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From "Dare Not Lend" to "Dare Not Open": The Implications of the Inclusive Credit Due Diligence and Liability Exemption System for Archival Opening Review

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Abstract

Archival opening review has long faced the practical dilemma of "withholding opening for fear of opening". Its institutional root lies in an imbalance in current laws and regulations that "emphasizes accountability while neglecting liability exemption". After nearly two decades of exploration, the financial sector has developed a relatively mature due diligence and liability exemption system for inclusive credit; it has begun to supply an adjudicative benchmark—performance of procedure rather than occurrence of risk—for evaluating staff conduct ex ante, offering an institutional vocabulary that archival opening review can adapt under stricter procedural safeguards. A comparative analysis reveals that "dare not lend" in inclusive credit and "dare not open" in archival opening review share similar institutional causes, both stemming from a result-oriented accountability model under conditions of risk uncertainty. The financial sector's mature experience in responsibility determination, exemption frameworks, value orientation, and procedural safeguards offers valuable lessons for constructing a due diligence and liability exemption system for archival opening review. Archival opening review should establish the principle that due diligence is assessed according to the standards in force at the time of review, construct a tiered exemption framework, improve procedural safeguard mechanisms, and promote a shift of the system from risk avoidance toward incentive for duty performance, thereby ensuring that archives are opened in accordance with the law through institutional supply.

Keywords

Archival Opening Review, Due Diligence and Liability Exemption, Inclusive Credit, Institutional Reference, Accountability Mechanism

1. Introduction

Archival opening is the fundamental pathway to realizing the value of archives and serving the public, and it is an important benchmark for measuring the standard of archival work. However, archival opening review involves coordinated judgments across multiple actors and stages, and the review outcome concerns the balancing of multiple values, including state secrets, personal information, and the rights and interests of third parties. This exposes review personnel to considerable pressure of accountability. In this institutional environment, review bodies generally prefer conservative strategies, and the phenomena of "fear of action" and "dare not open" have become significant obstacles constraining archival opening. Scholars have explored this issue in considerable depth. Xie Fei points out that archival opening review faces the dual dilemma of "excessive accountability" and "liability-avoiding inaction" (Xie, 2023); Jiang Yunfei and Wang Wei further analyze the institutional difficulties in constructing an exemption mechanism and propose paths for improvement (Jiang & Wang, 2026); Chen Yongsheng and Bao Huimin argue that the concept of "risk control" runs through the institutional design, mechanism building, and review process of archival opening, and that the logic of risk avoidance constrains the advancement of archival opening to a certain extent (Chen & Bao, 2026); Jiang Yunfei and Jin Chang demonstrate, from the perspectives of bounded rationality, parity of power and responsibility, and tolerance of error, the necessity of establishing a due diligence and liability exemption system for archival opening review, arguing that institutional incentives should be improved to guide review actors to perform their duties in accordance with the law and to act proactively (Jiang & Jin, 2023); Yao Jing and Xu Yongjun explore the improvement of the exemption mechanism in terms of substantive rules, procedural rules, and supporting measures (Yao & Xu, 2023); and Bian Xianjie and Wu Jing further discuss the boundaries of exemption (Bian & Wu, 2025). The above studies reveal, in terms of accountability mechanisms, risk governance, and institutional incentives, the deep-seated reasons for the slow progress of archival opening review, and they provide important ideas for improving the system. However, they are based mainly on internal institutional construction within the archival field, and research drawing on mature due diligence and liability exemption systems in other industries remains relatively insufficient.

It is worth noting that the accountability dilemma in archival opening review is not unique to the archival field. In the financial sector, inclusive credit long faced problems such as grassroots staff "daring not to lend" and "being unwilling to lend," whose root cause likewise lay in a risk-result-oriented accountability mechanism. After nearly two decades of institutional exploration—especially since the National Financial Regulatory Administration issued the Notice on Due Diligence and Liability Exemption for Inclusive Credit in 2024—the financial sector has gradually formed a relatively mature due diligence and liability exemption system (Chen, 2019; Chen & Cheng, 2019; Chen, 2025). Although credit approval and archival opening review differ in business content, staff in both face a structural

predicament: they can make judgments only on the basis of the information and institutional norms available at the time of performing their duties, while the final outcomes may be affected by changes in the external environment and other factors. Both also face the common institutional problem of how to balance risk control and the public interest. This determines that the experience of the inclusive credit due diligence and liability exemption system has strong reference value for archival opening review.

Research design and comparative basis. This study adopts a functional comparison. On the financial side, the primary materials are the normative documents that constitute the inclusive credit due diligence and liability exemption regime—notably the CBRC's 2004 Guidelines, the 2015 Guiding Opinions, the 2016 and 2019 Notices, and the NFRA's 2024 Notice (Jingui [2024] No. 11)—together with two judicial decisions retrieved from public sources, selected because they illustrate how responsibility-determination principles operate in adjudication rather than on paper. On the archival side, the analysis draws on the archival opening review provisions of the Archives Law and its implementing regulations, supplemented by the secondary literature cited above. The comparison proceeds along four dimensions: (i) the standard by which duty performance is assessed (ex ante conduct versus ex post results); (ii) the allocation of responsibility among multiple actors; (iii) the structure of exemption rules (obligatory exemption, discretionary mitigation, non-exemptible cases); and (iv) procedural safeguards (investigation, review, determination, appeal). These dimensions, rather than the surface similarity of the two businesses, form the basis for the institutional transfer proposed in Section 4.

2. The Evolution and Core Experience of the Inclusive Credit Due Diligence and Liability Exemption System

2.1. Institutional Evolution: From Principled Advocacy to Institutional Maturity

The due diligence and liability exemption system for inclusive credit has gradually formed a relatively complete institutional system through long-term practice, undergoing a development process from principled advocacy and institutional exploration to standardized improvement.

In 2004, the former China Banking Regulatory Commission issued the Guidelines on Due Diligence in Commercial Bank Credit Extension Work, which for the first time required commercial banks to establish a due diligence and liability exemption system for credit extension, and the concept of due diligence and liability exemption began to enter the financial regulatory system. However, the relevant provisions during this period remained at the level of principled requirements, and no specific provisions had been made regarding the objects of exemption, applicable conditions, responsibility determination, or procedural safeguards; the practical guidance of the system was therefore rather limited.

With the advancing of the inclusive finance strategy, the due diligence and lia-

bility exemption system entered a stage of exploration and improvement. The Guiding Opinions on Financial Services for Small and Micro Enterprises in 2015 systematically proposed, for the first time, the establishment of a due diligence and liability exemption mechanism in the field of financial services for small and micro enterprises; the Notice on Further Strengthening the Due Diligence and Liability Exemption Work of Commercial Banks for Small and Micro Enterprise Credit in 2016 further refined the institutional requirements (that 2016 Notice was repealed when the 2024 Notice took effect and is cited here as historical background only); and the Notice on Further Strengthening Financial Services for Private Enterprises in 2019 explicitly required the establishment and improvement of due diligence and liability exemption and fault-tolerant and error-correction mechanisms. By then, the due diligence and liability exemption system had gradually shifted from principled advocacy to institutional construction, and its institutional framework had initially taken shape.

In 2024, the National Financial Regulatory Administration issued the Notice on Due Diligence and Liability Exemption for Inclusive Credit, which systematically standardized the scope of application, standards of responsibility determination, exempted circumstances, working procedures, and supporting mechanisms, marking the entry of the inclusive credit due diligence and liability exemption system into a stage of standardized and systematic development. The subsequently issued Notice on Doing a Good Job in Financial Services for Small and Micro Enterprises in 2025 further required financial institutions to refine exempted circumstances, improve the exemption mechanism, and unblock channels for objection and appeal, promoting the continuous deepening of the due diligence and liability exemption system from institutional construction to practical operation[1].

The development of the inclusive credit due diligence and liability exemption system shows that the maturation of an incentive-oriented institution requires a gradual process from conceptual advocacy, to rule refinement, and finally to procedural improvement. By comparison, the due diligence and liability exemption system for archival opening review is still at the stage of theoretical advocacy and institutional exploration, and a unified and systematic set of norms is still lacking.

2.2. Core Experience of the Inclusive Credit Due Diligence and Liability Exemption System

The Notice on Due Diligence and Liability Exemption for Inclusive Credit issued by the National Financial Regulatory Administration in 2024[2] has established the most complete institutional system to date. Its experience lies not only in the design of exemption rules, but also in the philosophy of responsibility allocation,

[1]General Office of the National Financial Regulatory Administration (2025). Notice on Doing a Good Job in Financial Services for Small and Micro Enterprises in 2025. (In Chinese)
https://app.www.gov.cn/govdata/gov/202505/07/528514/article.html

[2]National Financial Regulatory Administration (2024). Notice on Due Diligence and Liability Exemption for Inclusive Credit. (In Chinese)
https://www.gov.cn/zhengce/zhengceku/202408/content_6966132.htm

procedural safeguards, and the operating mechanism of the system.

2.2.1. Establishing Responsibility Determination Standards Centered on the Process of Duty Performance

The Notice stipulates that the determination of due diligence shall be based on the laws, regulations, and supervisory rules applicable at the time the business was handled, together with the financial institution's internal rules, rather than determining responsibility retroactively on the basis of whether the loan ultimately became non-performing.

This provision embodies the classic "judgment-at-the-time-of-conduct principle." Staff are only responsible for the information they could grasp when performing their duties, and need not bear responsibility for market changes that could not have been foreseen afterwards. This fundamentally changes the traditional result-oriented model of responsibility evaluation.

This has important implications for archival opening review as well. Archival opening review has a distinct temporal character: review personnel can only make judgments on the basis of the legal norms, opening policies, and information available at the time of review. If disputes arise after opening due to changes in the social environment, adjustments in the law, or new historical understandings, it is inappropriate simply to negate the review personnel's performance of duty on the basis of ex post results; rather, the focus should be on whether they have fulfilled their reasonable duty of care.

2.2.2. Clarifying the Boundaries of Job Responsibilities to Achieve Precise Responsibility Determination

The Notice not only stipulates the principles of exemption, but also clarifies the objects of application and the boundaries of responsibilities. Its scope of application covers all business stages of inclusive credit, including marketing, acceptance, pre-loan investigation, examination and approval, loan disbursement, and post-loan management, while distinguishing among different posts—such as heads of institutions, business managers, and handling personnel—and assigning corresponding responsibilities according to their respective duties.

In particular, regarding the division of responsibility, the Notice emphasizes the principle of "whoever makes the decision bears the responsibility; whoever performs the duty is exempted from liability accordingly." For example, where a superior officer instructs the handling of business in violation of regulations, that officer shall bear the primary responsibility; handling personnel who have raised written objections may be exempted from or have their liability mitigated in accordance with the law; and for matters decided collectively, staff members who put forward lawful dissenting opinions that prove correct may likewise be exempted from liability.

Such a division of responsibilities both avoids the generalization of liability and prevents the shifting of liability from level to level, so that liability truly corresponds to the act of performing duty. Archival opening review also implements a multi-

actor collaborative review mechanism involving the records-creating units, the archives, competent industry authorities, and experts. Therefore, in constructing a due diligence and liability exemption system, the boundaries of responsibilities of different actors should be further refined, so as to prevent the blurring of responsibility from causing all actors to lean toward conservative review.

2.2.3. Constructing a Hierarchical System of Exemption Rules

In accordance with the degree of duty performance, the Notice has established a relatively complete system of exemption rules, dividing exempted circumstances into three categories: exemption that shall be granted, mitigation or exemption that may be granted, and circumstances in which exemption is not permitted.

For those who perform their duties in accordance with the law and are free of dereliction, liability shall be exempted in accordance with the law; for those who have basically performed their duties but are guilty of minor negligence, liability may be mitigated or exempted according to the actual circumstances; and for those who intentionally violate laws and regulations, commit gross dereliction of duty, practice fraud, or seek personal gain, liability shall be pursued in accordance with the law. Rather than simply expanding the scope of exemption, the Notice, while clarifying exempted circumstances, lists seven categories of circumstances in which exemption is not permitted, including deliberately concealing facts, defrauding credit extension with forged materials, illegally accepting benefits, and failing to identify risks due to gross errors. In institutional design, it thus achieves the unity of exemption and accountability.

This classified treatment not only embodies the principle of combining leniency with severity, but also enhances the precision of responsibility determination. It is of great significance for establishing a differentiated exemption system for archival opening review.

2.2.4. Establishing a Complete Due Diligence Review Procedure

Compared with the earlier system, one of the greatest innovations of the 2024 Notice lies in the establishment of a relatively complete due diligence review mechanism. The Notice requires financial institutions to set up a leading group for due diligence and liability exemption, with a dedicated department responsible for organizing due diligence investigations and reviews and for producing due diligence review reports.

The entire responsibility determination procedure comprises four stages: investigation, review, responsibility determination, and appeal. During the investigation, all business materials shall be fully examined, interviews conducted for verification, and factual determination materials produced; at the review stage, the due diligence review working group shall produce a due diligence review report on the basis of the investigation and render conclusions such as "diligent," "basically diligent," and "not diligent"; the authority responsible for responsibility determination then makes the final decision on the basis of the re-

view results. This system separates responsibility determination from professional review, which helps to improve the objectivity and professionalism of responsibility evaluation. For archival opening review, a review mechanism may be established with the participation of experts from multiple fields, including archives, confidentiality, and law, so as to enhance the professional level of exemption determination.

2.2.5. Improving the Objection, Appeal, and Procedural Safeguard Mechanisms

The Notice attaches particular importance to the role of procedural safeguards. On the one hand, it stipulates clearly that before the due diligence investigation and responsibility determination procedures are completed, accountability measures must not be imposed prematurely, and the results of special inspections or compliance checks may not be used as a substitute for the due diligence and liability exemption procedure. On the other hand, it establishes an objection and appeal system: a reviewed person who disagrees with the responsibility determination result may file a written appeal within the prescribed time limit, and the financial institution must conduct a re-examination and may not aggravate the liability because of the appeal. In addition, the Notice provides that the due diligence and liability exemption procedure should in principle be completed within one year, and that for businesses with small loan amounts or risks caused by force majeure, efficiency should be further improved. These procedural designs effectively safeguard the procedural rights of staff and make due diligence and liability exemption a genuine institution rather than an individual's discretionary power.

2.3. Institutional Effectiveness and Its Internal Logic

In recent years, as the due diligence and liability exemption system has been continuously improved, its institutional incentive effect has gradually become apparent. Regulatory authorities have continued to promote financial institutions in improving responsibility determination standards, refining exemption rules, conducting institutional evaluations, and regularly publishing typical cases, thereby seeking to strengthen grassroots staff's institutional confidence in performing their duties in accordance with the law.

In the labor dispute between Chang and a bank (note 1), the account manager's performance pay was deducted after a loan under his responsibility became overdue. The court did not hold that the bank violated the 2024 Notice, nor did it treat the exemption procedure as controlling the outcome of the dispute; its finding was that the deduction ratio was "manifestly unbalanced and improper." The case is nonetheless instructive in a limited way: it shows that courts are willing to scrutinize internal responsibility measures against a reasonableness standard, and that the due diligence framework forms part of the background against which such scrutiny occurs. The manuscript should not claim more than this.

Although the case was ultimately framed as a labor dispute, it fully reflects that the due diligence and liability exemption system has become an important insti-

tutional basis for judicial review of financial institutions' internal responsibility determination. Although the court did not directly apply the Notice to find the bank's deduction unlawful, its finding that the deduction ratio was "manifestly unbalanced and improper" substantially embodies the adjudicative logic of taking the performance procedure rather than the risk result as the basis of responsibility determination—the core concern is no longer whether the loan ultimately developed risk, but whether the financial institution completed the due diligence investigation, review, and responsibility determination procedures in accordance with the law (note 1).

In the case of Liu's illegally issuing loans (note 2), the court acquitted Liu on the specific criminal charge, holding that he had performed the investigation and evaluation obligations within the scope of his duties. This holding concerns criminal liability for that charge only; it does not establish that diligent staff bear no legal liability of any kind, since civil, disciplinary, and administrative consequences were not at issue. Its significance for this paper lies in its ex ante standard of review—what was knowable and required at the time the loan was processed—rather than in any blanket immunity.

Whether the due diligence and liability exemption system has causally reduced lending reluctance is difficult to establish with the materials available here: no lending-volume or survey data are presented, and institutional confidence cannot be measured from normative texts alone. What the cases and regulatory practice do show is narrower but still significant: the system has supplied an adjudicative and institutional vocabulary—performance of procedure rather than occurrence of risk—for evaluating staff conduct, and it has been treated as a relevant benchmark in both labor disputes and criminal adjudication.

At the same time, financial sector practice also shows that the effective operation of the due diligence and liability exemption system still faces problems such as the considerable flexibility of determination standards, the insufficient independence of review bodies, and the inertial mindset at the grassroots level of "emphasizing accountability while neglecting exemption." This experience reminds the archival field that attention should be paid to procedural safeguards and institutional culture building from the initial stage of institution building.

3. The Institutional Dilemma of Archival Opening Review and Lessons from the Financial Sector

3.1. The Institutional Dilemma Facing Archival Opening Review

In recent years, the archival opening review system has been continuously improved, but in practice the process of opening archives remains relatively slow. This paper does not claim that incentive imbalance is the sole cause of slow opening; review capacity, technical conditions, and resource constraints may also contribute, and disentangling these factors would require data beyond the scope of this study. The claim defended here is narrower: wherever accountability pressure is felt to be disproportionate to the information available at the time of review,

institutional incentives will bias reviewers toward conservatism, and this mechanism is observable in both sectors. Archival opening review has a strong attribute of risk judgment (Li & Zhang, 2026; Zhang, 2026): review personnel must both safeguard state secrets, trade secrets, and personal privacy, and implement the requirement of opening in accordance with the law, and they must constantly weigh these against each other. Because the background of records formation is complex and the risks of opening are somewhat uncertain, even if review personnel have performed the necessary examination obligations, they cannot completely avoid judgment deviations. In the absence of institutional protection, review bodies are more inclined to adopt conservative review strategies in order to reduce their own risk of liability.

In addition, archival opening review has gradually shifted from a single actor to multi-actor collaborative participation, implementing a collaborative review mechanism involving multiple actors who differ in information access, review authority, and division of responsibilities. However, the standards for dividing responsibility have not yet been further refined. When the allocation of power and responsibility lacks clear boundaries, all participating actors tend to raise review standards in order to reduce potential risks, which to a certain extent weakens the implementation effect of the archival opening system.

The core problem facing archival opening review is not insufficient accountability, but the lack of incentive mechanisms coordinated with accountability. Only by establishing a system in which power and responsibility are unified and in which incentives and constraints are equally emphasized can the practical situation of review bodies "being unwilling to open" and "daring not to open" be fundamentally improved. It is worth noting that this institutional dilemma is not unique to the archival field: in the digital development of inclusive credit in the financial sector, there was likewise a process in which responsibility subjects changed from single to multiple and the scope of responsibility determination continued to expand. Practice shows that strengthening accountability alone cannot solve the problem of responsibility allocation in multi-actor collaboration; it is also necessary to achieve parity of power and responsibility by improving the due diligence and liability exemption system. This experience is of important reference value for improving the responsibility mechanism of archival opening review, and it also provides a practical basis for cross-sector institutional borrowing.

3.2. Functional Analogy between Inclusive Credit and Archival Opening Review: The Theoretical Basis for Cross-Sector Reference

The above institutional dilemmas show that the responsibility allocation mechanism of archival opening review can usefully draw lessons from the due diligence and liability exemption system of the financial sector. That financial experience can inform archival opening review does not depend on the two fields converging

institutionally—no evidence of such convergence is offered here, and the concept of institutional isomorphism in the strict sense (DiMaggio & Powell, 1983) therefore does not apply. The relationship is better described as a functional analogy: although inclusive credit and archival opening review belong to different fields, they confront an analogous incentive structure, namely "uncertain outcomes—ex post result-oriented accountability—actors rationally shifting toward conservative performance." It is this homology in the logic of responsibility allocation, not institutional isomorphism, that justifies cross-sector borrowing.

First, both types of work are professional judgment activities. In inclusive credit approval, staff make risk judgments on the basis of information such as a company's operating conditions, credit records, and market environment; even if they perform all investigation procedures, they cannot completely avoid the possibility that future business risks will cause the loan to become non-performing. The same is true of archival opening review: review personnel make professional judgments on the basis of the background of records formation, laws and regulations, and opening policies, but whether the opening of archives will trigger new social controversy, privacy risks, or impacts on national interests after opening is likewise uncertain. The common feature of the two types of work is that staff can only make judgments on the basis of the information available at the time of performing their duties, and cannot guarantee that the final outcome will fully accord with future changes.

Second, both types of work exhibit a typical tendency toward result-oriented accountability, with traditional responsibility evaluation judging primarily on the basis of final outcomes. After a non-performing loan is formed, the responsibility of the approver is easily traced; likewise, after archives are opened, once a dispute arises, the responsibility easily falls on the reviewer. This mode of evaluation neglects the distinction between the process of duty performance and objective circumstances, so that liability is detached from the act itself and becomes excessively dependent on risk results. In a result-oriented institutional environment, the most rational choice for staff is often not to perform their duties actively, but to avoid bearing liability as far as possible. Grassroots credit personnel therefore develop tendencies of "being reluctant to lend" and "being cautious in lending", while archival reviewers prefer conservative strategies of "not opening unless necessary". This imbalance of institutional incentives is precisely the core problem commonly faced by the two fields.

3.3. Risk Differences and Their Limits on Institutional Borrowing

The consistency of institutional dilemmas does not mean that the two types of risk are exactly the same. In essence, inclusive credit risk is an economic risk, whose main consequences are the loss of loan principal, the decline of financial institutions' asset quality, and the spread of financial risk; the risk has a strong economically quantifiable character. The risks faced by archival opening review, by contrast, are more complex, involving both the security of state secrets and multiple

value goals such as the protection of personal privacy, the safeguarding of trade secrets, historical evaluation, and social and public interests. The consequences of these risks are often irreversible and public in nature: once a leak of secrets or an infringement of privacy occurs, it usually cannot be fully remedied through economic compensation.

Given the different natures of the risks, the due diligence and liability exemption system for archival opening review cannot simply copy the rules of the financial sector, but should be adaptively adjusted in light of the characteristics of archival work. Specifically, the institutional differences should be reflected in at least the following three aspects.

First, the threshold for exemption should be raised appropriately. Since archival opening involves national security and the public interest, stricter conditions for exemption should be established for classified archives, major sensitive archives, and matters involving major public interests. Review personnel should not only perform general examination obligations, but should also prove that they have taken reasonable and prudent measures.

Second, procedural safeguards should be stricter. Financial business relies more on internal review, whereas archival opening review is advised to establish a due diligence review mechanism with the participation of experts from multiple fields, including archives, law, and confidentiality, and to implement collective review for major and difficult cases, so as to enhance the scientific nature of exemption determination.

Third, the standard of good faith should be further specified. It should be made clear that a reviewer who has completed a reasonable review on the basis of the laws and regulations, opening standards, and existing technical conditions in force at the time of review is presumed to have performed duty in good faith, and that the determination of due diligence cannot be negated on the basis of ex post changes in social evaluation.

What the financial sector offers for borrowing is the philosophy of responsibility allocation, not the specific institutional rules. Only by adaptively adjusting the standards of exemption, procedural rules, and responsibility boundaries in light of the special risks of archival opening review can the localization of institutional transplantation be truly achieved. The referential value of financial sector experience lies in the parallelism of incentive structures, not in the comparability of risks.

3.4. The Reference Value of Financial Sector Experience for Archival Opening Review

On the basis of the above analysis, the most important implication of the inclusive credit due diligence and liability exemption system for archival opening review lies not in expanding the scope of exemption, but in readjusting the mode of responsibility evaluation. By establishing a responsibility system of "evaluating duty performance instead of evaluating results," the financial sector enables staff to focus more on performing their duties in accordance with the law rather than evad-

ing liability; this institutional logic likewise applies to archival opening review. At the same time, the financial sector's systems of job responsibility boundaries, classified exemption rules, due diligence review procedures, objection and appeal mechanisms, and typical case publication can all provide strong institutional reference value for archival opening review.

Drawing on financial sector experience does not mean lowering the accountability requirements for archival opening review; rather, on the basis of insisting on accountability in accordance with the law, it means distinguishing more accurately between the risks of normal duty performance and illegal or irregular conduct, achieving a balance between accountability constraints and institutional incentives, and enabling reviewers to truly perform their duties in accordance with the law and dare to perform their duties.

4. Constructing a Due Diligence and Liability Exemption System for Archival Opening Review

Constructing a due diligence and liability exemption system for archival opening review requires following a gradual logic from value orientation to rule design, from substantive norms to procedural safeguards, and from institutional supply to cultural cultivation. This section proceeds at five levels: institutional objectives, determination standards, exemption rules, procedural support, and cultural cultivation.

4.1. Clarifying Institutional Objectives: Serving Archival Opening and the Public Interest

The establishment of a due diligence and liability exemption system is not intended to reduce or exempt the liability of review personnel, but to stimulate the enthusiasm of review bodies for performing their duties in accordance with the law and to ensure the effective implementation of the archival opening system through scientific and reasonable allocation of responsibility. Therefore, the due diligence and liability exemption system for archival opening review should always adhere to the value objective of serving archival opening and serving the public interest, taking the promotion of lawful archival opening as the fundamental orientation of the system.

For a long time, archival opening review has emphasized risk prevention and control, paying close attention to the liability risks that may arise in the process of opening, while paying insufficient attention to the public value carried by archival opening. This institutional orientation easily leads review bodies to take the avoidance of liability as the primary goal and thus to adopt more conservative review strategies. The establishment of a due diligence and liability exemption system helps to promote a shift of the institutional philosophy from an exclusive emphasis on risk control to a coordinated consideration of opening and security, and to fully release the social value of archival resources on the basis of protecting national interests, social and public interests, and the lawful rights and interests of

individuals in accordance with the law, so as to achieve a dynamic balance between archival opening and risk prevention and control. This institutional orientation also accords with the reform requirements of recent years regarding the strengthening of regulation during and after the event, the improvement of the administrative law enforcement responsibility system, and the equal emphasis on incentives and constraints[3][4].

4.2. Improving the Standards for Determining Due Diligence: Taking the Norms in Force at the Time of Review as the Basis of Evaluation

Scientific and reasonable standards for determining due diligence are the premise for the effective operation of the due diligence and liability exemption system. Drawing on the mature experience of the financial sector, archival opening review should insist on taking the laws, regulations, and policies applicable at the time the review was conducted, together with the internal management system, as the basis for determining due diligence, and should ground responsibility evaluation in the act of duty performance itself rather than in ex post results.

As to whether review personnel have performed due diligence, the focus should be on whether they have performed their review duties in accordance with the law, whether they have conducted examinations in accordance with prescribed procedures, and whether they have fulfilled their reasonable duty of care; responsibility should not be determined simply on the basis of whether the opening result produces disputes or risks. Specifically, a comprehensive assessment should be made from the dimensions of procedural compliance, the degree of information verification, the accuracy of law application, and risk identification and handling. Only by fully considering these process factors can an objective and comprehensive judgment of due diligence be made. Where changes in the opening result are caused by objective factors that could not have been reasonably foreseen at the time of review—such as adjustments in laws and policies, changes in the social environment, or other factors—they should not serve as a basis for holding review personnel accountable. Only by combining process evaluation with result evaluation, with process evaluation as the primary factor, can the principle of parity of power and responsibility be truly embodied and the enthusiasm of review personnel for performing their duties in accordance with the law be enhanced.

At the same time, the risks involved in archival opening review have the attribute of public interest, which clearly differs from the primarily economic risks faced by inclusive credit. Therefore, on the basis of borrowing the financial sec-

[3]State Administration for Market Regulation (2021). Provisions on the Administrative Law Enforcement Responsibility System for Market Supervision and Administration (Decree No. 41) [Government Regulation]. (In Chinese)
https://www.gov.cn/gongbao/content/2021/content_5627687.htm

[4]State Council (2018). Guiding Opinions on Strengthening and Standardizing Regulation during and after the Event [Government Document]. (In Chinese)
https://www.gov.cn/gongbao/content/2019/content_5433721.htm

tor's judgment-at-the-time-of-conduct principle, the due diligence standard should be appropriately raised in light of the particularity of archival work. The heightened duty of care should attach to archives whose opening is restricted by identifiable legal bases, namely: (i) archives whose content falls within the scope of state secrets as classified under the Law on Guarding State Secrets and its classification catalogues; (ii) archives containing personal information whose disclosure is restricted under the Personal Information Protection Law, the Civil Code, and the archives regulations' provisions on personal privacy in personnel and medical records; (iii) archives containing trade secrets within the meaning of the Anti-Unfair Competition Law; and (iv) other archives for which specific disclosure restrictions exist in statute or regulation. For these categories, the review record should document the legal basis relied upon, the verification steps taken, and—where the case is difficult—expert consultation or collective deliberation. Categories defined by social evaluation, such as "important historical events," should be avoided as triggers, because a criterion that invites discretionary judgment reproduces the defensive review behavior the exemption system is designed to correct, review bodies should be required to perform a higher degree of reasonable duty of care, further reducing judgment risks through procedures such as expert consultation, collective study, and collaborative review, so as to achieve a dynamic balance between lawful opening and risk prevention and control.

4.3. Constructing a Clearly Tiered System of Exemption Rules

Exemption rules are the core content of the due diligence and liability exemption system. Constructing a scientific system of exemption rules first requires clarifying the logical basis of classification—namely, distinguishing different degrees of liability bearing according to the degree of duty performance and the nature of the conduct of review personnel, so as to achieve "proportionality between fault and liability." Specifically, review conduct can be divided into three levels—"diligent," "basically diligent," and "not diligent"—corresponding respectively to the three consequences of "full exemption," "mitigated or exempted liability," and "accountability." Within this framework, drawing on the financial sector's institutional philosophy of classified exemption and combining it with the characteristics of archival opening review, exemption rules should be formulated separately for the following three categories of circumstances.

For those who strictly abide by laws, regulations, and review procedures and conscientiously perform their review duties, but whose opening results deviate due to objective causes, liability shall be exempted in accordance with the law. For example, where disputes arise after opening due to the complexity of archival content, reasonable differences in the understanding of review bases, or factors that could not have been foreseen at the time of review—such as policy adjustments or changes in the social environment—or where a judgment is made on the basis of the review opinions provided by the relevant unit and the necessary examination obligations have been performed, such circumstances should in principle be rec-

ognized as due diligence exemption.

For those who have basically performed their review duties but are guilty only of procedural defects or ordinary negligence, without causing serious consequences, liability shall be mitigated or exempted in accordance with the law according to the specific circumstances. By establishing an elastic liability mechanism, the bearing of liability is made commensurate with the degree of duty performance, avoiding simplification and absolutization in responsibility determination.

For those who intentionally violate laws and regulations, abuse power, practice favoritism or fraud, or are guilty of gross negligence, the corresponding liability shall be pursued in accordance with the law, and the due diligence and liability exemption system shall not apply. Insisting on equal emphasis on exemption and accountability can both give play to the institutional incentive function and safeguard the seriousness of archival opening review.

4.4. Improving Procedural Safeguards and Supporting Mechanisms

The due diligence and liability exemption system requires not only the support of substantive rules, but also the improvement of procedural safeguards to ensure that responsibility determination is fair, just, and standardized. A unified and standardized due diligence determination procedure should be established, with clear provisions on the stages of initiating investigation, fact verification, expert review, responsibility determination, notification of results, and objection and appeal, so as to ensure that responsibility determination is built on full investigation and objective evaluation. In the process of responsibility determination, factors such as the basis of review, the process of duty performance, objective conditions, and subjective fault should be comprehensively considered, and the unity of fact determination and procedural legitimacy should be upheld, so as to avoid making responsibility judgments simply on the basis of results.

On the basis of improving procedural safeguards, supporting mechanisms should be advanced simultaneously. First, the division of responsibilities among the archives, the records-creating units, and the relevant collaborative review bodies should be further refined, and a clear and definite system of power and responsibility should be established to provide an institutional basis for due diligence determination. Second, the articulation mechanism between the exemption system and the accountability system should be improved, so as to achieve coordination between accountability in accordance with the law and due diligence exemption. Third, a system of typical case publication and business training should be established, practical experience should be summarized in a timely manner, responsibility determination standards should be unified, and the understanding and application capacity of review personnel regarding the due diligence and liability exemption system should be enhanced, so as to gradually form an institutional environment of "performing duties in accordance with the law, exemption

for due diligence, and accountability for dereliction of duty."

4.5. Cultivating a Culture of Due Diligence and Liability Exemption

Financial sector practice suggests—though the materials here cannot establish a causal reduction in lending reluctance—that the due diligence and liability exemption system has begun to supply an adjudicative and institutional vocabulary for evaluating staff conduct ex ante, and that this vocabulary has been gradually disseminated through typical case publication, business training, supervision and evaluation, and institutional publicity under the continued promotion of regulatory authorities, transforming the concept of due diligence and liability exemption from institutional text into a code of conduct generally recognized by grassroots staff.

By comparison, archival opening review has long been in an institutional environment dominated by risk prevention and control, and review bodies have generally formed performance tendencies of "preferring strictness to leniency" and "preferring slowness to haste," focusing more on how to avoid liability than on how to open archives in accordance with the law. This long-formed risk-avoidance culture will not disappear automatically with the establishment of an exemption system. Without corresponding institutional publicity, education and training, and practical guidance, even if relatively complete due diligence and liability exemption rules are established, review personnel may still adopt conservative review strategies because of insufficient understanding of exemption conditions, unclear grasp of responsibility boundaries, or lack of confidence in the application of the system, so that the system cannot truly exert its incentive effect. Therefore, in the process of constructing the due diligence and liability exemption system for archival opening review, institutional culture building should be advanced simultaneously with the building of substantive rules, so that review bodies gradually form a value philosophy of giving priority to performing duties in accordance with the law and attaching equal importance to risk prevention and archival opening.

Specifically, on the one hand, a mechanism for the publication of typical cases and regular training should be established. Typical cases of due diligence exemption and cases of illegal or irregular conduct should be summarized and published in a timely manner, and through case-based interpretation of the law, business training, and experience exchange, review personnel should be guided to accurately understand the standards of due diligence determination, the boundaries of exemption, and the rules of liability bearing, so as to continuously improve their capacity to perform duties in accordance with the law and to identify risks. On the other hand, the assessment and evaluation mechanism should be further improved, with review quality, the process of duty performance, and the situation of performing duties in accordance with the law as the evaluation priorities, so as to avoid taking simply the number of openings or the occurrence of risk events as the basis of performance evaluation, and to guide the formation of an assessment

orientation that values process and duty performance. Meanwhile, for ordinary judgment errors caused by objective causes in the course of performing duties in accordance with the law, the principle of tolerance and prudence should be upheld, and the overall duty performance of review personnel should not be negated because of individual risk events; for intentional illegal or irregular conduct, abuse of power, or serious dereliction of duty, liability should be strictly pursued in accordance with the law, so as to effectively safeguard the seriousness and authority of the due diligence and liability exemption system. Only by organically combining scientific and reasonable institutional rules, fair and standardized procedural safeguards, and a positive and inclusive institutional culture can a responsibility system of "guaranteed lawful performance of duty and certain accountability for illegal or irregular conduct" be truly established, promoting a shift of archival opening review from passive liability avoidance to active duty performance, and better realizing the value objectives of the archival opening system.

5. Conclusion

Archival opening review is an important institutional arrangement for balancing the utilization of archival opening and risk prevention and control. The phenomena of "daring not to open" and "being unwilling to open" in practice essentially reflect a performance dilemma caused by the imbalance between accountability constraints and institutional incentives. Although inclusive credit business and archival opening review face different types of risks, both are situated in an institutional environment of "uncertain outcomes with possible ex post accountability," and their institutional dilemmas show clear structural homology, which provides a theoretical basis for borrowing the experience of the financial sector's due diligence and liability exemption system for archival opening review. The core value of the inclusive credit due diligence and liability exemption system lies not in simply expanding the scope of exemption, but in insisting on evaluating the process of duty performance instead of evaluating results on the basis of accountability in accordance with the law, guiding staff to perform their duties in accordance with the law and to take responsibility through the scientific allocation of responsibility risks, and achieving the organic unity of accountability constraints and institutional incentives.

The construction of a due diligence and liability exemption system for archival opening review should be based on the special attributes of archival work, insist on the unity of accountability in accordance with the law and due diligence exemption, and, on the basis of absorbing the mature experience of the financial sector, establish due diligence determination standards centered on the judgment at the time of conduct, improve the classified exemption rules, procedural safeguard mechanisms, and institutional culture building, and promote the transformation of responsibility evaluation from result orientation to duty performance orientation. At the same time, full consideration should be given to the special risks of archival opening involving the protection of state secrets, personal privacy, and public interests, and the combination of conceptual borrowing and in-

stitutional adaptation should be upheld, so as to continuously improve the due diligence and liability exemption system on the premise of ensuring archival security, promote review bodies to perform their duties in accordance with the law and actively, and make the archival opening review system more scientific and standardized. Only by basing ourselves on the reality of archival opening review and achieving the localized transformation of the system on the basis of borrowing the mature experience of the financial sector can we plausibly expect the due diligence and liability exemption system to encourage responsible duty performance and standardize review conduct, thereby providing useful insights for the continuous improvement of the archival opening review system.

Notes

1) Civil Judgment of the Shanghai No. 2 Intermediate People's Court (2026) Hu 02 Min Zhong No. 6599 (labor dispute between A Bank and Chang).

2) Criminal Ruling of the Chongqing No. 5 Intermediate People's Court (2016) Yu 05 Xing Zhong No. 298 (the case of Liu's illegally issuing loans).

Author Contributions

Conceptualization, Z.Y.; methodology, Z.Y.; software, Z.Y.; validation, Z.Y. and Q.W.; formal analysis, Z.Y.; investigation, Z.Y.; resources, Q.W.; data curation, Z.Y.; writing—original draft preparation, Z.Y.; writing—review and editing, Z.Y. and Q.W.; visualization, Z.Y.; supervision, Q.W.; project administration, Z.Y.; funding acquisition, Q.W. All authors have read and agreed to the published version of the manuscript.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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