

Analysis of Internal Legal Risk Prevention and Control in Enterprises from the Perspective of Financial Law

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Abstract: Under the background of increasingly complex global economic development and financial markets, the legal risks faced by enterprises are increasingly intensified. As an important legal norm to adjust financial activities, financial law has put forward higher requirements for the operation and risk management of enterprises. Therefore, the article will start from the concept of internal legal risk prevention and control under the financial perspective, study and analyze the common internal legal risks and the causes of risks, and put forward the specific measures of prevention and control of internal legal risks.

Keywords: Financial law; Internal enterprise; Legal risk prevention and control

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1. Introduction

With the development of financial globalization, the complexity and diversity of various kinds of financial transactions have increased significantly, and the corresponding legal risks also rise. As an important legal framework to regulate financial activities, the function of financial law is not only reflected in the supervision of financial transactions but also in providing compliance paths and norms for enterprises. In this context, while pursuing profit maximization, enterprises must face the major economic losses and reputation damage that may be caused by legal risks. Especially in the current economic situation, compliance operation has become a necessary condition for the development of enterprises.

2. The concept of internal legal risk prevention and control in enterprises from the financial perspective

In the financial domain, corporate operations and financial activities are deeply intertwined, which highlights the growing importance of internal legal risk management within companies. Internal legal risk management is a systematic management activity aimed at ensuring lawful and compliant business operations and preventing

losses due to legal issues. From the perspective of legal risk generation, if companies lack accurate understanding of and adherence to laws and regulations during financial management processes, they are highly likely to fall into legal predicaments^[1]. In activities such as financial transactions, fund operations, and investment decisions, if companies are unaware of relevant laws and regulations, including financial regulatory laws, contract law, and securities law, and fail to operate legally, they may encounter various legal risks. For example, during the signing of financial lending contracts, if the legal implications of contract terms are not clearly understood and the rights and obligations of both parties are not explicitly defined, disputes may arise regarding repayment periods and interest calculations, exposing the company to default risks and high compensation liabilities. Alternatively, when companies engage in securities issuance or the sale of investment products, if they are unfamiliar with laws and regulations, such as securities law and financial product sales management measures, and operate in violation, they may face severe penalties from regulatory authorities, including administrative fines and business restrictions. In serious cases, they might even be held criminally responsible for crimes like illegal fundraising or financial fraud. The core of internal legal risk management lies in fostering a strong awareness of legal risk prevention. All levels of corporate decision-making, management, and employees must deeply recognize the significant impact of legal risks on the survival and development of the company.

3. Common corporate internal legal risks

3.1. Financial-related legal risks in the process of enterprise establishment

When establishing a company, if the initiators have flaws in their financial qualifications or obligations, it may lead to serious consequences. Many businesses in the financial industry require specific licenses or permits. If the initiators lack the necessary qualifications but attempt to set up a financial company, the establishment of the company will face the risk of failure. The initial investment of funds and human resources could be wasted, causing significant economic losses. When setting up an internet finance company, if the initiators do not meet the regulatory requirements regarding capital strength, technical security, and senior executives' experience in the financial sector, the company will not only fail to establish successfully but also find it difficult to recover the preparatory funds already invested. Additionally, there is a possibility of facing regulatory penalties for non-compliant preparations.

3.2. Legal risks of financial contracts in the conclusion and performance of the contract

In financial business, contract is the key carrier of transaction, and contract-related legal risks occur frequently. Financial contracts involve complex financial terms, trading rules, and regulatory requirements. If enterprises lack professional legal knowledge, they can easily get into difficulties in the process of signing, modifying, performing and termination of contracts. When signing a financial derivatives trading contract, I do not understand the product pricing, risk disclosure, stop loss provisions and other contents in the contract. Once the market fluctuates, it may face huge losses or breach the contract due to failure to timely perform the contractual obligations, and bear the liability for breach of contract. The unclear terms of the contract may also cause disputes, affect the capital turnover and credit rating of the enterprise, and bring financial and reputation losses to the enterprise.

3.3. Financial and legal risks in the capital operation of enterprises

The capital operations of enterprises, such as mergers and acquisitions, restructuring, and listings, carry significant legal risks from a financial perspective. Corporate M&A involves complex financial transactions and legal procedures; insufficient investigation into the target company's financial status, debt disputes, and compliance with financial regulations can lead to substantial financial liabilities or regulatory penalties after the merger.

During the restructuring and listing process of state-owned enterprises, issues related to the valuation and trading of state assets arise. Violating state asset management laws and financial regulatory rules by engaging in illegal transactions of state assets not only results in the loss of state assets but also exposes responsible individuals to criminal legal risks ^[2]. For listed companies, failing to disclose financial information legally or conducting unauthorized financial activities, such as manipulating stock prices or insider trading, can result in penalties from securities regulators, the risk of delisting, and legal litigation against company executives, causing severe consequences for both the company and individuals.

3.4. Financial strategic and legal risks in major business decisions

Major investment, strategic transformation, major purchase and sales decisions is closely related to financial activities, legal risk should not be ignored, in a major financial investment decisions, such as investment financial products, participate in the financial market transactions, if not fully assess the legal risk, legal compliance, the legal effect of investment contract lack of in-depth study, once the investment failure or legal disputes, will bring significant economic losses to the enterprise. The major strategic transformation involves the reallocation of financial resources and the adjustment of business structure. If it does not conform to the financial regulatory policies and laws and regulations, the transformation may be blocked, the enterprise capital chain will be broken, and endanger the survival and development.

3.5. Financial and legal risks in financial and human resources and litigation

In terms of finance, the enterprise's financial taxation risk, conceal financial business income, false profits, off-account capital circulation, tax evasion and illegal disclosure of financial information, a serious violation of financial and fiscal laws and regulations, enterprises will face the punishment of the tax authorities, financial regulatory investigation, may even cause criminal proceedings. In terms of human resource management, financial enterprises violate labor laws and regulations in employee recruitment, salary and welfare, and labor contract signing and termination, which may cause labor disputes, affect the normal operation of enterprises, and increase labor costs and legal risks.

4. Analysis of the causes of internal legal risks in enterprises from the financial perspective

4.1. Weak awareness of prevention and control and short-sighted strategy

The insufficient awareness of legal risk prevention and control among business managers, along with their short-sighted strategic vision, is a significant cause of internal legal risks. In the financial sector, corporate operations involve numerous financial regulations, supervisory policies, and complex contract terms, which place high demands on the legal literacy of managers. However, most business managers in China today do not have a background in law, leading to a lack of legal knowledge and limited ability to identify financial-related legal risks. When participating in financial transactions, due to a lack of deep understanding of financial contract terms, they fail to detect potential legal pitfalls, potentially plunging the company into unfavorable legal disputes. In financial derivatives trading, if managers are unaware of relevant trading rules and risk disclosure clauses, they may suffer substantial losses exceeding expectations during market fluctuations. In decision-making processes, they focus solely on whether capital can be quickly converted into direct returns, paying little attention to potential legal consequences. When making financial investments, they prioritize short-term return rates without thoroughly reviewing the legal compliance of investment targets. Once legal issues arise with the investment target, the company will face dual challenges of investment losses and legal liabilities, sowing seeds for long-term

development problems^[3].

4.2. Loopholes in the internal management system

The imperfections, inadequacies, and unscientific nature of internal management systems within enterprises are the institutional roots of legal risks. From a financial perspective, these systems encompass multiple aspects, such as financial business processes, financial management, and human resource management. However, many enterprises in China have chaotic internal management systems with numerous loopholes. Some companies lack clear norms and standards for their financial business processes, leading to arbitrary operations that can easily trigger compliance risks. In terms of financial management, an incomplete financial system may result in violations in financial and tax handling, such as tax evasion and improper disclosure of financial information, thereby facing legal penalties. The lack of effective supervision and regulatory mechanisms during the implementation of internal management systems makes it difficult to enforce these systems effectively. In financial operations, even if there are comprehensive risk control systems in place, without strict supervision and enforcement, it is impossible to effectively prevent legal risks.

5. Internal legal risk prevention and control measures of enterprises under the financial perspective

5.1. Strengthening the legal awareness and personnel quality training

Enterprise leadership as the core decision-making, the legal risk control consciousness has a profound influence on enterprise development direction, in the financial sector, policy and market environment, if enterprise leaders only by experience, feeling and courage to manage enterprises, lack of prospective understanding of legal risk, even in the short term enterprise due to accidental factors thriving, also difficult to resist policy changes, market fluctuations, the impact of or litigation. When financial regulatory policy adjustment, enterprise are not familiar with the new laws and regulations and irregularities, may face huge fines and limited business, so business leaders must be deeply realized in the society under the rule of law, law is the cornerstone of enterprise management, itself is not only to become the knowledge, law-abiding, usage, dealing with enterprise affairs, also need to actively promote enterprise staff legal literacy. At the same time, the use of publicity column, advertising column, posters, such as propaganda positions, in the form of plain legal knowledge and typical cases, enhance employees' legal cognition, and with the help of enterprise portal to open "Legal Column" "Franco-Prussian Classroom," provide online legal learning resources, convenient employees to learn financial legal knowledge, through a full range of the enterprise law the Franco-Prussian education, formed within the law, obey the law, reduce the enterprise legal risk from the source. When employees are dealing with financial business, they should operate according to legal regulations to avoid legal disputes caused by ignorance.

5.2. Establishing a professional legal affairs system and a risk early-warning mechanism

Establishing a robust legal department is crucial for managing legal risks. The legal department plays a vital role in the company, generating value far beyond its setup costs and personnel expenses. A professional legal department should consist of legal professionals with deep expertise and proficient practical skills, as well as accounting or auditing personnel who are adept at finance. They should comprehensively review the company's operations from both legal and financial perspectives, providing comprehensive legal support. The head of the legal department should be directly responsible to the chairman or general manager to ensure their significant position in corporate decision-making. The legal department staff should deeply engage in company operations, having the right to be informed, participate, and vote on major activities, and to follow up and supervise afterward.

In addition to handling daily legal disputes, the core responsibility of the legal department is to manage legal risks throughout the entire process. In financial investment projects, legal personnel should intervene early to review the legal compliance of the project, assess potential legal risks, and provide professional legal advice for decision-making; during contract signing, they should strictly review contract terms to avoid legal loopholes. Furthermore, the legal department must conduct a comprehensive identification and investigation of internal and external legal risks. Internally, it evaluates the legality and effectiveness of management institutions and processes, identifying and assessing risks for major decisions and daily business activities; externally, it monitors changes in financial regulatory policies, market dynamics, competitors, and legal actions, promptly identifying potential legal risks. Based on scientific analysis, argumentation, and prediction from both internal and external sources, it issues early warnings for possible risks.

5.3. Building a scientific and reasonable institutional system

Enterprise business activities in the field of financial wide, professional, build a set of scientific and reasonable system is the basis of the risk prevention and control of law, enterprises should according to the chapter by the management, scientific management, democratic management, closely combined with their actual situation and development needs, with safe development as the top priority, the people, goods, resource allocation of rationalization and scientific as the key, follow the principle of responsibility, right, relationship clear, comprehensively improve and perfect all kinds of management system. In terms of organization and management system, the responsibilities and authority of each department in the financial business process should be defined, legal risks caused by unclear responsibilities should be avoided, the responsibilities of risk management departments and business departments in financial investment decision-making should be clearly defined, to prevent legal responsibility prevarication caused by decision-making errors ^[4]. Personnel management system should standardize the financial talent recruitment, appointment, examination and incentive mechanism, to ensure that employees have corresponding professional quality and legal consciousness, reduce the legal risk caused by personnel factors, in the recruitment of financial legal personnel, strict audit its professional qualifications and experience, ensure that it can effectively deal with the financial legal affairs. The financial management system is particularly critical in the financial perspective, and the financial accounting, capital operation and tax treatment should be strictly standardized. Ensure the authenticity and accuracy of financial statements and avoid the legal risks caused by financial fraud, illegal fund operation, or illegal tax behaviors. Therefore, enterprises should, following the requirements of financial regulation, establish and improve the financial internal control system, strengthen the supervision and management of financial activities, protect financial product innovation, brand identity and other intellectual property rights, prevent infringement disputes to bring legal losses, and encourage employees on the premise of legal compliance in financial business innovation, clear innovation process and legal boundary, ensure the smooth progress of innovation activities.

5.4. Strengthening inspection and assessment and enhance the implementation of the system

System vitality lies in the execution, to ensure that the enterprise each rules and regulations play an effective role in the prevention and control of legal risk, enterprises cannot only satisfied with the system, more to focus on the implementation of the system, the regular implementation of the system to conduct a comprehensive, in-depth inspection, timely discover the problems existing in the execution process and loopholes, further check whether financial business operation strictly follow the relevant system process, financial reimbursement is in line with the requirements of the financial management system, etc. At the same time, commend and reward departments and individuals who strictly implement the system and effectively prevent and control legal risks, stimulate

the enthusiasm of employees to observe the system, strictly follow the risk prevention and control system and successfully avoid major legal risks in the financial business, form an effective restraint mechanism, and punish employees who operate financial funds against the rules, give disciplinary action and economic punishment by the regulations ^[5]. By rewarding the good and punishing the bad, create a good atmosphere of system implementation, so that all employees consciously abide by the system, improve the implementation of the system, to effectively prevent and control the internal legal risks of the enterprise, and ensure the steady development of the enterprise in the financial perspective.

6. Conclusion

In the context of financial law, companies need to strengthen legal risk prevention through multi-dimensional strategies and significantly enhance the legal risk awareness of all employees. In particular, management must deeply understand the importance of financial law in business operations, intensify learning and training on financial legal knowledge, and foster a positive atmosphere where everyone abides by the law and operates legally. At the same time, a scientific and reasonable system should be established, covering organizational management, personnel management, financial management, and risk prevention. A specialized legal department should be set up to leverage its critical role in identifying, assessing, warning against, and responding to legal risks. This will enhance competitiveness in the financial market and improve risk resistance capabilities, ensuring the long-term stable development of the company.

Disclosure statement

The author declares no conflict of interest.

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