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商業銀行社會責任問題研究
——一種側重從制度層面的分析
Research On the Question of
Commercial Banks Social Responsibility
——From a Focus on System-Level Analysis

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内容摘要

晚近商业银行社会责任运动的兴起，既是经济全球化与自由化发展的一个副作用，也是和谐社会建设的必然。这种责任超越了以往商业银行只对股东负责的范畴，强调对股东、员工、消费者等在内的利益相关者的社会责任，并应对社区、环境保护、社会公益事业等提供支持。然而，与国外同行比较，国内银行在履行社会责任方面显然存在不足，尤其在制度上得不到相应的法律保障。因此，本文从商业银行社会责任的理论基础入手，在对比国内、外商业银行社会责任履行情况的基础上，对我国商业银行社会责任的制度构建提出了相应的探讨，以促进商业银行真正将履行社会责任转变为自觉行动。

全文包括前言、正文与结束语三部分。正文共分四章。

第一章为“商业银行社会责任概述”。该章从法学视角对商业银行社会责任的概念进行界定，并对商业银行社会责任的性质、分类和内容进行剖析。

第二章为“域外商业银行履行社会责任的督促机制及其借鉴”。该章引析域外商业银行履行社会责任的督促机制，并据此分析对我国商业银行履行社会责任的几点启示。

第三章为“我国商业银行履行社会责任的制度环境、实践状况及存在问题”。该章介绍了国内商业银行履行社会责任的制度环境和具体实践，并指出当前我国商业银行在履行社会责任方面存在的问题。

第四章为“完善我国商业银行履行社会责任的外部环境与内控机制”。该章建议完善有关法律法规，建立督促商业银行履行社会责任的法律制度，并完善商业银行履行社会责任的外部督促机制和商业银行的内部机制，为商业银行全面落实企业社会责任提供充分的制度保障。

关键词：商业银行；社会责任；法律研究

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ABSTRACT

The lately on rise of social responsibility of commercial banks movement is not only a by-product of the economic globalization and liberalization, but also the inevitable consequence of a harmonious society construction. This responsibility goes beyond the orthodox value of commercial banks that the shareholders shall be the only to answer to, reaching the emphasis on the social responsibility to the relative interest bearers including the shareholders, employees and consumers, meanwhile, the support for community, environment protection and public welfares shall also be considered. However, compared with the foreign counterparts, visible defects of Chinese banks would be found in the performing of social responsibility, and the absence of corresponding legal protection has to be highlighted. Therefore, beginning with the basic theories of commercial banks social responsibility, this thesis explores the performing situations of social responsibility of commercial banks in and out China. Consequently, the advices on institutional construction of Chinese commercial banks social responsibility are put forward, aiming at the transformation of social responsibility performed by commercial banks to be the voluntary conducts.

This thesis includes three parts: Preface, Body and Concluding remarks. Among which, the body is divided into four chapters.

Chapter I is “an outline for social responsibility of commercial banks.” It gives a definition to commercial banks social responsibility from a legal perspective, and makes an analysis for the nature, classification and content of commercial banks social responsibility.

Chapter II is “the supervision and urgency mechanisms of extraterritorial commercial banks to fulfill their social responsibilities and its implications.” It cites and analyzes the supervision and urgency mechanisms of extraterritorial commercial banks to fulfill their social responsibilities and their several implications for us to learn.

Chapter III is “the system environment, practice situation and the existing problems of chinese commercial banks to fulfill their social responsibilities.” The system environment and practice situation of domestic commercial banks social responsibility are depicted followed with the existing problems for fulfilling such responsibility.

Chapter IV is “the perfection of the external environment and internal mechanism for chinese commercial banks to fulfill their social responsibilities.” It firstly recommends to improve related legislations, and set up a legal institution to urge the commercial banks to fulfill their social responsibilities. Secondly, the external environment and internal mechanism concerning this issue shall also be perfected, in order to provide the commercial banks with an adequate system protection to comprehensively assume their social responsibilities.

Key Words: Commercial banks; Social responsibility; Legal study

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前 言

以劳工运动、人权运动、消费者运动、环保运动等的高涨为背景，“企业社会责任运动”于20世纪80年代在西方逐渐兴起，并在20世纪90年代由于各国政府以及众多重要国际组织的关注和推动而获得蓬勃发展。近年来这一思想广泛流传，现代西方社会在企业业绩评估时已经把社会责任作为一项重要指标，如《财富》和《福布斯》也均在企业排名评比时加上了“社会责任”作为评分标准之一。^①

无疑，企业社会责任运动的兴起是经济全球化深入发展的产物，它代表各国政府、企业和其他所有机构在全球化中实现经济社会协调发展共同认同的价值观、通行的语言和行为的准则。商业银行作为一个经营货币、进行社会资源再分配的特殊企业，既是现代经济的核心和枢纽，又是社会资源再分配的重要杠杆。这种行业的特殊性，决定了商业银行更应注重增强其自身的社会责任意识，并充分利用其处于社会资金供应者的优势，以及对社会其他组织行为有引导、鼓励、约束其履行社会责任的特殊功能，引导企业承担社会责任风气的形成。

从国际层面看，域外著名银行已经对企业社会责任问题引起了广泛的关注和重视，它们大多在积极采取切实有效的措施来加强这方面的工作力度。可以说，加入国际社会责任机构约束自身的经营行为，已成为国际大银行的一种发展趋势。再看国内，随着近年来机构改革的深入和市场竞争力的增强，国内银行业金融机构社会责任问题日益引起社会广泛关注，要求商业银行承担社会责任的呼声越来越高。与此同时，银行业监管机构及各家商业银行也在履行社会责任方面进行积极有效的探索，采取各种行动予以回应。

对比国内、外商业银行社会责任的履行情况，我国商业银行虽然已经开始采取行动履行自己的社会责任，但总体上还处于起步阶段，在承担社会责任的广度和深度上都与域外著名银行有着较大的差距。为此，在社会责任问题本身是一个跨社会学、经济学、法学等多学科研究的论题的情形下，本文侧重从制

^① 朱文忠.国外商业银行社会责任的良好表现与借鉴[J].国际经贸探索,2006,(4):75.

度层面对我国商业银行社会责任进行分析，指出当前我国商业银行在履行社会责任方面存在的不足与缺陷，建议进行相关制度建设，完善商业银行履行社会责任的外部环境和内部机制，以促进我国商业银行真正将履行社会责任落到实处。

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