

## 电信与互联网法律热点问题

### 中国银保监会发布《银行业金融机构数据治理指引》

中国银行保险监督管理委员会（以下简称“银保监会”）于2018年5月21日发布了《银行业金融机构数据治理指引》（以下简称“《指引》”），旨在进一步规范、引导银行业金融机构的数据治理、数据质量控制和发挥数据价值。《银行监管统计数据质量管理良好标准（试行）》（银监发〔2011〕63号）于同日废止。《指引》的重点要求如下。

#### 一、适用范围

《指引》适用于境内设立各类银行业金融机构，包括商业银行、农村信用合作社等吸收公众存款的金融机构、政策性银行、国家开发银行、外国银行境内分行以及银行业监督管理机构负责监管的其他金融机构。

《指引》所规范的“数据治理”是指“银行业金融机构通过建立组织架构，明确董事会、监事会、高级管理层及内设部门等职责要求，制定和实施系统化的制度、流程和方法，确保数据统一管理、高效运行，并在经营管理中充分发挥价值的动态过程”，涵盖银行业金融机构数据治理相关的职责分工、制度建设、质量控制、数据价值挖掘、监督管理等各个方面。

#### 二、明确数据治理架构

《指引》要求将数据治理纳入公司治理范畴，建立多层次、相互衔接的运行机制，并鼓励建立数据文化。董事会负责制定数据战略、审批与数据治理相关的重大事项，承担最终责任；高级管理层负责建立、执行数据治理体系、问责和激励机制、质量控制机制等，并定期向董事会报告；监事会负责对董事会及高管数据治理工作的尽职情况进行监督评价；确立并授权归口管理部门负责牵头实施、协调落实及监督；根据实际情况设立首席数据官。

#### 三、建立数据管理体系

《指引》要求建立全面有效的数据管理制度，包括：（1）制定与监管数据相关的监管统计管理制度和业务制度，报银行业监督管理机构备案；（2）建立覆盖全部数据的标准化规范；（3）建立适应监管数据报送工作需要的信息系统；（4）加强数据采集的统一管理，明确系统间数据交换流程和标准；（5）建立数据安全策略与标准，保护个人信息及隐私；（6）加强数据资料的统一管理，保证数据的可比性；（7）制定数据应急预案；（8）建立数据治理自我评估机制；（9）建立问责、排查机制等。

#### 四、建立数据质量控制机制

银行业金融机构应当建立控制机制,确保数据的真实性、准确性、连续性、完整性和及时性,包括:(1)加强数据源头管理;(2)建立覆盖数据全生命周期的数据质量监控体系;(3)建立每年至少一次的数据质量现场检查制度;(4)建立数据质量考核评价体系;(5)建立数据质量整改机制;(6)保证同一监管指标在监管报送与对外披露之间的一致性;(7)建立监管数据质量管控制度等。

#### 五、充分实现数据价值

《指引》要求银行业金融机构充分发挥数据价值,从风险管理、业务经营与内部管控等多个方面加强数据应用。具体而言,银行业金融机构应当加强数据应用,以持续改善风险管理方法;提高数据加总能力;提高风险报告质量;优化风险定价体系;准确理解客户需求,提供精准产品服务;提高经营

效率,降低经营成本;实现业务创新;提升内部控制的有效性。《指引》还要求,银行业金融机构在进行兼并收购、资产剥离等业务时,应当充分评估对自身数据治理能力的影 响,在推广新的服务或产品时,应当将数据管理相关要求纳入评估标准。

#### 六、简评

《指引》要求银行业金融机构强化数据治理的同时,加强对数据质量的控制,并进一步实现数据的效用和价值。银行业金融机构需按照《指引》、并统筹考虑《网络安全法》及其配套法规和国家标准要求更新内部数据合规制度及治理体系。相对其他行业,银行业金融机构所收集和处理的数 据更加敏感、也面临更严格的监管要求。《指引》的出台对银行业金融机构的数据保护提出了更高的要求、也对其他行业具有一定的参考意义。

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## Telecommunication Law

### *Guidelines on Data Governance of Banking Financial Institutions Promulgated by the CBIRC*

The China Banking and Insurance Regulatory Commission (“**CBIRC**”) adopted the *Guidelines on Data Governance of Banking Financial Institutions* (“**Guidelines**”) on May 21, 2018. The Guidelines aim to standardize and provide guidance on the management, quality control and use of data by banking financial institutions. The *Criteria for Good Quality Management of Regulatory Statistics of Banks (Implementation for Trial)* (Yin Bao Jian Fa [2018] No. 22) was repealed on the same day. The major requirements of the Guidelines are summarized as follows.

#### **I. Scope of Application**

The Guidelines apply to banking financial institutions established in the People's Republic of China, including commercial banks, rural credit cooperatives that accept public deposits, policy banks and the China Development Bank, as well as branches of foreign banks and other financial institutions supervised by the banking regulator.

Data governance under the Guidelines refers to the dynamic processes of a banking financial

institution that specify the duties of the board of directors, the board of supervisors, senior management and internal departments. Data governance includes the establishment of the organizational structure and the formulation and implementation of systems, processes and methods, ensuring the consistent management of data and efficient operation thereof, and ensuring that the use of data is optimized in business operations. This covers a range of aspects including the allocation of responsibility, system set-up, quality control, data value mining, and supervision and management relating to the data governance of banking financial institutions.

#### **II. Clarifying the Data Governance Structure**

The Guidelines require banking financial institutions to incorporate data governance into their corporate governance, to establish multi-level and interconnected operating mechanisms and to encourage the establishment of a data culture. The board of directors should formulate data strategies, review significant events relating to data governance, and take ultimate responsibility for data governance.

Senior management should be responsible for establishing and implementing systems for data governance, accountability and incentives and data quality control and should report to the board of directors on a regular basis. A board of supervisors should be responsible for the supervision and appraisal of the performance of data governance duties by the board of directors and senior management. Banking financial institutions should determine and authorize a designated department to lead and take charge of data governance systems, to coordinate and supervise the data management operating mechanism, and should appoint chief data officers as appropriate.

### **III. Establishing a Data Management System**

The Guidelines require the establishment of a comprehensive and effective data management system, in order to (1) formulate a management system and a business system for regulatory statistics, which should also be filed with the banking regulatory authorities; (2) establish a standardized plan to cover all data; (3) establish an information system that can be adapted to the requirements of the submission system of regulated data ; (4) strengthen the coordinated management of data collection, and specify processes and standards for data exchange between systems; (5) establish data security strategies and standards, and protect personal information and privacy; (6) strengthen the coordinated management of data and materials, and ensure data compatibility; (7) establish data contingency plans; (8) establish a self-evaluation mechanism for data governance; (9) establish accountability and inspection mechanisms.

### **IV. Establishing Data Quality Control Mechanism**

Banking financial institutions should establish

quality control mechanisms to ensure the authenticity, accuracy, continuity, integrity and timeliness of data. The quality control mechanisms are required to: (1) increase the supervision for the management of data sources; (2) establish a data quality monitoring system to the entire life cycle of data; (3) introduce an onsite, regular data quality inspection system, conducted not less than once a year; (4) establish a data quality examination and appraisal system; (5) establish a data quality correction mechanism; (6) ensure consistency between the indicators submitted to regulator and those disclosed to external parties; and (7) establish a quality control system for regulatory data.

### **V. Fully Utilizing Data Value**

The Guidelines require that banking financial institutions should fully optimize data value and strengthen the use of data across various activities, including risk management, business management and internal control. Specifically, banking financial institutions should ensure that data is used in order to: continuously improve risk management methods; improve data aggregation capability; improve the quality of risk reporting; optimize risk pricing systems; acquire an accurate understanding of customer needs and provide specific products and services; improve operating efficiency and reduce operating costs; achieve business innovation; and improve the effectiveness of internal control. The Guidelines also require that banking financial institutions should make full assessments of the impact of mergers and acquisitions and asset stripping on its data governance capability, and include relevant data management requirements as part of their assessment standards when promoting new products and services.

### **VI. Our Observation**

The Guidelines require banking financial institutions to strengthen their data governance, strengthen data quality control, and maximize data value. Banking financial institutions should update their internal data compliance and governance systems according to the Guidelines, and with full consideration of the *Cybersecurity Law* and its supporting regulations and national

standards. Compared with other industries, data collection and processing by banking financial institutions is more sensitive and is subject to stricter regulatory requirements. The Guidelines have put forward increased requirements for data protection by banking financial institutions, and also has some elements of significance to other industries.

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