

Title : The Banking Act of the Republic of China

Date : 1931. 03. 28 (Announced)

Date : 2006. 05. 30 (Amended)

Chapter I : General Provisions

Article 1 (Purpose)

This Act is enacted to improve the conduct of the banking business, to protect the rights of depositors, to coordinate with the development of productive enterprises and to keep bank credit abreast of national financial policy.

Article 2 (Definition of Bank)

The term, "Bank", as used in this Act shall mean an organization formed and registered in accordance with the provisions of this Act for purposes of transacting a banking business.

Article 3 (Scope of Business of Banks)

Businesses which may be conducted by a bank are as follows:

1. To accept Checking Deposits;
2. To accept various kinds of other Deposits;
3. To manage Trust Funds under mandate;
4. To issue Bank Debentures;
5. To extend loans;
6. To discount bills and notes;
7. To invest in securities;
8. To invest in productive enterprises;
9. To invest in residential construction and construction for business purposes;
10. To handle domestic and foreign remittances;
11. To accept commercial drafts;
12. To issue Letters of Credit;
13. To guarantee domestic and foreign transactions;
14. To act as collecting and paying agent;
15. To underwrite and trade in securities for its own account or for customers;
16. To manage issuance of bonds and debentures and to provide advisory services with respect thereto;
17. To act as attestor for the issuance of stocks, bonds and debentures;
18. To manage various kinds of property under mandate;
19. To conduct businesses related to investment and trusts regarding securities;
20. To buy and sell gold bars/coins and/or silver bars/coins and foreign currencies;
21. To conduct warehousing, custody and agency businesses in relation to the businesses itemized above; and

22.To conduct other relevant businesses which may be authorized by the Central Competent Authority.

Article 4 (Authority Over Scope of Business Issues)

The scope of business of each bank shall be determined individually by the Central Competent Authority in accordance with the classification of the Bank and the items of business specified in this Act, and shall be indicated on the Business License of each such a bank.

However, transactions relating to foreign exchange must be approved by the Central Bank of China.

Article 5 (Term of Credit)

Credit extended by a bank under this Act shall be called short-term credit if such credit matures within not more than one (1) year; medium-term credit if such credit matures in more than one (1) year and not more than seven (7) years; and long-term credit if such credit matures in more than seven (7) years.

Article 5-1 (Definition of Accepting Deposits)

The term, "Accept(ing) Deposits", as used in this Act shall mean the act of accepting Deposits or other funds from the general public, and agreeing to return the principal or to pay an amount equal to or greater than the principal.

Article 5-2 (Definition of Extend(ing) Credit)

The term, "Extend(ing) Credit", as used in this Act shall mean the following business conducted by a bank:

1. Extending loans;
2. Extending overdraft facilities;
3. Discounting bills and notes;
4. Extending guarantees;
5. Accepting drafts; and
6. Other business as specified by the Central Competent Authority.

Article 6 (Definition of Checking Deposit)

The term, "Checking Deposit", as used in this Act shall mean a Deposit which, as agreed, may be drawn at any time without interest by use of a check signed by the depositor or by use of automatic equipment under mandate.

Article 7 (Definition of Demand Deposit)

The term, "Demand Deposit", as used in this Act shall mean a Deposit which can be drawn by the depositor at any time by use of a passbook or by other agreed means.

Article 8 (Definition of Time Deposit)

The term, "Time Deposit", as used in this Act shall mean a Deposit of a fixed term

which can be drawn by the depositor upon maturity by presentation of a Deposit certificate or by other agreed means.

Article 8-1 (Termination and Pledge of Time Deposits)

Time Deposits shall not be withdrawn before maturity, provided, that the depositor may pledge a time deposit or terminate a time deposit by giving seven (7) days prior notice to the bank.

Rules governing the pledge and early-termination of time deposits shall be prescribed by the Competent Authority after consulting with Central Bank of China.

Article 9 (Definition of Savings Deposit)

Deleted.

Article 10 (Definition of Trust Funds)

The term, "Trust Funds", as used in this Act shall mean funds which are received by a Bank in the position of trustee and managed in accordance with the terms of a trust agreement for the interest of a beneficiary named by the trustor.

Article 11 (Definition of Bank Debentures)

The term, "Bank Debentures", as used in this Act shall mean bonds/debentures issued by a bank in accordance with the relevant provisions of this Act, after having obtained the approval of the Central Competent Authority, to provide funding for the extension by such a bank of medium-term and/or long-term credit.

Article 12 (Definition of Secured Credit)

The term, "Secured Credit", as used in this Act shall mean the following collateral has been furnished to secure such credit:

1. Mortgage over immovables or movables;
2. Pledge over movables or rights;
3. Bills/Notes receivable from business transactions of a borrower; and/or
4. Guarantees extended by a government agency in charge of the public treasury, a bank or a government authorized credit agency.

Article 12-1 (Limitation on Guarantees)

In extending self-use residence loans or consumer loans, if the bank has obtained sufficient collateral in accordance with the preceding Article, the bank shall not require provision of guarantor(s) for whatsoever reasons.

Subject to the preceding paragraph, if a guarantor is required by the bank in connection with a credit extension, the guarantee shall be in a specific amount.

In seeking recovery, the bank shall first pursue the borrower and then pursue the guarantor(s) for the remaining portion on a pro-rata basis; provided, that such shall not apply to applications for execution title or in the provisional proceedings.