

**Order No. 5 [2020] of the People's Bank of China
(Implementation Measures of the People's Bank of China for
Financial Consumer Protection)**

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The *Implementation Measures of the People's Bank of China for Financial Consumer Protection* was deliberated and adopted at the sixth executive meeting of the People's Bank of China (PBC) in 2020 on September 1, 2020. The *Measures* is hereby promulgated and shall come into effect on November 1, 2020.

PBC Governor Yi Gang
September 15, 2020

**Implementation Measures of the People's Bank of China for
Financial Consumer Protection**

Chapter I General Provisions

Article 1 In order to protect the legitimate rights and interests of financial consumers, regulate the conducts of financial institutions in providing financial products and services, safeguard the fair and equitable market environment and promote the sound and steady operation of the financial market, the *Measures* is hereby formulated in accordance with the *Law of the People's Republic of China on the People's Bank of China*, the *Law of the People's Republic of China on Commercial Banks*, the *Law of the People's Republic of China on Protection of the Rights and Interests of Consumers*, the *Guiding Opinions of the General Office of the State Council on Strengthening Financial Consumer Protection* (Guobanfa No. 81 [2015]), etc.

Article 2 The work of financial consumer protection related to the following businesses, which is carried out by banking financial institutions (hereinafter referred to as banks) that are legally established within the territory of the People's Republic of China (hereinafter referred to as PRC) and provide financial products or services for financial

consumers, shall be subject to the provisions in the *Measures*:

- (1) businesses related to interest rate management;
- (2) businesses related to RMB management;
- (3) businesses related to foreign exchange management;
- (4) businesses related to gold market management;
- (5) businesses related to State Treasury management;
- (6) businesses related to payment and clearing management;
- (7) businesses related to anti-money laundering management;
- (8) businesses related to credit information management.
- (9) financial marketing and protection of consumer's financial information, which are related to the businesses specified in items 1 to 8; and
- (10) financial consumer protection within the mandate of the People's Bank of China (hereinafter referred to as PBC) as stipulated in other laws and administrative regulations.

Non-banking payment institutions (hereinafter referred to as payment institutions) that are legally established within the territory of the PRC and provide payment services shall be subject to the provisions in the *Measures*.

The term "financial consumers" mentioned in the *Measures* refers to natural persons who purchase or use financial products or services provided by banks and payment institutions.

Article 3 In providing financial products or services for financial consumers, banks and payment institutions shall follow the principles of voluntariness, equality, fairness and integrity, conscientiously assume primary responsibilities for protecting the legitimate rights and interests of financial consumers, and fulfill statutory obligations concerning financial consumer protection.

Article 4 Financial consumers shall behave in a civilized and rational way in financial consumption, raise the awareness of self-protection, uphold integrity and safeguard their legitimate rights and interests according to the law.

Article 5 The PBC, its branches and sub-branches (hereinafter referred to as the PBC and its branches) shall stick to the principles of fairness and justice, carry out the work of financial consumer protection within their mandates according to the law, and protect the legitimate rights and interests of financial consumers according to the law.

The PBC and its branches shall work together with relevant departments to promote the establishment and improvement of the joint governance system for financial consumer protection, which combines self-governance of financial institutions, self-discipline of industries, financial regulation and public oversight.

Article 6 Financial consumers as well as banks and payment institutions shall be encouraged to solve financial consumer disputes through means like mediation and arbitration.

Chapter II Codes of Conduct of Financial Institutions

Article 7 Banks and payment institutions shall incorporate financial consumer protection into corporate governance, the building of corporate culture and business development strategies, and develop overall plans and specific measures for their own work of financial consumer protection. They shall set up a full-time department dedicated to financial consumer protection or designate a leading department, define the responsibilities of the department and its personnel, and ensure that the department can work independently with sufficient human resources and materials and will report its work to senior management and the board of directors on a regular basis.

Article 8 Banks and payment institutions shall fulfill requirements with regard to the financial consumer protection in laws, regulations and relevant regulatory rules, and establish and improve internal control systems for financial consumer protection:

- (1) the assessment and appraisal system for financial consumer protection;
- (2) the financial consumer risk rating and evaluation system;

- (3) the system of protecting consumer's financial information;
- (4) the information disclosure and search system for financial products and services;
- (5) the financial marketing management system;
- (6) the financial knowledge popularization and financial consumer education system;
- (7) the system of handling financial consumer complaints;
- (8) the internal supervision and accountability system for financial consumer protection;
- (9) the major emergency response system for financial consumer protection; and
- (10) other systems for financial consumer protection which shall be developed as explicitly stipulated by the PBC.

Article 9 Banks and payment institutions shall establish and improve management mechanisms that cover the whole process of financial consumer protection, and ensure that the regulations and requirements concerning financial consumer protection can be effectively implemented in each link of their business, such as design and development, marketing and promotion as well as after-sales management of financial products or services. The whole-process management mechanisms include but are not limited to:

- (1) the mechanism of ex-ante review. Banks and payment institutions shall make ex-ante reviews for financial consumer protection, identify and rectify problems with the financial products or services in time which may damage the legitimate rights and interests of financial consumers, and effectively put into practice the review comments on financial consumer protection;
- (2) the mechanism of interim control. Banks and payment institutions shall follow the basic procedures and standards in the marketing of financial products or services, and enhance monitoring and management of marketing behaviors; and
- (3) the mechanism of ex-post supervision. Banks and payment institutions shall assume the responsibility of management after sales of financial products and services, and make timely adjustment to problematic or potentially problematic financial products and service rules.

Article 10 Banks and payment institutions shall train personnel responsible for financial consumer protection, and enhance their awareness and capacity for financial consumer protection.

Banks and payment institutions shall provide staff training on financial consumer protection at least once a year, and the trainees shall cover both senior and middle management, grass-roots staff and new employees. The frequency of training shall be increased as appropriate for business roles which are prone to financial consumer complaints or high risks.

Article 11 Banks and payment institutions shall make financial consumer protection an important part of assessment and appraisal, reasonably allocate the proportions and weights of relevant indicators, and take into consideration business compliance, customer satisfaction, timeliness and acceptability rates of complaint handling and other factors. They shall not simply take the number of complaints as the sole criterion for assessment.

Article 12 Banks and payment institutions shall evaluate the suitability of financial products or services based on their characteristics for financial consumers, reasonably rate the risk levels of financial products and services and the risk tolerance levels of financial consumers, and provide suitable financial products or services for the right financial consumers.

Article 13 Banks and payment institutions shall guarantee the property safety of financial consumers in their purchase and use of financial products and services, and shall not misappropriate or illegally occupy the funds or other financial assets of financial consumers.

Article 14 Banks and payment institutions shall respect social ethics and the human dignity and ethnic customs of financial consumers, and shall not discriminate against financial consumers because of their gender, age, race, ethnic group or nationality, or use statements which are discriminatory or against public order and good customs.

Article 15 Banks and payment institutions shall respect the true intentions of financial consumers in purchasing financial products or services, and shall not handle businesses on behalf of financial consumers

without authorization, modify business instructions of financial consumers without permission, or coercively force the tie-in sale of other products or services.

Article 16 Banks and payment institutions shall timely, authentically, accurately and comprehensively disclose the following important details to financial consumers based on the characteristics of a financial product or service:

- (1) the rights and obligations of financial consumers with regard to the financial product or service, the means of making, altering, suspending and terminating a contract and limitations in this regard;
- (2) the rights, obligations and legal liabilities of banks and payment institutions with regard to the financial product or service;
- (3) the annualized rate of loan products;
- (4) the fees and contractual penalty which shall be borne by financial consumers, including the means of determining amounts, and time and means of trading;
- (5) the handling of disputes arising from the financial product or service and channels for lodging complaints;
- (6) numbers and names of mandatory standards, recommended standards, group standards or enterprise standards implemented by banks and payment institutions for the financial product or service;
- (7) the full Chinese name of the operating entity, which actually assumes the contractual obligations, in the financial product instructions or service agreement; and
- (8) other information which may affect the decision-making of financial consumers.

Article 17 In disclosing the information on financial products and services, banks and payment institutions shall use means which help financial consumers receive and understand such information. For information on interest rates, fees, profits and risks, and other important information which concerns the vital interests of financial consumers, banks and payment institutions shall explain and illustrate the key technical terms based on the complexity and risk exposure of financial products or services, and confirm with financial consumers that they have received complete information in a proper way.

Article 18 In explaining important details and disclosing risks to financial consumers, banks and payment institutions shall keep relevant documents according to laws, regulations and regulatory rules for no less than three years from the date when business relationships terminate. Where it is otherwise provided for by any law or administrative regulation, such provisions shall prevail.

Documents which shall be kept include but are not limited to:

- (1) the financial product instructions or service agreements which have been confirmed by financial consumers;
- (2) the risk disclosure statements which have been confirmed by financial consumers; and
- (3) audio and video documents, system logs or other relevant data messages which record the explanation of important details to financial consumers.

Article 19 Banks and payment institutions shall not use technical means or advantages to force, whether explicitly or in a disguised form, financial consumers to accept any financial product or service, or exclude or restrict financial consumers from accepting financial products or services offered by peer institutions.

Article 20 In the process of offering financial products or services, banks and payment institutions shall not require financial consumers to purchase or use any product or service not explicitly specified in agreements by way of additional restrictive conditions.

Article 21 Where banks and payment institutions use standard terms in providing financial products or services for financial consumers, they shall display the terms in a readily noticeable manner, such as in fonts, sizes, colors, symbols and identifications which can draw the attention of financial consumers, so as to request financial consumers to give heed to the quantity of financial products or services, interest rates, fees, duration and means of performance, precautions, risk warnings, dispute settlement and other contents which concern their vital interests. They shall also offer explanations at the request of financial consumers. Where the standard terms are displayed in electronic form, they shall be identifiable

and readily available.

Banks and payment institutions shall not establish provisions containing the following contents in the form of standard terms like circulars, statements or notices:

- (1) reducing or exempting banks and payment institutions from the liability of compensation for financial consumers' property losses;
- (2) stipulating that financial consumers bear contractual penalty or damages which exceed the statutory limit;
- (3) excluding or restricting financial consumers from exercising their rights of searching for, deleting or modifying their financial information according to the law;
- (4) excluding or restricting financial consumers from exercising their rights of choosing financial products or services offered by peer institutions; or
- (5) other provisions which are unfair or unreasonable to financial consumers.

Banks and payment institutions shall timely amend or remove standard terms or texts of service agreements which may potentially undermine the legitimate rights and interests of financial consumers.

Article 22 Banks and payment institutions shall be responsible for the authenticity of the contents in marketing. The obligations actually assumed by banks and payment institutions shall be no lower than the standards promised to financial consumers in the form of advertisements, materials or explanations in marketing activities.

“Advertisements, materials or explanations” in the preceding paragraph refer to the direct or indirect publicity, promotion, etc. of financial products or services of banks and payment institutions by using various communication media and publicity tools or means for the purposes of marketing.

Article 23 Banks and payment institutions shall not engage in any of the following conducts when carrying out marketing activities:

- (1) making false, fraudulent or misleading advertising, or concealing any information in advertising;
- (2) citing any false or inaccurate data or materials, concealing restrictions, or exaggerating past performance or product returns;
- (3) making use of financial regulators' verification or filing procedures for financial products or services to mislead financial consumers to believe that financial regulators have provided guarantees for the financial products or services;
- (4) explicitly or implicitly indicating that financial products or services are principal-protected or risk-free or that their returns are guaranteed, or making a commitment to guarantee the future results, returns or relevant conditions of non- principal-protected investment financial products; or
- (5) other conducts which constitute a violation of laws, regulations and regulatory rules concerning financial consumer protection.

Article 24 Banks and payment institutions shall assume primary responsibilities in financial knowledge promotion and financial consumer education, raise financial consumers' awareness of financial products and services, and strengthen financial consumers' financial literacy and sense of integrity.

Banks and payment institutions shall make annual working plans for financial knowledge promotion and financial consumer education, carry out routine activities of financial knowledge promotion and financial consumer education suited to their own conditions, and actively participate in financial knowledge promotion activities organized by the PBC and its branches. Banks and payment institutions shall not replace financial knowledge promotion and financial consumer education with the marketing of their financial products or services.

Article 25 Banks and payment institutions shall pay attention to the diversity of and differences in financial consumers' demands, and actively support key target groups of inclusive finance to obtain necessary and timely basic financial products and services.

Article 26 In the case of any major violation of financial consumers' legitimate rights and interests, banks and payment institutions shall timely report to the PBC or its branches according to relevant regulations

concerning the reporting of major issues.

Article 27 Banks and payment institutions shall cooperate with the PBC and its branches on carrying out relevant work in the field of financial consumer protection, and submit relevant documents as required.

Chapter III Consumer Financial Information Protection

Article 28 The term “consumer financial information” mentioned in the *Measures* refers to consumer information handled by banks and payment institutions through business activities or other legitimate channels, including personal identity information, property information, account information, credit information, financial trading information, and other information related to specific financial consumers’ purchase and use of financial products or services.

The handling of consumer financial information includes the collection, storage, use, processing, transmission, provision and disclosure of consumer financial information.

Article 29 When handling consumer financial information, banks and payment institutions shall follow the principles of legitimacy, justifiability and necessity, and obtain the explicit consent of financial consumers or their guardians, unless otherwise provided for by any law or administrative regulation. Banks and payment institutions shall not collect consumer financial information which are unrelated to their businesses, or collect consumer financial information in any inappropriate way. They shall not force, whether explicitly or covertly, the collection of consumer financial information. Banks and payment institutions shall not refuse to provide financial products or services based on the ground that financial consumers do not agree on the handling of their financial information, except where the handling of their financial information is necessary to the provision of financial products or services.

Where financial consumers cannot or refuse to provide necessary information and thus make banks and payment institutions unable to fulfill their anti-money laundering obligations, banks and payment institutions may take restrictive measures against the financial activities

of the financial consumers in accordance with relevant provisions in the *Law of the People's Republic of China on Anti-money Laundering*; where truly necessary, banks and payment institutions may refuse to provide financial products or services according to law.

Article 30 Where banks and payment institutions collect consumer financial information for the purposes of marketing, user experience enhancement or market research, they shall appropriately enable financial consumers to independently choose over whether to allow banks and payment institutions to use their financial information for the above-mentioned purposes; where financial consumers do not agree on the use of their financial information, banks and payment institutions shall not refuse to provide financial products or services on this account. Where banks and payment institutions send financial marketing information to financial consumers, they shall provide financial consumers with means to refuse to continue receiving such information.

Article 31 Banks and payment institutions shall fulfill the obligations explicitly stipulated in Article 29 of the *Law of the People's Republic of China on the Protection of Consumer Rights and Interests*, make public the rules on collecting and using consumer financial information, explicitly specify the purposes, means and scope for collecting and using consumer financial information, and keep relevant supporting documents.

Where banks and payment institutions obtain the consent to the collection and use of consumer financial information through standard terms, they shall explicitly state the purposes and means of collecting consumer financial information as well as the content and scope of use in these terms, and use language as plain as possible to remind financial consumers of the possible consequences of their consent in agreements in a readily noticeable manner.

Article 32 Banks and payment institutions shall use consumer financial information in accordance with the provisions in laws and regulations and as agreed upon by both parties, and shall not use them beyond the given scope.

Article 33 Banks and payment institutions shall establish a consumer

financial information usage management system which is centered on hierarchical authorization, act based on the importance and sensitivity of consumer financial information and the demands of business development, reasonably determine the scope of information which can be accessed by their personnel and the authority of the personnel and strictly implement the approval procedures for authorizing information usage, without affecting their fulfillment of statutory obligations such as anti-money laundering.

Article 34 Banks and payment institutions shall follow national regulations on archive management and electronic data management, take technical and other necessary measures to properly keep and store collected consumer financial information, and prevent the loss, damage, leakage or falsification of the information.

Banks and payment institutions and their staff shall keep consumer financial information strictly confidential, and shall not leak the information or illegally provide the information to others. Upon affirmation of the leakage, damage or loss of information, banks and payment institutions shall take remedial measures immediately; where the leakage, damage or loss of information may jeopardize the personal or property safety of financial consumers, they shall immediately report to the PBC branches where they are domiciled and timely inform financial consumers of the situation; where the leakage, damage or loss of information may cause other adverse effects on financial consumers, they shall timely inform financial consumers, and report to the PBC branches where they are domiciled within 72 hours. Upon receiving such reports, the PBC branches shall address the situation as appropriate in accordance with the provisions in Article 55 of the *Measures*.

Chapter IV Consumer Financial Dispute Resolution

Article 35 Financial consumers who have disputes with banks and payment institutions over financial service consumption shall be encouraged to first lodge complaints with banks and payment institutions. The parties involved are encouraged to settle disputes through equal negotiations and reconcile of their own accord.

Financial consumers shall lodge objective and rational requests and complaints according to law through proper channels, and shall not disrupt the normal financial and social order.

The term “consumer financial dispute” mentioned in the *Measures* refers to civil disputes between financial consumers and banks or payment institutions, which arise from the purchase and use of financial products or services.

Article 36 Banks and payment institutions shall assume responsibilities in handling financial consumer complaints. The incorporated entities of banks and payment institutions shall release data of financial consumer complaints and relevant analysis reports to the public annually.

Article 37 Banks and payment institutions shall make public their means of accepting financial consumer complaints through channels easily accessible to financial customers, including but not limited to noticeable displays in their premises, homepages of official websites and mobile applications, as well as voice prompts on the main menu of customer service calls.

Article 38 Banks and payment institutions shall act in accordance with the requirements of the PBC, strengthen the building and management of the financial consumer complaint handling information system, classify complaints correctly and submit relevant information on time, and shall not delay the submissions, underreport, misreport, falsify, or conceal the data of complaints.

Article 39 Banks and payment institutions shall, upon receiving financial consumer complaints, handle the complaints in accordance with laws, regulations, and as agreed in the contracts, and inform the party who lodges the complaint of the handling results, except where the party who lodges the complaint cannot be informed for their own reasons.

Article 40 The PBC branches shall set up channels for complaint transfer. Financial consumers who refuse to accept the complaint handling results of a bank or payment institution may file complaints to the PBC branches where the bank or payment institution is domiciled, where the contract is

signed, or where the business operation takes place.

Financial consumers who purchase and use financial products or services via e-commerce and online transactions may file complaints to the PBC branches where the bank or the payment institution is domiciled.

Article 41 Financial consumers who file complaints to the PBC branches shall provide the following information: name, information on valid identity documents, contact information, specific target of complaint and its domicile, and detailed complaints, facts and reasons.

Financial consumers can file complaints in person, or entrust others to file complaints on behalf of them. In the case of entrusted complaints in the form of letters of complaint or complaint visits, the trustee shall submit complaint materials in accordance with the provisions of the preceding paragraph, the original copy of the letter of authorization, as well as the identity documents of the trustor and the trustee to the PBC branches. The letter of authorization shall specify the trustee, the entrusted matters and the scope and duration of entrustment, and shall be signed by the trustor.

Article 42 Under any of the following circumstances, the PBC branches shall not accept the complaints:

- (1) the institution, product, or service in the complaint is not subject to the supervision of the PBC;
- (2) the complainant does not provide his/her true identity, or there is no clear respondent, or there are no specific complaints or facts;
- (3) the complainant is not the financial consumer himself/herself, nor is he/she entrusted by the financial consumer;
- (4) the complaint has been received, accepted or processed by the people's courts, arbitration institutions, other financial regulators, administrative departments, or legitimately established mediation organizations;
- (5) the two parties have reached a settlement agreement, which has been implemented, and there is no new circumstances or reasons;
- (6) the target of complaint has offered a fair and reasonable solution, while the complainant files complaints to the PBC branches again regarding the same issue; or

(7) other circumstances that do not conform to relevant laws, administrative regulations and rules.

Article 43 The PBC branches shall handle financial consumer complaints as follows within seven working days since the date of receiving the complaints:

(1) registering the information of the complainant and the target of complaint, as well as the details such as the specific complaint, facts and reasons.;

(2) deciding whether to accept the complaint, and if not, shall inform the complainant; and

(3) if the complaint is to be accepted, the PBC branches shall refer the complaint to the target institution of the complaint or organizations for financial consumer dispute resolution that provide mediation services.

If the complainant is requested to make additions and corrections to the complaint, the processing time shall be calculated from the date when the complainant completes the additions and corrections.

Banks and payment institutions shall reply to the complainant within 15 days since the date of receiving the complaint referred by the PBC branches. Where the situations are complicated, the institution, upon the approval of the person in charge of complaint handling work in the institution, may extend the processing time, and shall inform the complainant of the reasons for the extension, but the maximum processing time shall not exceed 60 days.

Article 44 Banks and payment institutions shall give the PBC branches feedback on the handling results after receiving the complaints referred by the PBC branches.

The content of the feedback includes information such as basics of complaints, focus of disputes, investigation results and evidences, rationale for handling the complaints, communications with financial consumers, the extension of complaint handling and the complainants' satisfaction.

Banks and payment institutions shall properly keep the complaint

documents for no less than three years after the date of settlement. Where it is otherwise provided for by any law or administrative regulation, such provisions shall prevail.

Article 45 Banks, payment institutions and financial consumers may apply to mediation organizations for mediation and neutral evaluation. The mediation organizations, upon accepting an application for mediation and neutral evaluation, will ask the parties involved to assist or provide relevant documents within a reasonable and necessary scope.

The term “neutral evaluation” mentioned in the *Measures* refers to the process in which mediation organizations engage independent experts to offer suggestions for dispute resolution as reference.

Article 46 Organizations for financial consumer dispute resolution shall organize the mediation of financial consumer disputes and conduct neutral evaluation according to the laws, administrative regulations, rules, and their articles of association, and popularize financial knowledge, promote education, public communication and guidance to banks, payment institutions and financial consumers.

Article 47 The PBC shall comprehensively study major issues of financial consumer protection, take the responsibility of drafting development plans and business standards, and establish and improve the basic system for financial consumer protection.

Article 48 The PBC and its branches shall work with other financial regulators and relevant departments of local governments to establish and improve the coordination mechanism for financial consumer protection, enhance the cross-market, cross-business and cross-regional regulation of financial consumer protection, and enhance information sharing and interdepartmental communication and cooperation.

Article 49 The PBC and its branches shall coordinate financial consumer education, guide, supervise and push forward with banks and payment institutions’ activities for the promotion of financial knowledge, coordinate and advance the integration of financial knowledge into the national education system, and conduct surveys on consumer financial

literacy.

Article 50 The PBC and its branches shall work with relevant departments to establish the cooperative mechanism for regulation and law enforcement, and explore collaborative supervision, inspection, evaluation and other specific work for financial consumer protection.

Article 51 The PBC and its branches shall take the lead to establish the third-party alternative dispute resolution (ADR) mechanism, encourage and support social organizations for financial consumer protection to fulfill their duties according to laws, and promote the building of a diversified financial consumer dispute resolution system that is fair, efficient and convenient.

Article 52 The PBC and its branches shall coordinate and advance the work on inclusive finance, establish and improve the working mechanism for inclusive finance, guide, supervise and push forward with banks and payment institutions' implementation of the development strategy of inclusive finance, and carry out specific work on inclusive finance within the scope of its duties.

Article 53 The PBC and its branches shall summarize and analyze information on financial consumer complaints, and improve the supervision and management of financial consumer protection as well as the codes of conduct of financial institutions in due time based on the summary and analysis results.

Article 54 The PBC and its branches may, according to laws, take the following measures within the scope of their mandates to carry out supervision and inspection of banks and payment institutions in terms of their work of financial consumer protection:

- (1) conducting on-site inspection of the said institutions;
- (2) asking the personnel of the said institutions, and require them to give explanations on issues related to the inspection;
- (3) reviewing and copy the institutions' documents and materials related to the inspection, and register and conserve the documents and materials that might be transferred, concealed or destroyed; and

(4) checking the computer networks and information system of the said institutions.

There shall be at least two inspectors for on-site inspection, and the inspectors shall present legitimate certificates and inspection notices.

Banks and payment institutions shall actively cooperate with the PBC and its branches on their on-site and off-site inspections, and provide truthful materials. They shall not reject, obstruct or evade inspections, or misreport, conceal or destroy relevant evidence and materials.

Article 55 The PBC and its branches may take the following measures against banks and payment institutions if they infringe the legitimate rights and interests of financial consumers:

- (1) requiring the institution to submit written explanations or commitments;
- (2) summoning personnel of the institution for talks;
- (3) setting a deadline for the institution to complete rectification;
- (4) reporting relevant information to higher-level authorities and industrial regulators, within the sector or to the public, as appropriate;
- (5) suggesting that banks and payment institutions impose punishments on the directors, senior executives and other persons who are directly liable;
- (6) investigating and punish the institution according to laws, or advise other administrative departments to investigate and punish the institution according to laws; or
- (7) taking other measures within the mandates of the PBC according to laws.

Article 56 The PBC and its branches shall organize the assessment on how banks and payment institutions fulfill the obligations concerning financial consumer protection.

The assessment shall be based on the self-evaluation of banks and payment institutions. Banks and payment institutions shall carry out self-evaluation annually, and submit their self-evaluation reports to the PBC or its branches before January 31 of the following year.

The PBC and its branches shall conduct off-site evaluation according to routine supervision and management, complaint management, as well as the self-evaluation of banks and payment institutions, and may conduct on-site evaluation when necessary.

Article 57 The PBC and its branches may carry out environmental assessments for financial consumer protection in light of the actual conditions.

Article 58 The PBC and its branches shall establish a case database for financial consumer protection, and release risk warnings to banks, payment institutions and financial consumers based on the principle of “putting prevention and education first”.

Article 59 The PBC and its branches shall effectively carry out emergency responses according to relevant regulations when dealing with major emergencies involving financial consumer protection.

Chapter VI Legal Liability

Article 60 Under any of the following circumstances, where banks and payment institutions violate consumers’ rights of financial information protection, the PBC or its branches shall impose punishments in accordance with the provisions of Article 56 of the *Law of the People’s Republic of China on the Protection of Consumer Rights and Interests* within the mandate of the PBC:

- (1) collecting and using financial information without the explicit consent of financial consumers;
- (2) collecting consumer financial information unrelated to their businesses, or collecting consumer financial information by any improper means;
- (3) failing to disclose the rules for collecting and using consumer financial information, and failing to specify the purposes, means and scope for collecting and using consumer financial information;
- (4) using consumer financial information beyond the provisions of laws and regulations or for purposes other than those agreed upon by both

parties;

(5) failing to establish a management system on consumer financial information usage with the focus on hierarchical authorization, or failing to strictly follow the approval procedures for authorizing information usage;

(6) failing to take technical means and other necessary measures, thus causing the loss, damage, leakage or falsification of consumer financial information, or illegally providing consumer financial information for others.

Article 61 Under any of the following circumstances, where banks and payment institutions falsely or misleadingly advertise their financial products or services, the PBC and its branches shall impose punishments in accordance with the provisions of Article 56 of the *Law of the People's Republic of China on the Protection of Consumer Rights and Interests* within the scope of their mandate:

(1) the obligations actually assumed by banks and payment institutions are less than the commitments they pledge to financial consumers in the form of advertisements, materials or explanations in marketing activities;

(2) citing any false or inaccurate data and materials or conceal restrictions, and exaggerating previous performance or product returns;

(3) making use of financial regulators' verification or filing procedures for financial products or services that financial consumers are misled to believe that financial regulators have provided guarantees for the financial products or services;

(4) explicitly or implicitly indicating that financial products or services are principal-protected or risk-free or that their returns are guaranteed, and making a commitment to guarantee the future results, returns or related conditions of financial products of the non-principal-protected investment type.

Article 62 Where a bank or a payment institution violates the provisions in the *Measures* and falls under any of the following circumstances, it shall be punished in accordance with the provisions of penalties, if there are any, in the relevant laws and administrative regulations; where there are no provisions of penalties in the relevant laws and administrative regulations, the PBC or its branches shall issue to the bank or payment

institution, as a separate or concurrent punishment, a warning with a fine between RMB5,000 and RMB30,000 based on actual circumstances:

- (1) it neither establishes a department dedicated to financial consumer protection nor designates a lead department for financial consumer protection, or its department of financial consumer protection does not have enough human or material resources to work independently;
- (2) without the consent of financial consumers, it conducts businesses as their agent, revises their business instructions, or makes tie-in sales of products or services;
- (3) it fails to disclose to financial consumers, as required, important information related to financial products and services;
- (4) by making use of technical means or its advantageous position, it forces financial consumers, whether explicitly or in disguised forms, to accept financial products or services, or excludes/inhibits them from accepting financial products or services offered by peer institutions;
- (5) by imposing additional binding conditions, it requires financial consumers to buy or use products or services not specified in the agreements;
- (6) it fails to apply the standard terms of agreement as required;
- (7) it fails to file timely reports to the PBC or its branches on major infringements of the legitimate rights and interests of financial consumers;
- (8) it fails to cooperate with the PBC or its branches in carrying out financial consumer protection, or to make submissions as prescribed in the regulations;
- (9) it fails to classify financial consumer complaints as required, or there are late, left-out, falsified, erred, and concealed reports on the data of complaints;
- (10) it fails to reply to the complainant within the specified period of time after receiving the complaint forwarded from PBC branches, or fails to give feedback, as required, to PBC branches on complaint handling;
- (11) it rejects, hinders or evades inspections, or falsifies, conceals or destroys evidence.

Article 63 People who are held directly responsible for major cases of banks' or payment institutions' infringements of financial consumer rights and interests, including directors, senior executives and other persons,

shall be punished in accordance with the provisions of penalties, if there are any, in the relevant laws and administrative regulations; where there are no provisions of penalties in the relevant laws and administrative regulations, the PBC or its branches shall issue to the bank or payment institution, as a separate or concurrent punishment, a warning with a fine between RMB5,000 and RMB30,000 based on actual circumstances.

Article 64 Where the personnel of the PBC and its branches carry out financial consumer protection and fall under any of the following circumstances, they shall be punished according to the law; where they are suspected of having committed crimes, they shall be transferred to the judicial authority and held criminally responsible:

- (1) conducting inspections of banks or payment institutions in violation of regulations;
- (2) leaking State secrets or commercial secrets;
- (3) committing acts such as abuse of power and neglect of duty.

Chapter VII Supplementary Provisions

Article 65 The *Measures* is applicable to wealth management subsidiaries of commercial banks, financial asset management companies, trust companies, auto finance companies, consumer finance companies, credit reporting institutions, and institutions conducting the franchise businesses of domestic and foreign currency exchange for individuals. Where it is otherwise provided for in laws or administrative regulations, such provisions shall prevail.

Article 66 Unless specified as “working days”, “days” in the *Measures* refers to calendar days.

Article 67 The *Measures* is subject to the interpretation of the PBC.

Article 68 The *Measures* shall come into force from November 1, 2020. The *Administrative Measures of the People’s Bank of China for financial consumer protection and Interests (Trial)* (Yinbanfa No.107 [2013]) and the *Implementation Measures of the People’s Bank of China for Financial Consumer Protection* (Yinfa No.314 [2016]) shall be repealed

simultaneously.