

Research on Legal Risk Prevention of Internet Finance

Fangqin Ma

Xi'an Eurasia University, Xi'an, Shaanxi Province 710065

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Abstract: In the era of rapid development of information, as a carrier of the network, information is incorporated into the human thoughts, which changes the lives of human beings. Internet finance has been born and developed at a high speed. Today, Internet finance has emerged from various financial sectors with high efficiency and low cost, and has become one of the fastest growing financial models. However, compared with the traditional financial model and perfect legal security system, Internet finance lacks the industry standard and sound supervision system, and the rights and interests of consumers can not be effectively guaranteed. Therefore, it is imperative to establish sound laws and regulations.

1. Introduction

Internet Finance (ITFIN) refers to a new financial business model in which traditional financial institutions and Internet enterprises use Internet technology and information and communication technology to realize the goal of mortgage financing, payment, investment and information intermediary services^[1]. Nowadays, Internet finance plays an important role in people's production and consumption. However, due to the existence of many instability and financial risks in the Internet carrier itself, the uncertainty and non-existence of Internet finance has increasing, which has added many difficulties to the formulation of relevant laws and regulations.

2. Risks faced by Internet Finance

2.1 Risk of network operations

Internet finance itself is based on the network as a carrier. Consumers complete the operation of transactions through the communication products such as computer or mobile phone. Consumers themselves often make mistakes due to the unfamiliarity of the operation steps and the usage rules. The risk of network operations includes the status of the product presented in front of consumers is lack of comprehensive introduction information, the use of the lack of detailed operational steps, and the lack of the corresponding security system when paying. In addition to the operation problems of consumers themselves, the problems of software compatibility and software technology updating will increase the corresponding risks. The lack of independent intellectual property rights of some products makes the product face many problems in the later maintenance and operation process.

2.2 Risk of enterprise management

With the rapid development of Internet finance, related financial enterprises have shown a "blowout" growth, including "Ant Jinfu" and "Jingdong Finance" and many small and medium-sized enterprises. A large number of enterprises develop their products based on the characteristics of non-bank payment and small amount of single transaction. However, the domestic market is in the downturn stage of the economy at this stage. The financial risks assumed by enterprises are relatively high, and the operation of a large number of small and medium-sized enterprises is lack of security. When enterprises default on their debts, the overdue rate of Internet financial platforms will rise sharply. The emotional fluctuations of consumers and investors will make the flow of funds to change accordingly, and the pressure on the operation of enterprises will continue to increase, forming a vicious circle.

2.3 Risk of currency circulation

The mode of operation of Internet finance is to use electronic virtual currency instead of real money for circulation. Compared with the traditional real currency, it lacks the relevant financial system. Therefore, the monetary adjustment as a savings fund is restricted, and the currency supply is not statistically complete. The society does not consider the virtual currency when calculating the total amount of financing, which makes the virtual currency flow faster and increases the risk of circulation. Different from other financial institutions, Internet financial enterprises can not provide financial guarantees to financial institutions in the event of credit crisis. It is unable to provide financial guarantee for customers, which makes the operation of Internet Finance in the process of credit risk can not be effectively controlled.

2.4 Risk of laws and regulations

Most of the current financial management laws and regulations serve the traditional financial institutions and financial business. Due to the non-Internet finance applied at the time of enactment, there will be a large number of mismatches in the implementation. There are not only many deviations, but also unfavorable to the development of the Internet economy. In the process of operation of this mode, it will involve important aspects such as information confidentiality, division of powers and responsibilities, system authorization, agreement validity, complaint handling, dispute mediation. At this time, the protection of relevant legal is lacking, and consumers and investors may be in a dangerous environment, or even damage their own interests.

3. Countermeasures for legal risks in Internet Finance

3.1 Increase supervision

Because of the high degree of financial virtualization of the Internet, transaction information is transmitted in a digital way in the network, breaking through the time and space, and the great freedom makes supervision more difficult. The current regulatory system is led by the People's Bank of China, and is jointly agreed with the insurance industry and other relevant institutions. The content of the agreement is that no fund-raising, no fraud, no collection of public deposits. In response to the extensive dissemination of Internet finance, the relevant regulatory agencies should strengthen their management, real-time monitoring of network security, and find problems in a timely manner to avoid unnecessary losses. Generally speaking, when Internet finance expands its own market, it will simultaneously increase the speed of movement and transactions, which makes the supervision more difficult. Once a mistake is discovered, it will take a lot of manpower and material resources to remedy, or even appear irreparable phenomenon.

It follows that the supervision of network security should be forward-looking. Before the occurrence of unsafe incidents, a good job of prevention system should be done to explain the situation to consumers and investors. Regulators should clarify the scope of their own supervision, classify the types of enterprises and departments involved, and formulate corresponding regulatory standards and conduct classified supervision to avoid duplication of waste of manpower and material resources or regulatory loopholes. According to the relevant laws and regulations, the development of Internet finance in real time should be paid attention to. Regulators should communicate and coordinate with relevant financial enterprises in advance, and establish a risk early warning system, and find problems early to find out the solutions in advance. Regulators should regularly disclose financial transaction information, make an agreement on the admission of enterprises to safeguard the legitimate rights and interests of enterprises, complete the establishment of China's credit system as soon as possible, ensure the healthy development of China's national economy, link the fate of enterprises with credit, and regard enterprises themselves as the main body of economic activities.

3.2 Improve the system of laws and regulations

With the rapid development of Internet finance, there is still a lack of relatively perfect legal

system to supervise and restrict it. On March 5th in 2014, Premier Li Keqiang put forward in his report on the work of the government that "promote the healthy development of Internet finance and improve the coordination mechanism of financial supervision and control". Consumers in the conduct of business, personal information security should be protected by relevant laws. Nowadays, a large number of personal information leakage incidents occur, criminals obtain benefits at a very low cost, resulting in a great impact on the lives of victims. However, in the pursuit of responsibility, there is no sound legal system, and criminals are not punished.

In terms of the effectiveness of electronic contracts, Internet financial enterprises and consumers have signed contracts under the condition that they know their rights and obligations, but it is difficult to adjust legal disputes because of the lack of relevant documents and legal statements. In the process of formulating laws, the relevant departments should put forward legal proposals from their own interests, coordinate with each other and make joint legislation. Only in this way can the conflicts of ideas among the various departments be reduced and objections avoided. In addition, the real-time nature of the law should be fully taken into account when enacting, and the laws should be in line with the emerging scope of Internet finance. As the industry is innovating at a faster pace, relevant laws and regulations should keep up with the pace of the times and make timely adjustments. Due to the late development of Internet finance, the existing financial laws and regulations are formulated earlier, and the previous laws and regulations may not be applicable. If there are conflicts in the Internet financial model, corresponding adjustments should be made. Finally, because of the rapid development of the information age, laws and regulations should have a certain degree of prejudice. It is worth mentioning that on October 10 in 2018, the "Measures for Anti-Money Laundering and Anti-Terrorism Financing Management of Internet Financial Institutions (Trial Implementation)" issued by the People's Bank of China, the China Banking Insurance Regulatory Commission and the China Securities Regulatory Commission (CSRC) was promulgated and announced^[2]. The promulgation of this document represents the country's prevention of legal risk of Internet finance. Enough confidence in preventing the legal risks of Internet finance should be established.

4. Conclusion

In China, Internet finance is developing at a high speed. It brings convenience to our life. A large number of e-commerce enterprises, investment platforms and third-party payment platforms enrich our lives and change the Chinese financial industry. As a new financial model, it attracts a large number of investors with the characteristics of low cost, high efficiency and wide coverage. However, the rapid development and weak risk control make Internet finance unstable. In order to make it develop well, the legal awareness of Internet finance should be strengthened. By reducing the intensity of supervision and the occurrence of illegal and criminal phenomena, we will conduct supervision from both the Internet and financial, clarify the scope of supervision, and increase the intensity of supervision to effectively control the occurrence of malignant events. What's more, we should perfect the relevant financial laws and regulations, improve the early laws and regulations according to the actual development, and supplement the law and regulations which are not involved. Besides, we should learn from other countries' outstanding cases and practical experience to establish and improve the credit system of enterprises, so that laws and regulations comprehensive and effective.

References

- [1] The People's Bank of China, etc. *Guidance on Promoting the Healthy Development of Internet Finance* [M]. The Central People's Government of the People's Republic of China. 2015,07,18.
- [2] The Central Bank, the Banking and Insurance Regulatory Commission and the Securities Regulatory Commission. *Measures for the Management of Anti-Money Laundering and Anti-Terrorist Financing by Internet Financial Institutions (on trial)* [M]. Economic Daily - China

Economic Network, 2018, 10,10.

[3] Zhao Jing. *Legal Risks of Internet Finance* [J]. Finance and Economics, 2014 (16): 38-39.

[4] Fu Yu, Gao Yunlin. *Legal Risk Prevention of Internet Finance* [J]. Journal of Beijing Vocational College of Political Science and Law, 2018 (2).

[5] Li Bo, Dong Liang. *Mode and Development of Internet Finance* [J]. China Finance, 2013 (10): 19-21.

[6] Xie Qinghe. *Research on Development of Internet Finance in China* [J]. Economic Research Reference, 2013 (49): 29-36.