

Challenges and Countermeasures of Internet Banking Supervision

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Abstract

Due to the continuous innovation of computer technology and the popularization of the Internet, the number of users, transaction volume and economic benefits of cyberbanking have shown a significant growth trend, which has contributed to the rapid development of cyberbanking. Compared with traditional banks, Internet banks utilize information technology in a more diversified way, and their service efficiency has been greatly improved. However, there are still many problems in China's Internet banking, such as failure to build a perfect legal supervision mechanism, ambiguous supervisory model and unclear supervisory content, which affect the safe operation of cyberbanking. Based on this, we should improve the legal system of cyberbanking supervision, explore new cyberbanking supervision model, and clarify the content of cyberbanking supervision, and improve the cyberbanking supervision system, so as to strengthen the legal supervision of cyberbanking and promote the healthy development of cyberbanking.

Keywords

Internet Cyberbanking Regulation; Market Entry Mechanism; Market Exit Mechanism.

1. Introduction

In recent years, along with the rapid development of information technology, the pace of economic globalization has been accelerating. In the financial field, Internet banking has been emerging like bamboo shoots after a spring rain. According to statistics, more than 300 bank branches in China have web sites and homepages to carry out the corresponding Internet banking business, bringing convenience to people's life and stimulating economic prosperity.

On October 7, 2021, People's Bank of China (PBOC) Governor Yi Gang. At the International Conference on Supervising Large Technology Companies at the Bank for International Settlements (BIS), he emphasized the need to strengthen the supervision of financial institutions such as online banks, implement appropriate regulatory programs, implement consolidated management, regulate connected transactions, and strengthen prudential supervision. Currently, scholars in China mainly focus on the regulation of cyberbanks from the realization of a functional regulatory legal system^[1] and the construction of a prudential legal system, and lack of analysis on the access, operation and exit mechanisms of cyberbanks. To standardize the regulation of Internet banking and safeguard financial security by proposing new opinions on Internet banking regulation and improvement measures.

2. Current legal status and problems in the regulation of Internet banking

2.1. Current state of the law on the regulation of Internet banking

Internet banking is the expansion and extension of traditional banks in the field of the Internet, but in terms of business model, organizational structure, business management and other aspects compared with traditional banks have major differences. This requires that the supervision and management of cyberbanking should be more targeted, but unfortunately, the

basic laws currently in force in China's banking sector, such as the Commercial Banks Law of the People's Republic of China in 1995 and the Banking Supervision Law of the People's Republic of China in 2003, are aimed at the management of traditional banks, and fail to consider the particularity of network banks. In the supervision of Internet banks, only the "Management Measures for Electronic Banking Business" and "Principles for Risk Management of electronic Banking Business" promulgated by the CBRC in 2006 and other department regulation are difficult to deal with the current complex and changeable financial environment. Until now, legislation for Internet banking has not yet been introduced, and other implemented regulatory provisions or norms are not authoritative and operational, resulting in inadequate regulation.

2.2. Problems with the regulation of Internet banking

2.2.1. Lack of legal supervision mechanism

At the current stage of development, the development of Internet banks does not have a corresponding legal supervision system. Although China has issued documents on regulating and restricting Internet bank financing institutions, these documents lack authority and effectiveness. At the same time, regulators have neglected the management of Internet banks, resulting in many regulatory blind spots and increasing market risks. There are shortcomings and loopholes in the laws regulating internet banks. Many internet banks have misconduct in the operation process, but the regulators do not have sufficient legal basis for supervision. Improving legislation and strengthening supervision are important issues that must be solved in Internet banking supervision.

2.2.2. The regulatory model is vague

China's network banking supervision and business division have a very close correlation, especially with the enhancement of financial innovation ability, financial risk infectivity and concentration continue to increase, the division of business supervision can no longer meet the regulatory requirements. The financial crisis forces people to rethink the financial supervision model, change the shortcomings and deficiencies of the traditional supervision methods from a new development perspective, and provide an important institutional guarantee for the stable and healthy operation of the financial market^[2]. After the 2008 financial crisis, global banking enterprises are more or less in the regulatory shortcomings, so are domestic banks. We should strike a better balance between the advantages and disadvantages of mixed operations. The ambiguity of the supervision mode in the network banking supervision system will greatly increase the risk of the financial system^[3], and it is difficult to meet the economic development and customer needs. In the actual operation process, it is necessary to explore the feasible operation mode from different angles, pay close attention to the change trend of the real economy in the process of the development of the real finance, and adopt scientific and efficient methods to realize the optimal allocation of resources. The Internet financial industry still has a lot of room for development. In order to avoid financial risks and better promote economic development, the transformation of the regulatory model should not be too hasty, but should be long-term and meet the requirements of the development of Internet banks, so as to solve the problems to the greatest extent and promote the development and progress of Internet banks.

2.3. The content of supervision is not clear enough

In the actual operation process, there are still some problems in China's network banks that have not been properly solved, and the unclear supervision content is one of the important problems. First, no specific regulatory body has been identified. Although our country has specialized institutions to supervise all aspects of the financial market such as asset securitization, bank credit cooperation, bank financing, trust companies, etc., many regulatory

bodies and confusion lead to multiple supervision, ^[4]which leads to a waste of administrative resources. At the same time, no corresponding accountability mechanism has been determined, and on the basis of unclear regulatory bodies, different regulatory bodies have different specific responsibilities. In this case, there will be a series of problems such as separate governance, low regulatory efficiency, and mutual responsibility shirking, which will make it difficult to effectively supervise and manage network banks. Vague regulatory bodies will lead to turbulence in the legal regulatory environment, greatly increasing the possibility of financial market risk outbreak. Second, the object of regulation is unclear. Because the definition of network bank is not completely unified, it is more difficult to further define the regulatory object of network bank. For example, the China Banking and Insurance Regulatory Commission has limited the banking business and determined that this business does not belong to the supervision part. However, in the process of carrying out the banking business, there will be various regulatory arbitrage problems, which will affect the normal operation of the financial market. Therefore, attention should be paid to it and supervision should be strengthened. Finally, the corresponding relationship between the regulatory subject and the regulatory object is not clear enough. For example, China's law clearly stipulates that the Banking and Insurance Regulatory Commission and the Securities Regulatory Commission are the regulatory bodies of trust companies in China, and the asset securitization regulatory agencies mainly include the central bank, the securities Regulatory Commission and the Banking and Insurance Regulatory Commission. In addition, the securities market has also derived many new types of trading activities, ^[5]which also need supervision. It can be seen from these specific provisions that there are many subjects and objects of online banking supervision in our country, and the overlap between the two is also very serious. The existence of multiple subjects leads to the failure of online banking supervision, and many problems need to be solved urgently.

3. Experience and reference of overseas network banking supervision

3.1. America

The United States has established an Internet banking regulator to better play a supervisory role and strengthen supervision. Establish a scientific and efficient risk management system to identify risks, assess the impact of risks, and develop targeted and feasible countermeasures. At the same time, the corresponding bill will be introduced to strengthen the coordination between the Ministry of Finance and the Financial Supervision Commission to improve the efficiency of supervision. Merging the Office of Thrift Supervision (OTS) and Officer of the Comptroller of Currency (OCC), creating a National Bank Supervision Authority and a Consumer Financial Protection Bureau; Enhancing the role of the Federal Insurance Office in the insurance industry; ^[6] Strengthen the central role of the Federal Reserve in regulation. Through the reform of financial institutions, it ensures that all functions of the central bank can be well performed, which has a significant role in promoting the efficiency of macro-supervision, and at the same time alleviates the regulatory conflicts between state institutions. This attempt of mixed industry supervision innovates the regulatory status quo and effectively avoids financial risks. Secondly, the United States should strengthen the supervision of online banking institutions and products in terms of financial activities. On the one hand, online banking institutions and products are regulated. The Dodd Frank Act limits the recognition standards for important financial institutions, and sets detailed limits on the nature, size, and concentration of institutions, according to which financial institutions are classified. In addition, the Dodd Frank Act limited the content of private equity, ^[7]

The emphasis on the supervision of private equity means that the network bank is subject to greater supervision with the continuous improvement of the supervision system. On the other

hand, more attention needs to be paid to the monitoring of off-balance sheet operations. The Dodd-Frank Act clearly limits the content and meaning of off-balance sheet business, which refers to the business that has a significant impact on the bank's current profit and loss although it is not included in the balance sheet. It is believed that the supervision of off-balance sheet obligations is very important, which can play a certain role in curbing inflation and reduce the risk caused by incomplete record content. [8]

By studying the development of the Internet banking system in the United States, we can get some inspirations from it. China can improve the establishment of regulatory agencies, establish the National Financial Stability Commission led by the Ministry of Finance, [9] and absorb other relevant member institutions such as the People's Bank of China, the Banking and Insurance Regulatory Commission, and put the supervision and development of online banks under the scope of responsibility of this committee, so as to improve the effectiveness of work. Second, strengthen the supervision and management of online banking financial products, strictly classify these financial products, and prevent all products from being arbitrarily traded, resulting in chaos of social and economic order.

3.2. European Union

In order to put the supervision of Internet banking in place, the European Union set up a special regulatory body to strengthen supervision and management. They always monitor and evaluate the potential risks in the field of Internet banking, attach importance to the supervision of cross-border liquidity risks, improve the supervision and management system, and put forward suggestions to improve the supervision and regulation of Internet banking. Europe has actively improved laws and regulations to strengthen the management of the operation of financial institutions. In 2015, the EU formulated and passed the Regulation on the Transparency of Securities Financing Transactions, in addition to the requirements for compliance with the "Uniform Transparency Principle", which has greatly improved the transparency of securities financing. [10] China's Internet banking started relatively late, and the relevant legal system is not complete. In order to meet the needs of social development, legislation in key areas should be strengthened to maintain transaction security. Legislation should be enacted to ensure the integrity and security of transaction information transmission, clarify the transaction content, select appropriate financial instruments, provide important data information reference for investment decisions, and reduce the possibility of risk occurrence. In addition, it is necessary to strengthen the construction of the legal system for cross-border transactions, promote the international governance of Internet banks, and arouse the attention of the international community on the supervision of Internet banks.

4. Countermeasures for the improvement of network bank supervision

4.1. Improve the legal system for online banking supervision

With the rapid development of Internet banking, it is very necessary to improve the relevant legislation system, especially the law that specifically stipulates the supervision of Internet banking, so that it can be used as the main basis in the basic operation process of Internet banking. [11] The Interim Measures for the Administration of Online Banking Business was promulgated by the People's Bank of China in July 2001. Its contents and relevant provisions are not perfect and slightly outdated, and can no longer fully meet the needs of the current development of online banking. Although the Commercial Bank Law has many functions for the adjustment of network banks, network banks have unique characteristics, and many business and social relations cannot be adjusted by the Commercial Bank Law. Therefore, a special network bank law is extremely urgent and has extremely important practical significance. [12] Relevant departments need to issue corresponding administrative regulations and rules as

soon as possible. On the one hand, the provisions in the law can be concretized to make it operable; on the other hand, it can play a role in filling legal loopholes, formulating specific rules for the aspects not stipulated by the law, and finally stipulating corresponding procedures in the specific implementation process, so that all activities have rules to follow and laws to follow.

4.2. Explore a new regulatory model for Internet banking

In the context of the continuous development of network information technology, the traditional supervision model has been unable to meet the needs, and it is necessary to actively explore new supervision models to adapt to the development of network banks. With the continuous innovation of technology and products, it is necessary to optimize and perfect the supervision of network banks and promote the development of network banks.

First of all, the scope of supervision of network banks should be expanded from the traditional asset liability business to all-round supervision in all fields. For example, bank intermediary business will affect the profitability of banks, and many banks will also vigorously develop intermediary business, ^[13]so this part of business can be included in the scope of Internet banking supervision. Second, we need to enrich regulatory means and innovate regulatory technologies. Regulators should speed up the establishment of a complete set of Internet supervision models, strictly review the business approval and transaction procedures of online banks, provide technical help and support for the development of online banking supervision, and strengthen the role of off-site supervision. Finally, establish a set of regulatory methods and risk assessment system suitable for the development of China's Internet banks, so as to form a regulatory mechanism that conforms to international rules. Guide network banks to do a good job in risk prediction and control, provide good guidance for the orderly and standardized development of network banks, enhance core competitiveness, and maintain advantages in the fierce market competition.

4.3. Clear the network banking supervision content

Network banking involves a variety of different fields and has very significant cross-industry characteristics. In the process of network banking supervision in China, the problems encountered are more complex. The specific content of network banking supervision has not been determined, which will affect the actual supervision efficiency. First of all, it emphasizes the dominant position of the CBRC in the supervision of Internet banks, and makes it play a leading role in the supervision of Internet banks by formulating a series of regulations. Since its establishment, the China Banking and Insurance Regulatory Commission, guided by its relatively mature experience, has been responsible for the management of many financial institutions, and has also developed a complete risk prevention system ^[14] to deal with the systemic risks that may be caused by China's online banks. For example, as early as 2014, the CBRC (predecessor of the CBRC) determined the risk prevention principle in the internal control of commercial banks. Through the merger, the dominant position of the CBRC was further clarified, which is conducive to the implementation of more comprehensive supervision of online banks. Secondly, it is necessary to combine the characteristics of network banks to clarify the object of supervision. On the one hand, the network bank is an intermediary, so it is necessary to make clear whether the network bank is engaged in the business related to credit intermediary. On the other hand, whether it has the characteristics of maturity conversion is also an important criterion to judge the object of supervision of network banks. The diversification of financing methods requires us to realize the diversification of supervision.

4.4. Improve the regulatory system for online banks

Firstly, create a flexible network banking market access system. For Internet banks, now is the moment to break away from conventional supervision. In countries with relatively advanced economic development, such as the United States, the supervision system of Internet banks is

still not perfect, but it plays an important role in maintaining the stable development of financial markets. China should pay attention to improving the construction of the legal system of online banking supervision, and incorporate the areas with regulatory gaps into the legal system of supervision. There is no clear access system for network banks, which will lead to the mixed development of network banks, which will be a fatal blow to its future development. The regulation of Internet banks should first clarify the market access system. ^[15]

At present, the network bank in operation in China is mainly branch network bank, which is an online bank that handles business through the Internet on the basis of traditional banks. At this stage, the pure network bank model has not yet had mature conditions in China, so the establishment of flexible market access system is mainly to regulate the market access of branch network banks. The market access problem of branch network bank needs to be treated differently according to the main body of network bank business and the different business carried out by network bank. ^[16] If China's traditional banks need to open branch network banks to expand their business scope, the filing system can be implemented without strict approval procedures. Internet banking is no different from its original business, just innovative ways and channels. If foreign banks need to open online banks in China, they must be strictly audited and approved, which is for the consideration of national financial security. If China's traditional banks or other financial institutions want to open new banking business, it also needs strict approval at this time, which is to prevent financial risks, ensure the safety of financial assets, and maintain the order of the financial trading market. In short, the market access of online banks should be optimized in the filing and approval procedures according to different situations, so that online banks can compete in a fair and orderly manner and promote the healthy and sustainable development of online banks.

Secondly, establish an effective network banking market operation system. For network banks, the challenges they face in their development are huge. The construction of market operation system is related to whether their future development can be carried out in a scientific and orderly way. Therefore, the construction of an efficient and convenient network banking operation system and the establishment of an operation management mechanism including financial management, human resource management, technical management, operation management and marketing management will make the development of network banks more vigorous.

Finally, establish a prudent exit mechanism from the network banking market. Market exit mechanism is an important part of bank competition mechanism, and is the foundation and important guarantee of bank competitiveness. In the era of global competition, constructing the exit mechanism of network financial market is an important measure to enhance the comprehensive strength and competitive strength. To build an exit mechanism, we must first set up reasonable market exit standards, in addition to the standards of assets and liabilities and cash flow, but also establish a set of unique regulatory standards for network banks. Second, it is necessary to establish various forms of restructuring system, ^[17] following the principle of lowest cost and priority of market forces, and to determine in the form of legislation; Third, a clearing system should be established to meet the needs of protecting the public interest and maintaining the security of the banking system. In the end, the depositor insurance system should be established to provide the basis and guarantee for the effective implementation of the network banking market withdrawal system.

5. Epilogue

With the continuous innovation of Internet technology, the network banking industry is booming, but the supervision of network banks in our country is lagging behind, which seriously restricts the further development and expansion of network banks. The sound

management legislation of network bank can protect its swimming in the financial ocean. We should not only improve the relevant regulatory laws and regulations, explore the top-level design of the regulatory model that is more suitable for China's national conditions, but also establish and improve the access and exit system accordingly, so as to jointly promote the healthy and sustainable development of China's network banking and realize the good vision of China's economic prosperity and development.

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