

Legal Framework of Consumer Protection in Chinese Financial Service

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1. Strict Separating Business Policy and Controlling Policy.

▶ 1.1 The consumer can loan from bank mortgaged with estate

loan from bank pledged with the future assets
apply to bank for credit card.

buy securities by way of security company.

buy trust benefits from trust investment company.

buy kinds of insurance products with insurance company.

1. Strict Separating Business Policy and Controlling Policy.

▶ 1.2 A strict separating business policy and controlling policy

Only bank can operate the deposit business and loan the money to the merchant

Only security company can do the business of investment banking, security attorney but non deposit

Only trust investment company can do the trust business

Only insurance company can sell its insurance products, but non deposit

1. Strict Separating Business Policy and Controlling Policy.

- ▶ 1.3 Judicial interpretation act, natural person and the normal merchant can do the civil loan, and the loan interests will be controlled.

Government encourage financial institutes to make new financial products in principles

2. New Company Law and Security Law

They are very important to the commercial society and to the public in the financial market

- ▶ 2.1 when the shareholders of a company abuse their power, it will lead to the application of piercing the corporate veil
- ▶ 2.2 the transaction between the related bodies will be limited, decided by the non related shareholders or the independent directors.
- ▶ 2.3 shareholders of the company have the right to inquire about and copy the corporation by laws, shareholder meeting records, director meeting records, corporate account books

2. New Company Law and Security Law

- ▶ 2.4 shareholder can bring a suit against other shareholder, against company and against corporate senior managers, independent action and deriving action
- ▶ 2.5 any company which wants issue securities, must disclose in a true, exact and complete way

False representation in public offer is prohibited

2. New Company Law and Security Law

- ▶ 2.6 the manipulating act of the security market is prohibited
but the consumers must prove their losses and the cause relations

Security law provides a new principle of the spot transaction and the futures transaction and new financial futures market has been set up in shanghai.

the principle and the hedge transaction will avoid the manipulating of the individual shares

- ▶ 2.7 The new Security Law provides the rules to prohibit the security company to deceive the consumers, including the diverting act of the security company

the new security law provides to set up the fund of protecting investors

3. The Development of Chinese Financial Legal System.

- ▶ Chinese financial legal system is in initial stage and it develops slowly
- ▶ Most financial laws take the form of the special Act. The legislators pay little attention to the protection of the consumers but the safety of the transactions

3. The Development of Chinese Financial Legal System.

▶ 3.1 Consumer loans are few.

financial transactions are not popular besides the deposit

the transaction parties depend on the contract

a lot of clauses of the contract are unfavorable to the
consumers

3. The Development of Chinese Financial Legal System.

- ▶ 3.2 insurance practice depends on insurance contract of the two parties

The Insurance Act provides a few principle rules, new insurance standard contract must be supplied for approved to the China Insurance Regulatory Commission.

a lot of unfair standard clauses in the insurance contract

3. The Development of Chinese Financial Legal System.

- ▶ 3.3 The security attorney contract is limited a lot by the Security Law
- ▶ 3.4 disputes in Chinese financial transaction are normally by ways of suit to Court
the consumers have no advantages.