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On the dilemma and solution of Internet financial supervision

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Abstract: **The integration of the Internet and the financial industry has brought the traditional financial industry into the new era of Internet finance. The de-intermediation of Internet technology has not changed the nature of the financial industry. In the way of supervision of Internet finance, the traditional prudential supervision principle and separate supervision model of the financial industry are still applied. However, the traditional supervision mode ignores the mixed operation characteristics of Internet finance, causing the derailment of separate supervision and mixed operation in China's Internet financial supervision at present, which leads to the aggravation of financial risks. In order to effectively promote the healthy development of the Internet finance industry, we should change the supervision notion of Internet finance and realize the transition from separate supervision to unified supervision under the concept of modest regulation.**

Keywords- internet finance; supervision; separate supervision; unified supervision

I. INTRODUCTION

Under the development trend of "Internet +", the combination of traditional financial industry and Internet technology produces the emerging industry of Internet finance. The de-intermediation of Internet technology lowers the threshold of financial activities and improves the operational efficiency of the financial industry. However, when Internet finance fills the gap of traditional finance and brings the financial industry into a new era, its mixed operation mode is confronted with the dilemma of "separate supervision" of traditional finance.

II. THE DEVELOPMENT OF INTERNET FINANCE AND REGULATOR REVIEW

For the definition of Internet finance, there are two understandings: broad sense and narrow sense. In a broad sense, Internet finance includes both traditional financial institutions and financial businesses engaged by non-financial institutions. In the narrow sense, Internet finance only refers to the financial business carried out by Internet enterprises through the Internet [1]. The People's bank of China defines Internet finance as "a new financial business model for traditional financial institutions and Internet enterprises to realize capital financing, payment, investment and information intermediary services by using Internet technology and information and communication technology" [2]. It can be seen that China's Internet finance should be understood in a broad sense. Therefore, the government's regulation of Internet finance has also been adjusted, and the relevant laws have been continuously supplemented.

A. The rise and development of internet finance

Internet finance began with Internet as a service tool, and today covers four major modules: Internet commercial banks, Internet payment settlement, and Internet financial financing platform and Internet financial management. Its development has gone through three stages.

The first stage is from 1990s to 2005. During this period, Internet finance was just a traditional financial institution that used Internet technology to provide services such as online banking which was about to "move the business to the Internet". Strictly speaking, there is no real Internet finance at this time. The Internet is only a daily work tool for financial institutions, not the Internet finance we are talking about today.

The second stage is from 2005 to 2011. During this period, the combination of Internet and finance began to expand from the technical field to the financial business field. At this time, online lending began to sprout in China, and P2P online lending platforms and third-party payment platforms were born. In 2011, the central bank issued licenses to more than 20 third-party payment companies, marking the legalization of third-party payment institutions, and also means that third-party payments were included in the national financial supervision.

The third stage is from 2012 to the present. During this period, the Internet industry entered the financial business in an all-round way and merged with the financial industry. Because the indirect financing mode of traditional commercial banks has a high threshold for financing, it mainly meets the financing needs of state-owned enterprises, while the direct financing model based on capital market prefers innovative enterprises with promising development prospects, thus resulting in a large number of small and micro enterprises financing channels blocked and financing difficulties. Internet finance reduces transaction costs and information asymmetry through Internet, big data and other technologies, and investors are large and dispersed, providing an effective way for financing of small and micro enterprises. The need of the market has given rise to the rapid growth of P2P lending companies. Financing platforms such as JD and Taboo have sprung up like mushrooms. Traditional Banks, securities brokers and insurance companies also rely on the Internet to

transform and upgrade their businesses online, and the development of Internet finance has entered a golden period.

B. Review of Internet financial regulation

Before 2005, although the Internet was combined with the financial industry, it was only a technical support for the financial industry, and did not really involve the financial business. Therefore, before 2005, the supervision of Internet finance still extended the traditional supervision mode, that is, the main method of prudential supervision of financial supervision, and formed the “separate operation and separate supervision” marked by “One bank and three commissions” The supervision mode has established a relatively complete set of banking financial institutions based on the principle of prudential supervision through a series of laws and regulations such as the "People's Bank Law", "Banking Supervision and Management Law", "Commercial Banking Law" and "Electronic Banking Business Management Measures".

After 2005, the third-party payment platform represented by Ali-pay has emerged rapidly. Although the convenience of third-party payment provided convenience for both parties, there were also legal risks such as uneven main credit, poor supervision of precipitation funds and the use of Internet crimes. In order to effectively prevent financial risks and strengthen the supervision of Internet finance, the people's bank of China issued, which clearly stipulated that the Internet third-party payment platform was supervised by the central bank and began issuing third-party payment licenses in 2011. Subsequently, the People's Bank of China successively promulgated the "Payment Measures for Payment of Clients' Payment Provisions", "Notice on Strengthening the Cooperation Management of Commercial Banks and Third-Party Payment Organizations", "On-line Trading Platform Service Self-Regulations" and other documents to supervise third-party payment, which provided clear guidance for the supervision of third-party payment.

Since 2012, the Internet has substantially entered the financial business, and P2P Internet lending, online crowd funding, Internet finance and other Internet financial services are in full swing, while the regulation of Internet finance has shown a significant lag, laws and regulations also regulation insufficient supply of financial innovation. Such as “naked loans”, “campus loans” and “running the road” were criticized by the society. In order to prevent illegal entering trades using the Interne, causing large-scale Internet financial moral hazard and systemic risk [3], since 2015, China has promulgated a large number of laws and regulations, including the people's bank of ten ministries jointly issued the guiding opinions on promoting the healthy development of the Internet financial, formulated by the people's bank "non-banking institutions network payment business management method" "pay for institutional clients cover save tube method" and the China banking regulatory commission, the ministry and state Internet information office of the ministry of public security jointly issued "the network credit information intermediary business management interim measures", etc. All aimed at the social problems caused by Internet finance.

III. THE DILEMMA OF INTERNET FINANCIAL SEPARATE SUPERVISION

The development of Internet finance has lasted for more than 10 years. During this period, China's regulatory policies on Internet finance have been constantly innovated, with the purpose of guiding the long-term development of Internet finance, giving play to the advantages of GSP finance and serving the social economy. Although these regulatory policies have achieved some results, they are still weak for the innovative industry of Internet finance.

A. Traditional financial regulation theory fails

Prudential supervision refers to the supervision mode where the regulatory department, with the purpose of preventing and defusing risks in the banking industry, objectively evaluates the risk status of financial institutions and conducts timely risk monitoring, early warning and control by formulating a series of thorough and prudent operation rules that financial institutions must abide by [4]."Prudential supervision" is not inherent in our country, but an import, which was first proposed by the chairman of the bank of England at the cook committee meeting in 1979. Since then, the principle of prudential supervision has come to the attention of most countries and gradually become the core concept of financial regulation. The supervision of the financial industry in China has learned from the basic spirit of prudential supervision in foreign countries. The people's bank of China first put forward the concept of prudential supervision in the “implementation report of China's monetary policy (the second quarter of 2009)” in 2009.

China's prudential supervision includes risk management, internal control, capital adequacy ratio, corrective measures, supervision of transnational Banks and other aspects. The purpose of implementing prudential supervision is to effectively supervise risks in the entire financial system, maintain financial stability and support stable economic development. However, prudential supervision, by constraining financial institutions so as to reduce their chances of taking on high-risk speculation, will lead to the low use efficiency of financial institutions, correspondingly increase the operating cost and reduce the operating efficiency of financial institutions.

The rapid development of China's Internet finance is closely related to the innovative concept of "Internet + finance" encouraged by the government. In the early stage of its development, Internet finance adheres to the concept of "freedom without prohibition" [5] to carry out innovative business and make full use of the opportunity of loose financial regulations and blank regulatory rules to expand its scale. However, the government's deregulation encourages innovation to bring a series of financial risks. After 2015, the regulatory authorities issued more than 20 normative documents for Internet finance, and the supervision tightened, but the results were minimal. The reason can be found that in the eight years of the booming Internet in 2007-2015, the state encouraged financial innovation and relaxed regulation as the main concept of Internet financial supervision. After 2015, in order to avoid the moral hazard and systemic risk caused by

Internet finance, prudent regulation, a strict regulatory concept with low efficiency and high cost, was adopted. However, the concept of prudential supervision has been unable to meet the needs of the development of the Internet finance industry, and the supervision of Internet finance should consider the characteristics of its GSP system and carry out diversified supervision.

B. The embarrassment of the separate supervision mechanism of Internet finance

The supervision framework of China's financial industry is "one bank three commissions, separate operation and separate supervision". In 2018, the reform of the State Council's super ministry was carried out, and the China Banking Regulatory Commission and the China Insurance Regulatory Commission were merged into the Bank of China Insurance Supervision and Management Committee. The original three sessions were merged into two Committees. Although the institutional reform of the State Council merged the original CBRC and the China Insurance Regulatory Commission, the People's Bank of China was responsible for drafting the draft laws and regulations for banks and insurance and the basic system for prudential supervision, the traditional separate-sector supervision mechanisms have not changed substantially. The supervision of Internet finance still uses the traditional financial supervision mode, and the dilemma of Internet financial supervision of mixed operations has not improved. Internet finance involves a wide range of financial services, such as Internet banking, Internet financing, Internet third-party payment, online sales funds, and Internet finance companies conduct Internet finance services that involve more than one single business. It can be seen that the supervision of Internet finance companies is not attributed to a single regulatory body. It requires coordinated supervision. But under the current "one bank two commissions" model, the people's bank of China only has the coordination function of the financial supervision institution. The basis for the coordination function is the “Memorandum” signed by the former China Banking Regulatory Commission, the former Insurance Regulatory Commission and the China Securities Regulatory Commission, and the Financial Regulatory Coordination Mechanism established by the “Public Employees’ Main Responsibilities and Staffing Regulations” issued in 2008. The approval of the state council agreed to set up in 2013, led by the people's bank of China financial supervision coordination contact inter-ministerial meeting system. The memorandum, the provisions and the approval are informal institutional arrangements with no mandatory binding force on the supervisory departments. Moreover, as the lead unit of the regulatory body, the people's bank of China has no clear provisions of laws and regulations and lacks authority.

C. The derailment of separate supervision and mixed operation of Internet finance

Internet finance companies generally adopt a mixed business model, that is, they involve banking, securities, insurance, etc., and they cross each other and have no clear boundaries. Mixed operation can improve the efficiency of financial industry operation and the competitiveness of financial institutions. Therefore, although China clearly defines the financial industry, it still adopts an attitude of encouragement and encouragement for the mixed operation of Internet finance. However, China's supervision of the mixed operation of Internet financial enterprises usually uses joint promulgation of departmental regulations or normative documents. The efficiency, quality and level of such supervision methods are very limited, which will lead to the coexistence of financial supervision overlap and vacuum phenomenon [6]. For Internet finance companies, China also lacks overall supervision, but only according to the corresponding agency supervision of its main business. For its specific business, it implements separate supervision according to the nature of its business. Due to the differences in regulatory experience and regulatory approaches of various regulatory authorities, there may be a difference in the regulation of the same Internet financial enterprise. The inconsistency of supervision standards will not only lead to conflicts between the supervision subjects, but also increase the law-abiding cost of Internet financial enterprises. In addition, the mixed operation and separate supervision mode of Internet finance is very easy to cause a regulatory vacuum due to overlapping supervision and mutual buck-passing.

D. The fragmentation and lagging of the law

The law that succumbs to China's financial supervision is built on the model of separate supervision. Therefore, in addition to the traditional laws such as civil law, criminal law, contract law, commercial banking law, and the People's Bank of China Law, targeted Internet is available. The financial supervision laws are mainly composed of the regulations or normative documents formulated by the regulatory authorities for their respective regulatory fields. The basic law of the unified Internet finance supervision with higher ranks is still blank. Although the traditional law has a high legal level, the specific application in the field of Internet finance can only be invoked and cannot solve the problem substantively. The regulatory departments issued regulations or normative documents not only legal status is low, the lack of deterrence, and as a result of these departments will be from the perspective of the interests of the maintenance department to enact administrative rules or normative documents, therefore the multiple legislation is not only a waste of resources, and scattered the laws and regulations will be due to the regulatory enforcement experience and the different methods of law enforcement led to regulatory standards.

IV. RECONSTRUCTION OF THE NOTION OF INTERNET FINANCIAL SUPERVISION

Internet finance is a part of the financial system, and its supervision should not only apply the supervision methods of the financial industry, but also pay attention to the characteristics of "Internet +" in the supervision. Under the traditional prudential supervision principle, the separate supervision model only sees the characteristics of the financial industry of Internet finance, but ignores the mixed characteristics of its "Internet +", resulting in the mismatch between the current industry development needs and government regulation. As an emerging industry, Internet finance needs guidance healthy, and the mixed characteristics of "Internet +" should be fully considered in its supervision. Therefore, the notion of Internet finance supervision needs to

change from prudent supervision to modest regulation and from separate supervision to integrated supervision.

From the perspective of the development of Internet finance, its rapid development has benefited from deregulation. However, the prudential supervision concept of Internet finance is to regulate financial institutions with constraint mechanism, emphasizing "strong intervention" to restrain finance. Under the concept of prudent supervision, a large number of laws and regulations concerning Internet finance have been issued in recent years, but the regulatory results are not satisfactory. Internet finance has not been developed in China for more than ten years. Although there are some risks, we should give more tolerance and encouragement to this new industry, and avoid the vicious circle of "dead regulation, loose regulation is chaos". Therefore, the Internet finance should be shifted from prudential supervision to modest intervention. The modest intervention advocates that the market is superior to the government, and state intervention is embedded in the boundary demarcation of market failures in a restrained and humble way [7]. The supervision of the Internet finance industry should combine the rules and attributes of Internet finance, fully respect the market regulation mechanism, give play to the leading role of financial innovation in the development of market economy, clarify the power boundary of the regulatory department, and realize the coordinated development of innovation incentives and risk prevention.

Guided by the notion of moderation and intervention, the Internet finance industry has transitioned from separate supervision to integrated supervision. It should focus on the characteristics of Internet financial mixed operation and strengthen the top-level design of supervision. First, an authoritative Internet financial supervision department should be clarified in the form of legislation to be responsible for Internet financial supervision. Second, optimize the regulatory mechanism, formulate unified Internet financial regulatory standards, and reduce conflicts between regulatory entities. Third, accelerate the legislation of the Basic Law of Internet Finance and formulate a series of administrative regulations within the framework of the Basic Law. In addition, it is also necessary to pay attention to the coordination between laws, such as the connection with rules and regulations of departments related to Internet finance, so as to eventually form a complete regulatory system. At the same time, in terms of supervision methods, we can make more use of tax incentives, fiscal subsidies and other incentive supervision to guide the legitimate and compliant operation of Internet financial enterprises and reduce penalties, suspensions and other mandatory controls.

V. CONSTRUCTION OF INTEGRATED SUPERVISION SYSTEM OF INTERNET FINANCE

A. Establish an independent and authoritative Internet financial supervision institution

In the "one bank and two commissions" of the Internet financial supervision mechanism, the main function of the People's Bank of China is the coordination of financial supervision. The mixed operation of Internet finance needs to be unified and regulated as a whole, so it is necessary to establish an independent authority. Some scholars have proposed to re-establish a special Internet financial regulatory agency with independent staffing, and fully assume the supervisory function under the leadership of the State Council. This approach seems quite reasonable, but it costs a lot in actual assembly. Other scholars believe that the people's bank of China should be clearly defined as an Internet financial regulator, taking on responsibilities including information collection, risk prevention and treatment, as well as regulatory policy recommendations, which should be fed back to the "two commissions". This idea can take advantage of existing financial regulatory resources, but the regulatory effect may not be good. Analysis of the pros and cons of the above two models, combining the national conditions, can be improved on the central bank dominant model, in the people's bank of China to set up a regulatory decision-making executive power of the Internet financial supervisory commission. Its members include “one bank and two commissions” and the Ministry of Finance, the NDRC and other departments are chaired by the President of the People's Bank of China. The committee located in the people's bank of China can make full use of the information resources of the people's bank of China, but the committee must have its own independent establishment and staff, so as to ensure that its supervision is free from the interference of the people's bank of China and give full play to the independence of supervision.

B. Formulate the basic law of Internet financial regulation

China's existing financial legal system is built on the basis of industry-centered supervision mechanism. In view of the Internet financial mixed characteristics, it is necessary to formulate a basic law for Internet financial supervision; the law can be named "Internet financial supervision." The Law may generally include five aspects: general rules, Internet financial regulatory agencies, Internet financial regulatory measures, Internet financial institution exit systems, and legal responsibilities. First of all, the general provisions should contain the legislative basis, legislative goal and legislative purpose. The legislative purpose has the role of an outline, that is, “to maintain the security of Internet finance and promote the long-term development of Internet finance”. Secondly, in the part of Internet financial supervision institutions, it should be made clear that the Internet financial supervision committee is the supervision institution and its supervision responsibilities should be listed, so that the Internet financial supervision institutions have legal authority. Thirdly, in the part of Internet financial supervision measures, it is necessary to unify Internet financial supervision standards, such as market access examination standards, information collection measures, risk prevention and disposal measures. Repeatedly, in the exit system of Internet financial institutions, the traditional form of forced withdrawal of government is broken, and a multi-entry mechanism based on market-based exits such as bankruptcy, mergers, and restructuring is constructed. Finally, in the legal responsibility section, the government, the Internet Finance Regulatory Commission and its members are responsible for the illegal responsibility. The illegal responsibility of Internet financial institutions shall be taken by the institutions and the main person in charge together, and the legal responsibility of individuals violating the law on Internet financial supervision

shall be taken by individuals.

C. Strengthening the coordination of Internet financial supervision

The characteristics of mixed operation of Internet finance determine that it involves a lot of economic activities; especially the GSP financial policy advocated by China now has important guidance for the development of Internet finance. Therefore, the supervision of Internet finance should not only focus on its own financial risks, but also pay close attention to national economic policies. Relying only on one law and one department cannot effectively realize the healthy development of Internet financial market and achieve the predetermined financial goal of GSP. To this end, Internet financial supervision needs to strengthen supervision and coordination, led by the Financial Supervisory Committee, and may invite the People's Bank of China, the Banking Regulatory Commission, the China Securities Regulatory Commission, the Ministry of Finance, the National Development and Reform Commission and other departments to make decision-making and supervision together, especially the Internet financial regulatory policy must Coordinate with the policies of the Development and Reform Commission, an important macro-control department.

VI. CONCLUSION

China's Internet finance continues to innovate, promote the development of the domestic financial industry, and bring more and more affordable financial services to the public. At the same time, Internet finance has also brought financial risks, and the accumulation of financial risks often causes huge losses to investors and society. At present, how to prevent financial risks? From the public to the regulatory authorities, it is proposed to strengthen supervision. According to the traditional "strong supervision" of the financial industry's separate supervision, it cannot achieve the expected effect of preventing Internet financial risks.

As an emerging industry, the mode of separate supervision has been unable to meet the development needs of Internet finance. In this regard, the characteristics of mixed operation of Internet finance should be fully considered, and government regulation should be changed from government-centered "strong regulation" to "modest regulation" on the premise of respecting the market mechanism.

We will build a regulatory framework with the Internet Finance Regulatory Law as the basic law and the Internet financial supervision commission as the independent regulatory body. The Internet finance supervision committee should not only pay attention to the risk prevention of Internet finance, but also pay close attention to the national economic policies to achieve the integrated supervision of Internet finance.

In addition, the state needs to step up the construction of a complete legal system for Internet financial supervision, and formulate laws and regulations that are compatible with the Internet Finance Supervision Law to achieve financial innovation under the premise of ensuring financial security.

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