for banking financial institutions with accounts in the People's Bank of China;
- (4) Provide lending to commercial banks;
- (5) Trade treasury bonds, other government securities, financial bonds and foreign exchange on the open market;
- (6) Other monetary policy instruments specified by the State Council.

When applying the above-mentioned monetary policy instruments to implement monetary policy, The People's Bank of China may formulate detailed conditions and procedures.

Article 24 The People's Bank of China shall manage the state treasury in accordance with laws, administrative rules and regulations.

Article 25 The People's Bank of China may, on behalf of the fiscal authorities under the State Council, issue and redeem treasury bonds and other government securities to financial institutions.

Article 26 The People's Bank of China may open accounts for banking financial institution as needed, but may not provide overdraft for these accounts.

Article 27 The People's Bank of China shall organize or assist in organizing a clearing system among banking financial institutions, coordinate clearing arrangements among them and provide clearing service. The detailed rules shall be formulated by the People's Bank of China.

The People's Bank of China shall formulate rules on payment and settlement together with the banking regulatory authority under the State Council.

Article 28 The People's Bank of China may, as needed in its monetary policy implementation, decide on the amount, maturity, interest rate and modality of its lending to the commercial banks. The maturity of such lending shall not be longer than one year.

Article 29 The People's Bank of China shall not provide overdraft for government or directly subscribe to or underwrite treasury bonds and other government securities.

Article 30 The People's Bank of China shall not lend to local governments and government agencies at various levels, or to non-bank financial institutions, other organizations and individuals. However, in exceptional cases, it may lend to non-bank financial institutions deemed eligible by the State Council for such lending.

The People's Bank of China shall not provide guarantee for any institutions or individuals.

Chapter V Financial Supervision and Regulation

Article 31 The People's Bank of China shall, in accordance with law, monitor and regulate developments of the financial markets so as to promote their coordinated development.

Article 32 The People's Bank of China may conduct supervision and examination on following activities of the financial institutions, other institutions and individuals:

- (1) Compliance with regulatory rules on reserve requirement;
- (2) Activities relating to special lending of the People's Bank of China;
- (3) Compliance with regulatory rules on the Renminbi;
- (4) Compliance with regulatory rules on the inter-bank lending market and inter-bank bond market;
- (5) Compliance with foreign exchange regulations;
- (6) Compliance with regulatory rules on gold;
- (7) act as fiscal agent on behalf of the People's Bank of China;
- (8) Compliance with clearing and settlement regulations; and
- (9) Compliance with anti-money laundering regulations.

The above-mentioned special lending of the People's Bank of China refers to loans extended by the People's Bank of China, upon approval of the State Council, to financial institutions for specified uses.

Article 33 When the People's Bank of China deems it necessary for implementing monetary policy and maintaining financial stability, the banking regulatory authority under the State Council may request to conduct supervisory examinations on banking financial institutions. The banking regulatory authority shall respond within 30 days after receiving such a request.

Article 34 Where banking financial institutions have payment difficulties that may trigger financial risks, the People's Bank of China may, with the approval of the State Council, conduct examination and supervision on such institutions so as to maintain financial stability.

Article 35 The People's Bank of China may require banking financial institutions to submit balance sheets, income statements and other financial statements, and statistical data and information as needed for performing its functions.

The People's Bank of China shall establish a supervisory information sharing system together with the banking regulatory authority and other financial supervisory authorities under the State Council.

Article 36 The People's Bank of China is responsible for the compilation of consolidated statistical data and reports of the financial industry and disclose them to the public in accordance with relevant regulations of the State.

Article 37 The People's Bank of China shall establish and improve the internal audit and examination system and strengthen its internal control.

Chapter VI Financial and Accounting

Article 38 The People's Bank of China shall have an independent budget arrangement.

Its budget shall be reviewed by the fiscal authority and become part of the central government budget. Its execution is subject to the supervision of the fiscal authority under the State Council.

Article 39 The People's Bank of China shall surrender to the central budget its net profit each accounting year after making general provisions at a level set by the fiscal authority.

Losses of the People's Bank of China shall be covered by fiscal appropriation from the central budget.

Article 40 The receipts and payments of funds and accounting practice of the People's Bank of China shall comply with laws, administrative rules and regulations and the State's unified accounting standards, and be subjected to separate auditing and supervision in accordance with law by the auditing and the fiscal authorities under the State Council respectively.

Article 41 The People's Bank of China shall, within three months after the end of each accounting year, compile its balance sheet, income statement and relevant financial statements, prepare its annual report and publish them in accordance with relevant regulations of the State.

The accounting year of the People's Bank of China begins on the first day of January and ends on the thirty-first day of December of the Gregorian calendar.

Chapter VII Legal Liabilities

Article 42 Anyone who counterfeits or alters the renminbi or sells counterfeit or altered renminbi, or knowingly transports counterfeit renminbi, if already constituting a crime, shall be liable to criminal prosecution. If the case is not so serious as to constitute a crime, he or she shall be put in detention of no more than 15 days and fined no more than 10,000 yuan by a public security organ.

Article 43 Anyone who buys counterfeit or altered Renminbi or knowingly holds or uses counterfeit or altered Renminbi, if already constituting a crime, shall be investigated for criminal responsibility. If the case is not so serious as to constitute a crime, he or she shall be put in detention of no more than 15 days and fined no more than 10,000 yuan by a public security organ.

Article 44 If anyone illegally uses the images of Renminbi in advertisement, publications or other commodities, the People's Bank of China shall order a correction, destroy the illegally used images of Renminbi, confiscate the illegal gains and impose a fine of no more than 50,000 yuan.

Article 45 If anyone prints or sells notes as substitute for renminbi in market circulation, the People's Bank of China shall order a cease to the illegal activity and impose a fine of no more than 200,000 yuan.

Article 46 In case of non-compliance under Article 32, where there are penalties indicated in relevant laws and regulations, a punishment shall be imposed accordingly. If there are no penalties indicated in these laws and regulations, the People's Bank of China is to execute a range of punishment according to the severity of each case. The punishments include issuing a warning, confiscating illegal gains, imposing a fine of no less than one time but no more than five times of the value of illegal gains in the case of such gains exceeding 500,000 yuan, or a fine of 500,000 yuan to 2,000,000 yuan in the case of no illegal gains or such gains are less than 500,000 yuan. Directors, senior management or other parties directly responsible for the misconduct shall be warned and fined 50,000 to 500,000 yuan. If the case constitutes a crime, a criminal prosecution shall be staged.

Article 47 If any involved party refuses to accept the administrative punishment, he or she may file an administrative appeal in accordance with the "*Law of the People's Republic of China on Administrative Appeal*".

Article 48 If the People's Bank of China commits any of the following acts, the managers and other persons directly responsible for the misconduct shall be subject to administrative sanctions according to law, whereas the case constitutes a crime, the offenders shall be investigated for criminal responsibility according to law:

- (1) Providing lending in violation of the provisions in the first paragraph of Article 30;
- (2) Providing guarantee for an institution or individual; and
- (3) Unauthorized use of the renminbi issue fund.

If any of the acts specified above results in losses, the managers and other persons directly responsible shall be liable to partial or full compensation of the losses.

Article 49 If a local government, a government department at any level, a public organization or an individual forces the People's Bank of China or its employees to provide a loan or a guarantee in violation of the provisions in Article 30, the managers and other persons directly responsible for the misconduct shall be subject to administrative sanctions in accordance with the law. If the case constitutes a crime, the offenders shall be investigated for criminal responsibility according to law. If losses are incurred, the offenders shall be liable to partial or full compensation of the losses.

Article 50 Any employee of the People's Bank of China who divulges State secrets or commercial secrets shall be liable to criminal prosecution, if the case constitutes a crime; or to administrative sanctions if the case is not so serious as to constitute a crime.

Article 51 Any employee of the People's Bank of China who accepts bribes, to seeks illegitimate personal gains, abuses his or her power and neglects his or her duty shall be liable to criminal prosecution, if the case constitutes a crime; or to administrative sanctions if the case is not so serious as to constitute a crime.

Chapter VIII Supplementary Provisions

Article 52 Banking financial institutions in this Law refer to deposit-taking financial institutions, including commercial banks, urban credit cooperatives and rural credit cooperatives, and policy banks that are incorporated within the territory of the People's Republic of China.

Provisions in this Law regarding banking financial institutions are also applicable to financial asset management companies, trust and investment companies, finance companies and financial leasing companies and other financial institutions approved by the banking regulatory authority under the State Council that are incorporated within the territory of the People's Republic of China.

Article 53 This Law takes effects on the date of promulgation.

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