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# Research on the Systematic Optimization and Governance of the Legal Regulatory System of Digital Finance

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## Abstract

**Digital finance, as a financial innovation industry, is deeply integrated into the real economy with its unique characteristics, which is of great significance to the high-quality development of the economy. However, in the development, digital financial regulation faces lagging legal norms system, many loopholes in consumer rights protection, prominent platform monopoly and unfair competition behavior, and serious problems such as false information disclosure are highlighted. Based on this, combined with the controversy in the academic community and judicial practice, the following measures can be taken: first, improve the legal regulatory system of digital finance, second, build a long-term mechanism for the protection of consumer rights and interests, third, refine the definition of the relevant market, and fourth, make up for the disclosure of information and so on.**

## Keywords

**Digital finance, legal regulation, market order.**

## 1. Introduction

At present, digital finance, as an innovative industry in the financial field, has emerged, integrated with traditional finance, and jointly shaped the new pattern of the modern financial system, breaking through the limitations of physical space and deeply integrating into the operation of the real economy with its remarkable features of remote service, scenario-based application, convenient operation and abstract analysis. In key areas such as serving small and micro-enterprises and promoting rural revitalization, digital finance plays an irreplaceable and important role, and has become the core force driving the high-quality development of China's economy. However, the rapid development of digital finance has also brought about a series of problems that cannot be ignored. Under the environment of network technology, the credit risk of financial transactions has shown a trend of complication, personal privacy and commercial data leakage incidents are common, the rapid iteration of technology and continuous innovation of business models, but also lead to the current legal regulatory system is difficult to keep pace with the development of the industry, fully exposed the potential systemic risks in the field of digital finance, a serious threat to the legitimate rights and interests of financial consumers and the stable operation of the financial market. Therefore, it is urgent to construct and improve the legal regulatory system of digital finance, a task with both theoretical value and practical necessity. From the theoretical point of view, the innovative and special nature of digital finance requires the establishment of a set of regulatory theory system in line with its development law, in order to fill the gaps of traditional financial theory in the emerging field. At the practical level, strengthening the regulation of digital finance is an inevitable choice to maintain the order of the financial market and protect the rights and interests of consumers, which is of great significance for curbing market chaos such as irregular operation and data monopoly, and promoting the healthy development of the digital finance industry. In addition, a sound regulatory system can help create a favorable business environment, attract the concentration of global resources and elements, enhance the governance capacity and international competitiveness of China's financial institutions and technology enterprises, lay a solid foundation for China to strive for the initiative in the global digital financial governance system and participate in the formulation of international rules, and have far-reaching strategic significance for the realization of sustainable development of the financial industry and the promotion of the strategy of high-quality economic development. The

## 2. Dilemma of China's Digital Financial Regulatory System

### 2.1. The legal regulatory system of digital finance needs to be improved urgently

It is an indisputable fact that the legal system needs to be adjusted and improved in keeping with the times. The law is naturally lagging behind, due to the legislative process is difficult to keep up with the pace of social development, people on the expected effect of legal norms and the actual role of the role of the deviation often occurs, so the timely revision of the law is imperative. At present, China's legislative work in the field of digital finance still has obvious shortcomings. In recent years, a number of digital financial risk events have exposed the inadequacy of the regulatory level: the relevant departments in response to the risk of more emergency legislative means, often after the occurrence of risk events before the launch of financial regulatory reform, which makes the regulation seriously lag behind the market changes [1]. Due to the lack of forward-looking prediction ability, it is difficult to accurately grasp the next regulatory hotspot, and the overall construction of the digital financial market is not as effective as it should be. With the vigorous development of the digital economy, which has given rise to new forms of digital finance, the lagging problem of law and regulation has become more and more prominent. At this stage, the digital financial regulatory legislation not only lacks coherence in time distribution, but the main body of legislation is also relatively decentralized, resulting in digital financial rules and administrative law enforcement is difficult to form an organic and unified whole [2]. In addition, under the empowerment of digital technology, financial products have become increasingly complex and diverse, and a single law and regulation can no longer realize the effective supervision of all financial behaviors, and a systematic legal norm is urgently needed to lay the regulatory foundation.

Lack of legislation not only disrupts the normal business order and makes it difficult for merchants to conduct business in a compliant manner without legal guidance, but also hinders the overall development of the industry. Taking the case of Henan Village Bank as an example, the problem of low-level, fragmented and ad hoc digital financial regulatory laws and regulations has become more and more prominent, and there are even contradictions and conflicts between different laws and regulations, which has brought great difficulties to the law enforcement work of the supervisory authorities. Over the past ten years, China has been upholding an inclusive and prudent regulatory attitude towards digital finance, but due to the differences in the understanding of the regulatory authorities at various levels, some scholars have advocated supporting the liberalization of digital finance. Although some scholars advocate supporting the open development of digital finance as an important engine to enhance international economic status, practice shows that if digital financial platforms are allowed to expand in an uncontrolled manner to form a monopoly, it will inhibit the vitality of innovation in the industry and weaken international competitiveness. Therefore, the formulation of the Financial Stability Law (Draft for Public Comments) should be taken as an opportunity to reasonably grasp the scale of inclusiveness and prudence in the subsequent legislative work, not only reserving space for the development of digital financial platforms, but also clarifying

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the market boundaries and strengthening the anti-monopoly regulation, so as to maintain a good order of market competition.

## 2.2. Significant gaps in consumer protection in digital finance

### 2.2.1. Challenges to the right to information of digital financial consumers

The distinctive feature of digital finance that distinguishes it from traditional brick-and-mortar finance is the full-flow operation of data. Since the professional interpretation of data sources and flow logic by financial data technology is obscure and difficult to understand, coupled with the fact that the quality of data is directly related to the continuation of the value of data, it is often difficult for ordinary consumers to understand the principles involved, which has a direct impact on their right to know. In addition, the rapid development of digital finance has led to the exponential growth of financial data resources, which further aggravates the information asymmetry between consumers and digital finance practitioners, placing consumers in a weak position in the transaction, and facing obstacles to the protection of the right to know. Although China has addressed the protection of consumers' right to information in many areas of law, there are still obvious deficiencies. At present, there is no clear definition of financial consumers at the legal level, and there is a lack of specific provisions on the protection of the right to information of financial consumers, as well as a lack of clear provisions on key elements such as standards for determining violations by financial institutions, compensation mechanisms, and avenues of redress for consumers.

### 2.2.2. Digital financial consumer information security risks are prominent

The rapid development of Internet technology, so that the digital financial activities generated by the huge scale and complex structure of customer information, very easy to become the target of the theft and illegal use of lawless elements, telecommunications fraud, card theft, malicious advertising and marketing and other violations of the rights and interests of consumers are frequent, the issue of information security has become a digital financial sector urgently need to crack the problem. Once consumer information cannot be protected in a timely and effective manner, the risk of leakage will continue to rise, which in turn poses a serious threat to their information security, network security, social security, personal security and property security. In terms of transaction security authentication, traditional authentication means still dominates, but biometrics is expected to become the mainstream trend in the future. Corporate users expect corporate Internet banking to improve in terms of preferential tariffs and security, and corporate mobile banking needs to focus on strengthening security and real-time information reminder functions. In the various scenarios where digital finance is widely used, security is always the primary concern of users. With the continuous innovation of financial technology, user information security will be a key position in risk prevention and control for a long time, and in-depth research and cracking this dilemma is of great significance to protect consumer rights and interests and promote the healthy development of digital finance.

## 2.3. Highlighting monopolization and unfair competition on digital financial platforms

China's digital financial sector shows a significant trend of platform monopolization, with head enterprises squeezing the survival space of small and medium-sized enterprises through both abuse of market dominance and obstruction of market competition order. The bilateral market attributes of digital financial platforms have subverted the profit model of traditional monopolistic behavior [3]. Platforms often attract traffic by providing free services on the consumer side, use the network effect to realize user lock-in, and then obtain revenues from the supply side in the form of drawbacks and advertising, etc. This monopoly path of "cashing in on the traffic" is very different from the traditional model of price cuts to obtain excess profits.

In this context, the monopolist test based on price changes faces multiple obstacles: first, the currency non-neutral nature of the platform's bilateral market amplifies the impact of price changes, making it difficult to select a suitable benchmark commodity for price comparison. Second, the complexity of platform pricing mechanisms, the existence of personalized pricing, time-differentiated pricing and other strategies, coupled with coupon issuance and business traffic interference, lead to low price transparency and high volatility of returns, making it difficult for traditional quantitative analysis methods to be effective. In terms of abuse of market dominance, some platforms use predatory pricing and price discrimination strategies: initially attracting users with subsidies, cutting concessions and implementing covert price monopoly after forming monopoly advantages; relying on big data analysis to accurately grasp users' price sensitivity, and carrying out "price kills", which seriously harms the rights and interests of consumers and destroys the Fair competition environment. In terms of impeding market competition, platform enterprises restrict competition through exclusive deals, data monopolization and other means. However, the existing anti-monopoly regulation mostly relies on normative documents with a low level of effectiveness, and the temporary and vague nature of the regulatory rules not only fails to effectively curb monopolization, but also may exacerbate market solidification, and there is an urgent need to build a more authoritative and targeted anti-monopoly legal system.

# 3. China's Digital Financial Regulation Optimization Path

## 3.1. Improving the legal regulatory system for digital finance

### 3.1.1. Constructing the basic framework and core guidelines for digital finance legislation

China's current financial legal system is not clear in defining the distinction between traditional finance and digital finance, and there is a lack of legislative norms specifically for digital finance, which makes it difficult for traditional financial legal rules to be adapted to digital financial business scenarios. This legislative status quo leads to the lack of effective constraints on the behavior of financial market subjects, financial platforms operating and managing misconduct, the regulatory body of the rights and responsibilities of the blurred boundaries, not only can not be properly disposed of the exposed legal risks, it is also difficult to effectively prevent the occurrence of potential risks.Therefore, it is urgent to speed up the construction of a special legislative system for digital finance. The legislative work should focus on defining the connotation of digital finance, the scope of business, the rights and responsibilities of participating subjects and the core content of the consumer rights and interests of the relief channels, through legal norms on the digital financial market behavior to carry out comprehensive constraints, strengthen the risk management, safeguard the legitimate rights and interests of market players, maintain the stability of the financial market order, and lay a solid legal foundation for the healthy development of the digital financial industry.

### 3.1.2. Improve the superior legal norms for the application of digital finance in multiple scenarios

With the wide application of digital finance in many fields, the digital industry chain financial model of Netcommerce Bank, the construction of a full-scene digital financial ecology, and the application of AI big model and user image in bank financial marketing, as well as the promotion of digital RMB, financial engineering practice and other scenarios continue to emerge, and a series of unique legal risks are derived from each scenario [4]. Scenarios such as cyber-attacks and data loss caused by weak financial infrastructure, service interruption, capital loss and information leakage caused by cyber-security loopholes, market disorder caused by insufficient information disclosure, doubtful authenticity and information overload, violation of rules caused by the lack of regulatory coordination mechanisms, and damage to the rights and interests of financial consumers have frequently appeared in different application scenarios. In response to these legal issues scattered in specific scenarios, it is necessary to apply systematic thinking and refine the superior legal rules with universality and generalization from the perspective of the correlation between the whole and the local [5]. Through generalization and integration, a set of unified legal norms applicable to multiple scenarios is formed. In this process, we can draw on the useful experience of the "regulatory sandbox" mechanism and integrate its specific content into the upper legal norms, so as to provide an inclusive and prudent institutional environment for the innovative development of digital finance, and to realize a balance between innovation vitality and risk prevention and control.

## 3.2. Building a long-term mechanism for safeguarding the rights and interests of digital financial consumers

Although the existing legal system has initially built up a framework for the protection of consumers' rights and interests, in the face of the specificity and complexity of the digital financial sector, the relevant legal regulations are still insufficiently detailed. For this reason, there is an urgent need to build an all-round and multi-level consumer protection mechanism from the perspective of strengthening the protection of the right to know and building a firm defense line for information security, so as to effectively safeguard the legitimate rights and interests of consumers.

### 3.2.1. Consumer right to information protection

Basic legislative work in the area of digital finance should be accelerated to clearly define the legal scope of financial consumers and fill existing legal gaps. The legal effect of information disclosure should be enhanced through the formulation of specialized legal provisions detailing the specific obligations of financial institutions in information disclosure, and clarifying the standards for determining violations, liability and avenues of redress for consumers. At the same time, efforts have been made to break down the "information barrier" between consumers and digital financial platforms, requiring platforms to fully and accurately disclose key content, such as data information, product details and rights and obligations, in an easy-to-understand manner, so as to ensure that consumers are able to fully and clearly understand transactional information, and to realize informed decision-making in the true sense of the word[6].

### 3.2.2. Information security rights guarantees

In view of the current fragmentation and lack of synergy in the implementation of the Data Security Law of the People's Republic of China and the Personal Information Protection Law of the People's Republic of China in the field of digital finance, it is necessary to learn from the UK's "Twin Peaks Supervision" model, which separates consumer protection from traditional prudential supervision, and builds a specialized and precise regulatory system. Integrate decentralized policy documents and standards through legislation to establish a unified legal framework for digital financial information security[7]. Carry out scientific categorization and management of different sources and types of data, and clarify the list of rights and responsibilities for data, supervision mechanism and emergency response process for security incidents in the form of laws and regulations, so as to ensure that there is a legal basis for the management of the entire life cycle of data. At the same time, we will accelerate the formulation of laws and regulations on the open sharing of consumer information, standardize the operational procedures of each link in the flow of information, and build a strong defense of consumer information security at the institutional level, so as to lay a solid foundation for the healthy development of the digital financial industry.

### 3.3. Refining the definition of markets related to digital finance

In recent years, China has continued to promote legislative work in the field of digital financial platforms, and gradually built up an anti-monopoly legal regulatory system. There is still room for refinement in the current regulatory system, especially in the definition of the relevant market and the criteria for the determination of abuse of dominant market position, which need to be further clarified and improved. In the digital economy antitrust practice, the test methods stipulated in the existing regulations have played an important role in the investigation of several major antitrust cases. Although the substitution analysis method and the SSNIP method have revealed certain defects in their practical application, they can still be used as effective tools for defining the relevant market after optimization and adjustment. For example, when using the substitution analysis method, one can first determine whether a financial product or service belongs to the field of digital finance: if it does, then focus on the characteristics of the digital platform to define the market; if it does not belong to the field, then comprehensive consideration should be given to the substitutes that may exist in the traditional market. For mega digital financial platforms with diversified businesses and complex structures, the relevant market definition issues can be dealt with flexibly on a case-by-case basis, but the relevant legal provisions need to be improved as soon as possible, the applicable conditions and procedures clarified to prevent excessive expansion of law enforcement discretion, and to ensure certainty and predictability in the implementation of the law. For the bilateral market of digital platforms, the SSNIP law can be improved by expanding the dimensions of consideration, so that in addition to the price factor, product quality, experience of use, ease of operation, and degree of intelligence can be included in the scope of comprehensive assessment. Since the performance of modern products is affected by many factors, future legislation needs to conduct sufficient research and demonstration, and scientifically determine the weights of various factors and assessment standards, so that antitrust regulation can effectively maintain the order of market competition and meet the needs of the development of digital financial innovation.

## 4. Conclusion

As an important driving force for economic development in the digital era, the innovative development of digital finance has profoundly changed the financial industry and market pattern. However, the rapid iteration of technology and the continuous innovation of business models have made the legal regulation in the field of digital finance face unprecedented challenges. The lagging of the legal regulation system, the weakness of consumer protection, the growth of platform monopoly and unfair competition, and the proliferation of false information disclosure not only restrict the healthy development of the digital finance industry, but also pose a potential threat to the stability of the financial market and the interests of the public. By analyzing the controversies in the academic community and the systemic dilemmas, it can be seen that the solution to the problem of digital financial regulation cannot rely on a single initiative, but needs to build a systematic and multi-level governance system. Improving the legal regulatory system of digital finance is not only the basis for making up for the legislative gaps and realizing legal basis for supervision, but also the key to balancing the development of innovation and risk prevention and control; constructing a long-term mechanism for the protection of consumers' rights and interests can effectively deal with the risks of information asymmetry and data security, and build the cornerstone of trust for the development of digital finance; refining the definition of relevant markets helps to accurately identify and regulate monopolistic behaviors, and safeguard a fair and competitive market environment; reinforcing the information disclosure system is also necessary to strengthen the market environment; and strengthening the information disclosure system. The strengthening

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of the information disclosure system can enhance market transparency, improve the effectiveness of supervision, and prevent the transmission and proliferation of financial risks.

With the continuous evolution of digital technology and the richness of digital financial industry, the digital financial regulatory system also needs to keep pace with the times. Regulators should continue to pay attention to the development of the industry, strengthen forward-looking research, and optimize the legal rules and regulatory means in practice; at the same time, focus on the organic combination of theoretical research and practical exploration, fully absorb the wisdom of the academic community, and promote the innovation of the digital financial regulatory system. Only by building a scientific, efficient and dynamic legal regulatory system can we not only stimulate the innovation and vitality of digital finance, but also effectively prevent systemic risks, realize the sustainable development of the digital finance industry, and provide a solid guarantee for the high-quality development of China's economy and the enhancement of international financial competitiveness.

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