

Chapter 7

Internet Financial Regulation and Law Analysis of China

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ABSTRACT

In recent years, internet finance has developed rapidly in China; however, the inherent characteristics of the internet have magnified the high-risk nature of the financial industry. Consequently, this leads to the complication of risk types, the acceleration of risk propagation, and the increase of interconnection of risk system, and these issues pose a serious challenge to regulation. Including the improvement of internet finance laws and regulations, the establishment of a multi-level internet financial supervision system, and the increase of the internet financial security system, the most effective risk prevention measures can be supplemented by administrative means carried out to resolve the stock risk through the nationwide internet financial rectification. At present, the traditional financial business mode is mainly under the control of the current financial law. This kind of law is rarely related to internet finance. Even if it is involved slightly, it is due to the early formulation time and needs to be revised.

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INTRODUCTION

Internet finance has played an important part in promoting the economic development in China. However, in recent years, serious accidents and increasing fraud behaviors on e-loan platforms happened frequently. Therefore, the effective role of Internet financial legal supervision and administrative supervision has become a top priority for the development of Internet finance.

Generally thinking, Internet finance is likely to cause adverse effects. Qian Lei (2017) agreed that the Internet finance, as a financial form that relies on the Internet for financial data processing and credit rating, could easily lead to illegal behaviors in addition to the banking financial mode, which is independently participated by financial demanders and suppliers. Magnuson (2017) argued that regulators currently focus on large financial institutions which may cause systemic risks, and ignored the fact that those relatively small but fast-growing financial technology companies also contain risky business activities, and these risks in certain circumstances will turn into higher risks than those came from large financial institutions, or even trigger a new financial crisis; According to Zhao Wenjing (2017), nowadays, Internet finance is developing rapidly, but Internet financial law and regulation still can't catch up with its real-world development timely. Lan Jian and Chen Yixing (2017) believed that the growth rate of investment in e-loan industry is unusual. Once e-loan platforms collapse in large scale, it will cause great economic losses and social impact including family breakdown, higher unemployment rate and unstable society. The rise in crime rates and other bad results will seriously hinder social development.

In terms of legal and administrative supervision, Brownsword and Somsen (2009) showed that the updating speed of laws and regulations are inevitably lagging behind the rea-world development. With the acceleration of innovation, the law of Internet finance is bound to keep pace with the real world; Moses (2011) believed that the ability to prepare financial regulatory laws ahead of time is limited. New types of financial technology will trigger new things, activities or relationships, and it is difficult to clearly define the use of existing regulatory requirements, or their regulated behavior becomes less important due to the development of technology; Brummer (2015) believed that the past regulatory principle is based on the relatively fixed supervision technology and formed the optimal supervision principle. In the past decades, the development of financial technology and internet finance has accelerated the reconstruction of financial market. The supervision model has been unable to adapt to the market environment of financial innovation driven by technology; "Internet financial risk prevention, supervision theory and experience expansion and comparison" research group (2017) found that in the process of Internet financial remediation, The main regulation targets and standards are unclear, the personnel allocation, professional competence and funding of local functional

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