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硕 士 学 位 论 文

商业银行个人理财产品监管法律问题研究

Research on the Legal Regulatory Issues of Commercial
Banking Individual Wealth Management Products

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内容摘要

我国商业银行个人理财产品在数十年的发展过程中，经历了产品从简单到复杂，市场规模从单一到逐步扩大，个人投资者参与愈来愈多的趋势。截至 2012 年，商业银行发售理财产品累计发行产品数为 2.91 万款，共募集资金规模达 19.01 万亿元人民币。然而，相较于西方发达国家，我国商业银行个人理财产品市场法律环境尚不完善，在边发展边监管的过程中涌现了大量的法律问题，不仅不利于银行理财业务的有序开展，甚至影响我国金融市场的稳定；而且监管中法律问题的存在增加了个人理财产品交易中的法律不确定性，导致理财纠纷频发。随着商业银行个人理财产品的结构和风险趋向复杂和多元，更需要及时有效的监管。因此，有必要对商业银行个人理财产品监管法律问题进行分析，找出症结所在，以强化监管的有效性。

本文从四个方面对我国商业银行个人理财产品监管法律问题进行了探讨。第一章主要介绍了商业银行个人理财产品的概念及特征，并在对我国商业银行个人理财产品的发展进行梳理的基础上阐述了银行个人理财产品与影子银行之间的关系及法律风险；第二章则对商业银行个人理财产品法律关系进行了详尽、全面的辨析；第三章从我国监管现状出发分析我国商业银行监管中出现的法律问题；第四章则是针对商业银行个人理财产品监管中的法律问题提出对策，分别从监管模式、监管法规、投资者角度提出了完善监管体系的措施。

本文的创新之处在于立足我国现阶段商业银行个人理财产品发展状况，对影子银行与银行个人理财产品之间的关系加以辨析，并分析了在金融混业经营趋势下商业银行个人理财产品监管中存在的问题和现实法律阻碍，最后在兼顾银行和投资者双方的基础上提出完善我国商业银行个人理财产品监管的法律对策。

关键词：个人理财产品；监管问题；法律对策

ABSTRACT

With the development of China's commercial banking individual wealth management products in decades, trends in product development from simple to complex, market from a single one gradually expands to larger scale, more and more individual investors participate in this market. As of 2012, commercial bank has issued individual wealth management products in a total number of 29100, to raise a total size of up to 19.01 trillion yuan. Comparing with western developed countries, the legal environment of China's banking individual wealth management products is not good, large quantity of legal problems emerged in its develop and regulation process. All these issues become an obstacle to the bank to carry out banking financial services, and affecting the stability of China's financial markets. What's more, the legal regulatory issues increase the uncertainty of the transaction in individual wealth management products, which may lead frequent financial dispute. Because of the increasing diversity of banking individual wealth management products' structure and risk, it's necessary to analyze the legal regulatory issues to find out the real problem so as to take effective regulation measures.

This paper discusses the legal regulatory issues of banking individual wealth management products from four aspects. Chapter I mainly introduces the concept and characteristics of banking individual wealth management products, and in the basis of tracing the history of products development to analyze the relationship between shadow banking and banking individual wealth management products. Chapter II gives a detail and full explanation to the legal relation of banking individual wealth management products. Chapter III based on the current situation of supervision of banking individual wealth management products to analyzes existing legal problems. Chapter IV attempt to put forward countermeasures in three aspect respectively are regulation mode,

regulation statutes and investor's interest.

The innovation of this paper is based on the present situation of the development of Chinese commercial banking individual wealth management products, analyzes the relationship between shadow banking and individual wealth management products, and analyzes regulatory legal obstacles of commercial banking individual wealth management products in the mixed operation of banking, and finally proposes legal countermeasure to perfect regulatory of Chinese commercial banking individual wealth management products on the basis of both banks and investors sides.

Keywords: Individual Wealth Management Product; Regulatory Issues; Legal Countermeasure

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