

Study on the Risk Prevention Measures of China's Network Payment from the Perspective of Regulators

Chu Yu¹ & Yingchun Deng²

¹ B.S. in Finance, School of Economics and Management, Guangzhou Institute of Applied Science and Technology

² Associate Professor, School of Economics, Guangdong Peizheng College

Correspondence: Yingchun Deng, Associate Professor, School of Economics, Guangdong Peizheng College.

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Abstract

Since the beginning of the 21st century, China's Internet has developed rapidly, and the rapid development of the network has driven the creation and rapid spread of online transactions across the country. It is in this context that a new kind of intermediate trading platform has been developed, which has rapidly swept through the lives of the public in the past decade. From the perspective of finance, supplemented by personal research, the author begins the article by clarifying the meaning of China's network payment and other related concepts and briefly introduces the development of network payment at home and abroad in recent years, analyzing and listing the risks and their causes in the development of network payment; then introduces the relevant documents and measures taken by China for the regulation of network payment and analyzes the current. Then, we introduce the relevant documents and measures taken by China's online payment regulation and analyze the dilemma faced by China in preventing the risk of online payment under the current regulatory policy, and further conclude the risk prevention countermeasures to improve the regulation of online payment in China.

Keywords: online payment, regulators, risk prevention, countermeasures

1. Introduction

Network payment is an emerging payment method in recent years, and China has a clear definition of network payment in the Measures for the Administration of Non-financial Institution Payment Services, which states in Article 2 of Chapter 1: "The network payment referred to in these measures refers to the transfer of monetary funds between the recipient and the payer relying on public or private networks, including currency exchange, Internet payment, cell phone payments, fixed-line payments, digital TV payments, etc." (Third-party payment, 2010) Compared with the traditional payment method to carry a large amount of money or bills for transactions prone to financial loss, carrying inconvenience, network payments avoid these risks, is a highly efficient and convenient way of payment, the rapid development of network payments is tantamount to an effective supplement to the existing payment methods in China.

In 1998, with the first online transaction generated in Beijing, online payment began to breed in China. After entering the 21st century, China's Internet coverage has been increasing day by day, and online transactions have been rapidly expanded and popularized. 2014, China's online payment transactions reached a shocking RMB 14.07 trillion, an increase of 113% over 2013. And subsequently, the annual growth rate of network payment transaction scale has always remained above 10%, entering a period of steady development. According to Ariadne Consulting, the total scale of third-party mobile payment and third-party Internet payment reaches RMB 271 trillion in 2020 (China third-party payment industry research report 2021, 2021).

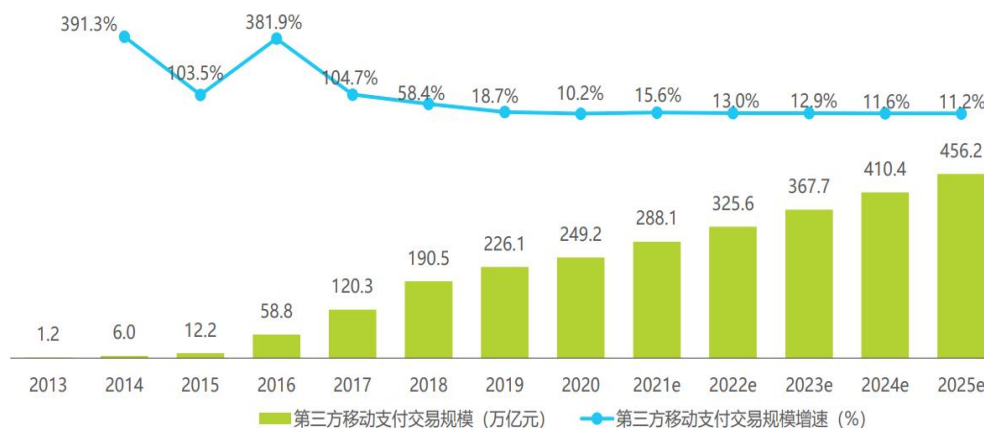


Figure 1. China's online payment transaction scale from 2013 to present

Source: Ariadne Consulting

The rapid development of online payment is also forcing the introduction of regulatory policies. Since 2010, the People's Bank of China and other ministries have promulgated several administrative regulations to regulate the development of online payment. The introduction of the Measures for the Administration of Payment Services by Non-financial Institutions and the 13.56MHz mobile payment standard frequency have played an important role in promoting the standardized development of online payment. However, up to now, from the perspective of the regulations promulgated and the effect of their supervision, the network payment chaos is still frequent, the rate of network telecommunication crimes is increasing day by day, the effect is still far from the expectation, and there are still drawbacks in various aspects such as regulation, subject and operation. Therefore, it is necessary to study the risks of online payment from the regulator's perspective for the orderly development of the industry.

2. Literature Review

2.1 A Review of Research on the Definition of Online Payment

Cao Honghui (2009), in his monograph "Study on the Development of Electronic Payment in China", points out that online payment is a way to make online payments with various financial organizations using online terminals, through which the online flow of money is realized and the security of transactions between the two parties is ensured. According to Tang Bin (2016), online payment is a new type of payment method that transfers and pays money within a computer, which is mainly realized by using machine language to connect with banks through computers; Gu Haifeng and Yang Lixiang (2017) argue that online payment is not an independent individual, but an intermediary that connects banks, merchants and buyers and sellers.

Berk J M (2002), through his analysis of online payments, argues that the essence is to enable the movement of cash through new online trading technologies, thus making it possible to make physical money and thus reducing the cash requirements of banks and commercial banks. Rhys Bollen (2004) in his article lists several common online payment methods in Australia and gives a detailed description of their basic concepts. LARGE Andrew (2006) argues that third party payment companies can profitably use their own merits to provide their credit guarantee and discusses their definition, implications, risk control and money supply. Cillette (2008) defines a third-party payment company as a client's business agent, i.e., the client's investment manager, operating at the client's request.

2.2 A Review of Research on Types of Online Payment Risks

Guo Ximin (2009) points out that due to the presence of huge deposits by third-party payment companies, improper operation will not only damage their own credibility, but also cast doubt on their agency and guarantee functions, thus causing huge economic damage to buyers and sellers. Chen Xiaomei (2014) divided the process of online payment into three levels: the potential dangers that exist in it from three levels: the payment institution, the Internet, and the transaction process. Che Shengzong (2015) pointed out that the risks of third-party payments mainly include the external environmental risks of enterprises and their own operational risks, which may be triggered by internal risks due to the lack of government policy guidance and laws and regulations, the investment of banks in users, and the defects of the payment system. Manchu (2018) introduced the operational and compliance risks that still exist in online payments, taking WeChat Pay as an example. In her study, Zeng (2021) pointed out the risks of network payments in the perspective of network financial governance, which can

be divided into three levels: first, the risk of using third-party payments to implement crimes such as money laundering and transferring funds; second, the risk of fraud triggered by credit cards, refusal to pay, and theft in fund cashing; third, the risk of illegal fundraising crimes in the ever-expanding new forms.

2.3 A Review of Studies on the Regulation of Online Payments

According to Zhang Dalong (2016), the development of Internet finance will be a worldwide trend, but the current legislation and regulations have some defects, which brings huge risks to the whole industry. Therefore, in the process of vigorously developing Internet finance, the supervision mechanism of online finance must be improved to promote its benign development. Tang Zhuochun and Dong Lijun (2017) argue that China needs to strongly supervise the upstream and downstream industries related to Internet finance, but there is a lack of specific laws and regulations at the legislative level, and the generalized regulations cannot solve the chaos in the current state. Xiu Yongchun (2018) argues that in the context of the interconnection of Netflix, government regulators, third-party payment platforms, and users of the three-tier regulatory circle, from internal to external supervision, form a mutually complementary mechanism.

Andreas Crede (1995) dissects the increasingly common use of online payments and also raises the issue of regulating them. For this reason, he argues that it is imperative to build a secure and effective e-commerce settlement system. Sarah J. Hughes (2008) describes the U.S. federal government laws and regulations regarding third-party online payments and what some countries are doing in terms of oversight procedures. The UK Financial Conduct Authority (FCA) (2015), using web-based technologies can provide a risk-reducing and more efficient environment for financial organizations and introduce the concept of compliance technology (Regtech). Ravi Menton (2017), head of the financial sector in Singapore, suggests that with the development of financial technology, technology can be used not only for regulatory objectives but also to enhance the efficiency and quality of supervision through technological innovation.

2.4 Literature Review

Through a review of relevant literature at home and abroad, it is found that the research on the concept and nature of network payment is a relatively mature field with more in-depth research results. Research on the type of risk of network payment mainly exists in domestic scholars' research, while foreign research is less available in the reference literature. As for the regulation of network payment, neither domestic nor foreign countries have made special legislation to regulate it, but under the existing regulatory system, new judicial interpretations or corresponding proposals are added to adapt to the new legal issues arising in network payment.

However, after looking at the research on online payment by various scholars for more than ten years, it is found that the relevant literature on the regulation of online payment from the regulator's perspective has not yet appeared, and the regulatory model proposed in the literature lags significantly. Therefore, the research on the regulatory content of online payment from the regulator's perspective should be strengthened, so as to enhance the effectiveness of regulatory instruments.

The innovation of this paper is: from the perspective of a special regulator, it provides an in-depth analysis of the current regulation of online payment in China, pointing out the shortcomings of its regulation, which are mainly manifested in the lack of special laws and regulations, models, imperfect systems, and the lack of effective consumer protection measures. At the same time, we propose solutions for regulators to better regulate online payment to address specific problems and provide references for building a perfect regulatory system.

3. The Risks and Causes of Network Payment

This chapter investigates the risks of China's online payment industry and their causes. This chapter explores China's measures to prevent these risks in terms of information security, reserve fund management and money laundering risks, and lays the foundation for identifying the shortcomings of risk prevention measures from the regulator's perspective, so as to further elaborate the measures to improve the regulation of online payment in China.

3.1 Legal Risks and Causes

Legal risk is the risk that arises when a contract expires within the legal limits, when a contract cannot be performed, or when a contract is not concluded. Legal risk in specific practice often occurs in financial transactions, especially in over-the-counter transactions, and occurs within the financial sector because of the lag in the legal system due to financial innovation. Some financial derivatives are born with the starting point of circumventing regulation.

Network payments as financial innovation products are no exception, and many legal issues have arisen in the development. For example, in June 2018, Chen colluded with others to set up the Fxdd foreign exchange investment platform and used Song and others as agents to fabricate it externally as a regular platform, conduct a large number of transactions, profit from it, and trick victims into transferring money to the network payment

platform, defrauding them of a total of more than RMB 7.74 million.

The current laws and regulations on online payment lack basic laws, low level of legislation and unsound legal system, which mainly rely on policy documents to regulate them and are ineffective when they contradict with other laws and regulations. In the field of online payment, the imperfection of laws and regulations can lead to disputes among the parties concerned, resulting in damage that cannot be properly handled. Internet payment is a new payment mode, which involves a very wide range, and the related laws and regulations are not perfect, so it is easy to generate legal disputes. As it involves users, operators, banks, platforms and other factors, the legal relationship is complex, and legislation is difficult. In addition, it will take time to establish a complete and systematic legal system in communication technology and computer technology due to the rapid development of technology. However, in this process, due to the imperfection of laws and regulations, once disputes arise, the interests of all parties will not be protected, thus greatly restricting the development of the online payment industry.

3.2 Information Security Risks and Causes

Information security risk refers to the deficiencies in information security management in the process of informatization, such as the basic network of various application systems and the big data information processed, due to the defects in the system's software, hardware and system integration.

In recent years, network payment infringement of personal information is undoubtedly one of the crime cases that have received much attention. For example, Wu, the de facto controller of Shenzhen Yunmou Technology Co., Ltd (Yunmou), conducted business with several cell phone motherboard manufacturers and installed Trojans on their motherboards between November 2017 and August 2019. During this period, he illegally controlled 3.3 million cell phones, obtained more than 5 million related cell phone numbers and verification codes, and made profits of more than \$7.9 million from sales.

When online payments occur, data is often exchanged between consumers, sellers and commercial banks, and most of the data exchanged will produce personal information: including but not limited to the website used, the account registered, the password used when logging in, the address of the mailing parties and the citizen ID number, etc., which will be leaked if you are not careful. This opens the door for people with an interest to obtain personal privacy information. At the same time, because the Internet is open, there is a lot of malicious software in the current system mechanism, when consumers enter personal information, it will automatically monitor the personal information filled out in the background or pop up malicious websites to lure consumers to fill out personal information, thus causing personal information leakage.

3.3 Security Risk of Customer Reserve and Its Causes

A customer reserve is a fund that is collected in advance from a customer by a payment institution in lieu of payment and is not its own asset. The ownership of customer reserve is vested in the payment institution. Unlike customers' deposits in banks, it is not protected by the Deposit Insurance Regulations and does not exist in the name of the customer, but in the name of the payment institution, to which the payment institution issues fund transfer instructions. Due to the large scale of provisioning and the fragmented savings rate, there are therefore a series of potential risks.

In January 2019, a company in Xi'an signed a Network Payment Business Service Agreement (Special Merchant) with a payment company and made an advance payment of RMB 130 million to the payment company in three instalments, but the payment company did not provide corresponding network payment services to the company in Xi'an, and the payment company did not return the advance payment after repeated reminders. After repeated requests, the payment company failed to return the advance payment. In addition, the payment company's account at a local branch of the People's Bank of China was also frozen for one year, which is understood to be the payment company's centralized depository account. This is a typical case of reserve fund misappropriation, and since the misappropriation of reserve funds was confirmed, the payment company has fallen into disarray, with a lot of negative consequences.

In the process of customer reserve, although the consumer still has ownership of the reserve, the control and payment rights are in the hands of the payment institution, so the ownership at this time also becomes a front. If the funds are in the reserve stage and the payment institution suddenly experiences force majeure factors such as operational risks, the reserve may not be returned to the consumer, which presents a potential security risk and is not conducive to the development of network payments. Whether it is a payment institution or a commercial bank, in essence, driven by interests, the supervision of the reserve fund may be relaxed, thus causing a steep increase in the probability of loss of the reserve fund.

3.4 Money Laundering Risk and Its Causes

Money laundering, in short, is the laundering of illegitimate money into legitimate money. It is a criminal

activity that uses various means to legitimize illegal income. In essence, it is the use of various means to conceal and conceal the proceeds of crime and its benefits, and the use of false names to carry out illegal activities, thereby legitimizing illegal income.

The emergence of online payments has brought convenience to people while also enriching the channels for lawbreakers to launder money. 2013 police in Hubei uncovered a case in which a third-party payment platform was used to launder funds from drug trafficking by opening an online store. In recent years, such cases are common, causing great difficulties for public security authorities to solve cases.

The first is to use technical means to steal transaction information and transfer the funds from the target account to one's own account, while the second is related to this article, in which the person who wants to launder money illegally takes possession of funds that do not belong to his own system and transfers the funds directly to his own account. Specifically in the case of online payments, when users make online payments, the online payment platform often cannot identify whether the person who issued the transaction instruction and the person who finally made the payment are the same person, nor can they identify whether there will be an illegal connection between the person who issued the instruction and the person who made the payment, which makes it easy to cause money laundering operations. Because the platform has the process of identification, and in this process is prone to theft, most platforms are not able to detect and stop the transaction in time, at the same time, the payment platform is also unable to monitor the specific information of the target account, so after the funds appear money laundering or illegal operations, even if reported to the police, for the regulatory authorities. This makes it more difficult for regulators to track the money.

4. The Status of Government Regulation of China's Network Payment

4.1 Main Regulatory Models of Network Payment

At present, China's regulatory model for network payment is mainly prudential regulation. From the previous analysis, it can be seen that in the first decade or so of the emergence of online payment, China has not effectively regulated it, and it is mainly a loose joint and several regulations. The regulatory layer did not impose strict restrictions on the online payment platform at the front end, the customer reserve at the middle end, and the online payment customer transaction data at the end. Since the promulgation of the No.1 document in 2010, the government has passed a series of laws to quickly bring the whole process of the online payment industry into legal regulation. The emergence of Netfrix has brought the direct link between Netfrix payment institutions and banks closer, splitting up the payment and settlement functions. All network payment data via bank cards are subject to real-time monitoring by the regulator, while the full deposit of provision funds has rationalized the link between major payment companies and banks, basically eliminating financial systemic risks such as misappropriation of funds and cashing out. It can be said that, so far, the regulatory attitude of the supervisory layer still maintains a high-handed posture, and in the short term, prudential supervision will continue to remain the norm.

4.2 The Main Regulatory System of Network Payment

On June 21, 2010, the Central Bank promulgated the Measures, which stipulate that no institution or individual without a payment license from the Central Bank is allowed to engage in online/offline payment business. In recent years, China has stepped up its legislation in the field of online payment regulation, which has come a long way compared to the pre-2010 period, especially in terms of laws and regulations regulating payment services and reserve fund depository, and China's regulators and lawmakers are also trying to form a synergy to regulate third-party online payments.

4.2.1 Preventing Information Security Risks

The Measures for the Administration of Internet Payment Business of Payment Institutions and Guidance on Risk Prevention of Internet Payment Business of Payment Institutions issued in 2012 and 2013 further strengthened the self-regulation of the online payment industry, guiding online payment institutions through policies and regulations to focus on information security and improve the level of risk management to protect consumers' rights and interests; the Guidance on Promoting the Healthy Development of Internet Finance issued in 2015 is the first basic law on the Internet finance industry. The Guiding Opinions on Promoting the Healthy Development of Internet Finance issued in 2015 is the first basic law on the Internet finance industry, which divides the responsibilities and obligations of the main Internet finance industry, implements the responsibility boundary and further prevents the risk of information security.

4.2.2 Regulation of Customer Reserve

The 2010 Measures and its rules incorporated third-party payments as a national term into the legal regulatory system for the first time and provided legal positioning for the industry, as well as provisions for the deposit of provision funds and protection of consumers' rights and interests, which were not explained in the Measures. In

particular, it stipulates that the use of provision funds should protect the legitimate rights and interests of consumers so as to ensure the safety of customers' funds and also to improve the all-round supervision system of customer provision funds deposit; in 2018, the Notice of the General Office of the People's Bank of China on Matters Relating to the Centralized Deposit of All Customer Provision Funds of Payment Institutions states that banks must deposit a certain percentage of customers' provision funds into the bank's funds in a certain proportion into a special bank account, temporarily without interest; the latest Measures for the Deposit of Customer Provision Funds of Non-Bank Payment Institutions promulgated in March 2021 stipulates that customer provision funds must be uniformly deposited by the central bank or other eligible commercial banks and funds transferred by eligible settlement institutions.

4.2.3 Prevention of Money Laundering Risk

The Measures for the Administration of Anti-Money Laundering and Anti-Terrorist Financing for Payment Institutions, issued in 2012, first proposed the division of responsibilities for third-party payment platforms, with particular emphasis on the identification of third-party payment institutions, the maintenance of transaction records, the authenticity of transaction reports, and the responsibilities for anti-money laundering. Article 34 of the Code of Practice for Bar Code Payments, which was conducted on a trial basis in 2018, states: "When banks and payment institutions carry out barcode payments, they shall assess the possible risks of money laundering and terrorist financing in their business and take corresponding control measures."

4.3 The Main Regulatory Approach of Network Payment

Ltd., also known as the Netlink Platform, was officially launched on March 31, 2017, by the People's Bank of China and is a unified public fund clearing service initiated by the China Payment Clearing Association. It includes 45 institutions and companies, including the General Clearing House of the Central Bank, Tenpay, Alipay, UMS and other third-party payment companies or platforms. From the regulatory level, the introduction of Netlink helps solve the problems of confusing multi-party relationships and regulatory loopholes in the direct banking business and makes the network payment settlement system balanced in terms of efficiency and security, thus greatly enhancing the convenience and efficiency of supervision. As an information intermediary and bridge between network payment and banks, the Netlink platform makes the transaction information, account information and fund flow of payment institutions more open, transparent, and traceable in terms of transaction records and funds, which makes it easy for regulators to monitor online transactions and fund flow in real time, grasp fund transaction information in a timely, comprehensive and accurate manner, and end the information silos formed by data oligarchy. It will put an end to the information silo formed by the data oligarchy and create conditions for further improvement of the unified depository of provision funds.

5. Foreign Network Payment Supervision Experience and Inspiration

5.1 The Experience of the United States in Regulating Online Payments

Currently, the U.S. adopts a dual regulatory mechanism for online payments, i.e., both the federal and state governments regulate them. The federal government has established a large nationwide network payment system, and regulators such as the Federal Reserve and the Monetary Authority formulate and issue relevant laws and regulations within the scope of their authority; state governments formulate relevant regulations and oversee the implementation of network payment institutions according to the overall regulatory framework of the federal government, taking into account the actual situation of each state, including the economic situation and industrial focus, etc. The U.S. approach to financial regulation is to monitor the entire process of payments and transactions.

5.2 Experience of the EU in Regulating Online Payments

Like the U.S., the EU also adopts a "dual regulation" approach, i.e., joint supervision by the European Council and the ECB, and specific implementation by national governments and banks. In 1998, the EU introduced the E-Money Directive, the Payment Services Directive and other relevant laws and regulations to regulate the operation of online payment institutions. At the same time, network payment institutions were defined, and all institutions engaged in third-party network payments were required to obtain a license according to the law.

5.3 Inspiration of Foreign Third-Party Network Payment Regulation to China

The above has introduced the experiences of the United States and the European Union, two developed countries and regions, in the regulation of third-party network payment institutions. Many of the advanced management ideas and experiences are valuable and worthy of reference in China. Specifically, the first is to carry out the innovation of the regulatory model. On the one hand, to establish a strict regulatory model, negative list and positive list to promote at the same time, the formation of their own regulatory system; on the other hand, to take full account of China's national conditions, the new industry of network payments to encourage and innovate, through policy support and guidance, to enhance the competitiveness of the industry; second, to strengthen the

supervision of funds, to protect the legitimate rights and interests of consumers. Any network payment platform has to develop its own core competitive ability to ensure the safety of funds. It is indisputable that the safety of funds is the guarantee of transactions. At the same time, as a regulator, we must be fully aware of the protection of consumer information and the protection of their personal privacy, which requires us to establish a safe and reliable settlement model to protect consumer rights. Only by building a complete consumer protection platform for online payment can we better and more completely protect the interests of consumers.

6. Main Problems of Government Regulation of Online Payment and Improvement of Countermeasures

6.1 Main Problems of Online Payment Regulation from the Regulator's Perspective

6.1.1 There Is a Deviation in the Focus of the Regulatory Model

Under the current regulatory model, the focus of China's regulation of network payments is placed on compacting responsibilities and access qualifications. First, China has overemphasized regulatory responsibility and weakened the constraints on regulators. In terms of specific regulation, the central bank's supervisory authority over network payment institutions is determined by the measures, but failure to properly constrain its authority can lead to abuse of power. Second, the regulation of payment services is mainly focused on access qualification and risk prevention. A variety of measures are necessary to effectively implement financial regulation. Overemphasis on access conditions and an inadequate design of the regulatory system for the payment industry inevitably lead to increased regulation.

6.1.2 The Legal System Is Not Perfect

Although the first law on regulating online payment was introduced in 2005, China has not formed an effective regulatory legal circle around online payment until today, and there are many loopholes in the existing laws and regulations regulating online payment. Overall, China's legislation on the regulation of online payment is not only of low rank, but also has the disadvantage of bloated content.

In terms of the lower rank of legal documents. As of today, the highest-level document issued in China to regulate network payment is only the Electronic Signature Law of the People's Republic of China adopted by the Standing Committee of the National People's Congress in 2005, which is not a separate law for network payment. In addition, most of the documents issued in the past ten years on the regulation of network payment in China belong to one or several government departments' rules and regulations. This pattern is not only detrimental to the development of the overall industry market of online payment, but also creates a difficult choice for regulators when ruling.

6.1.3 The Regulatory Content of Customer Reserve Is Not Comprehensive

As we all know, a network payment institution is different from a basic company, its essence is used for payment, so its capital flow will be much larger than an ordinary company, often hundreds of millions of RMB, therefore, the provision regulation of network payment institutions should be stricter and more cautious than an ordinary company. In my research, the author found that the regulation of network payment provisions in China is unreasonable and not strict. First, the Measures avoid the issue of ownership of interest when addressing the issue of interest on deposits, and in practice, the agreement between the payer and the party is to determine the ownership of interest. However, in practice, this ownership issue is still not well resolved because of information asymmetry, and the No.1 online payment platform does not consult with consumers and consumers are not informed, thus undermining consumers' right to know. Secondly, the Measures impose strict restrictions on eligible commercial banks, and most commercial banks in cities do not have these requirements. At the same time, they have to report to the central bank's branch offices. Ultimately, the penalties are not severe. For misappropriation of customer reserve funds, depending on the severity of the circumstances, they are ordered to make corrections within a certain period of time, fined 30,000 yuan, have their business licenses revoked, open a case for investigation, and be held criminally responsible according to law. From the point of view of punishment, the cost of breaking the law is not large.

6.1.4 Lack of Consumer Rights Protection Ability

As we mentioned above, online payment platforms have access to a large amount of personal information during transactions between buyers and sellers, and this information is saved in the form of cache in the platform's own servers. If this information is used well, then big data can be used to recommend the products consumers need. However, if it is used by people who have the intention, the consequences will be unimaginable. According to the relevant research report: at present, ninety percent of the APPs installed in everyone's cell phones and other smart terminals will call some of their own unused permissions to obtain user information. In the year 2021, 315 consumer rights day, the CCA launched a nationwide survey on personal information leakage due to cell phone software call permissions, the results show that more than eighty percent of the respondents said. The results showed that more than 80 percent of the respondents said they had experienced personal information leakage,

which was directly presented in the form of harassing phone calls and SMS. This shows that in the era of big data, consumers are often in the state of naked, and the current regulation of network payments in China does not form a perfect information security protection system.

6.1.5 Insufficient Regulation of Money Laundering

While promoting online financial innovation, online payment also opens a new criminal path for money laundering crimes. The lack of management of users of online payment platforms, coupled with their concealment, deception, disguise, temptation, and information asymmetry, has led many criminals to conduct illegal transactions through online payment platforms.

China's Anti-Money Laundering Law clearly stipulates the anti-money laundering behavior of financial institutions, but since online payment companies are non-financial organizations, the Anti-Money Laundering Law does not apply. In 2012, the Central Bank publicly released the Measures for the Administration of Anti-Money Laundering and Anti-Terrorist Financing of Payment Institutions. However, only suspicious transactions are clearly regulated, while large-scale transactions are not clearly regulated. Given the huge AML risks associated with large-scale transactions, there is a need to strengthen the regulation. As for the criteria for suspicious transactions, the regulatory approach requires payment companies to determine their own. This creates the problem that major payment companies set different standards, which can make this rule ambiguous.

At the same time, the Internet is globally interoperable, and people often make cross-border purchases. The emergence of cross-border consumer demand has prompted payment institutions to carry out cross-border payment business, but in the general trade environment, payment institutions can convert the rollover settlement in domestic settlement to cross-border settlement, thus disguising the cross-border transfer of funds without generating cross-border fund flows, similar to the fund transfer path of underground money changers.

In addition, when making payments online, the identity of the user is virtual. Virtual transactions facilitate money laundering to some extent. Because there is no strict vetting of the user's identity and transactions, criminals can conduct virtual transactions anonymously on the Internet, thus enabling the pooling and transfer of funds to achieve money laundering.

6.2 Countermeasures to Improve the Regulation of Online Payment

6.2.1 Create a Perfect and Benign Regulatory Model

First, drawing on foreign experience, mixed financial regulation in China will be a big development trend in the future. At the same time, licenses can be issued to Internet financial companies. Based on the concept of mixed business operation for banks, funds and securities, online payment institutions are allowed to make full use of the Internet to expand a broader range of businesses. The approach of exploring and optimizing access rules to suit practice is more forward-looking.

In addition, the most scientific regulatory model, the regulator and the regulated should be a benign interactive relationship between the regulator and the regulated, rather than the current adversarial relationship. Whether it is the old WeChat and Alipay, or now Jitterbug and Racer, their electronic red envelopes are still essentially a diverse mode of operation based on network payments, which are more interesting, convenient and detailed compared to third-party payment platforms such as direct transfers. For example, WeChat red envelope not only does not support credit cards to overdraw credit to issue red envelopes, but also stipulates the limit of red envelopes, and at the same time, every record can be checked in the background, which can help regulators to make effective supervision. From this, we can conclude that the change of the regulatory model can never be changed overnight, but the diversified experiences such as WeChat red envelopes can provide a benign reference to the regulators and the regulated.

6.2.2 Improve the Legal System of Network Payment Supervision

With the development of online payment, although China has issued a series of regulatory regulations, it has not established a legal system that only focuses on online payment regulation. To address this phenomenon, China should decisively establish a new law only for online payment in recent years and integrate the aspects of the laws already promulgated in relation to online payment to supplement the old laws, so that the newly established laws can complement each other.

Many of the documents issued at the level of network payment regulation in China belong to the administrative regulations category, which is lower in rank, and the effect of regulation is greatly reduced, so the legal rank of relevant laws and regulations on regulating network payment should be improved as soon as possible. Since the law maker, which is the main body of legislation, can determine the rank of laws and regulations, we should tackle this problem from the source. That is, the legislative body should try to introduce high-ranking regulatory laws as soon as possible in order to guarantee the safe operation of online payment. Specifically, the National People's Congress and its Standing Committee and the State Council and other departments should speed up the

legislation on network payment, especially the high ranking legislation, and at the same time, since the Supreme Court and the Supreme Prosecutor can make judicial interpretation of our laws, they should also suggest the Supreme Court and the relevant division of the Supreme Prosecutor to introduce relevant judicial interpretation on disputes related to network payment and give specific guidance on the dispute issues.

6.2.3 Improve the Sinking Fund Supervision Process

The problem of risk in the sinking fund link is often caused by the fact that customers are not clear about the link where their funds become sinking funds and self-management is not in place, while regulators also fail to effectively supervise the sinking fund pool. China has promulgated and repealed several management measures on provision funds. It is imperative to redefine the meaning of provision funds, i.e., idle funds placed by customers in the platforms of network payment institutions and payments received in advance by the platforms during transactions are essentially customer funds and introduce the latest management measures according to this definition to effectively protect the provision funds from being appropriated by third-party platforms. At the same time, China is still unclear about the attribution of interest generated by the sinking fund, and should focus on clarifying the ownership of interest, and if interest dividends are paid according to the contractual terms, the customer should be forced to read each clause carefully when signing the contract and formulate a reasonable and well-documented distribution system. If the interest belongs to the customer, then a perfect custody contract should be established or a legal commission contract should be signed. According to the Civil Code that will come into force in 2021, if the interest belongs to the original owner, i.e., the customer, the third-party platform can only provide custody, storage or commission, and the platform does not have the right to dispose of the vested interest unless another agreement is opened to stipulate the right to own the interest. Therefore, regulators need to explain the issue of ownership of sinking funds clearly to all participants in the online payment industry and monitor it effectively.

6.2.4 Build a Unified and Effective Information Security Protection System

Before building an information security protection system, we must first clarify who the main body of network payment regulation really is? What is the responsibility of the regulatory body? Only when we understand these issues, we can target this subject to develop a protection system. So far, the regulatory body of China's network payment has different answers, which results in the absence of a fixed regulatory body. In response to this situation of different regulatory bodies, market supervision should be as soon as possible to clarify the legal responsibilities of the main body, in the supervision, to achieve compliance with the law, in-depth implementation of the Party Central Committee and the State Council on supporting the development of the digital economy, the relevant laws and regulations, to achieve justified and justified. Because consumers are often on the vulnerable side of the network payment transaction terminal, so the regulator in the development of the relevant system, but also to ensure that the premise of fairness, as far as possible to tend to the consumer side.

In response to the current situation that there is a large amount of information leakage in online payment, a sound regulation to protect the security of personal payment information should be established as soon as possible. First, China should first establish a perfect payment security environment to prevent the payment link from being called by third-party apps to obtain personal information, while a payment monitoring system led by the Department of Payment and Settlement should be established to monitor payment behavior in real time; second, after securing the payment link, a sound information database should be established, and the People's Bank of China's bad credit list and users with low credit levels should be. Finally, since the viruses that invade the computer and cell phone terminal systems are still mainly used to obtain database information, the firewall level of the system must be improved to ensure that the terminal devices of the network payment supervisors and platforms can operate safely. At the same time, the system of commercial banks should have professional servers and our self-researched system to ensure that 24-hour full process monitoring without dead ends can be carried out.

6.2.5 Establish a Sound Anti-Money Laundering Mechanism for Network Payments

First, we should build an anti-money laundering legal system that combines comprehensive prevention and focused combat, including not only the central bank and the CBRC, but also the finance, justice, taxation and other departments to form a solid firewall.

Second, in addition to a monitoring system consisting of government agencies, we can prevent money laundering in online payments by imposing limits on the number of transactions. In transactions, the probability of money laundering usually occurs for transactions of larger amounts. Therefore, while monitoring suspicious transactions, it is also important to pay attention to large number of transactions. And placing a limit on the volume of transactions is an effective way to control large-scale transactions. For example, you can set the maximum number of individual accounts and transfer amounts.

Third, establish a mechanism for sharing information resources on anti-money laundering in banks. In recent years, China's banking industry has paid increasing attention to anti-money laundering work and set up special blacklists, which have made more outstanding contributions to the fight against money laundering. Building an anti-money laundering database among banks can not only enhance the cooperation between banks and branches, but also increase the efforts to combat money laundering and protect the legitimate interests of consumers. When monitoring third-party online payment transactions, special attention should be paid to abnormalities in transaction subjects and transaction methods, as well as gray lists, high-risk and key suspicious transactions.

JEL Classification Number: G28, L81

References

- Third-party payment, (2010). Measures for the administration of non-financial institution payment services. Selected Judicial Business, (27), 10.
- China third-party payment industry research report 2021, (2021). Ariadne Consulting Series Research Report, (5), 119–167.
- Cao Honghui, (2009). *Study on the Development of Electronic Payment in China*. Economic Management Press, 162.
- Tang Bin, (2016). Research on the legal issues of regulation of third-party network payment. Hainan University.
- Gu, Haifeng, Yang, Lixiang, (2018). Internet finance and bank risk-taking: Evidence based on the Chinese banking industry. *World Economy*, 41(10), 75–100.
- Berk J M., (2012). Central banking and financial innovation. a survey of the modern literature. *BNL Quarterly Review*, 55(9), 263–297.
- Rhys Bollen, (2004). A Review of the Development and Legal Nature of Payment Facilities. *Journal of Banking and Finance Law and Practice*, 33.
- Large SBSA, (2006). Andrew Large: Convergence in insurance and banking—some financial stability issues.
- Cillette, C, P. & D. Walt, (2008). Uniformity and Diversity in Payment System. *Chicago-Kent College of Law J. Chicago-Kent Review*, 499.
- Guo Ximin, (2009). The risks implicit in online third-party payments. *China Finance*, (23), 94.
- Chen Xiaomei, (2014). Security risk analysis and research of mobile payment system. Beijing University of Posts and Telecommunications, 62.
- Che Shengzong, (2015). Exploring the risk control of mobile payment by taking WeChat payment as an example. *Finance and Economics*, (5), 75-76.
- Man Xiao-Lin, (2018). Risk management of mobile payment—WeChat as an example. *China Market*, (36), 188-189. DOI: 10.13939/j.cnki.zgsc.2018.36.188.
- Zeng Zhen, (2021). Exploring the risk and regulation path of third-party payment in the context of network financial governance. *Business and Economic Research*, (22), 189-192.
- Zhang Dalong, (2016). Discussion on the current situation and countermeasures of China's Internet finance regulation. *Financial Development Review*, 10, 55-60
- Tang, Zhuo-Chun, Dong, Li-Jun, (2017). Problems of Internet financial regulation and suggestions for countermeasures—Take the third-party payment platform as an example. *Legal Expo*, (23), 43-44.
- Xiu Yongchun, (2018). An analysis of the ternary regulatory model of third-party payment in the era of Netlink. *Shanghai Finance*, 460(11), 89-93.
- Sarah J. Hughes, Middlebrook, S.T. & B.W. Peterson, (2008). Developments in the Law Concerning Stored-Value Cards, other Electronic Payments Products. *The Business Lawyer*, (11), 219-252.
- Andreas Crede, (1995). *Electronic Commerce and the Banking industry: The Requirement and Opportunities for New Payment Systems Using the Internet*, Bloomsbury Publishing Plc., 156.

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