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The Path to Improving China's Financial Regulatory Law under the Development of Digital Finance

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Abstract

In the context of the digital economy, digital technologies such as big data, artificial intelligence, cloud computing, and blockchain are deeply integrated with the financial industry, giving rise to diverse digital financial formats such as mobile payments, online credit, intelligent investment advisory, and online wealth management. Digital finance breaks the time and space limitations of traditional finance, expands the coverage of inclusive finance, reduces financial service costs, and becomes an important force in serving the real economy and optimizing resource allocation. However, technological integration simultaneously reshapes the generation and transmission paths of financial risks, leading to new types of risks such as data leakage, platform monopoly, cross regional risk contagion, and consumer rights damage, which are derived from features such as mixed operation, online instantaneous transactions, massive data collection, and algorithm decision-making. This poses a systematic challenge to China's traditional financial regulatory legal system, which is centered around segmented operations, institutions, and post regulatory oversight. At present, China has issued a series of departmental regulations and normative documents to regulate digital finance business, but the overall legal system still has shortcomings such as high-level legislative deficiencies, mismatch between segmented regulation and mixed operation, regulatory technology lagging behind financial innovation, rough rules for financial consumer protection, and lack of cross departmental and cross-border collaborative regulatory mechanisms. This article is based on the basic theory of financial regulatory law, defining the connotation and three core regulatory objectives of financial regulatory law. Combining with the development practice of digital finance in China, it analyzes the regulatory legal difficulties brought by digital finance, sorts out the adaptability defects of the current regulatory legal system, and proposes a path for improvement from five dimensions: top-level legislative optimization, regulatory mode transformation, regulatory technology legalization, refined protection of consumer rights and interests, and multi-dimensional collaborative regulatory mechanism construction. The aim is to build a digital financial regulatory legal framework that is inclusive, prudent, clear in rights and responsibilities, and controllable in risks, balance financial innovation and risk prevention, promote the compliant and

sustainable development of digital finance, and better play the fundamental role of financial services in the real economy.

Keywords

Financial Regulatory Law; Functional regulation; Regulatory technology

1. The Core Connotation and Regulatory Objectives of Financial Regulatory Law

1.1. The core connotation of financial regulatory law

The Financial Regulatory Law is the normative sum that adjusts the regulatory legal relationship between financial regulatory authorities and various financial market entities. It is the core pillar of China's financial legal system and, together with the Financial Organization Law and the Financial Transaction Law, constitutes a complete financial legal system. From the perspective of the subject dimension, regulatory legal relationships include two types: regulatory entities and market operating entities. Regulatory entities include statutory regulatory agencies such as the People's Bank of China, the State Administration of Financial Supervision and Administration, the China Securities Regulatory Commission, and local financial regulatory departments. The law clearly defines the regulatory powers, law enforcement processes, and accountability mechanisms of each agency; Market entities include not only traditional licensed institutions such as banks, securities and insurance, but also digital financial business entities such as third-party payment platforms, Internet small loans and online wealth management platforms.

From the perspective of regulatory hierarchy, China's financial regulatory law has formed a multi-level regulatory system: the top level is the legislation of the National People's Congress such as the Commercial Bank Law, Securities Law, and People's Bank of China Law, which lays the fundamental basis for regulation; Middle level administrative regulations formulated by the State Council, refining entity rules such as institutional admission and risk management; At the bottom level, regulations and regulatory guidelines are issued by regulatory authorities, and operational standards are developed for segmented businesses; Industry self-discipline rules serve as a flexible supplement, forming a governance model that combines rigid legal constraints with industry self-discipline.

From the perspective of regulatory scope, traditional financial regulatory laws focus on separate sectors such as banking, securities, and insurance, and build rules around institutional access, capital indicators, and business boundaries. With the rise of digital finance, regulatory boundaries continue to extend, covering new elements such as financial data, algorithm models, online cross regional transactions, and cross-border fund flows, achieving full legal coverage of all elements and processes in the financial market. The core value of financial regulatory law is not to

constrain financial innovation, but to delineate the boundaries of market subject rights, risks, and responsibilities through the rule of law, correct market failures such as information asymmetry and risk externalities, and build a fair and transparent institutional environment for the stable operation of the financial industry.

1.2. The three core regulatory objectives of the Financial Supervision Law

The academic community generally summarizes the legislative purpose of financial regulatory law as three objectives: maintaining financial stability, protecting financial consumers, and ensuring fair market competition. The three complement each other and constitute the value benchmark of financial regulation. Firstly, maintain the overall stability of the financial system and safeguard the bottom line of systemic risks. The financial industry has a strong risk spillover effect, and the liquidity and credit risks of a single institution will quickly spread through the interbank chain, making it easy for local risks to evolve into regional and national financial turbulence. The Financial Supervision Law pre controls risks through a triple system of entry thresholds, normalized risk control indicators, and risk disposal procedures: establishing a license access mechanism to eliminate low qualification entities; Set mandatory buffer indicators such as capital adequacy ratio, reserves, and net capital; Establish legal disposal procedures such as takeover, restructuring, and liquidation, block the transmission of risks across industries and institutions, and prevent systemic financial risks. Secondly, correct information asymmetry and comprehensively protect the rights and interests of financial consumers. Financial transactions naturally have a strong weak imbalance. Financial institutions have access to core information such as underlying product risks and pricing logic, while ordinary consumers lack professional judgment ability and are in a weak trading position. The Financial Supervision Law balances the status of both parties by mandating information disclosure, regulating sales behavior, and establishing channels for safeguarding rights, clarifying legal responsibilities for violations such as false advertising and bundled sales. After the popularization of digital finance, new types of infringement such as data breaches, algorithm discrimination, and online misleading marketing have occurred frequently, and consumer protection has become a core direction that urgently needs to be strengthened in financial regulatory law. Thirdly, standardize market order and ensure fair competition in the financial market. Platform monopoly, unlicensed operation, and unfair competition will distort the pricing of funds and raise the financing costs of the real economy. The Financial Supervision Law adheres to the principle of licensed operation, cracking down on unlicensed lending and illegal wealth management; Regulating the use of data and traffic advantages by large platforms to implement monopolistic behavior; Rectify illegal activities such as false

marketing and malicious competition, create equal development space for various market entities, and ensure the orderly development of compliant financial innovation. The three major goals have an inherent collaborative logic: financial stability is the foundation of fair competition and consumer protection, fair competition is the prerequisite for sustained innovation in the industry, and consumer rights protection is the ultimate value destination of financial regulation, jointly guiding the revision and implementation of financial regulatory legal rules.

2. The real challenges brought by the development of digital finance to financial regulatory laws

2.1. Characteristics of digital finance formats

Digital finance relies on mobile Internet, big data, artificial intelligence and blockchain technology to realize the online whole process of financing, payment settlement and wealth management. It is developed from the iterative development of early Internet finance. Its main business types include five categories: third-party mobile payment, online credit, online wealth management and intelligent investment advisor, Internet insurance and blockchain supply chain finance.

Compared to traditional offline finance, digital finance has four distinct features: firstly, it is inclusive and borderless, relying on mobile terminals to reach traditional financial blind spots such as rural areas and counties, significantly reducing the threshold for financial services; Secondly, transactions are instantly online, with fund transfers and credit approvals completed in seconds, eliminating the need for manual offline review and buffering processes; Third, the characteristics of mixed operation are prominent. The head Internet platform operates payment, credit, wealth management and insurance consignment businesses at the same time, breaking the traditional separation boundary; The fourth is driven by data and algorithms, with user behavior data and credit data becoming the core basis for risk control and pricing, and algorithm models deeply involved in all business processes.

Digital finance effectively fills the gap in the supply of traditional inclusive finance, but the above characteristics completely change the logic of financial risk evolution and have multiple impacts on the current financial regulatory legal system.

2.2. Business boundaries are blurred, and the adaptation of the legal framework for segmented supervision is ineffective

Traditional financial laws in China were born in the era of segmented operation, with the Commercial Bank Law, Securities Law, and Insurance Law being independent of each other and implementing a "institutional ownership and segmented supervision" model. The natural cross industry mixed operation of digital finance, with multiple types of financial services conducted simultaneously on a single platform, directly exposes the deficiencies of the segmented regulatory system.

On the one hand, it is highly likely to create a regulatory vacuum. Cross business is under the jurisdiction of multiple regulatory departments simultaneously, but the existing laws do not specify the main regulatory agency, resulting in a situation of "multiple supervision and multiple neglect". For example, for the Internet joint loan business, the platform is responsible for customer acquisition and risk control, and the bank is responsible for lending. The law does not clearly define the regulatory subject of the platform's data risk control behavior. Some platforms take this opportunity to avoid credit leverage constraints and expand credit risk disorderly. On the other hand, there are conflicts in regulatory rules, with different regulatory departments issuing inconsistent standards and regulations. Similar businesses are subject to two sets of regulatory requirements, significantly increasing the compliance costs for small and medium-sized platforms. The traditional regulatory legal system centered on institutions is unable to adapt to the cross industry operation reality of digital finance, and there is a disconnect between the system and market practice.

2.3. Risk transmission is high-speed and cross domain, and post regulatory models are difficult to cope with

Traditional offline financial transactions involve multiple manual buffering processes, resulting in slow risk exposure and diffusion. Regulatory agencies rely on on-site inspections and post disposal to control risks. However, the risk transmission law of digital finance's instantaneous online transactions is reconstructed, and the risk propagation speed is fast, the coverage is wide, and the concealment is strong. The current legal model mainly based on post supervision lags behind significantly.

One is the rapid spread of risks across the entire region. After the liquidity crisis on the platform occurred, users concentrated their withdrawals online, and the risk of a run on the bank spread nationwide within hours. The current laws lack the legal authority for real-time intervention and dynamic monitoring, and regulation can only intervene and dispose of risks after they break out. The second is the improvement of risk concealment. Platform transactions and algorithm data are all stored on online servers, and traditional offline on-site inspections are difficult to fully retrieve underlying records. Enterprises can evade regulatory indicators by splitting transactions to conceal the flow of funds. Thirdly, there is a lack of clarity in cross regional regulatory responsibilities, with the platform's registration location being separated from the national user's territory. Local regulatory agencies can only govern local registration entities, and there is a lack of unified legal procedures for online cross regional risk management. The problem of mutual buck passing among local regulators is prominent.

2.4. New types of infringement derived from data and algorithms increase the difficulty of consumer protection

In the context of digital finance, consumers face new risks of infringement of their rights and interests, such as personal information leakage, algorithmic discrimination, and online false marketing, in addition to traditional market and credit risks. The existing legal regulations are relatively principled, and the rights protection mechanism has obvious shortcomings.

Firstly, the security risks of sensitive financial data are prominent. The platform collects privacy information such as ID cards, bank cards, credit reports, and consumer behavior on a large scale for risk control, and incidents such as excessive collection, third-party illegal sharing, and hacker leaks occur frequently. The Personal Information Protection Law and the Data Security Law only provide general provisions, lacking detailed penalties for financial scenarios. After a data breach, the process for consumers to provide evidence and claim compensation is cumbersome. Secondly, algorithmic black boxes lead to unfair trade. The platform relies on algorithms to automatically complete credit, pricing, and customer segmentation. The algorithms are not publicly available, which can lead to problems such as big data fraud and credit discrimination. However, the current financial laws do not establish a system for algorithm filing and review, and regulatory agencies cannot verify algorithm compliance. Thirdly, misleading behavior in online marketing is frequent, with short videos and live broadcasts deliberately downplaying risks and exaggerating profits. The difficulty of retaining evidence for online advertising is much higher than that of offline paper materials, and the punishment standards for violations are vague. Fourthly, the cost of consumer rights protection is too high, transaction data is unilaterally controlled by the platform, there is a lack of low-cost mediation channels for small cross regional disputes, the litigation cycle is long, the compensation amount is low, the platform's illegal costs are far lower than the illegal profits, and the legal deterrence is insufficient.

3. The existing shortcomings of China's financial regulatory legal system in adapting to digital finance

China has introduced regulatory norms in the fields of payment, online lending, and online wealth management, but the overall legal system still has some adaptation deficiencies, making it difficult to achieve long-term governance of digital finance.

3.1. Lack of high-level specialized legislation and low level of normative effectiveness

The current regulatory rules for digital finance are mainly based on departmental regulations and temporary notices, resulting in insufficient supply of high-level laws and multiple governance challenges. Firstly, low-level norms have weak coercive power, and regulations and guidelines cannot be directly used as the basis for judicial judgments, resulting in limited administrative penalties;

Frequent updates and cancellations of policy documents make it difficult for market entities to form stable and compliant expectations, which is not conducive to long-term financial innovation layout. Secondly, traditional basic financial laws lag behind new business models. When the Commercial Bank Law and Securities Law were formulated, digital finance had not yet become popular, and there were no clear regulations on platform mixed operation, algorithm risk control, and financial data management. Faced with new businesses such as intelligent investment advisory and digital credit, they could only rely on temporary documents to fill the gap, forming a dilemma of "business first, legal lag". Thirdly, regulatory rules are fragmented, with payment, online lending, and online insurance being regulated by different departments, lacking fundamental laws to govern all digital finance formats, and inconsistent regulatory standards, significantly increasing the cost of market and regulatory coordination.

3.2. The regulatory solidification of segmented institutions makes it difficult to match the reality of mixed operation

The current financial regulatory system is based on the underlying logic of institutional separation supervision, and the division of legal responsibilities, admission standards, and risk control indicators are all set according to the type of institution, which forms a structural contradiction with the cross industry operation of digital finance. One is the ambiguity of cross business regulatory entities, with top platforms holding multiple types of financial licenses and businesses spanning across the central bank, the State Administration for Financial Regulation, and the China Securities Regulatory Commission. The law does not specify the leading regulatory agency for mixed businesses, resulting in overlapping and vacuum supervision. Second, the principle of legal function supervision has not been established. Similar credit and wealth management businesses, banks and Internet platforms apply differentiated supervision indicators to form regulatory arbitrage space. Thirdly, the behavior supervision system is not perfect. The existing laws focus on institutional admission review, and there are few normalized constraints on platform online operation, algorithm application, and marketing promotion, making it difficult to control violations that harm consumers and disrupt market order in real time.

3.3. Traditional regulatory methods are outdated, and the legal construction of regulatory technology is lagging behind

The existing regulatory laws focus on offline on-site inspections, written material submission, and post punishment as the core means, and there are gaps in the legal system related to regulatory technology. Firstly, intelligent monitoring lacks legal authorization, and regulatory agencies lack clear legal support for building big data platforms, accessing online transaction data, and reviewing algorithm models. Real

time online monitoring has compliance concerns. Secondly, data submission and algorithm filing have not been elevated to legal obligations, relying solely on scattered documents to require platforms to report data, lacking a mandatory standardized reporting mechanism, and the algorithm evaluation and filing system lacks legal support. Thirdly, there is a lack of regulatory technology support mechanisms, digital financial platforms continue to invest in technological upgrades, grassroots regulatory departments lack equipment and professional talents, laws do not establish financial and talent support systems for regulatory technology construction, and the technological gap between regulatory and regulated institutions continues to widen. Fourthly, there is a lack of unified legal rules for regulatory sandboxes, and there is no unified administrative regulation for sandbox access, testing, exit, and risk protection. New financial innovation lacks a controllable testing environment.

4. The specific path to improve the legal system of digital finance regulation in China

In response to the multiple shortcomings of the current legal system, we will follow the principles of inclusiveness, prudence, risk-based approach, and collaborative governance, and construct a systematic improvement path from three dimensions: legislation, regulatory system, and regulatory technology.

4.1. Accelerate high-level legislation and establish a hierarchical and unified legal system for digital finance

The primary task is to fill the gaps in top-level legislation, and to promote legislation in a hierarchical manner according to the principles of "revising basic laws+issuing special administrative regulations+supporting detailed rules".

Firstly, revise the existing financial basic laws and embed universal rules for digital finance. Revise the People's Bank of China Law, Commercial Bank Law, and Securities Law, add a special chapter on digital finance, clarify the legal definitions of digital finance, financial algorithms, and financial data, establish statutory principles for functional and behavioral supervision, unify the minimum standards for access and risk control of various digital finance formats, empower regulatory agencies with legal enforcement powers for online data retrieval and algorithm review, and fill the regulatory gap in traditional laws for new formats.

Secondly, the "Regulations on the Supervision of Digital Finance" will be introduced to unify administrative regulations and establish an overall regulatory framework. Under the guidance of administrative regulations, all business formats including mobile payment, online credit, intelligent investment advisory, and digital insurance will be regulated. The bottom line for licensed operations will be clarified, and universal standards for data compliance, algorithm compliance, and online marketing will be unified. Cross industry and cross business supervision will be

divided to solve the problems of fragmented regulations and low effectiveness levels, and to stabilize market compliance expectations.

Thirdly, implementation rules for supporting segmented business formats. Special regulations will be jointly issued by multiple departments to develop differentiated regulatory indicators for different digital financial businesses, refine joint loan rights and responsibilities, algorithm filing processes, financial data grading standards, and online advertising compliance requirements, and transform principled legal provisions into practical rules that can be implemented.

Fourth, establish a dynamic evaluation and revision mechanism for rules, conduct legislative implementation effect evaluations every 3 to 5 years, adjust regulatory rules in a timely manner based on technological iteration and new risks, and maintain dynamic adaptation between law and financial innovation.

4.2. Transforming the regulatory model and building a dual track system of functional supervision and behavioral supervision

Refactoring the rules for the division of regulatory powers and responsibilities in the law, breaking the shackles of segmented institutional supervision, establishing a new regulatory system through legislation, and eliminating regulatory arbitrage and vacuum.

Firstly, the principle of statutory functional supervision and the implementation of "equal supervision for similar businesses". In the Regulations on the Supervision of Digital Finance, it is explicitly stated that regardless of the type of operating entity, as long as similar financial businesses such as credit, payment, and wealth management are carried out, capital constraints and investor suitability regulatory standards shall be uniformly applied; Establish a cross departmental digital finance coordination and supervision committee, designate a leading regulatory agency for mixed business formats, clearly divide the responsibilities of primary and secondary regulators, and eliminate multi headed buck passing.

Secondly, improve the legal rules for the supervision of the entire process of behavior, and transform the legislative orientation of "emphasizing admission over process". One is to standardize algorithm behavior, enforce platform algorithm filing and annual third-party audits, and prohibit big data killing and credit discrimination algorithms; The second is to unify online financial marketing standards, enforce significant risk warnings, and require complete retention of live streaming and short video promotional records; The third is to constrain implicit charging and bundled sales behavior, establish a normalized information disclosure system, and safeguard consumers' right to know.

Finally, refine the legal responsibilities for licensed operations, clarify that all online financial businesses must obtain legal licenses, significantly increase the upper limit of administrative penalties for unlicensed operations, improve the provisions for execution linkage, and severely crack down on illegal digital financial activities.

4.3. Empowering regulatory technology through legislation and establishing a full cycle digital regulatory system

By legislating to grant legal authority to intelligent supervision, establish a full process digital supervision system that includes pre sandbox testing, real-time monitoring during the process, and intelligent disposal afterwards.

Firstly, clarify the legal authority of intelligent supervision and the obligation of mandatory data reporting. Establish a special chapter on regulatory technology, authorize regulatory agencies to build a unified digital financial big data monitoring platform, and lawfully access and analyze platform transaction and algorithm data; Require all licensed institutions to upload underlying business data in real-time and in a standardized manner, and impose high fines and temporary license suspension penalties for data tampering and concealment; Using the law to connect cross departmental regulatory databases and break down information silos.

Secondly, establish a legal regulatory sandbox system. In administrative regulations, complete rules for sandbox access, testing periods, investor protection, and risk mitigation should be established. For innovative formats such as blockchain finance and new intelligent investment advisory, testing should be limited in scale and users, and regulatory agencies should monitor risks synchronously. After the testing is completed, formal regulatory rules should be introduced to balance innovation trial and error with risk prevention and control.

Thirdly, establish a legal regulatory system for financial algorithms. Introduce special regulatory rules for algorithms, requiring complete filing of credit, pricing, and customer recommendation algorithms. Regulatory agencies have the right to access algorithm decision-making logic and force the offline of algorithm models with discrimination and high-risk hazards.

Fourth, improve the supporting clauses for regulatory technology, clarify the financial support for the construction of intelligent regulatory systems, establish a supporting mechanism for the training of regulatory technical talents, and narrow the technological gap between regulatory and market entities.

5. Conclusion

Digital finance is an inevitable trend in the integration of the digital economy and the financial industry. It has unique value in developing inclusive finance, optimizing fund allocation, and serving the real economy. However, the characteristics of online, mixed, data-driven, and globalized finance have given rise to new financial risks, which have a comprehensive impact on China's traditional financial regulatory legal system that is segmented, post event, and offline oriented. At present, there are multiple shortcomings in China's financial regulatory laws, including insufficient high-level legislative supply, imbalanced adaptation between regulatory models and market formats, lagging regulatory technology and rule of law, weak protection of consumer digital rights, and lack of multi-dimensional collaborative regulatory

mechanisms, making it difficult to achieve long-term stable governance of digital finance. Therefore, to improve the legal system for regulating digital finance, it is necessary to adhere to the four principles of inclusiveness, prudence, risk-based approach, fair protection, and collaborative governance, coordinate the two goals of financial innovation vitality and systemic risk prevention and control, guide digital finance to promote the high-quality development of China's financial industry.

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