

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

(Adopted at the Third Session of the Eighth National People's Congress on 18 March 1995, and revised in accordance with the *Decision on Amending the Law of the People's Republic of China on the People's Bank of China* adopted by the Standing Committee of the Tenth National People's Congress at its 6th Meeting on 27 December 2003.)

Contents

Chapter 1	General Provisions
Chapter 2	Organizational Structure
Chapter 3	The Renminbi
Chapter 4	Business Operations
Chapter 5	Financial Regulation
Chapter 6	Financial Affairs and Accounting
Chapter 7	Legal Liabilities
Chapter 8	Supplementary Provisions

Chapter 1 General Provisions

Article 1 This Law is formulated to define the status of and make clear the functions and responsibilities of the People's Bank of China, ensure the correct formulation and implementation of the monetary policy of the State, establish and improve a macro-economic management system through a 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 resolve financial risks, and maintain financial stability.

Article 3 The objective of 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 shall perform the following functions and responsibilities:

(1) promulgating orders and rules related to the fulfillment of its functions and

responsibilities;

- (2) formulating and implementing monetary policy in accordance with the law;
- (3) issuing the renminbi (RMB) and supervising its circulation;
- (4) regulating the inter-bank lending market and the inter-bank bond market;
- (5) administering foreign exchange regulation and supervising the inter-bank foreign exchange market;
- (6) regulating the gold market;
- (7) holding and managing the foreign exchange and gold reserves of the State;
- (8) managing the State treasury;
- (9) maintaining the normal operation of the payment, clearing and settlement systems;
- (10) providing guidance and making plans for the fight against money laundering in the financial industry and being responsible for monitoring the movement of funds for the purpose of anti-money laundering;
- (11) being responsible for statistics, survey, analysis and projection concerning the financial industry;
- (12) engaging in relevant international financial activities in its capacity as the central bank of the State; and
- (13) other functions and responsibilities prescribed by the State Council.

In order to implement monetary policy, the People's Bank of China shall carry out financial operations in accordance with the relevant provisions of Chapter 4 of this Law.

Article 5 The People's Bank of China shall submit to the State Council for approval its decisions concerning the annual money supply, interest rates, exchange rates and other important matters specified by the State Council and implement these decisions.

The People's Bank of China shall promptly implement its decisions on matters concerning monetary policy other than those specified in the preceding paragraph, and file them with 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 the conduct of monetary policy and the operations 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 responsibilities, and carry out business operations according to law, free from interference by local governments, government departments at various levels, social organizations or individuals.

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

Article 9 The State Council shall establish a coordination mechanism for financial

regulation. The specific measures thereof shall be provided for by the State Council.

Chapter 2 Organizational Structure

Article 10 The People's Bank of China shall have a Governor and a number of Deputy Governors.

The candidate for the Governor of the People's Bank of China shall be nominated by the Premier of the State Council and decided upon by the National People's Congress; when the National People's Congress is not in session, the candidate for Governor shall be decided upon by the Standing Committee of the National People's Congress. The Governor shall be 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 shall institute a system wherein the Governor assumes the overall responsibility. The Governor shall direct the work of the People's Bank of China, and the Deputy Governors shall assist the Governor in his/her work.

Article 12 The People's Bank of China shall establish a Monetary Policy Committee. The functions and responsibilities, composition and working procedure of the Committee shall be provided for by the State Council and filed with the Standing Committee of the National People's Congress for record.

The Monetary Policy Committee of the People's Bank of China shall play an important role in the macro-economic management of the State, and the formulation and adjustment of monetary policy.

Article 13 The People's Bank of China shall establish branch offices as representative organs based on the need to perform its functions and responsibilities and exercise centralized leadership and administration over the branch offices.

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

Article 14 The Governor, Deputy Governors and other staff members of the People's Bank of China shall fulfill their duties diligently. They must not abuse power or conduct malpractice for private ends. They must not assume concurrent positions in any financial institutions, enterprises or foundations.

Article 15 The Governor, Deputy Governors and other staff members of the People's Bank of China shall keep State secrets according to law and be obligated to keep the secrets of the financial institutions and individuals that are involved in the implementation of central bank functions and responsibilities

Chapter 3 The Renminbi

Article 16 The legal tender of the People's Republic of China is renminbi (RMB). The renminbi is used to repay all public or private debts within the territory of the People's Republic of China, and no organization or individual shall refuse .

Article 17 The unit of renminbi is yuan and the units of the fractional currency of renminbi are jiao and fen.

Article 18 The note and coins of renminbi shall be printed, minted and issued by the People's Bank of China.

The People's Bank of China shall publicly announce the issuance date, face value, design, pattern and specifications of a new edition of renminbi notes and coins.

Article 19 It is prohibited to counterfeit or alter notes and coins of renminbi. It is prohibited to sell or purchase counterfeit or altered renminbi notes and coins. It is prohibited to transport, hold or use counterfeit or altered renminbi notes and coins. It is prohibited to deliberately destroy or damage renminbi notes and coins. It is prohibited to illegally use any design or pattern of renminbi notes and coins in advertising materials, publications or other commodities.

Article 20 No organization or individual shall print or issue coupons as substitutes for the notes of renminbi to circulate on the market.

Article 21 The damaged or soiled notes of renminbi shall be exchanged in accordance with the rules of the People's Bank of China. The People's Bank of China shall be responsible to withdraw from circulation and destroy such notes.

Article 22 The People's Bank of China shall establish a renminbi issuing treasury and shall also establish subsidiary issuing treasuries in branch offices. The subsidiary issuing treasuries shall allocate the renminbi issuing fund at the instruction of the treasury at the next higher level. No organization or individual shall use the issuing fund in violation of relevant laws or regulations.

Chapter 4 Business Operations

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

- (1) requiring banking financial institutions to place deposit reserves at a prescribed ratio;
- (2) deciding on the benchmark interest rates of the central bank;
- (3) providing discount services to banking financial institutions that have opened accounts in the People's Bank of China;
- (4) providing loans to commercial banks;

- (5) purchasing and selling central government bonds and other government securities, financial bonds, and foreign exchange on the open market; and
- (6) other monetary policy instruments decided by the State Council.

The People's Bank of China may prescribe specific conditions and procedures to use the monetary policy instruments listed in the preceding paragraph in order to implement monetary policy.

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

Article 25 The People's Bank of China may, on behalf of the fiscal department under the State Council, organize the issuance and redemption of central government bonds and other government bonds to financial institutions.

Article 26 The People's Bank of China may open accounts for banking financial institutions as needed, but shall not allow them to overdraw from the accounts.

Article 27 The People's Bank of China shall organize or assist in organizing a clearing system for banking financial institutions, coordinate the efforts of banking institutions in clearing and provide clearing services. The specific measures shall be formulated by the People's Bank of China.

The People's Bank of China shall, in conjunction with the banking regulatory authority under the State Council, formulate rules for payments and settlements.

Article 28 The People's Bank of China may, as required by the implementation of monetary policy, determine the amount, maturity, interest rate and form of a loan to a commercial bank. However, the maximum maturity of the loan shall not exceed one year.

Article 29 The People's Bank of China must not allow the government to overdraw from its account in the central bank, and must not directly subscribe to or underwrite on a firm commitment basis central government bonds or other government securities.

Article 30 The People's Bank of China must not provide loans to local governments or government departments at various levels, nor to non-banking financial institutions, other organizations or individuals, except loans to specific non-banking financial institutions as a result of decisions of the State Council.

The People's Bank of China shall not provide guaranty for any organization or individual.

Chapter 5 Financial Regulation

Article 31 The People's Bank of China shall, in accordance with the law, monitor the operation of the financial markets, conduct macroeconomic management over the markets and promote balanced development of financial markets.

Article 32 The People's Bank of China shall have the power to inspect and supervise the following activities of the financial institutions, other organizations and individuals:

- (1) implementation of the rules and regulations on deposit reserve;
- (2) activities related to the special loans of the People's Bank of China;
- (3) implementation of the rules and regulations on the notes and coins of renminbi;
- (4) implementation of the rules and regulations on the regulation of the inter-bank lending market and the inter-bank bond market;
- (5) implementation of the rules and regulations on foreign exchange;
- (6) implementation of the rules and regulations on the gold market;
- (7) management of the State treasury on behalf of the People's Bank of China;
- (8) implementation of the rules and regulations on the clearing system; and
- (9) implementation of the rules and regulations on anti-money laundering.

The special loans of the People's Bank of China referred to in the preceding paragraph are loans provided, in accordance with the decisions of the State Council, by the People's Bank of China to financial institutions for special purposes.

Article 33 The People's Bank of China may, in view of the need to implement monetary policy and maintain financial stability, recommend that the banking regulatory authority under the State Council inspect relevant banking financial institutions. The said authority shall reply to the People's Bank of China within thirty days from the date it receives the recommendation.

Article 34 When a banking financial institution incurs a difficulty in making payments that may trigger financial risk, the People's Bank of China shall, in order to maintain financial stability, have the power to inspect and supervise the banking financial institution with the approval of the State Council.

Article 35 The People's Bank of China shall, in view of the need to fulfill its functions and responsibilities, have the power to demand a banking financial institution to submit its balance sheet, income statement and other financial statements, statistical reports and information.

The People's Bank of China, the banking regulatory authority, and other financial regulatory authorities under the State Council shall establish a mechanism to share regulatory information.

Article 36 The People's Bank of China shall be responsible for compiling consolidated national financial statistical data and reports, and disseminate such data

and reports in accordance with relevant laws and regulations.

Article 37 The People's Bank of China shall establish and improve a system for internal auditing and inspection for the central bank system and strengthen internal control.

Chapter 6 Financial Affairs and Accounting

Article 38 The People's Bank of China shall maintain an independent budget management system.

The budget of the People's Bank of China shall be incorporated in the central budget after it has been examined and verified by the fiscal department under the State Council and the implementation thereof shall be subject to supervision of the fiscal department under the State Council.

Article 39 The People's Bank of China shall turn over to the State treasury its total net profit which is derived by deducting from its income in a fiscal year the expenditures in the same period and withdrawing general reserve at a percentage determined by the fiscal department under the State Council.

Losses incurred by the People's Bank of China shall be financed by appropriations from the State.

Article 40 The revenue, expenditure and accounting practice of the People's Bank of China shall be governed by laws, administrative regulations, and financial and accounting systems of the State, and subject to the auditing and supervision conducted respectively by the audit authority and the fiscal department under the State Council in accordance with the relevant laws and regulations.

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

The fiscal 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 7 Legal Liabilities

Article 42 Anyone who counterfeits or alters the notes of renminbi, sells counterfeit or altered notes of renminbi or knowingly transports counterfeit or altered Renminbi notes shall be prosecuted for criminal liability in accordance with the relevant laws when the acts constitutes a crime; when the acts does not constitute a crime, the person(s) shall be imposed a penalty of detention for not more than 15 days and fined not more than 10,000 yuan by a public security organ.

Article 43 Anyone who purchases counterfeit or altered renminbi notes or knowingly holds or uses counterfeit or altered renminbi notes shall be prosecuted for criminal liabilities in accordance with the law when the acts constitutes a crime; when the acts does not constitute a crime, the person(s) shall be imposed a penalty of detention for not more than 15 days and fined not more than 10,000 yuan by a public security organ.

Article 44 The People's Bank of China shall order anyone that has illegally used the design or pattern of the renminbi notes in advertising materials, publications or other commodities, order him/her to take corrective actions and to destroy the illegally used design or pattern of the renminbi notes, confiscate the illegal proceeds and impose a fine of not more than 50,000 yuan.

Article 45 The People's Bank of China shall order anyone who has printed or issued coupons as substitutes for renminbi notes to circulate on the market to cease illegal activities and impose a fine of not more than 200,000 yuan.

Article 46 Where relevant laws or administrative regulations have provided for penalty for violations in respect of the activities listed in Article 32 of this Law, penalty shall be imposed in accordance with those provisions; where such laws and administrative regulations have not provided for penalty, the People's Bank of China shall, based on the circumstances of each case, issue a warning and confiscate the illegal proceeds; when the illegal proceeds exceed 500,000 yuan, the People's Bank of China shall, in addition, impose a fine of not less than the amount of such proceeds but not more than five times the amount; if there are no legal proceeds or if the proceeds are less than 500,000 yuan, it shall impose a fine of not less than 500,000 yuan but not more than 2,000,000 yuan. The directors and senior managers directly in charge and other persons directly responsible for the violation shall be given a warning and be fined no less than 50,000 yuan but not more than 500,000 yuan. If the offence constitutes a crime, the offenders shall be prosecuted for criminal liability in accordance with the law.

Article 47 When disagreeing with an administrative penalty, the party involved may bring an administrative lawsuit in accordance with the *Administrative Procedure Law of the People's Republic of China*.

Article 48 If the People's Bank of China has committed any of the following acts, the persons directly in charge and other persons directly responsible shall be imposed administrative penalty according to law; if the act constitutes a crime, the offenders shall be prosecuted for criminal liability in accordance with the law:

- (1) providing a loan in violation of the provisions in the first paragraph of Article 30;
- (2) providing guaranty for an organization or individual; or
- (3) using the issuing fund without authorization.

If any of the acts specified in the preceding paragraph results in financial losses, the persons directly in charge and other persons directly responsible for the violation shall be partially or wholly liable for the losses.

Article 49 If a local government or a government department at any level, a social organization or an individual forcibly demands the People's Bank of China or any of its staff members to provide a loan or a guaranty in violation of the provisions in Article 30, the persons directly in charge and other persons directly responsible for the violation shall be imposed administrative penalty in accordance with the law; if the acts constitutes a crime, the offenders shall be prosecuted for criminal liability in accordance with the law; if financial losses are caused, the offenders shall be partially or wholly liable for the losses.

Article 50 If any staff member of the People's Bank of China reveals State secrets or the confidential business information that he/she is aware of, he/she shall be prosecuted for criminal liability in accordance with the law when the act constitutes a crime; if the acts does not constitute a crime, he/she shall be subject to administrative penalty in accordance with the law.

Article 51 If any staff member of the People's Bank of China commits embezzlement, takes bribes, conducts malpractices for personal ends, abuses power or neglects duties, he/she shall be prosecuted for criminal liability in accordance with the law when the act constitutes a crime; if the act does not constitute a crime, he shall be imposed administrative penalty in accordance with the law.

Chapter 8 Supplementary Provisions

Article 52 For the purpose of this Law, banking financial institutions refer to commercial banks, urban credit cooperatives, rural credit cooperatives, and other financial institutions that take deposits from the general public, and policy banks, all of which are established within the territory of the People's Republic of China.

The provisions of this Law on banking financial institutions are applicable to financial asset management companies, trust and investment companies, finance companies and financial leasing companies that are established within the territory of the People's Republic of China and other financial institutions established with the approval of the banking regulatory authority under the State Council.

Article 53 This Law shall become effective on the date of promulgation.