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PRC Financial Regulation-Annual Report (2022) - Banking[1]

1.“Banking Sector” as discussed in this Chapter includes commercial banks, rural cooperative banks, rural credit cooperatives, policy banks and the China Development Bank and financial asset management companies, trust companies, enterprise group finance companies, financial leasing companies, auto finance companies, money brokerage companies, consumer finance companies and other financial institutions as approved by the banking regulatory authorities and established in the People’s Republic of China.

2021 Key Dates

January 7

The General Office of the China Banking and Insurance Regulatory Commission (CBIRC) published the *Notice on Launching the Pilot Program for the Transfer of Non-performing Loans*, implementing the transfer of single-household corporate non-performing loans (NPLs) and batch transfer of personal non-performing loans on a pilot basis.

January 13

The General Office of the CBIRC and the General Office of the People's Bank of China (PBOC) published the *Notice on Issues Concerning Regulating the Personal Deposit Service Provided by Commercial Banks via the Internet*.

February 19

The General Office of the CBIRC published the *Notice on Further Regulating the Internet Loan Business of Commercial Banks*, specifying the requirement that the capital contributed by the cooperative party of the banks in a single internet loan should be no less than 30% of the total loan amount.

March 26

The General Office of the CBIRC, the General Office of the Ministry of Housing and Urban-Rural Development and the General Office of the PBOC jointly published the *Notice on Preventing the flow of Loans for Business Purposes illegally into the Real Estate Industry*, to strengthen the supervision over the illegal inflow of loans for business purposes into real estate.

April 16

The PBOC published the *Measures for the Supervision and Administration of Anti-money Laundering and Counter-terrorism Financing of Financial Institutions*, which follows the *Guidelines for Self-assessment of Money Laundering and Terrorist Financing Risks by Corporate Financial Institutions* and the *Guidelines for Anti-money Laundering and Counter-terrorism Financing in Cross-border Business of Banks (For Trial Implementation)* by the PBOC released in mid-January, continuing the regulation over anti-money laundering activities of financial institutions.

April 20

CBIRC Shenzhen Office approved the subscription by DBS Bank (Singapore) of about 13% of shares in Shenzhen Rural Commercial Bank, which makes DBS Bank the first foreign bank to invest in small and medium-sized domestic banks since 2010.

May 25

The Supreme People's Court published the *Provisions on Several Issues concerning the Trial of Cases for Civil Disputes over Bank Cards*, specifying the no-fault liability for losses incurred after a bank card is stolen and used without card owner's permission to support consumers' claims against the card-issuing banks. In December 2021, the CBIRC sought comments from the public on the *Notice on Further Promoting the Standardization and Healthy Development of Credit Card Business*, tightening the regulation on interest charges and fees, excessive granting of credit and other issues of credit cards, and strengthening consumer protection.

June 3

The CBIRC published the *Interim Measures for Implementation of the Recovery and Disposal Plan for Banking and Insurance Institutions*, which sets out the steps institutions need to take in the event of major risks, increasing the need for financial institutions to operate prudently and as part of the overall desire to reduce risk in the system.

June 8

The CBIRC published the *Notice on Launching the Activity of "Year for Developing Internal Control and Compliance Management" in Banking and Insurance Sectors*. In the same month, the CBIRC issued the *Guidelines on Corporate Governance of Banking and Insurance Institutions* and also sought public comments on the *Regulatory Measures on Behavior of Main Shareholders of Banking and Insurance Institutions (For Trial Implementation) (Consultation Paper)* (officially released on September 30, 2021) and the *Administrative Measures on Related-party Transactions of Banking and Insurance Institutions (Consultation Paper)*"(officially released on January 14, 2022) which overcame some systematic constraints and all aimed at ensuring banks have better internal controls and effective compliance management rather than merely focusing on compliance of their business operations.

September 15

The PBOC published the *Notice on Further Preventing and Disposing of Speculation Risks in Virtual Currency Trading*, specifying that financial institutions and non-banking payment institutions are not allowed to provide services for virtual currency-related business activities.

September 30

The PBOC and the CBIRC jointly published the *Provisions on Additional Regulation on Systemically Important Banks (For Trial Implementation)* and promulgated the list of "Systemically Important Banks" and the *Administrative Measures on Total Loss-absorbing Capacity of Global Systemically Important Banks* on October 15 and October 27, respectively, in order to strengthen the regulation of systemically important banks and improve the macroprudential policy framework.

November 20

The State Administration for Market Regulation imposed the most severe penalties on Fujian Baidu Borui Network Technology Co., Ltd. and China CITIC Bank because of their failure to fulfill their reporting obligations under the *Anti-Monopoly Law* when establishing the first direct selling bank, Baixin Bank. This is the first anti-monopoly punishment taken in the banking sector.

2021 Banking Industry Regulatory Observations

01 Banking sector continues to open up, cross-border businesses expand

In 2021, there were further refinements of regulatory policies aimed at further opening up of China's banking sector and improving supervision of foreign investment. In April, the CBIRC issued the *Notice by the General Office of the CBIRC on Specifying the Regulatory Requirements on Large Exposures of Foreign-invested Banks to Parent Bank Groups*, exempting foreign-invested banks from then-applying regulatory ratio requirements relating to large exposure to their parent bank groups.

In November, the government of Hainan province issued the *14th Five-year Plan for the Development of Hainan's Financial Sector*, specifically supporting financial institutions incorporated in Hainan province to attract foreign strategic investors.

Encouraged by these policies, foreign capital continued to flow into the China banking market in 2021. Examples include:
(i) Schroder in alliance with the wealth management subsidiary of Bank of Communications getting approval to establish their wealth management joint venture, which is the third foreign-controlled wealth management company in China;
(ii) J.P. Morgan Asset Management making its strategic investment into the wealth management subsidiary of China Merchants Bank Co;
(iii) BlackRock CCB Wealth Management (the wealth management joint venture of BlackRock and China Construction Bank) being approved to start its business; and
(iv) DBS Bank making its strategic investment into Shenzhen Rural Commercial Bank.

In terms of cross-border businesses, the *Notice on Further Optimizing Cross-border RMB Policy to Support Stable Foreign Trade and Stable Foreign Investment* (effective February 2021) simplified cross-border RMB business in terms of settlement, investment and financing management, account use and other different perspectives, while at the same time removing some inconsistencies between the RMB policy and foreign currency policy and generally making it easier to conduct cross-border business.

The implementation of the Cross-boundary Wealth Management Connect Pilot Scheme in Guangdong-Hong Kong-Macao Greater Bay Area has increased the number of cross-border channels for banks' wealth management business. The *Provisions on Matters Related to Overseas Loan Business of Banking Financial Institutions (Consultation Paper)* may, in future, offer more scope for domestic banking financial institutions to conduct overseas loan businesses.

02 Tighter regulation of banking sector, erratic and disorderly events in the market further addressed and stricter enforcement of rules and internal accountability

In 2021, banking regulators reviewed the progress made since 2017 in addressing the "erratic and disorderly" events in the market and were very active in dealing with repeated failings. In 2021, this focused mainly on failings in ordinary loans as well as perceived failings in wealth management, interbank business, internal controls and compliance, related party transaction management, and financial consumer protection, among others.

So far as the reasons for penalties were concerned, the CBIRC paid particular attention to a number of recurring activities and activities that were felt to have "profound negative social impacts". Among the particular transgressions were those covering abuse of poor management of credit lines, non-compliance in wealth management business, illegal inflow of funds into the real estate sector, poor corporate governance, and unjustified charging of fees. As well as introducing reforms to the operation of wealth management by banks, banking regulators stepped up the enforcement on those falling foul of the regulations. Some types of penalties were introduced for the first time in 2021, such as penalties imposed for issuing structured deposits where there is no real underlying transaction, imposing unfair trading terms for derivative products, inaccurate valuation of wealth management products, and failure to report those with whom banks have been collaborating on business.

So far as the level of penalties is concerned, according to incomplete information published by the CBIRC, as of September 30, 2021, the total amount of fines imposed on banking institutions by the CBIRC reached about RMB1.5 billion, which has already exceeded the total amount of fines imposed for comparable offences in 2020 (about RMB1.4 billion). Further analysis on fines imposed on senior management/key position personnel shows that fines were imposed on people operating at a senior level of organizations, the number of penalty cases is larger and the amount for fines imposed is larger. For example, the CBRIC Shanxi Office banned a former executive officer of the Taiyuan branch of a commercial bank from working in the banking sector for life because the bank illegally provided an undertaking of return guarantees, which are forbidden. It is relatively rare to witness a c-suite officer of a bank receiving a lifetime ban. Previously, the CBIRC only tended to impose lifelong bans from working in the banking sector on those of relatively low seniority.

Over and above this, in November 2021, the CBIRC noted in the *Notice by the General Office of the CBIRC on Continuously Implementing Work in relation to Year of Internal Control and Compliance Management for Banking Institutions* that it tended to be relatively low-level officials who were held accountable for transgressions. The Notice required banks to step up their accountability controls, to establish satisfactory procedures to increase accountability, and to have accountability extend from headquarters to all bank branches.

From this, we can easily conclude that the CBIRC is serious in its determination to break through long held operating practices of the banking sector and to make banking institutions fully aware of their need to comply with all regulations.

03 Focus on corporate governance continues, with some progress made but further to go to stop unwarranted activity; regulators address issues relating to equity-related transactions and related party transactions

There has been a greater focus on internal corporate governance since a campaign began in 2017 to "rectify erratic and disorderly events" in the market. In 2021, the CBIRC took a closer look at the equity interests held in banks and related party transactions. Banks were instructed that they needed to review shareholder (equity) interests annually and to ensure they reduced or eliminated the risks of regular equity transactions being bypassed, for example illegitimately transferring interests to shareholders via interbank operations, wealth management transactions, and off-balance sheet business or fraudulently through shell businesses. The CBIRC also expressly mentioned that banks must ensure they know the identity of all their shareholders, especially knowing who holds shares on the "look-through" basis (i.e. who the real beneficial shareholders are) and strengthen the management of related party transactions. The clear objective is to prevent the company's main shareholders manipulating companies, illegitimate transfer of interests or interfering with the operation and management of banking and insurance institutions beyond their authority.

Accordingly, in 2021 the CBIRC enacted a series of new rules and/or consultation papers, including the *Guidelines on Corporate Governance of Banking and Insurance Institutions*, the *Regulatory Measures on Behavior of Main Shareholders of Banking and Insurance Institutions (For Trial Implementation)*, and the *Administrative Measures on Related-Party Transactions of Banking and Insurance Institutions (Consultation Paper)*(officially released on January 14, 2022), to emphasize the responsibility of those in charge of governance to carry out their duties fully and efficiently, to prevent embezzlement by main shareholders and manipulation of operations by insiders, and to reinforce the need for absolute compliance.

The CBIRC defined for the first time the term "main shareholder (大股东 in Chinese)" and imposed on main shareholders higher obligations to restrain "irregular behavior" of shareholders in general.

The CBIRC reported on its annual review of corporate governance across the sector in the *Year of Internal Control Compliance Management*. There have been improvements when it comes to corporate governance. However, the regulators say there is still some way to go, particularly when it comes to the behavior of main shareholders, management of related party transactions and the overall management by the board of directors. We can expect the CBIRC to continue to compel banking institutions to set up more effective internal controls.

04 Regulations covering online deposits and loans at central and local levels address a problem area

In 2021, rules relating to online deposits were implemented and the regulatory authorities continued to take a firm line on internet financial products.

At the **central government** level:

(i) in January the CBIRC and the General Office of the PBOC issued the *Notice on Issues Concerning Regulating the Personal Deposit Service Provided by Commercial Banks via the Internet*, specifying that commercial banks are not allowed to offer time deposits through online platforms that are not operated by the banks themselves;

(ii) in February, the General Office of the CBIRC released the *Notice on Further Regulating the Internet Loan Business of Commercial Banks*, specifically setting the strict requirements on the minimum funding ratio of any collaborating party in a single loan case, the balance of internet loans, and the scope of permitted business; and

(iii) in February, the CBIRC issued the *Notice on Further Regulating the Administration of Internet Consumer Loans for College Students*, requiring banking financial institutions to act more prudently in extending student loans via the internet, for example by carrying out better due diligence.

At the **local** level:

Central government regulations have been supported at the local level. There are different types of supervision for different types of banks, and some of these policies impose more strict requirements than those of the CBIRC. For example, in the *Specific Implementation Rules of Jiangxi Province on Regulating Internet Loan Business of Commercial Banks* released by the CBIRC Jiangxi Office on May 18, the regulatory funding ratio of the collaborating party in a single loan of rural small and medium-sized banks in the province was raised to 40%, compared with the 30% threshold set by the CBIRC. Instead of the requirement set by the CBIRC that the balance of loans issued by a bank with a single collaborating party (including its affiliates) should not exceed 25% of the bank's tier 1 net capital, in Jiangxi this ratio was set at 20% for urban commercial banks and privately owned banks and 15% for small and medium-sized rural banks. These differences reflect the actual nature of the sector as determined by local regulators.

Regulators have come down hard on those who do not comply with regulations relating to non-compliant online deposits and loan products. For example: in March, the CBIRC made public the breach of regulations by Xinwang Bank in connection with internet auto loans. In April, the financial regulators held regulatory talks with the representatives and *de facto* controllers of 13 enterprises which operate internet deposit and loan product platforms such as Tencent, Duxiaoman Finance, and Jingdong Finance. In November, the State Administration for Market Regulation announced the first case of anti-monopoly penalties in the banking sector, which also covered the internet business.

The regulators are moving to a position where internet products and services will be classified as "licensed" and "non-licensed" and to eliminate the scope for regulatory arbitrage. When this happens, this should offer both opportunities and challenges for banking financial institutions.

05 Financial consumer protection remains the focus of regulators, with banks having to be more diligent in light of new changes

Protecting consumers buying or taking out financial products remains a top priority of the PBOC and the CBIRC. Many regulatory rules were issued in 2021. These included:

(i) the *Measures for Regulatory Evaluation on Financial Consumer Protection of Banking and Insurance Institutions*, which laid down evaluation procedures required for commercial banks, wealth management companies, trust companies, auto financing companies, and consumer finance companies in respect of consumer protection. The regulations set out what steps would be taken against institutions with poor evaluation results (e.g. Band 3 or Band 4);

(ii) in March, the CBIRC promulgated the *Notice on Effectively Solving the Difficulties of the Elderly in Using Intelligent Technology by Banking and Insurance Institutions*, guiding the banking industry to focus on providing services suitable for the elderly, proposing 16 measures and establishing a "list of prohibited behaviors";

(iii) in November, the CBIRC invited comments from the public on the *Guidance on Standardizing the Management of Market Adjustment Prices for Banking Services*, reiterating that for financing businesses, fees should not be charged without providing substantive services and that banks are encouraged to cater specifically to the elderly and disabled with more favorable terms relating to account management, deposits and withdrawals, and payment and remittance services, and to provide appropriate fee discounts or exemptions based on their own business strategies; and

(iv) in December, the CBIRC sought comments on the *Notice on Further Promoting the Standardization and Healthy Development of Credit Card Business* with the aim of cutting down on easy and excessive credit.

Stepping up punishments

In 2021, the PBOC and the CBIRC punished and circulated notices of criticism on several banking financial institutions for constant violations of consumer rights. Transgressions included: exaggerated and misleading advertising, illegitimately increasing financing costs, heavy-handed debt collection, failing to check for suitability when extending products and tie-in sales. The PBOC and the CBIRC imposed large fines on financial institutions found to have harmed consumer rights. For example, in August, the PBOC issued fines adding up to more than RMB1 million to several banks, mainly for failing adequately to collect credit information.

In addition, the regulatory authorities took steps to make consumers more aware of their rights. In March, the PBOC branches had a publicity campaign to explain consumer rights. In November, the CBIRC issued the *Tips about Preventing the Risks of Insurance Surrender and Others by Agents*, to alert consumers to hidden traps in advertisements of agency service for financial products and the potential for fraud by unregulated agents and to guide consumers to strengthen their awareness of risk management and financial product investment and to safeguard their own rights in proper and legitimate ways.

Changes in court decisions and regulatory rules gave consumers additional benefits. In May, the Supreme People's Court issued the *Provisions on Several Issues Concerning the Trial of Cases for Civil Disputes over Bank Cards*, stipulating that the principle of non-fault liability applies to losses incurred after a bank card is stolen and used without the cardholder's permission. These provisions provided the means for consumers to reclaim such losses against the bank, while also imposing the burden of proof and notification on banks rather than consumers when determining such claims. Such judicial interpretation was further applied and confirmed in a guiding case (Guiding Case No. 169) issued by the Supreme People's Court in November (where a card issuing bank was held liable for the loss caused by misappropriation of funds in bank account due to its failure to provide evidence proving that the account holder violated the obligation of proper handling of information).

In addition, a series of laws and regulations related to personal information protection and credit reporting were issued and implemented in 2021, under which financial institutions are required to adapt how they process consumer information.

06 Diversified methods help to reduce material risk in the system

Effectively forestalling major financial risks was one of the two themes of the 10th Meeting of the Financial and Economic Commission in the Central Committee of the Communist Party of China in August, which was also one of the core objectives of financial regulation in banking sector in 2021. On the one hand, work continues to restructure those banks deemed to be at risk. For example:

(i) the restructuring of Hengfeng Bank was all but completed;

(ii) in February, Beijing No. 1 Intermediate People's Court issued its verdict on Baoshang Bank's liquidation, which marked the end of the bank's risk restructuring process;

On the other hand, the measures of risk mitigation at an earlier stage served to address potential problems before they may manifest themselves. For example, Shanxi Bank, Liaoshen Bank and Zhongyuan Bank each merged several local urban commercial banks within their provinces, helping to take risk out of the system.

In October, the PBOC and the CBIRC issued the *Provisions on Additional Regulation on Systemically Important Banks (For Trial Implementation)* and released a list of the first batch of 19 domestic systemically important banks, setting out higher capital standards and imposing more stringent leverage ratios on those banks, while requiring them to put in place responses to a range of risk management scenarios. The CBIRC also issued the *Interim Measures for Implementation of the Recovery and Disposal Plan for Banking and Insurance Institutions* and the *Notice on Matters Related to Further Promoting the Reform and Restructuring of Rural Banks to Forestall Risks*, and other rules regulating the advance risk mitigation and management work of banking institutions.

Additionally, in January, the CBIRC issued the *Notice on Launching the Pilot Program for the Transfer of Non-performing Loans*, lifting the restrictions on the transfer of single-household corporate NPLs and the batch transfer of personal NPLs for the banks named in the pilot list. From March, when the first personal NPL transfer transaction was completed, to mid-November, 365 banks and their branches, 108 national asset management companies and their branches, and 4 financial asset investment companies opened accounts to operate NPL transfers with the Banking Credit Assets Registration and Circulation Center. This pilot is significant as it indicates another means for dealing with NPLs to take more risk out of the system and improves the capability of banks to operate and manage their capital and business.

07 Macroeconomic controls geared towards supporting the real economy and green finance

Against the background of global inflation, properly guiding the development of banking sector and relevant services is one of the keys in regulatory policies In 2021, and there were further moves towards supply-side structural reforms of finance.

On the one hand, the regulatory policies geared towards supporting the real economy, away from real estate speculation and away from the coal and electricity industries. After the action to limit the levels of real estate loans that banks could extend in 2020, many authorities were party to the *Notice on Preventing the flow of Loans for Business Purposes illegally into the Real Estate Industry* in March 2021 to strengthen regulation preventing loans being made illegally into the real estate sector. Several banks were fined for illegal real estate loans, while genuine real estate loans which are for proper commercial needs in the industry still met with official approval.

In November, the PBOC issued a report emphasizing the importance of stabilizing land and house prices, encouraging prudent financial management of the real estate market and increasing financial support for the house rental market. In December, the Central Economic Work Conference put forward suggestions to nurture a market by way of "guiding the expectation in the industry and exploring new development models" on the basis that "property is intended for living in and not for speculation".

On the other hand, in order to meet the "30-60" goal (i.e. the goal for China to achieve no increase of carbon emission on and after 2030 and carbon neutrality on and after 2060), in November the PBOC launched a monetary policy tool to support carbon emission reduction. This encourages national financial institutions to grant loans to businesses that qualify for "carbon emission reduction loans". Banks and financial institutions can, in turn, borrow up to 60% of carbon reduction loans from the PBOC at a favorable interest rate of 1.75% to cover these loans. Combined with the further cut in the reserve ratio required to be adopted by banks by the end of 2021, the aim is to extend preferential policies to relevant green and low-carbon industries and real economy, and to support the issuance of green bonds and financial products.

In April, the PBOC, together with the National Development and Reform Commission and the China Securities Regulatory Commission (CSRC), issued the *Catalogue for Endorsed Projects of Green Bond (2021 Edition)*, which unified the standards of green bonds in the domestic market and deleted coal from eligible projects in order to align with international standards. In June, the PBOC issued the *Green Finance Evaluation Plan for Banking Financial Institutions* with both quantitative and qualitative indicators, which standardized the evaluation of green finance business of banking institutions to reduce the room for "green-washing(漂绿)". In December, Shenzhen announced that it would pilot local standards for green finance, and gradually enforce such standards in the Guangdong-Hong Kong-Macao Greater Bay Area. In short, China's green finance standards are gradually becoming more stringent and are transitioning toward international standards.

In December, the General Office of the State Council stressed the importance of enhancing sharing credit information to facilitate finance for SMEs. In the same month, the PBOC promulgated the *Measures for the Unified Registration of Movables and Rights for Guarantee*, further clarifying the rules for the registration of movable assets and rights as collateral when borrowing money. This shows the PBOC's growing support for the real economy and small and micro finance.

08 Anti-money laundering (AML) regulation on financial institutions upgraded in line with international standards

In 2021, a series of AML-related regulations were promulgated, which addressed certain issues reflected in the fourth round of mutual assessment by the Financial Action Task Force on Money Laundering (FATF) in 2019 and also made AML rules in China more systematic:

(i) In March, the PBOC, the CBIRC and the CSRC issued the *Administrative Measures for Due Diligence and Preservation of Clients' Identity Data and Transaction Records by Financial Institutions (Consultation Paper)*, providing more detailed and stricter regulatory provisions on the anti-money laundering responsibilities of financial institutions and payment institutions;

(ii) in April, the PBOC promulgated the *Measures for the Supervision and Administration of Anti-money Laundering and Counter-terrorism Financing of Financial Institutions*, improving the provisions on regulation scope, risk assessment and regulatory measures, increasing the requirements for financial institutions to manage their overseas branches and controlling subsidiaries, and extending the applicable scope to non-banking payment institutions and online small-loan companies, as well as to consumer finance companies, loan companies, wealth management subsidiaries of banks and other institutions;

(iii) in June, the PBOC published the *Anti-money Laundering Law (Revised Consultation Paper)*, which changes the previous narrow definition of "money laundering" and expands money laundering activities to include "activities of disguising and concealing the source and nature of criminal gains and benefits by various means". In addition, the consultation paper specifies the system for reporting and sharing "beneficiary information", sets up processes for reporting receipt and payment of large amounts of cash, and increases the levels of administrative penalties imposed under the *Anti-Money Laundering Law*, and generally switches the regulation of anti-money laundering from a rules-based approach (which is prescriptive and specific) to a more flexible risk-based approach.

In addition, the *Amendment XI to the Criminal Law*, which took effect in 2021, recognizes that the act of covering up or concealing the source and nature of criminal gains after committing a crime independently constitutes the crime of money laundering. In the same month, the Supreme People's Procuratorate and the PBOC jointly released typical cases on punishing money laundering crimes, revealing through six typical cases the means of money laundering used in various crimes and indicating that those who breach these laws will be severely punished.

There continue to be severe penalties imposed on those found to have been in breach of AML regulations. According to incomplete statistics, fines exceeding RMB400 million were imposed in 2021 against AML transgressors, mostly on banks. China continues to put in place tight AML regulations and to fine those in breach, with the aim of opening up the finance sector and bringing China in line with global AML governance, which will also bring challenges to the compliance practice of financial institutions in the future.

2022 Banking Industry Regulatory Outlook

01 The banking sector will continue to open up and cross-border business will become easier

Despite the pandemic and the uncertain global economic environment, the Chinese government is still keen to attract foreign capital to enter and invest in China's financial market. We expect this process to continue in 2022. China will fully implement the principle of pre-establishment national treatment (i.e. granting to foreign investors and their investments, at the point of investment, treatment no less favorable than that granted to domestic investors and their investments) plus negative list management (i.e. special administrative measures restricting access of foreign investment in some specific fields as stipulated by the State) in the regime of foreign investment, while encouraging the steady development of foreign-invested banking institutions in China. Foreign investors will continue participating in the investment in China banking sector by investing in domestic banks and investing in/establishing wealth management subsidiaries.

The *Provisions on Matters Related to Overseas Loan Business of Banking Financial Institutions* may be officially published, as cross-border business and capital flows are encouraged. There will be more cross-border business channels and opportunities such as Cross-boundary Wealth Management Connect. Market entry qualifications, account management and other regulatory requirements will be simplified to encourage the participation of more market players.

In light of various measures taken by regulators in 2021, the emphasis on strict regulation of financial institutions will continue through 2022. Following the spirit of the Central Economic Work Conference, regulators will continue to look closely at how banks manage their operations and to ensure full compliance with regulations. Key risk areas that regulators are sure to focus on are enforcement of macro policies, shadow banking, high-risk/intersecting risk businesses, and new business models.

The regulatory rating of commercial banks will be closely tied to how good their corporate governance are and the evaluation system for corporate governance will be amended. Regulatory approaches which were used in the practice of some equity transactions and related party transactions and found to be of help will be reflected in the rules. Banks will be encouraged to take on professional managers. Further consideration will be given to the appointment of employee directors. There will be further examination of bankruptcy procedures and the rights of creditors as related to banks and insurance companies.

In the meanwhile, the regulatory authorities will continue to explore different ways of taking risk out of the system and accountability and correction will be enforced from different aspects. Market players have been given a grace period to address failings over the last three years. Those that continue to fail to comply with regulations (e.g. those falling foul of online lending restrictions), can expect to be severely punished, both at the institutional and individual level.

02 Market failings will be addressed, all market participants will be required to improve compliance and institutional risk tackled

Although the CBIRC has made good progress in tackling the “erratic and disorderly events” in the market, there are still issues that need addressing, such as clearing the illegitimate practice of pooling and mixture of funds from different asset management products (“cash pooling”), achieving proper asset valuation, completing abolition of guaranteed return arrangements in asset management products, the screening and clearing of high-risk institutions, and establishment and improvement of financial infrastructure.

03 Market players will be encouraged to serve the real economy and increase support for green finance, inclusive finance, and elderly care financial products

It is expected that the supply-side structural reform of finance will continue in 2022, and the State Council's requirement of "giving more prominence to serving the real economy" will continue to be uppermost in regulators’ approach. Banks will be directed to lend to support manufacturing, SMEs, and private enterprises. As the pandemic continues, the government will support SMEs with financial relief. For real estate, energy and heavy industry, banks will tend to provide service on premise of reasonable demand rather than imposing "one size fits all" restrictions. Affordable housing and infrastructure and other financial services might bring most economic growth in these areas.

At the same time, banks will be encouraged to lend to green and low-carbon transport, environmentally sustainable buildings, renewable energy, innovative models of power system and carbon emission reduction technologies, as China seeks to achieve the "30•60" goal. Banking institutions are likely to be required to establish green-oriented incentive mechanisms, and financial institutions will be likely to be allowed to participate in carbon trading. In addition, in order to cope with the long-term demographic changes, regulatory policies will continue to be strengthened in the field of elderly care. It is expected that special pilot programs for elderly-care deposit businesses will be launched in the near future, and more detailed regulatory rules for elderly care wealth management products will come out.

04 Top-level rules for "quasi-financial institutions" may be finalized and introduced

2017 witnessed the transition of regulatory power for "quasi-financial institutions" (such as small sum loan companies, financing guarantee companies, financial leasing companies, and factoring companies): the power to formulate the regulation falling on the CBIRC (central level) whereas the power to supervise and enforce the regulation falling on provisional governments, autonomous regions and centrally-administered municipalities (local level) and local financial regulatory and administrations bureaus. However, the upper-level law, the *Regulations on Non-deposit Lending Organizations* (the "Non-deposit Regulation"), has yet to be promulgated. This is necessary to address the abuses associated in recent years with online lending, false internet advertising and aggressive debt collection. Although the *Interim Administrative Measures for Online Small-sum Lending Business (Consultation Paper)* was solicited for public comments in late 2020, the CBIRC has made it clear that formal measures will be promulgated in due course after the Non-deposit Regulation is introduced. In light of that, the Non-deposit Regulation is expected to be published or solicited for public comment in early 2022, with the goal of improving the multi-level credit market, regulating private finance and strengthening the protections concerning the rights and interests of financial consumers. The practices by regulators at local level tend to be uniform as well.

05 More protection for financial consumers which may reshape existing practices

Following the enforcement of the *Implementation Measures of the People's Bank of China for Protecting Financial Consumers' Rights and Interests* in 2020, in 2021, the PBOC and the CBIRC have repeatedly circulated cases of punishment imposed on banking financial institutions for harming consumer rights, including arbitrary charges, tied sales, and illegal operations on behalf of customers. However, there still remain gaps between the existing market practice and the general requirements newly introduced by regulators. It is expected that more rules relating to the protection of consumers' rights and interests will be promulgated in 2022, including specific rules compatible with the *Personal Information Protection Law* in the field of banking regulatory rules and rules involving cross-border flow of financial information. Enforcement measures for issues of concern will be taken as well.

It is expected that the court will further clarify such controversial issues as how to assume joint and several liabilities in the case of personal information rights being violated and how to evaluate whether a bank has properly performed its obligation of assessing the suitability of those applying for financial products.

The *Administrative Measures for the Appropriateness of Banking and Insurance Institutional Consumers*, which has been included in the CBIRC's legislative plan for 2021, is expected to be promulgated in 2022.

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