

China Banking Regulatory Commission or Anti-Monopoly Enforcement Agencies: Who should be in charge of regulating Chinese state-owned commercial banks?

Abstract

Although the Anti-Monopoly of China 2007 has been in force for nearly a decade, this Law either voluntarily or involuntarily keeps avoiding the Chinese banking industry. As a traditional state-controlled area of business, banking has been regulated and supervised in China by the domestic Banking Regulatory Commission (CBRC). This has been as such since the date of the establishment of this agency, namely 25 April 2003. Yet, the CBRC's supervision has been a challenge for Chinese banks despite the fact that the top two or three state-owned commercial banks had been spearheading to become among the most profitable banks globally in the past few years. Chinese commercial banks, given the special status they enjoy, not only pose a threat to the competitiveness of the banking system, but also fetter the competition that potentially may arise from non-banking financial players. Given the continuous and steady growth of the banking industry, the current legislative approach needs to be improved. In the future and de lege ferenda, Chinese anti-monopoly enforcement agencies would take part in regulating the banking industry, as well as setting boundaries for the CBRC in order to limit its intervention powers and enhance competition among Chinese commercial banks. However, because the banking system in China is 'tainted' with national economic security matters, according to Article 7 of the Anti-Monopoly of China 2007, granting special rights or powers to the CBRC is necessary. Thus, this article demonstrates that the traditional way of regulating commercial state-owned commercial banks by the CBRC should be changed, and accordingly, both the CBRC and Chinese anti-monopoly enforcement agencies should work with each other harmonisationly to maintain the trend of stable development of the banking industry, especially these state-owned commercial banks.