

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

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Contents

Chapter I General Provisions

Chapter II Organization Structure

Chapter III The Renminbi

Chapter IV Business Operations

Chapter V Financial Supervision and Control

Chapter VI Financial Affairs and Accounting

Chapter VII Legal Responsibility

Chapter VIII Supplement Provisions

Chapter I

General Provisions

Article 1 This Law is enacted in order to define the status and make clear the functions and responsibilities of the People's Bank of China, ensure the correct formulation and implementation of the monetary policies of the State, establish and perfect a macro-control 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 policies, guard against and eliminate financial risks, and maintain financial stability.

Article 3 The aim of monetary policies shall be 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) to promulgate and carry out the orders and regulations related to its functions and responsibilities;
- (2) to formulate and implement monetary policies in accordance with law;
- (3) to issue Renminbi (RMB) and control its circulation;
- (4) to supervise and administer the inter-bank lending market and the inter-bank bond market;
- (5) to exercise control of foreign exchange and supervise and administer the inter-bank foreign exchange market;
- (6) to supervise and administer the gold market;
- (7) to hold, administer and manage the State foreign exchange reserve and gold reserve;
- (8) to manage the State Treasury;
- (9) to maintain the normal operation of the system for making payments and settling accounts;
- (10) to guide and make plans for the fight against money laundering in the banking industry, and to be responsible for monitoring the use of the funds earmarked for the fight against money laundering;
- (11) to be responsible for statistics, investigation, analysis and forecasting concerning the banking industry;
- (12) to engage in relevant international banking operations in its capacity as the central bank of the State; and
- (13) other functions and responsibilities prescribed by the State Council.

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

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

The People's Bank of China shall immediately implement decisions on monetary policies for matters other than those specified by the State Council for the record.

Article 6 The People's Bank of China shall submit to the Standing Committee of the National

People's Congress work reports concerning matters of monetary policies and the operations of the banking industry.

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

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

Article 9 The State Council shall establish a coordinating mechanism for financial supervision and administration. The specific measures therefor shall be formulated by the State Council.

Chapter II

Organizational Structure

Article 10 The People's Bank of China shall have a Governor and a certain 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 by the National People's Congress; when the National People's Congress is not in session, 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 shall practice a system wherein the Governor shall assume overall responsibility. The Governor shall direct the work of the People's Bank of China, the Deputy Governors shall assist the Governor in his or her work.

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

The monetary policy committee of the People's Bank of China shall play an important role in the State macro-control and the formulation and adjustment of monetary policies.

Article 13 The People's Bank of China shall establish branches as its representative organs in light of the need of performing its functions and responsibilities and exercise unified leadership and administration with respect to its branches.

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

Article 14 The Governor, Deputy Governors and other staff members of the People's Bank of China shall scrupulously abide by their duties; they may not abuse their power or conduct malpractice for private ends and they may not assume concurrent positions in any other banking institutions, enterprises or foundations.

Article 15 The Governor, Deputy Governors and other staff members of the People's Bank of China shall safeguard State Secrets according to law and be obligated to safeguard the secrets of the banking institutions and parties concerned with their implementation of their functions and responsibilities.

Chapter III

The Renminbi

Article 16 The legal tender of the People's Republic of China is the Renminbi (RMB). When Renminbi is used to repay all public or private debts within the territory of the People's Republic of China, no units or individuals may refuse to accept it.

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

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

When putting forth a new Renminbi issue, 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 Renminbi. It is prohibited to sell or purchase counterfeit or altered Renminbi. It is prohibited to transport, hold or use counterfeit or altered Renminbi. It is prohibited to deliberately destroy or damage the Renminbi. It is prohibited to illegally use the patterns of Renminbi in propaganda materials, publications or other commodities.

Article 20 No units or individuals may print or sell promissory notes as substitutes for Renminbi to circulate on the market.

Article 21 The damaged or soiled Renminbi shall be exchanged in accordance with the regulations of the People's Bank of China, which shall also be responsible to recall and destroy such Renminbi.

Article 22 The People's Bank of China shall establish a Renminbi issue treasuries at its branches. The subsidiary issue treasuries shall, in allocating Renminbi issue fund, act on the order of allocation from their superior treasury. No units or individuals may use the issue fund in violation of regulations.

Chapter IV

Business Operations

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

- (1) to require a financial institution of the banking industry to place a deposit reserve at a prescribed ratio;
- (2) to fix the base interest rates for the central bank;
- (3) to handle rediscount for financial institutions of the banking industry that have opened accounts in the People's Bank of China;
- (4) to provide loans for commercial banks;
- (5) to deal in State bonds, other government bonds, and financial bonds and foreign exchange on the open market; and
- (6) other monetary policy instruments decided by the State Council.

When applying the monetary policy instruments listed in the preceding paragraph to implement monetary policies, the People's Bank of China may work out specific requirements and procedures.

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

Article 25 The People's Bank of China may, on behalf of the financial department under the State Council, issue to financial institutions, and honour State bonds and other government bonds.

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

Article 27 The People's Bank of China shall organize or assist in organizing a clearing system among financial institutions of the banking industry, coordinate the efforts of such institutions in matters of clearing and provide services in this regard. The specific measures therefor 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 regulations on payment and clearing.

Article 28 The People's Bank of China may, as required by the implementation of monetary policies, determine the amounts, term, interest rates and forms of loans extended to commercial banks, however, the maximum term of loans shall not exceed one year.

Article 29 The People's Bank of China may not make an overdraft for the government, and may

not directly subscribe or underwrite State bonds or other government bonds.

Article 30 The People's Bank of China may not provide loans to the local governments or government departments at various levels, to non-banking institutions, other units or individuals, with the exception of the specific non-banking institutions as decided by the State Council.

The People's Bank of China may not provide guaranty for any unit or individual.

Chapter V

Financial Supervision and Control

Article 31 The People's Bank of China shall, in accordance with law, monitor the operation of the financial markets, conduct macro-control of such markets and promote their coordinated development.

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

- (1) implementation of the regulations for control of deposit reserve;
- (2) activities related to the special loans of the People's Bank of China;
- (3) implementation of the regulations for control of Renminbi;
- (4) implementation of the regulations for control of the inter-bank lending market and the inter-bank bond market;
- (5) implementation of the regulations for control of foreign exchange;
- (6) implementation of the regulations for control of gold;
- (7) management of the State Treasury on behalf of the People's Bank of China;
- (8) implementation of the regulations for control of clearing; and
- (9) implementation of the regulations against money laundering.

The special loan mentioned in the preceding paragraph are loans granted, upon decision by the State Council, by the People's Bank of China for special purposes.

Article 33 The People's Bank of China may, according to the need to implement monetary policies and maintain financial stability, propose that the banking regulatory authority under the State Council inspect and supervise the financial institutions of the banking industry. The said authority shall, within thirty days from the date it receives the proposal, make a reply.

Article 34 When financial institutions of the banking industry have difficulties in making payment that may trigger off financial risks, the People's Bank of China shall, with a view to maintaining financial stability, have the power to inspect and supervise the financial institutions of the banking industry with the approval of the State Council.

Article 35 The People's Bank of China shall, according to the need to fulfill its functions and responsibilities, have the power to demand the financial institutions of the banking industry to submit the necessary balance sheets, statements of profit and other financial and accounting reports, statistical reports and information.

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

Article 36 The People's Bank of China shall be responsible for compiling unified statistics and accounting statements from the national banking system and shall publish them in accordance with relevant regulations of the State.

Article 37 The People's Bank of China shall establish and perfect system for its own examination and inspection and strengthen its own supervision and administration.

Chapter VI

Financial Affairs and Accounting

Article 38 The People's Bank of China shall exercise independent control over its financial budget.

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 financial department under the State Council and the implementation thereof shall be subject to supervision of the financial department under the State Council.

Article 39 The People's Bank of China shall, after withdrawing funds for its general reserve at a proportion determined by the financial department under the State Council, turn over to the State treasury the entire net profit remaining from its income in an accounting year minus its expenditures in the same period.

Losses sustained by the People's Bank of China shall be made up by appropriations from the State treasury.

Article 40 The financial receipts and payments and accounting affairs of the People's Bank of China shall be governed by laws, administrative regulations and unified State financial and accounting systems and be subject to the auditing and supervision conducted, in accordance with law, separately by the audit institution and the financial department under the State Council.

Article 41 The People's Bank of China shall, within three months after the end of every accounting year, compile balance sheets of its assets, statements of profit and loss and relevant financial and accounting reports, prepare its annual report and publish them in accordance with relevant regulations of the State.

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 VII

Legal Responsibility

Article 42 Anyone who counterfeits or alters Renminbi, sells counterfeit or altered Renminbi or knowingly transports counterfeit or altered Renminbi, which is serious enough to constitute a crime, shall be investigated for criminal responsibility in accordance with law; if the case is not serious enough to constitute a crime, he shall be put in detention for not more than 15 days and fined not 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, which is serious enough to constitute a crime, shall be investigated for criminal responsibility in accordance with law; if the case is not serious enough to constitute a crime, he shall be put in detention for not more than 15 days and fined not more than 10,000 yuan by a public security organ.

Article 44 If anyone illegally uses the patterns of Renminbi in propaganda materials, publications or other commodities, the People's Bank of China shall order him to set it right and shall destroy the illegally used patterns of Renminbi, confiscate the illegal gains and impose a fine of not more than 50,000 yuan.

Article 45 If anyone prints or sells promissory notes as substitutes for Renminbi to circulate on the market, the People's Bank of China shall order him to cease his illegal act and impose a fine of not more than 200,000 yuan.

Article 46 Where in relevant laws and administrative regulations there are provisions governing punishment for violations in respect of the activities as are listed in Article 32 of this Law, punishment shall be meted out in accordance with those provisions; where in such laws and administrative regulations there are no provisions governing such punishment, the People's Bank of China shall, on the merits of each case, give a disciplinary warning, confiscate the unlawful gains, or if the unlawful gains exceed 500,000 yuan, shall, in addition, impose a fine of not less than the amount of such gains but not more than five times that amount; if there are no unlawful gains or if such gains 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 director or senior manager who is directly in charge or any other person who is directly responsible shall be given a disciplinary warning and be fined not less than 50,000 yuan but not more than 500,000 yuan. If a crime is constituted, criminal responsibility shall be investigated in accordance with law.

Article 47 If any party refuses to accept the administrative punishment, he may institute 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 commits any of the following acts, the persons directly in charge and other persons directly responsible for the offense shall be subject to administrative sanctions according to law; if the case constitutes a crime, the offenders shall be investigated for criminal responsibility according to law:

(1) to provide a loan in violation of the provisions in the first paragraph of Article 30;

(2) to provide guaranty for a unit or individual; or

(3) to use the issue fund without authorization.

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

Article 49 If a local government or a government department at any level, a public organization or an individual forcibly demands the People's Bank of China or its staff member to provide a loan or a guaranty in violation of the provisions in Article 30, the persons directly in charge and other persons who are directly responsible for the offense 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 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 divulges State secrets or the business secrets he knows, which is serious enough to constitute a crime, he shall be investigated for criminal responsibility according to law; if the case is not serious enough to constitute a crime, he shall be subject to administrative sanction according to law.

Article 51 If any staff member of the People's Bank of China commits embezzlement, accepts bribes, conducts malpractices for personal ends, abuses his power or neglects his duty, which is serious enough to constitute a crime, he shall be investigated for criminal responsibility according to law; if the case is not serious enough to constitute a crime, he shall be subject to administrative sanction according to law.

Chapter VIII

Supplementary Provisions

Article 52 For purposes of this law, the financial institutions of the banking industry are financial institutions established within the territory of the People's Republic of China that take in deposits from the general public, including, among others, commercial banks, urban credit cooperatives and rural credit cooperatives, and policy banks.

The provisions of this Law pertaining to financial institutions of the banking industry are applicable to the assets management companies, trust and investment companies, financial companies and financial leasing companies 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 be effective on the date of promulgation.

(Legislative Affairs Commission of the Standing Committee of the National People's Congress)