

# 中华人民共和国主席令

## 第十五号

《中华人民共和国公司法》已由中华人民共和国第十四届全国人民代表大会常务委员会第七次会议于2023年12月29日修订通过，现予公布，自2024年7月1日起施行。

中华人民共和国主席 习近平

2023年12月29日

# 中华人民共和国公司法

(1993年12月29日第八届全国人民代表大会常务委员会第五次会议通过 根据1999年12月25日第九届全国人民代表大会常务委员会第十三次会议《关于修改〈中华人民共和国公司法〉的决定》第一次修正 根据2004年8月28日第十届全国人民代表大会常务委员会第十一次会议《关于修改〈中华人民共和国公司法〉的决定》第二次修正 2005年10月27日第十届全国人民代表大会常务委员会第十八次会议第一次修订 根据2013年12月28日第十二届全国人民代表大会常务委员会第六次会议《关于修改〈中华人民共和国海洋环境保护法〉等七部法律的决定》第三次修正 根据2018年10月26日第十三届全国人民代表大会常务委员会第六次会议《关于修改〈中华人民共和国公司法〉的决定》第四次修正 2023年12月29日第十四届全国人民代表大会常务委员会第七次会议第二次修订)

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# 第一章 总 则

**第一条** 为了规范公司的组织和行为，保护公司、股东、职工和债权人的合法权益，完善中国特色现代企业制度，弘扬企业家精神，维护社会经济秩序，促进社会主义市场经济的发展，根据宪法，制定本法。

**第二条** 本法所称公司，是指依照本法在中华人民共和国境内设立的有限责任公司和股份有限公司。

**第三条** 公司是企业法人，有独立的法人财产，享有法人财产权。公司以其全部财产对公司的债务承担责任。

公司的合法权益受法律保护，不受侵犯。

**第四条** 有限责任公司的股东以其认缴的出资额为限对公司承担责任；股份有限公司的股东以其认购的股份为限对公司承担责任。

公司股东对公司依法享有资产收益、参与重大决策和选择管理者等权利。

**第五条** 设立公司应当依法制定公司章程。公司章程对公司、股东、董事、监事、高级管理人员具有约束力。

**第六条** 公司应当有自己的名称。公司名称应当符合国家有关规定。

公司的名称权受法律保护。

**第七条** 依照本法设立的有限责任公司，应当在公司名称中标明有限责任公司或者有限公司字样。

依照本法设立的股份有限公司，应当在公司名称中标明股份有限公司或者股份公司字样。

**第八条** 公司以其主要办事机构所在地为住所。

**第九条** 公司的经营范围由公司章程规定。公司可以修改公司章程，变更经营范围。

公司的经营范围中属于法律、行政法规规定须经批准的项目，应当依法经过批准。

**第十条** 公司的法定代表人按照公司章程的规定，由代表公司执行公司事务的董事或者经理担任。

担任法定代表人的董事或者经理辞任的，视为同时辞去法定代表人。

法定代表人辞任的，公司应当在法定代表人辞任之日起三十日内确定新的法定代表人。

**第十一条** 法定代表人以公司名义从事的民事活动，其法律后果由公司承受。

公司章程或者股东会对法定代表人职权的限制，不得对抗善意相对人。

法定代表人因执行职务造成他人损害的，由公司承担民事责任。公司承担民事责任后，依照法律或者公司章程的规定，可以向有过错的法定代表人追偿。

**第十二条** 有限责任公司变更为股份有限公司，应当符合本法规定的股份有限公司的条件。股份有限公司变更为有限责任公司，应当符合本法规定的有限责任公司的条件。

有限责任公司变更为股份有限公司的，或者股份有限公司变更为有限责任公司的，公司变更

前的债权、债务由变更后的公司承继。

**第十三条** 公司可以设立子公司。子公司具有法人资格，依法独立承担民事责任。

公司可以设立分公司。分公司不具有法人资格，其民事责任由公司承担。

**第十四条** 公司向其他企业投资。

法律规定公司不得成为对所投资企业的债务承担连带责任的出资人的，从其规定。

**第十五条** 公司向其他企业投资或者为他人提供担保，按照公司章程的规定，由董事会或者股东会决议；公司章程对投资或者担保的总额及单项投资或者担保的数额有限额规定的，不得超过规定的限额。

公司为公司股东或者实际控制人提供担保的，应当经股东会决议。

前款规定的股东或者受前款规定的实际控制人支配的股东，不得参加前款规定事项的表决。该项表决由出席会议的其他股东所持表决权的过半数通过。

**第十六条** 公司应当保护职工的合法权益，依法与职工签订劳动合同，参加社会保险，加强劳动保护，实现安全生产。

公司应当采用多种形式，加强公司职工的职业教育和岗位培训，提高职工素质。

**第十七条** 公司职工依照《中华人民共和国工会法》组织工会，开展工会活动，维护职工合法权益。公司应当为本公司工会提供必要的活动条件。公司工会代表职工就职工的劳动报酬、工作时间、休息休假、劳动安全卫生和保险福利等事项依法与公司签订集体合同。

公司依照宪法和有关法律的规定，建立健全以职工代表大会为基本形式的民主管理制度，通过职工代表大会或者其他形式，实行民主管理。

公司研究决定改制、解散、申请破产以及经营方面的重大问题、制定重要的规章制度时，应

当听取公司工会的意见，并通过职工代表大会或者其他形式听取职工的意见和建议。

**第十八条** 在公司中，根据中国共产党章程的规定，设立中国共产党的组织，开展党的活动。公司应当为党组织的活动提供必要条件。

**第十九条** 公司从事经营活动，应当遵守法律法规，遵守社会公德、商业道德，诚实守信，接受政府和社会公众的监督。

**第二十条** 公司从事经营活动，应当充分考虑公司职工、消费者等利益相关者的利益以及生态环境保护等社会公共利益，承担社会责任。

国家鼓励公司参与社会公益活动，公布社会责任报告。

**第二十一条** 公司股东应当遵守法律、行政法规和公司章程，依法行使股东权利，不得滥用股东权利损害公司或者其他股东的利益。

公司股东滥用股东权利给公司或者其他股东造成损失的，应当承担赔偿责任。

**第二十二条** 公司的控股股东、实际控制人、董事、监事、高级管理人员不得利用关联关系损害公司利益。

违反前款规定，给公司造成损失的，应当承担赔偿责任。

**第二十三条** 公司股东滥用公司法人独立地位和股东有限责任，逃避债务，严重损害公司债权人利益的，应当对公司债务承担连带责任。

股东利用其控制的两个以上公司实施前款规定行为的，各公司应当对任一公司的债务承担连带责任。

只有一个股东的公司，股东不能证明公司财产独立于股东自己的财产的，应当对公司债务承担连带责任。

**第二十四条** 公司股东会、董事会、监事会召开会议和表决可以采用电子通信方式，公司章程另有规定的除外。

**第二十五条** 公司股东会、董事会的决议内容违反法律、行政法规的无效。

**第二十六条** 公司股东会、董事会的会议召集程序、表决方式违反法律、行政法规或者公司章程，或者决议内容违反公司章程的，股东自决议作出之日起六十日内，可以请求人民法院撤销。但是，股东会、董事会的会议召集程序或者表决方式仅有轻微瑕疵，对决议未产生实质影响的除外。

未被通知参加股东会会议的股东自知道或者应当知道股东会决议作出之日起六十日内，可以请求人民法院撤销；自决议作出之日起一年内没有行使撤销权的，撤销权消灭。

**第二十七条** 有下列情形之一的，公司股东会、董事会的决议不成立：

- (一) 未召开股东会、董事会会议作出决议；
- (二) 股东会、董事会会议未对决议事项进行表决；
- (三) 出席会议的人数或者所持表决权数未达到本法或者公司章程规定的人数或者所持表决权数；
- (四) 同意决议事项的人数或者所持表决权数未达到本法或者公司章程规定的人数或者所持表决权数。

**第二十八条** 公司股东会、董事会决议被人民法院宣告无效、撤销或者确认不成立的，公司应当向公司登记机关申请撤销根据该决议已办理的登记。

股东会、董事会决议被人民法院宣告无效、撤销或者确认不成立的，公司根据该决议与善意相对人形成的民事法律关系不受影响。

## 第二章 公 司 登 记

**第二十九条** 设立公司，应当依法向公司登记机关申请设立登记。

法律、行政法规规定设立公司必须报经批准的，应当在公司登记前依法办理批准手续。

**第三十条** 申请设立公司，应当提交设立登记申请书、公司章程等文件，提交的材料应当真实、合法和有效。

申请材料不齐全或者不符合法定形式的，公司登记机关应当一次性告知需要补正的材料。

**第三十一条** 申请设立公司，符合本法规定的设立条件的，由公司登记机关分别登记为有限责任公司或者股份有限公司；不符合本法规定的设立条件的，不得登记为有限责任公司或者股份有限公司。

**第三十二条** 公司登记事项包括：

- (一) 名称；
- (二) 住所；
- (三) 注册资本；
- (四) 经营范围；
- (五) 法定代表人的姓名；
- (六) 有限责任公司股东、股份有限公司发起人的姓名或者名称。

公司登记机关应当将前款规定的公司登记事项通过国家企业信用信息公示系统向社会公示。

**第三十三条** 依法设立的公司，由公司登记机关发给公司营业执照。公司营业执照签发日期为公司成立日期。

公司营业执照应当载明公司的名称、住所、注册资本、经营范围、法定代表人姓名等事项。

公司登记机关可以发给电子营业执照。电子营业执照与纸质营业执照具有同等法律效力。

**第三十四条** 公司登记事项发生变更的，应当依法办理变更登记。

公司登记事项未经登记或者未经变更登记，不得对抗善意相对人。

**第三十五条** 公司申请变更登记，应当向公司登记机关提交公司法定代表人签署的变更登记

申请书、依法作出的变更决议或者决定等文件。

公司变更登记事项涉及修改公司章程的，应当提交修改后的公司章程。

公司变更法定代表人的，变更登记申请书由变更后的法定代表人签署。

**第三十六条** 公司营业执照记载的事项发生变更的，公司办理变更登记后，由公司登记机关换发营业执照。

**第三十七条** 公司因解散、被宣告破产或者其他法定事由需要终止的，应当依法向公司登记机关申请注销登记，由公司登记机关公告公司终止。

**第三十八条** 公司设立分公司，应当向公司登记机关申请登记，领取营业执照。

**第三十九条** 虚报注册资本、提交虚假材料或者采取其他欺诈手段隐瞒重要事实取得公司设立登记的，公司登记机关应当依照法律、行政法规的规定予以撤销。

**第四十条** 公司应当按照规定通过国家企业信用信息公示系统公示下列事项：

(一) 有限责任公司股东认缴和实缴的出资额、出资方式 and 出资日期，股份有限公司发起人认购的股份数；

(二) 有限责任公司股东、股份有限公司发起人的股权、股份变更信息；

(三) 行政许可取得、变更、注销等信息；

(四) 法律、行政法规规定的其他信息。

公司应当确保前款公示信息真实、准确、完整。

**第四十一条** 公司登记机关应当优化公司登记办理流程，提高公司登记效率，加强信息化建设，推行网上办理等便捷方式，提升公司登记便利化水平。

国务院市场监督管理部门根据本法和有关法律、行政法规的规定，制定公司登记注册的具体

办法。

## 第三章 有限责任公司的 设立和组织机构

### 第一节 设 立

**第四十二条** 有限责任公司由一个以上五十个以下股东出资设立。

**第四十三条** 有限责任公司设立时的股东可以签订设立协议，明确各自在公司设立过程中的权利和义务。

**第四十四条** 有限责任公司设立时的股东为设立公司从事的民事活动，其法律后果由公司承受。

公司未成立的，其法律后果由公司设立时的股东承受；设立时的股东为二人以上的，享有连带债权，承担连带债务。

设立时的股东为设立公司以自己的名义从事民事活动产生的民事责任，第三人有权选择请求公司或者公司设立时的股东承担。

设立时的股东因履行公司设立职责造成他人损害的，公司或者无过错的股东承担赔偿责任后，可以向有过错的股东追偿。

**第四十五条** 设立有限责任公司，应当由股东共同制定公司章程。

**第四十六条** 有限责任公司章程应当载明下列事项：

(一) 公司名称和住所；

(二) 公司经营范围；

(三) 公司注册资本；

(四) 股东的姓名或者名称；

(五) 股东的出资额、出资方式和出资日期；

(六) 公司的机构及其产生办法、职权、议事规则；

(七) 公司法定代表人的产生、变更办法；

(八) 股东会认为需要规定的其他事项。

股东应当在公司章程上签名或者盖章。

**第四十七条** 有限责任公司的注册资本为在公司登记机关登记的全体股东认缴的出资额。全体股东认缴的出资额由股东按照公司章程的规定自公司成立之日起五年内缴足。

法律、行政法规以及国务院决定对有限责任公司注册资本实缴、注册资本最低限额、股东出资期限另有规定的，从其规定。

**第四十八条** 股东可以用货币出资，也可以用实物、知识产权、土地使用权、股权、债权等可以用货币估价并可以依法转让的非货币财产作价出资；但是，法律、行政法规规定不得作为出资的财产除外。

对作为出资的非货币财产应当评估作价，核实财产，不得高估或者低估作价。法律、行政法规对评估作价有规定的，从其规定。

**第四十九条** 股东应当按期足额缴纳公司章程规定的各自所认缴的出资额。

股东以货币出资的，应当将货币出资足额存入有限责任公司在银行开设的账户；以非货币财产出资的，应当依法办理其财产权的转移手续。

股东未按期足额缴纳出资的，除应当向公司足额缴纳外，还应当对给公司造成的损失承担赔偿责任。

**第五十条** 有限责任公司设立时，股东未按照公司章程规定实际缴纳出资，或者实际出资的非货币财产的实际价额显著低于所认缴的出资额的，设立时的其他股东与该股东在出资不足的范围内承担连带责任。

**第五十一条** 有限责任公司成立后，董事会应当对股东的出资情况进行核查，发现股东未按期足额缴纳公司章程规定的出资的，应当由公司向该股东发出书面催缴书，催缴出资。

未及时履行前款规定的义务，给公司造成损失的，负有责任的董事应当承担赔偿责任。

**第五十二条** 股东未按照公司章程规定的出资日期缴纳出资，公司依照前条第一款规定发出书面催缴书催缴出资的，可以载明缴纳出资的宽限期；宽限期自公司发出催缴书之日起，不得少于六十日。宽限期届满，股东仍未履行出资义务的，公司经董事会决议可以向该股东发出失权通知，通知应当以书面形式发出。自通知发出之日起，该股东丧失其未缴纳出资的股权。

依照前款规定丧失的股权应当依法转让，或者相应减少注册资本并注销该股权；六个月内未转让或者注销的，由公司其他股东按照其出资比例足额缴纳相应出资。

股东对失权有异议的，应当自接到失权通知之日起三十日内，向人民法院提起诉讼。

**第五十三条** 公司成立后，股东不得抽逃出资。

违反前款规定的，股东应当返还抽逃的出资；给公司造成损失的，负有责任的董事、监事、高级管理人员应当与该股东承担连带赔偿责任。

**第五十四条** 公司不能清偿到期债务的，公司或者已到期债权的债权人有权要求已认缴出资但未届出资期限的股东提前缴纳出资。

**第五十五条** 有限责任公司成立后，应当向股东签发出资证明书，记载下列事项：

- (一) 公司名称；
- (二) 公司成立日期；
- (三) 公司注册资本；
- (四) 股东的姓名或者名称、认缴和实缴的出资额、出资方式和出资日期；
- (五) 出资证明书的编号和核发日期。

出资证明书由法定代表人签名，并由公司盖

章。

**第五十六条** 有限责任公司应当置备股东名册，记载下列事项：

- (一) 股东的姓名或者名称及住所；
- (二) 股东认缴和实缴的出资额、出资方式 and 出资日期；
- (三) 出资证明书编号；
- (四) 取得和丧失股东资格的日期。

记载于股东名册的股东，可以依股东名册主张行使股东权利。

**第五十七条** 股东有权查阅、复制公司章程、股东名册、股东会会议记录、董事会会议决议、监事会会议决议和财务会计报告。

股东可以要求查阅公司会计账簿、会计凭证。股东要求查阅公司会计账簿、会计凭证的，应当向公司提出书面请求，说明目的。公司有合理根据认为股东查阅会计账簿、会计凭证有不正当目的，可能损害公司合法利益的，可以拒绝提供查阅，并应当自股东提出书面请求之日起十五日内书面答复股东并说明理由。公司拒绝提供查阅的，股东可以向人民法院提起诉讼。

股东查阅前款规定的材料，可以委托会计师事务所、律师事务所等中介机构进行。

股东及其委托的会计师事务所、律师事务所等中介机构查阅、复制有关材料，应当遵守有关保护国家秘密、商业秘密、个人隐私、个人信息等法律、行政法规的规定。

股东要求查阅、复制公司全资子公司相关材料的，适用前四款的规定。

## 第二节 组织机构

**第五十八条** 有限责任公司股东会由全体股东组成。股东会是公司的权力机构，依照本法行使职权。

**第五十九条** 股东会行使下列职权：

- (一) 选举和更换董事、监事，决定有关董事、监事的报酬事项；
- (二) 审议批准董事会的报告；
- (三) 审议批准监事会的报告；
- (四) 审议批准公司的利润分配方案和弥补亏损方案；
- (五) 对公司增加或者减少注册资本作出决议；
- (六) 对发行公司债券作出决议；
- (七) 对公司合并、分立、解散、清算或者变更公司形式作出决议；
- (八) 修改公司章程；
- (九) 公司章程规定的其他职权。

股东会可以授权董事会对发行公司债券作出决议。

对本条第一款所列事项股东以书面形式一致表示同意的，可以不召开股东会会议，直接作出决定，并由全体股东在决定文件上签名或者盖章。

**第六十条** 只有一个股东的有限责任公司不设股东会。股东作出前条第一款所列事项的决定时，应当采用书面形式，并由股东签名或者盖章后置备于公司。

**第六十一条** 首次股东会会议由出资最多的股东召集和主持，依照本法规定行使职权。

**第六十二条** 股东会会议分为定期会议和临时会议。

定期会议应当按照公司章程的规定按时召开。代表十分之一以上表决权的股东、三分之一以上的董事或者监事会提议召开临时会议的，应当召开临时会议。

**第六十三条** 股东会会议由董事会召集，董事长主持；董事长不能履行职务或者不履行职务

的，由副董事长主持；副董事长不能履行职务或者不履行职务的，由过半数的董事共同推举一名董事主持。

董事会不能履行或者不履行召集股东会会议职责的，由监事会召集和主持；监事会不召集和主持的，代表十分之一以上表决权的股东可以自行召集和主持。

**第六十四条** 召开股东会会议，应当于会议召开十五日前通知全体股东；但是，公司章程另有规定或者全体股东另有约定的除外。

股东会应当对所议事项的决定作成会议记录，出席会议的股东应当在会议记录上签名或者盖章。

**第六十五条** 股东会会议由股东按照出资比例行使表决权；但是，公司章程另有规定的除外。

**第六十六条** 股东会的议事方式和表决程序，除本法有规定的外，由公司章程规定。

股东会作出决议，应当经代表过半数表决权的股东通过。

股东会作出修改公司章程、增加或者减少注册资本的决议，以及公司合并、分立、解散或者变更公司形式的决议，应当经代表三分之二以上表决权的股东通过。

**第六十七条** 有限责任公司设董事会，本法第七十五条另有规定的除外。

董事会行使下列职权：

(一) 召集股东会会议，并向股东会报告工作；

(二) 执行股东会的决议；

(三) 决定公司的经营计划和投资方案；

(四) 制订公司的利润分配方案和弥补亏损方案；

(五) 制订公司增加或者减少注册资本以及

发行公司债券的方案；

(六) 制订公司合并、分立、解散或者变更公司形式的方案；

(七) 决定公司内部管理机构的设置；

(八) 决定聘任或者解聘公司经理及其报酬事项，并根据经理的提名决定聘任或者解聘公司副经理、财务负责人及其报酬事项；

(九) 制定公司的基本管理制度；

(十) 公司章程规定或者股东会授予的其他职权。

公司章程对董事会职权的限制不得对抗善意相对人。

**第六十八条** 有限责任公司董事会成员为三人以上，其成员中可以有公司职工代表。职工人数三百人以上的有限责任公司，除依法设监事会并有公司职工代表的外，其董事会成员中应当有公司职工代表。董事会中的职工代表由公司职工通过职工代表大会、职工大会或者其他形式民主选举产生。

董事会设董事长一人，可以设副董事长。董事长、副董事长的产生办法由公司章程规定。

**第六十九条** 有限责任公司可以按照公司章程的规定在董事会中设置由董事组成的审计委员会，行使本法规定的监事会的职权，不设监事会或者监事。公司董事会成员中的职工代表可以成为审计委员会成员。

**第七十条** 董事任期由公司章程规定，但每届任期不得超过三年。董事任期届满，连选可以连任。

董事任期届满未及时改选，或者董事在任期内辞任导致董事会成员低于法定人数的，在改选出的董事就任前，原董事仍应当依照法律、行政法规和公司章程的规定，履行董事职务。

董事辞任的，应当以书面形式通知公司，公



司收到通知之日辞任生效，但存在前款规定情形的，董事应当继续履行职务。

**第七十一条** 股东会可以决议解任董事，决议作出之日解任生效。

无正当理由，在任期届满前解任董事的，该董事可以要求公司予以赔偿。

**第七十二条** 董事会会议由董事长召集和主持；董事长不能履行职务或者不履行职务的，由副董事长召集和主持；副董事长不能履行职务或者不履行职务的，由过半数的董事共同推举一名董事召集和主持。

**第七十三条** 董事会的议事方式和表决程序，除本法有规定的外，由公司章程规定。

董事会会议应当有过半数的董事出席方可举行。董事会作出决议，应当经全体董事的过半数通过。

董事会决议的表决，应当一人一票。

董事会应当对所议事项的决定作成会议记录，出席会议的董事应当在会议记录上签名。

**第七十四条** 有限责任公司可以设经理，由董事会决定聘任或者解聘。

经理对董事会负责，根据公司章程的规定或者董事会的授权行使职权。经理列席董事会会议。

**第七十五条** 规模较小或者股东人数较少的有限责任公司，可以不设董事会，设一名董事，行使本法规定的董事会的职权。该董事可以兼任公司经理。

**第七十六条** 有限责任公司设监事会，本法第六十九条、第八十三条另有规定的除外。

监事会成员为三人以上。监事会成员应当包括股东代表和适当比例的公司职工代表，其中职工代表的比例不得低于三分之一，具体比例由公司章程规定。监事会中的职工代表由公司职工通

过职工代表大会、职工大会或者其他形式民主选举产生。

监事会设主席一人，由全体监事过半数选举产生。监事会主席召集和主持监事会会议；监事会主席不能履行职务或者不履行职务的，由过半数的监事共同推举一名监事召集和主持监事会会议。

董事、高级管理人员不得兼任监事。

**第七十七条** 监事的任期每届为三年。监事任期届满，连选可以连任。

监事任期届满未及时改选，或者监事在任期内辞任导致监事会成员低于法定人数的，在改选出的监事就任前，原监事仍应当依照法律、行政法规和公司章程的规定，履行监事职务。

**第七十八条** 监事会行使下列职权：

(一) 检查公司财务；

(二) 对董事、高级管理人员执行职务的行为进行监督，对违反法律、行政法规、公司章程或者股东会决议的董事、高级管理人员提出解任的建议；

(三) 当董事、高级管理人员的行为损害公司的利益时，要求董事、高级管理人员予以纠正；

(四) 提议召开临时股东会会议，在董事会不履行本法规定的召集和主持股东会会议职责时召集和主持股东会会议；

(五) 向股东会会议提出提案；

(六) 依照本法第一百八十九条的规定，对董事、高级管理人员提起诉讼；

(七) 公司章程规定的其他职权。

**第七十九条** 监事可以列席董事会会议，并对董事会决议事项提出质询或者建议。

监事会发现公司经营情况异常，可以进行调查；必要时，可以聘请会计师事务所等协助其工

作，费用由公司承担。

**第八十条** 监事会可以要求董事、高级管理人员提交执行职务的报告。

董事、高级管理人员应当如实向监事会提供有关情况和资料，不得妨碍监事会或者监事行使职权。

**第八十一条** 监事会每年度至少召开一次会议，监事可以提议召开临时监事会会议。

监事会的议事方式和表决程序，除本法有规定的外，由公司章程规定。

监事会决议应当经全体监事的过半数通过。

监事会决议的表决，应当一人一票。

监事会应当对所议事项的决定作成会议记录，出席会议的监事应当在会议记录上签名。

**第八十二条** 监事会行使职权所必需的费用，由公司承担。

**第八十三条** 规模较小或者股东人数较少的有限责任公司，可以不设监事会，设一名监事，行使本法规定的监事会的职权；经全体股东一致同意，也可以不设监事。

## 第四章 有限责任公司的股权转让

**第八十四条** 有限责任公司的股东之间可以相互转让其全部或者部分股权。

股东向股东以外的人转让股权的，应当将股权转让的数量、价格、支付方式和期限等事项书面通知其他股东，其他股东在同等条件下有优先购买权。股东自接到书面通知之日起三十日内未答复的，视为放弃优先购买权。两个以上股东行使优先购买权的，协商确定各自的购买比例；协商不成的，按照转让时各自的出资比例行使优先购买权。

公司章程对股权转让另有规定的，从其规定。

**第八十五条** 人民法院依照法律规定的强制执行程序转让股东的股权时，应当通知公司及全体股东，其他股东在同等条件下有优先购买权。其他股东自人民法院通知之日起满二十日不行使优先购买权的，视为放弃优先购买权。

**第八十六条** 股东转让股权的，应当书面通知公司，请求变更股东名册；需要办理变更登记的，并请求公司向公司登记机关办理变更登记。公司拒绝或者在合理期限内不予答复的，转让人、受让人可以依法向人民法院提起诉讼。

股权转让的，受让人自记载于股东名册时起可以向公司主张行使股东权利。

**第八十七条** 依照本法转让股权后，公司应当及时注销原股东的出资证明书，向新股东签发出资证明书，并相应修改公司章程和股东名册中有关股东及其出资额的记载。对公司章程的该项修改不需再由股东会表决。

**第八十八条** 股东转让已认缴出资但未届出资期限的股权的，由受让人承担缴纳该出资的义务；受让人未按期足额缴纳出资的，转让人对受让人未按期缴纳的出资承担补充责任。

未按照公司章程规定的出资日期缴纳出资或者作为出资的非货币财产的实际价额显著低于所认缴的出资额的股东转让股权的，转让人与受让人在出资不足的范围内承担连带责任；受让人不知道且不应当知道存在上述情形的，由转让人承担责任。

**第八十九条** 有下列情形之一的，对股东会该项决议投反对票的股东可以请求公司按照合理的价格收购其股权：

(一) 公司连续五年不向股东分配利润，而公司该五年连续盈利，并且符合本法规定的分配利润条件；

(二) 公司合并、分立、转让主要财产；

(三) 公司章程规定的营业期限届满或者章程规定的其他解散事由出现, 股东会通过决议修改章程使公司存续。

自股东会决议作出之日起六十日内, 股东与公司不能达成股权收购协议的, 股东可以自股东会决议作出之日起九十日内向人民法院提起诉讼。

公司的控股股东滥用股东权利, 严重损害公司或者其他股东利益的, 其他股东有权请求公司按照合理的价格收购其股权。

公司因本条第一款、第三款规定的情形收购的本公司股权, 应当在六个月内依法转让或者注销。

**第九十条** 自然人股东死亡后, 其合法继承人可以继承股东资格; 但是, 公司章程另有规定的除外。

## 第五章 股份有限公司的 设立和组织机构

### 第一节 设 立

**第九十一条** 设立股份有限公司, 可以采取发起设立或者募集设立的方式。

发起设立, 是指由发起人认购设立公司时应发行的全部股份而设立公司。

募集设立, 是指由发起人认购设立公司时应发行股份的一部分, 其余股份向特定对象募集或者向社会公开募集而设立公司。

**第九十二条** 设立股份有限公司, 应当有一人以上二百人以下发起人, 其中应当有半数以上的发起人在中华人民共和国境内有住所。

**第九十三条** 股份有限公司发起人承担公司筹办事务。

发起人应当签订发起人协议, 明确各自在公司设立过程中的权利和义务。

**第九十四条** 设立股份有限公司, 应当由发起人共同制订公司章程。

**第九十五条** 股份有限公司章程应当载明下列事项:

(一) 公司名称和住所;

(二) 公司经营范围;

(三) 公司设立方式;

(四) 公司注册资本、已发行的股份数和设立时发行的股份数, 面额股的每股金额;

(五) 发行类别股的, 每一类别股的股份数及其权利和义务;

(六) 发起人的姓名或者名称、认购的股份数、出资方式;

(七) 董事会的组成、职权和议事规则;

(八) 公司法定代表人的产生、变更办法;

(九) 监事会的组成、职权和议事规则;

(十) 公司利润分配办法;

(十一) 公司的解散事由与清算办法;

(十二) 公司的通知和公告办法;

(十三) 股东会认为需要规定的其他事项。

**第九十六条** 股份有限公司的注册资本为在公司登记机关登记的已发行股份的股本总额。在发起人认购的股份缴足前, 不得向他人募集股份。

法律、行政法规以及国务院决定对股份有限公司注册资本最低限额另有规定的, 从其规定。

**第九十七条** 以发起设立方式设立股份有限公司的, 发起人应当认足公司章程规定的公司设立时应发行的股份。

以募集设立方式设立股份有限公司的, 发起人认购的股份不得少于公司章程规定的公司设立时应发行股份总数的百分之三十五; 但是, 法律、行政法规另有规定的, 从其规定。

**第九十八条** 发起人应当在公司成立前按照

其认购的股份全额缴纳股款。

发起人的出资，适用本法第四十八条、第四十九条第二款关于有限责任公司股东出资的规定。

**第九十九条** 发起人不按照其认购的股份缴纳股款，或者作为出资的非货币财产的实际价额显著低于所认购的股份的，其他发起人与该发起人在出资不足的范围内承担连带责任。

**第一百条** 发起人向社会公开募集股份，应当公告招股说明书，并制作认股书。认股书应当载明本法第一百五十四条第二款、第三款所列事项，由认股人填写认购的股份数、金额、住所，并签名或者盖章。认股人应当按照所认购股份足额缴纳股款。

**第一百零一条** 向社会公开募集股份的股款缴足后，应当经依法设立的验资机构验资并出具证明。

**第一百零二条** 股份有限公司应当制作股东名册并置备于公司。股东名册应当记载下列事项：

- (一) 股东的姓名或者名称及住所；
- (二) 各股东所认购的股份种类及股份数；
- (三) 发行纸面形式的股票的，股票的编号；
- (四) 各股东取得股份的日期。

**第一百零三条** 募集设立股份有限公司的发起人应当自公司设立时应发行股份的股款缴足之日起三十日内召开公司成立大会。发起人应当在成立大会召开十五日前将会议日期通知各认股人或者予以公告。成立大会应当有持有表决权过半数的认股人出席，方可举行。

以发起设立方式设立股份有限公司成立大会的召开和表决程序由公司章程或者发起人协议规定。

**第一百零四条** 公司成立大会行使下列职

权：

- (一) 审议发起人关于公司筹办情况的报告；
- (二) 通过公司章程；
- (三) 选举董事、监事；
- (四) 对公司的设立费用进行审核；
- (五) 对发起人非货币财产出资的作价进行审核；
- (六) 发生不可抗力或者经营条件发生重大变化直接影响公司设立的，可以作出不设立公司的决议。

成立大会对前款所列事项作出决议，应当经出席会议的认股人所持表决权过半数通过。

**第一百零五条** 公司设立时应发行的股份未募足，或者发行股份的股款缴足后，发起人在三十日内未召开成立大会的，认股人可以按照所缴股款并加算银行同期存款利息，要求发起人返还。

发起人、认股人缴纳股款或者交付非货币财产出资后，除未按期募足股份、发起人未按期召开成立大会或者成立大会决议不设立公司的情形外，不得抽回其股本。

**第一百零六条** 董事会应当授权代表，于公司成立大会结束后三十日内向公司登记机关申请设立登记。

**第一百零七条** 本法第四十四条、第四十九条第三款、第五十一条、第五十二条、第五十三条的规定，适用于股份有限公司。

**第一百零八条** 有限责任公司变更为股份有限公司时，折合的实收股本总额不得高于公司净资产额。有限责任公司变更为股份有限公司，为增加注册资本公开发行股份时，应当依法办理。

**第一百零九条** 股份有限公司应当将公司章程、股东名册、股东会会议记录、董事会会议记录、监事会会议记录、财务会计报告、债券持有

人名册置备于本公司。

**第一百一十条** 股东有权查阅、复制公司章程、股东名册、股东会会议记录、董事会会议决议、监事会会议决议、财务会计报告，对公司的经营提出建议或者质询。

连续一百八十日以上单独或者合计持有公司百分之三以上股份的股东要求查阅公司的会计账簿、会计凭证的，适用本法第五十七条第二款、第三款、第四款的规定。公司章程对持股比例有较低规定的，从其规定。

股东要求查阅、复制公司全资子公司相关材料的，适用前两款的规定。

上市公司股东查阅、复制相关材料的，应当遵守《中华人民共和国证券法》等法律、行政法规的规定。

## 第二节 股 东 会

**第一百一十一条** 股份有限公司股东会由全体股东组成。股东会是公司的权力机构，依照本法行使职权。

**第一百一十二条** 本法第五十九条第一款、第二款关于有限责任公司股东会职权的规定，适用于股份有限公司股东会。

本法第六十条关于只有一个股东的有限责任公司不设股东会的规定，适用于只有一个股东的股份有限公司。

**第一百一十三条** 股东会应当每年召开一次年会。有下列情形之一的，应当在两个月内召开临时股东会会议：

(一) 董事人数不足本法规定人数或者公司章程所定人数的三分之二时；

(二) 公司未弥补的亏损达股本总额三分之一时；

(三) 单独或者合计持有公司百分之十以上

股份的股东请求时；

(四) 董事会认为必要时；

(五) 监事会提议召开时；

(六) 公司章程规定的其他情形。

**第一百一十四条** 股东会会议由董事会召集，董事长主持；董事长不能履行职务或者不履行职务的，由副董事长主持；副董事长不能履行职务或者不履行职务的，由过半数的董事共同推举一名董事主持。

董事会不能履行或者不履行召集股东会会议职责的，监事会应当及时召集和主持；监事会不召集和主持的，连续九十日以上单独或者合计持有公司百分之十以上股份的股东可以自行召集和主持。

单独或者合计持有公司百分之十以上股份的股东请求召开临时股东会会议的，董事会、监事会应当在收到请求之日起十日内作出是否召开临时股东会会议的决定，并书面答复股东。

**第一百一十五条** 召开股东会会议，应当将会议召开的时间、地点和审议的事项于会议召开二十日前通知各股东；临时股东会会议应当于会议召开十五日前通知各股东。

单独或者合计持有公司百分之一以上股份的股东，可以在股东会会议召开十日前提出临时提案并书面提交董事会。临时提案应当有明确议题和具体决议事项。董事会应当在收到提案后二日内通知其他股东，并将该临时提案提交股东会审议；但临时提案违反法律、行政法规或者公司章程的规定，或者不属于股东会职权范围的除外。公司不得提高提出临时提案股东的持股比例。

公开发行股份的公司，应当以公告方式作出前两款规定的通知。

股东会不得对通知中未列明的事项作出决议。

**第一百一十六条** 股东出席股东会会议，所持每一股份有一表决权，类别股股东除外。公司持有的本公司股份没有表决权。

股东会作出决议，应当经出席会议的股东所持表决权过半数通过。

股东会作出修改公司章程、增加或者减少注册资本的决议，以及公司合并、分立、解散或者变更公司形式的决议，应当经出席会议的股东所持表决权的三分之二以上通过。

**第一百一十七条** 股东会选举董事、监事，可以按照公司章程的规定或者股东会的决议，实行累积投票制。

本法所称累积投票制，是指股东会选举董事或者监事时，每一股份拥有与应选董事或者监事人数相同的表决权，股东拥有的表决权可以集中使用。

**第一百一十八条** 股东委托代理人出席股东会会议的，应当明确代理人代理的事项、权限和期限；代理人应当向公司提交股东授权委托书，并在授权范围内行使表决权。

**第一百一十九条** 股东会应当对所议事项的决定作成会议记录，主持人、出席会议的董事应当在会议记录上签名。会议记录应当与出席股东的签名册及代理出席的委托书一并保存。

### 第三节 董事会、经理

**第一百二十条** 股份有限公司设董事会，本法第一百二十八条另有规定的除外。

本法第六十七条、第六十八条第一款、第七十条、第七十一条的规定，适用于股份有限公司。

**第一百二十一条** 股份有限公司可以按照公司章程的规定在董事会中设置由董事组成的审计委员会，行使本法规定的监事会的职权，不设监

事会或者监事。

审计委员会成员为三名以上，过半数成员不得在公司担任除董事以外的其他职务，且不得与公司存在任何可能影响其独立客观判断的关系。公司董事会成员中的职工代表可以成为审计委员会成员。

审计委员会作出决议，应当经审计委员会成员的过半数通过。

审计委员会决议的表决，应当一人一票。

审计委员会的议事方式和表决程序，除本法有规定的外，由公司章程规定。

公司可以按照公司章程的规定在董事会中设置其他委员会。

**第一百二十二条** 董事会设董事长一人，可以设副董事长。董事长和副董事长由董事会以全体董事的过半数选举产生。

董事长召集和主持董事会会议，检查董事会决议的实施情况。副董事长协助董事长工作，董事长不能履行职务或者不履行职务的，由副董事长履行职务；副董事长不能履行职务或者不履行职务的，由过半数的董事共同推举一名董事履行职务。

**第一百二十三条** 董事会每年度至少召开两次会议，每次会议应当于会议召开十日前通知全体董事和监事。

代表十分之一以上表决权的股东、三分之一以上董事或者监事会，可以提议召开临时董事会会议。董事长应当自接到提议后十日内，召集和主持董事会会议。

董事会召开临时会议，可以另定召集董事会的通知方式和通知时限。

**第一百二十四条** 董事会会议应当有过半数的董事出席方可举行。董事会作出决议，应当经全体董事的过半数通过。

董事会决议的表决，应当一人一票。

董事会应当对所议事项的决定作成会议记录，出席会议的董事应当在会议记录上签名。

**第一百二十五条** 董事会会议，应当由董事本人出席；董事因故不能出席，可以书面委托其他董事代为出席，委托书应当载明授权范围。

董事应当对董事会的决议承担责任。董事会的决议违反法律、行政法规或者公司章程、股东会决议，给公司造成严重损失的，参与决议的董事对公司负赔偿责任；经证明在表决时曾表明异议并记载于会议记录的，该董事可以免除责任。

**第一百二十六条** 股份有限公司设经理，由董事会决定聘任或者解聘。

经理对董事会负责，根据公司章程的规定或者董事会的授权行使职权。经理列席董事会会议。

**第一百二十七条** 公司董事会可以决定由董事会成员兼任经理。

**第一百二十八条** 规模较小或者股东人数较少的股份有限公司，可以不设董事会，设一名董事，行使本法规定的董事会的职权。该董事可以兼任公司经理。

**第一百二十九条** 公司应当定期向股东披露董事、监事、高级管理人员从公司获得报酬的情况。

#### 第四节 监 事 会

**第一百三十条** 股份有限公司设监事会，本法第一百二十一条第一款、第一百三十三条另有规定的除外。

监事会成员为三人以上。监事会成员应当包括股东代表和适当比例的公司职工代表，其中职工代表的比例不得低于三分之一，具体比例由公司章程规定。监事会中的职工代表由公司职工通

过职工代表大会、职工大会或者其他形式民主选举产生。

监事会设主席一人，可以设副主席。监事会主席和副主席由全体监事过半数选举产生。监事会主席召集和主持监事会会议；监事会主席不能履行职务或者不履行职务的，由监事会副主席召集和主持监事会会议；监事会副主席不能履行职务或者不履行职务的，由过半数的监事共同推举一名监事召集和主持监事会会议。

董事、高级管理人员不得兼任监事。

本法第七十七条关于有限责任公司监事任期的规定，适用于股份有限公司监事。

**第一百三十一条** 本法第七十八条至第八十条的规定，适用于股份有限公司监事会。

监事会行使职权所必需的费用，由公司承担。

**第一百三十二条** 监事会每六个月至少召开一次会议。监事可以提议召开临时监事会会议。

监事会的议事方式和表决程序，除本法有规定的外，由公司章程规定。

监事会决议应当经全体监事的过半数通过。

监事会决议的表决，应当一人一票。

监事会应当对所议事项的决定作成会议记录，出席会议的监事应当在会议记录上签名。

**第一百三十三条** 规模较小或者股东人数较少的股份有限公司，可以不设监事会，设一名监事，行使本法规定的监事会的职权。

#### 第五节 上市公司组织机构的特别规定

**第一百三十四条** 本法所称上市公司，是指其股票在证券交易所上市交易的股份有限公司。

**第一百三十五条** 上市公司在一年内购买、出售重大资产或者向他人提供担保的金额超过公司资产总额百分之三十的，应当由股东会作出决

议，并经出席会议的股东所持表决权的三分之二以上通过。

**第一百三十六条** 上市公司设独立董事，具体管理办法由国务院证券监督管理机构规定。

上市公司的公司章程除载明本法第九十五条规定的事项外，还应当依照法律、行政法规的规定载明董事会专门委员会的组成、职权以及董事、监事、高级管理人员薪酬考核机制等事项。

**第一百三十七条** 上市公司在董事会中设置审计委员会的，董事会对下列事项作出决议前应当经审计委员会全体成员过半数通过：

(一) 聘用、解聘承办公司审计业务的会计师事务所；

(二) 聘任、解聘财务负责人；

(三) 披露财务会计报告；

(四) 国务院证券监督管理机构规定的其他事项。

**第一百三十八条** 上市公司设董事会秘书，负责公司股东会和董事会会议的筹备、文件保管以及公司股东资料的管理，办理信息披露事务等事宜。

**第一百三十九条** 上市公司董事与董事会会议决议事项所涉及的企业或者个人有关联关系的，该董事应当及时向董事会书面报告。有关联关系的董事不得对该项决议行使表决权，也不得代理其他董事行使表决权。该董事会会议由过半数的无关联关系董事出席即可举行，董事会会议所作决议须经无关联关系董事过半数通过。出席董事会会议的无关联关系董事人数不足三人的，应当将该事项提交上市公司股东会审议。

**第一百四十条** 上市公司应当依法披露股东、实际控制人的信息，相关信息应当真实、准确、完整。

禁止违反法律、行政法规的规定代持上市公

司股票。

**第一百四十一条** 上市公司控股子公司不得取得该上市公司的股份。

上市公司控股子公司因公司合并、质权行使等原因持有上市公司股份的，不得行使所持股份对应的表决权，并应当及时处分相关上市公司股份。

## 第六章 股份有限公司的股份发行和转让

### 第一节 股份发行

**第一百四十二条** 公司的资本划分为股份。公司的全部股份，根据公司章程的规定择一采用面额股或者无面额股。采用面额股的，每一股的金额相等。

公司可以根据公司章程的规定将已发行的面额股全部转换为无面额股或者将无面额股全部转换为面额股。

采用无面额股的，应当将发行股份所得股款的二分之一以上计入注册资本。

**第一百四十三条** 股份的发行，实行公平、公正的原则，同类别的每一股份应当具有同等权利。

同次发行的同类别股份，每股的发行条件和价格应当相同；认购人所认购的股份，每股应当支付相同价额。

**第一百四十四条** 公司可以按照公司章程的规定发行下列与普通股权利不同的类别股：

(一) 优先或者劣后分配利润或者剩余财产的股份；

(二) 每一股的表决权数多于或者少于普通股的股份；

(三) 转让须经公司同意等转让受限的股份；

(四) 国务院规定的其他类别股。



公开发行股份的公司不得发行前款第二项、第三项规定的类别股；公开发行前已发行的除外。

公司发行本条第一款第二项规定的类别股的，对于监事或者审计委员会成员的选举和更换，类别股与普通股每一股的表决权数相同。

**第一百四十五条** 发行类别股的公司，应当在公司章程中载明以下事项：

- (一) 类别股分配利润或者剩余财产的顺序；
- (二) 类别股的表决权数；
- (三) 类别股的转让限制；
- (四) 保护中小股东权益的措施；
- (五) 股东会认为需要规定的其他事项。

**第一百四十六条** 发行类别股的公司，有本法第一百一十六条第三款规定的事项等可能影响类别股股东权利的，除应当依照第一百一十六条第三款的规定经股东会决议外，还应当经出席类别股股东会议的股东所持表决权的三分之二以上通过。

公司章程可以对需经类别股股东会议决议的其他事项作出规定。

**第一百四十七条** 公司的股份采取股票的形式。股票是公司签发的证明股东所持股份的凭证。

公司发行的股票，应当为记名股票。

**第一百四十八条** 面额股股票的发行价格可以按票面金额，也可以超过票面金额，但不得低于票面金额。

**第一百四十九条** 股票采用纸面形式或者国务院证券监督管理机构规定的其他形式。

股票采用纸面形式的，应当载明下列主要事项：

- (一) 公司名称；
- (二) 公司成立日期或者股票发行的时间；

(三) 股票种类、票面金额及代表的股份数，发行无面额股的，股票代表的股份数。

股票采用纸面形式的，还应当载明股票的编号，由法定代表人签名，公司盖章。

发起人股票采用纸面形式的，应当标明发起人股票字样。

**第一百五十条** 股份有限公司成立后，即向股东正式交付股票。公司成立前不得向股东交付股票。

**第一百五十一条** 公司发行新股，股东会应当对下列事项作出决议：

- (一) 新股种类及数额；
- (二) 新股发行价格；
- (三) 新股发行的起止日期；
- (四) 向原有股东发行新股的种类及数额；
- (五) 发行无面额股的，新股发行所得股款计入注册资本的金额。

公司发行新股，可以根据公司经营情况和财务状况，确定其作价方案。

**第一百五十二条** 公司章程或者股东会可以授权董事会在三年内决定发行不超过已发行股份百分之五十的股份。但以非货币财产作价出资的应当经股东会决议。

董事会依照前款规定决定发行股份导致公司注册资本、已发行股份数发生变化的，对公司章程该项记载事项的修改不需再由股东会表决。

**第一百五十三条** 公司章程或者股东会授权董事会决定发行新股的，董事会决议应当经全体董事三分之二以上通过。

**第一百五十四条** 公司向社会公开募集股份，应当经国务院证券监督管理机构注册，公告招股说明书。

招股说明书应当附有公司章程，并载明下列事项：

- (一) 发行的股份总数；
- (二) 面额股的票面金额和发行价格或者无面额股的发行价格；
- (三) 募集资金的用途；
- (四) 认股人的权利和义务；
- (五) 股份种类及其权利和义务；
- (六) 本次募股的起止日期及逾期未募足时认股人可以撤回所认股份的说明。

公司设立时发行股份的，还应当载明发起人认购的股份数。

**第一百五十五条** 公司向社会公开募集股份，应当由依法设立的证券公司承销，签订承销协议。

**第一百五十六条** 公司向社会公开募集股份，应当同银行签订代收股款协议。

代收股款的银行应当按照协议代收和保存股款，向缴纳股款的认股人出具收款单据，并负有向有关部门出具收款证明的义务。

公司发行股份募足股款后，应予公告。

## 第二节 股份转让

**第一百五十七条** 股份有限公司的股东持有的股份可以向其他股东转让，也可以向股东以外的人转让；公司章程对股份转让有限制的，其转让按照公司章程的规定进行。

**第一百五十八条** 股东转让其股份，应当在依法设立的证券交易场所进行或者按照国务院规定的其他方式进行。

**第一百五十九条** 股票的转让，由股东以背书方式或者法律、行政法规规定的其他方式进行；转让后由公司将受让人的姓名或者名称及住所记载于股东名册。

股东会会议召开前二十日内或者公司决定分配股利的基准日前五日内，不得变更股东名册。

法律、行政法规或者国务院证券监督管理机构对上市公司股东名册变更另有规定的，从其规定。

**第一百六十条** 公司公开发行股份前已发行的股份，自公司股票在证券交易所上市交易之日起一年内不得转让。法律、行政法规或者国务院证券监督管理机构对上市公司的股东、实际控制人转让其所持有的本公司股份另有规定的，从其规定。

公司董事、监事、高级管理人员应当向公司申报所持有的本公司的股份及其变动情况，在就任时确定的任职期间每年转让的股份不得超过其所持有本公司股份总数的百分之二十五；所持本公司股份自公司股票上市交易之日起一年内不得转让。上述人员离职后半年内，不得转让其所持有的本公司股份。公司章程可以对公司董事、监事、高级管理人员转让其所持有的本公司股份作出其他限制性规定。

股份在法律、行政法规规定的限制转让期限内出质的，质权人不得在限制转让期限内行使质权。

**第一百六十一条** 有下列情形之一的，对股东会该项决议投反对票的股东可以请求公司按照合理的价格收购其股份，公开发行股份的公司除外：

(一) 公司连续五年不向股东分配利润，而公司该五年连续盈利，并且符合本法规定的分配利润条件；

(二) 公司转让主要财产；

(三) 公司章程规定的营业期限届满或者章程规定的其他解散事由出现，股东会通过决议修改章程使公司存续。

自股东会决议作出之日起六十日内，股东与公司不能达成股份收购协议的，股东可以自股东会决议作出之日起九十日内向人民法院提起诉

讼。

公司因本条第一款规定的情形收购的本公司股份，应当在六个月内依法转让或者注销。

**第一百六十二条** 公司不得收购本公司股份。但是，有下列情形之一的除外：

- (一) 减少公司注册资本；
- (二) 与持有本公司股份的其他公司合并；
- (三) 将股份用于员工持股计划或者股权激励；
- (四) 股东因对股东会作出的公司合并、分立决议持异议，要求公司收购其股份；

(五) 将股份用于转换公司发行的可转换为股票的公司债券；

(六) 上市公司为维护公司价值及股东权益所必需。

公司因前款第一项、第二项规定的情形收购本公司股份的，应当经股东会决议；公司因前款第三项、第五项、第六项规定的情形收购本公司股份的，可以按照公司章程或者股东会的授权，经三分之二以上董事出席的董事会会议决议。

公司依照本条第一款规定收购本公司股份后，属于第一项情形的，应当自收购之日起十日内注销；属于第二项、第四项情形的，应当在六个月内转让或者注销；属于第三项、第五项、第六项情形的，公司合计持有的本公司股份数不得超过本公司已发行股份总数的百分之十，并应当在三年内转让或者注销。

上市公司收购本公司股份的，应当依照《中华人民共和国证券法》的规定履行信息披露义务。上市公司因本条第一款第三项、第五项、第六项规定的情形收购本公司股份的，应当通过公开的集中交易方式进行。

公司不得接受本公司的股份作为质权的标的。

**第一百六十三条** 公司不得为他人取得本公司或者其母公司的股份提供赠与、借款、担保以及其他财务资助，公司实施员工持股计划的除外。

为公司利益，经股东会决议，或者董事会按照公司章程或者股东会的授权作出决议，公司可以为他人取得本公司或者其母公司的股份提供财务资助，但财务资助的累计总额不得超过已发行股本总额的百分之十。董事会作出决议应当经全体董事的三分之二以上通过。

违反前两款规定，给公司造成损失的，负有责任的董事、监事、高级管理人员应当承担赔偿责任。

**第一百六十四条** 股票被盗、遗失或者灭失，股东可以依照《中华人民共和国民事诉讼法》规定的公示催告程序，请求人民法院宣告该股票失效。人民法院宣告该股票失效后，股东可以向公司申请补发股票。

**第一百六十五条** 上市公司的股票，依照有关法律、行政法规及证券交易所交易规则上市交易。

**第一百六十六条** 上市公司应当依照法律、行政法规的规定披露相关信息。

**第一百六十七条** 自然人股东死亡后，其合法继承人可以继承股东资格；但是，股份转让受限的股份有限公司的章程另有规定的除外。

## 第七章 国家出资公司组织机构的特别规定

**第一百六十八条** 国家出资公司的组织机构，适用本章规定；本章没有规定的，适用本法其他规定。

本法所称国家出资公司，是指国家出资的国有独资公司、国有资本控股公司，包括国家出资

的有限责任公司、股份有限公司。

**第一百六十九条** 国家出资公司，由国务院或者地方人民政府分别代表国家依法履行出资人职责，享有出资人权益。国务院或者地方人民政府可以授权国有资产监督管理机构或者其他部门、机构代表本级人民政府对国家出资公司履行出资人职责。

代表本级人民政府履行出资人职责的机构、部门，以下统称为履行出资人职责的机构。

**第一百七十条** 国家出资公司中中国共产党的组织，按照中国共产党章程的规定发挥领导作用，研究讨论公司重大经营管理事项，支持公司的组织机构依法行使职权。

**第一百七十一条** 国有独资公司章程由履行出资人职责的机构制定。

**第一百七十二条** 国有独资公司不设股东会，由履行出资人职责的机构行使股东会职权。履行出资人职责的机构可以授权公司董事会行使股东会的部分职权，但公司章程的制定和修改，公司的合并、分立、解散、申请破产，增加或者减少注册资本，分配利润，应当由履行出资人职责的机构决定。

**第一百七十三条** 国有独资公司的董事会依照本法规定行使职权。

国有独资公司的董事会成员中，应当过半数为外部董事，并应当有公司职工代表。

董事会成员由履行出资人职责的机构委派；但是，董事会成员中的职工代表由公司职工代表大会选举产生。

董事会设董事长一人，可以设副董事长。董事长、副董事长由履行出资人职责的机构从董事会成员中指定。

**第一百七十四条** 国有独资公司的经理由董事会聘任或者解聘。

经履行出资人职责的机构同意，董事会成员可以兼任经理。

**第一百七十五条** 国有独资公司的董事、高级管理人员，未经履行出资人职责的机构同意，不得在其他有限责任公司、股份有限公司或者其他经济组织兼职。

**第一百七十六条** 国有独资公司在董事会中设置由董事组成的审计委员会行使本法规定的监事会职权的，不设监事会或者监事。

**第一百七十七条** 国家出资公司应当依法建立健全内部监督管理和风险控制制度，加强内部合规管理。

## 第八章 公司董事、监事、高级管理人员的资格和义务

**第一百七十八条** 有下列情形之一的，不得担任公司的董事、监事、高级管理人员：

(一) 无民事行为能力或者限制民事行为能力；

(二) 因贪污、贿赂、侵占财产、挪用财产或者破坏社会主义市场经济秩序，被判处刑罚，或者因犯罪被剥夺政治权利，执行期满未逾五年，被宣告缓刑的，自缓刑考验期满之日起未逾二年；

(三) 担任破产清算的公司、企业的董事或者厂长、经理，对该公司、企业的破产负有个人责任的，自该公司、企业破产清算完结之日起未逾三年；

(四) 担任因违法被吊销营业执照、责令关闭的公司、企业的法定代表人，并负有个人责任的，自该公司、企业被吊销营业执照、责令关闭之日起未逾三年；

(五) 个人因所负数额较大债务到期未清偿被人民法院列为失信被执行人。

违反前款规定选举、委派董事、监事或者聘任高级管理人员的，该选举、委派或者聘任无效。

董事、监事、高级管理人员在任职期间出现本条第一款所列情形的，公司应当解除其职务。

**第一百七十九条** 董事、监事、高级管理人员应当遵守法律、行政法规和公司章程。

**第一百八十条** 董事、监事、高级管理人员对公司负有忠实义务，应当采取措施避免自身利益与公司利益冲突，不得利用职权牟取不正当利益。

董事、监事、高级管理人员对公司负有勤勉义务，执行职务应当为公司的最大利益尽到管理者通常应有的合理注意。

公司的控股股东、实际控制人不担任公司董事但实际执行公司事务的，适用前两款规定。

**第一百八十一条** 董事、监事、高级管理人员不得有下列行为：

- (一) 侵占公司财产、挪用公司资金；
- (二) 将公司资金以其个人名义或者以其他个人名义开立账户存储；
- (三) 利用职权贿赂或者收受其他非法收入；
- (四) 接受他人与公司交易的佣金归为己有；
- (五) 擅自披露公司秘密；
- (六) 违反对公司忠实义务的其他行为。

**第一百八十二条** 董事、监事、高级管理人员，直接或者间接与本公司订立合同或者进行交易，应当就与订立合同或者进行交易有关的事项向董事会或者股东会报告，并按照公司章程的规定经董事会或者股东会决议通过。

董事、监事、高级管理人员的近亲属，董事、监事、高级管理人员或者其近亲属直接或者间接控制的企业，以及与董事、监事、高级管理人员有其他关联关系的关联人，与公司订立合同

或者进行交易，适用前款规定。

**第一百八十三条** 董事、监事、高级管理人员，不得利用职务便利为自己或者他人谋取属于公司的商业机会。但是，有下列情形之一的除外：

- (一) 向董事会或者股东会报告，并按照公司章程的规定经董事会或者股东会决议通过；
- (二) 根据法律、行政法规或者公司章程的规定，公司不能利用该商业机会。

**第一百八十四条** 董事、监事、高级管理人员未向董事会或者股东会报告，并按照公司章程的规定经董事会或者股东会决议通过，不得自营或者为他人经营与其任职公司同类的业务。

**第一百八十五条** 董事会对本法第一百八十二条至第一百八十四条规定的事项决议时，关联董事不得参与表决，其表决权不计入表决权总数。出席董事会会议的无关联关系董事人数不足三人的，应当将该事项提交股东会审议。

**第一百八十六条** 董事、监事、高级管理人员违反本法第一百八十一条至第一百八十四条规定所得的收入应当归公司所有。

**第一百八十七条** 股东会要求董事、监事、高级管理人员列席会议的，董事、监事、高级管理人员应当列席并接受股东的质询。

**第一百八十八条** 董事、监事、高级管理人员执行职务违反法律、行政法规或者公司章程的规定，给公司造成损失的，应当承担赔偿责任。

**第一百八十九条** 董事、高级管理人员有前条规定的情形的，有限责任公司的股东、股份有限公司连续一百八十日以上单独或者合计持有公司百分之一以上股份的股东，可以书面请求监事会向人民法院提起诉讼；监事有前条规定的情形的，前述股东可以书面请求董事会向人民法院提起诉讼。

监事会或者董事会收到前款规定的股东书面请求后拒绝提起诉讼，或者自收到请求之日起三十日内未提起诉讼，或者情况紧急、不立即提起诉讼将会使公司利益受到难以弥补的损害的，前款规定的股东有权为公司利益以自己的名义直接向人民法院提起诉讼。

他人侵犯公司合法权益，给公司造成损失的，本条第一款规定的股东可以依照前两款的规定向人民法院提起诉讼。

公司全资子公司的董事、监事、高级管理人员有前条规定情形，或者他人侵犯公司全资子公司合法权益造成损失的，有限责任公司的股东、股份有限公司连续一百八十日以上单独或者合计持有公司百分之一以上股份的股东，可以依照前三款规定书面请求全资子公司的监事会、董事会向人民法院提起诉讼或者以自己的名义直接向人民法院提起诉讼。

**第一百九十条** 董事、高级管理人员违反法律、行政法规或者公司章程的规定，损害股东利益的，股东可以向人民法院提起诉讼。

**第一百九十一条** 董事、高级管理人员执行职务，给他人造成损害的，公司应当承担赔偿责任；董事、高级管理人员存在故意或者重大过失的，也应当承担赔偿责任。

**第一百九十二条** 公司的控股股东、实际控制人指示董事、高级管理人员从事损害公司或者股东利益的行为的，与该董事、高级管理人员承担连带责任。

**第一百九十三条** 公司可以在董事任职期间为董事因执行公司职务承担的赔偿责任投保责任保险。

公司为董事投保责任保险或者续保后，董事会应当向股东会报告责任保险的投保金额、承保范围及保险费率等内容。

## 第九章 公司债券

**第一百九十四条** 本法所称公司债券，是指公司发行的约定按期还本付息的有价证券。

公司债券可以公开发行，也可以非公开发行。

公司债券的发行和交易应当符合《中华人民共和国证券法》等法律、行政法规的规定。

**第一百九十五条** 公开发行公司债券，应当经国务院证券监督管理机构注册，公告公司债券募集办法。

公司债券募集办法应当载明下列主要事项：

- (一) 公司名称；
- (二) 债券募集资金的用途；
- (三) 债券总额和债券的票面金额；
- (四) 债券利率的确定方式；
- (五) 还本付息的期限和方式；
- (六) 债券担保情况；
- (七) 债券的发行价格、发行的起止日期；
- (八) 公司净资产额；
- (九) 已发行的尚未到期的公司债券总额；
- (十) 公司债券的承销机构。

**第一百九十六条** 公司以纸面形式发行公司债券的，应当在债券上载明公司名称、债券票面金额、利率、偿还期限等事项，并由法定代表人签名，公司盖章。

**第一百九十七条** 公司债券应当为记名债券。

**第一百九十八条** 公司发行公司债券应当置备公司债券持有人名册。

发行公司债券的，应当在公司债券持有人名册上载明下列事项：

- (一) 债券持有人的姓名或者名称及住所；
- (二) 债券持有人取得债券的日期及债券的

编号；

(三) 债券总额，债券的票面金额、利率、还本付息的期限和方式；

(四) 债券的发行日期。

**第一百九十九条** 公司债券的登记结算机构应当建立债券登记、存管、付息、兑付等相关制度。

**第二百条** 公司债券可以转让，转让价格由转让人与受让人约定。

公司债券的转让应当符合法律、行政法规的规定。

**第二百零一条** 公司债券由债券持有人以背书方式或者法律、行政法规规定的其他方式转让；转让后由公司受让人的姓名或者名称及住所记载于公司债券持有人名册。

**第二百零二条** 股份有限公司经股东会决议，或者经公司章程、股东会授权由董事会决议，可以发行可转换为股票的公司债券，并规定具体的转换办法。上市公司发行可转换为股票的公司债券，应当经国务院证券监督管理机构注册。

发行可转换为股票的公司债券，应当在债券上标明可转换公司债券字样，并在公司债券持有人名册上载明可转换公司债券的数额。

**第二百零三条** 发行可转换为股票的公司债券的，公司应当按照其转换办法向债券持有人换发股票，但债券持有人对转换股票或者不转换股票有选择权。法律、行政法规另有规定的除外。

**第二百零四条** 公开发行公司债券的，应当为同期债券持有人设立债券持有人会议，并在债券募集办法中对债券持有人会议的召集程序、会议规则和其他重要事项作出规定。债券持有人会议可以对与债券持有人有利害关系的事项作出决议。

除公司债券募集办法另有约定外，债券持有人会议决议对同期全体债券持有人发生效力。

**第二百零五条** 公开发行公司债券的，发行人应当为债券持有人聘请债券受托管理人，由其作为债券持有人办理受领清偿、债权保全、与债券相关的诉讼以及参与债务人破产程序等事项。

**第二百零六条** 债券受托管理人应当勤勉尽责，公正履行受托管理职责，不得损害债券持有人利益。

受托管理人与债券持有人存在利益冲突可能损害债券持有人利益的，债券持有人会议可以决议变更债券受托管理人。

债券受托管理人违反法律、行政法规或者债券持有人会议决议，损害债券持有人利益的，应当承担赔偿责任。

## 第十章 公司财务、会计

**第二百零七条** 公司应当依照法律、行政法规和国务院财政部门的规定建立本公司的财务、会计制度。

**第二百零八条** 公司应当在每一会计年度终了时编制财务会计报告，并依法经会计师事务所审计。

财务会计报告应当依照法律、行政法规和国务院财政部门的规定制作。

**第二百零九条** 有限责任公司应当按照公司章程规定的期限将财务会计报告送交各股东。

股份有限公司的财务会计报告应当在召开股东会年会的二十日前置备于本公司，供股东查阅；公开发行股份的股份有限公司应当公告其财务会计报告。

**第二百一十条** 公司分配当年税后利润时，应当提取利润的百分之十列入公司法定公积金。公司法定公积金累计额为公司注册资本的百分之

五十以上的，可以不再提取。

公司的法定公积金不足以弥补以前年度亏损的，在依照前款规定提取法定公积金之前，应当先用当年利润弥补亏损。

公司从税后利润中提取法定公积金后，经股东会决议，还可以从税后利润中提取任意公积金。

公司弥补亏损和提取公积金后所余税后利润，有限责任公司按照股东实缴的出资比例分配利润，全体股东约定不按照出资比例分配利润的除外；股份有限公司按照股东所持有的股份比例分配利润，公司章程另有规定的除外。

公司持有的本公司股份不得分配利润。

**第二百一十一条** 公司违反本法规定向股东分配利润的，股东应当将违反规定分配的利润退还公司；给公司造成损失的，股东及负有责任的董事、监事、高级管理人员应当承担赔偿责任。

**第二百一十二条** 股东会作出分配利润的决议的，董事会应当在股东会决议作出之日起六个月内进行分配。

**第二百一十三条** 公司以超过股票票面金额的发行价格发行股份所得的溢价款、发行无面额股所得股款未计入注册资本的金额以及国务院财政部门规定列入资本公积金的其他项目，应当列为公司资本公积金。

**第二百一十四条** 公司的公积金用于弥补公司的亏损、扩大公司生产经营或者转为增加公司注册资本。

公积金弥补公司亏损，应当先使用任意公积金和法定公积金；仍不能弥补的，可以按照规定使用资本公积金。

法定公积金转为增加注册资本时，所留存的该项公积金不得少于转增前公司注册资本的百分

之二十五。

**第二百一十五条** 公司聘用、解聘承办公司审计业务的会计师事务所，按照公司章程的规定，由股东会、董事会或者监事会决定。

公司股东会、董事会或者监事会就解聘会计师事务所进行表决时，应当允许会计师事务所陈述意见。

**第二百一十六条** 公司应当向聘用的会计师事务所提供真实、完整的会计凭证、会计账簿、财务会计报告及其他会计资料，不得拒绝、隐匿、谎报。

**第二百一十七条** 公司除法定的会计账簿外，不得另立会计账簿。

对公司资金，不得以任何个人名义开立账户存储。

## 第十一章 公司合并、分立、 增资、减资

**第二百一十八条** 公司合并可以采取吸收合并或者新设合并。

一个公司吸收其他公司为吸收合并，被吸收的公司解散。两个以上公司合并设立一个新的公司为新设合并，合并各方解散。

**第二百一十九条** 公司与其持股百分之九十以上的公司合并，被合并的公司不需经股东会决议，但应当通知其他股东，其他股东有权请求公司按照合理的价格收购其股权或者股份。

公司合并支付的价款不超过本公司净资产百分之十的，可以不经股东会决议；但是，公司章程另有规定的除外。

公司依照前两款规定合并不经股东会决议的，应当经董事会决议。

**第二百二十条** 公司合并，应当由合并各方签订合并协议，并编制资产负债表及财产清单。



公司应当自作出合并决议之日起十日内通知债权人，并于三十日内在报纸上或者国家企业信用信息公示系统公告。债权人自接到通知之日起三十日内，未接到通知的自公告之日起四十五日内，可以要求公司清偿债务或者提供相应的担保。

**第二百二十一条** 公司合并时，合并各方的债权、债务，应当由合并后存续的公司或者新设的公司承继。

**第二百二十二条** 公司分立，其财产作相应的分割。

公司分立，应当编制资产负债表及财产清单。公司应当自作出分立决议之日起十日内通知债权人，并于三十日内在报纸上或者国家企业信用信息公示系统公告。

**第二百二十三条** 公司分立前的债务由分立后的公司承担连带责任。但是，公司在分立前与债权人就债务清偿达成的书面协议另有约定的除外。

**第二百二十四条** 公司减少注册资本，应当编制资产负债表及财产清单。

公司应当自股东会作出减少注册资本决议之日起十日内通知债权人，并于三十日内在报纸上或者国家企业信用信息公示系统公告。债权人自接到通知之日起三十日内，未接到通知的自公告之日起四十五日内，有权要求公司清偿债务或者提供相应的担保。

公司减少注册资本，应当按照股东出资或者持有股份的比例相应减少出资额或者股份，法律另有规定、有限责任公司全体股东另有约定或者股份有限公司章程另有规定的除外。

**第二百二十五条** 公司依照本法第二百一十四条第二款的规定弥补亏损后，仍有亏损的，可以减少注册资本弥补亏损。减少注册资本弥补亏

损的，公司不得向股东分配，也不得免除股东缴纳出资或者股款的义务。

依照前款规定减少注册资本的，不适用前条第二款的规定，但应当自股东会作出减少注册资本决议之日起三十日内在报纸上或者国家企业信用信息公示系统公告。

公司依照前两款的规定减少注册资本后，在法定公积金和任意公积金累计额达到公司注册资本百分之五十前，不得分配利润。

**第二百二十六条** 违反本法规定减少注册资本的，股东应当退还其收到的资金，减免股东出资的应当恢复原状；给公司造成损失的，股东及负有责任的董事、监事、高级管理人员应当承担赔偿责任。

**第二百二十七条** 有限责任公司增加注册资本时，股东在同等条件下有权优先按照实缴的出资比例认缴出资。但是，全体股东约定不按照出资比例优先认缴出资的除外。

股份有限公司为增加注册资本发行新股时，股东不享有优先认购权，公司章程另有规定或者股东会决议决定股东享有优先认购权的除外。

**第二百二十八条** 有限责任公司增加注册资本时，股东认缴新增资本的出资，依照本法设立有限责任公司缴纳出资的有关规定执行。

股份有限公司为增加注册资本发行新股时，股东认购新股，依照本法设立股份有限公司缴纳股款的有关规定执行。

## 第十二章 公司解散和清算

**第二百二十九条** 公司因下列原因解散：

(一) 公司章程规定的营业期限届满或者公司章程规定的其他解散事由出现；

(二) 股东会决议解散；

(三) 因公司合并或者分立需要解散；

(四) 依法被吊销营业执照、责令关闭或者被撤销；

(五) 人民法院依照本法第二百三十一条的规定予以解散。

公司出现前款规定的解散事由，应当在十日内将解散事由通过国家企业信用信息公示系统予以公示。

**第二百三十条** 公司有前条第一款第一项、第二项情形，且尚未向股东分配财产的，可以通过修改公司章程或者经股东会决议而存续。

依照前款规定修改公司章程或者经股东会决议，有限责任公司须经持有三分之二以上表决权的股东通过，股份有限公司须经出席股东会会议的股东所持表决权的三分之二以上通过。

**第二百三十一条** 公司经营管理发生严重困难，继续存续会使股东利益受到重大损失，通过其他途径不能解决的，持有公司百分之十以上表决权的股东，可以请求人民法院解散公司。

**第二百三十二条** 公司因本法第二百二十九条第一款第一项、第二项、第四项、第五项规定而解散的，应当清算。董事为公司清算义务人，应当在解散事由出现之日起十五日内组成清算组进行清算。

清算组由董事组成，但是公司章程另有规定或者股东会决议另选他人的除外。

清算义务人未及时履行清算义务，给公司或者债权人造成损失的，应当承担赔偿责任。

**第二百三十三条** 公司依照前条第一款的规定应当清算，逾期不成立清算组进行清算或者成立清算组后不清算的，利害关系人可以申请人民法院指定有关人员组成清算组进行清算。人民法院应当受理该申请，并及时组织清算组进行清算。

公司因本法第二百二十九条第一款第四项的

规定而解散的，作出吊销营业执照、责令关闭或者撤销决定的部门或者公司登记机关，可以申请人民法院指定有关人员组成清算组进行清算。

**第二百三十四条** 清算组在清算期间行使下列职权：

(一) 清理公司财产，分别编制资产负债表和财产清单；

(二) 通知、公告债权人；

(三) 处理与清算有关的公司未了结的业务；

(四) 清缴所欠税款以及清算过程中产生的税款；

(五) 清理债权、债务；

(六) 分配公司清偿债务后的剩余财产；

(七) 代表公司参与民事诉讼活动。

**第二百三十五条** 清算组应当自成立之日起十日内通知债权人，并于六十日内在报纸上或者国家企业信用信息公示系统公告。债权人应当自接到通知之日起三十日内，未接到通知的自公告之日起四十五日内，向清算组申报其债权。

债权人申报债权，应当说明债权的有关事项，并提供证明材料。清算组应当对债权进行登记。

在申报债权期间，清算组不得对债权人进行清偿。

**第二百三十六条** 清算组在清理公司财产、编制资产负债表和财产清单后，应当制订清算方案，并报股东会或者人民法院确认。

公司财产在分别支付清算费用、职工的工资、社会保险费用和法定补偿金，缴纳所欠税款，清偿公司债务后的剩余财产，有限责任公司按照股东的出资比例分配，股份有限公司按照股东持有的股份比例分配。

清算期间，公司存续，但不得开展与清算无关的经营活动。公司财产在未依照前款规定清偿

前，不得分配给股东。

**第二百三十七条** 清算组在清理公司财产、编制资产负债表和财产清单后，发现公司财产不足清偿债务的，应当依法向人民法院申请破产清算。

人民法院受理破产申请后，清算组应当将清算事务移交给人民法院指定的破产管理人。

**第二百三十八条** 清算组成员履行清算职责，负有忠实义务和勤勉义务。

清算组成员怠于履行清算职责，给公司造成损失的，应当承担赔偿责任；因故意或者重大过失给债权人造成损失的，应当承担赔偿责任。

**第二百三十九条** 公司清算结束后，清算组应当制作清算报告，报股东会或者人民法院确认，并报送公司登记机关，申请注销公司登记。

**第二百四十条** 公司在存续期间未产生债务，或者已清偿全部债务的，经全体股东承诺，可以按照规定通过简易程序注销公司登记。

通过简易程序注销公司登记，应当通过国家企业信用信息公示系统予以公告，公告期限不少于二十日。公告期限届满后，未有异议的，公司可以在二十日内向公司登记机关申请注销公司登记。

公司通过简易程序注销公司登记，股东对本条第一款规定的内容承诺不实的，应当对注销登记前的债务承担连带责任。

**第二百四十一条** 公司被吊销营业执照、责令关闭或者被撤销，满三年未向公司登记机关申请注销公司登记的，公司登记机关可以通过国家企业信用信息公示系统予以公告，公告期限不少于六十日。公告期限届满后，未有异议的，公司登记机关可以注销公司登记。

依照前款规定注销公司登记的，原公司股东、清算义务人的责任不受影响。

**第二百四十二条** 公司被依法宣告破产的，依照有关企业破产的法律实施破产清算。

## 第十三章 外国公司的分支机构

**第二百四十三条** 本法所称外国公司，是指依照外国法律在中华人民共和国境外设立的公司。

**第二百四十四条** 外国公司在中华人民共和国境内设立分支机构，应当向中国主管机关提出申请，并提交其公司章程、所属国的公司登记证书等有关文件，经批准后，向公司登记机关依法办理登记，领取营业执照。

外国公司分支机构的审批办法由国务院另行规定。

**第二百四十五条** 外国公司在中华人民共和国境内设立分支机构，应当在中华人民共和国境内指定负责该分支机构的代表人或者代理人，并向该分支机构拨付与其所从事的经营活动相适应的资金。

对外国公司分支机构的经营资金需要规定最低限额的，由国务院另行规定。

**第二百四十六条** 外国公司的分支机构应当在其名称中标明该外国公司的国籍及责任形式。

外国公司的分支机构应当在本机构中置备该外国公司章程。

**第二百四十七条** 外国公司在中华人民共和国境内设立的分支机构不具有中国法人资格。

外国公司对其分支机构在中华人民共和国境内进行经营活动承担民事责任。

**第二百四十八条** 经批准设立的外国公司分支机构，在中华人民共和国境内从事业务活动，应当遵守中国的法律，不得损害中国的社会公共利益，其合法权益受中国法律保护。

**第二百四十九条** 外国公司撤销其在中华人

民共和国境内的分支机构时，应当依法清偿债务，依照本法有关公司清算程序的规定进行清算。未清偿债务之前，不得将其分支机构的财产转移至中华人民共和国境外。

## 第十四章 法律 责任

**第二百五十条** 违反本法规定，虚报注册资本、提交虚假材料或者采取其他欺诈手段隐瞒重要事实取得公司登记的，由公司登记机关责令改正，对虚报注册资本的公司，处以虚报注册资本金额百分之五以上百分之十五以下的罚款；对提交虚假材料或者采取其他欺诈手段隐瞒重要事实的公司，处以五万元以上二百万元以下的罚款；情节严重的，吊销营业执照；对直接负责的主管人员和其他直接责任人员处以三万元以上三十万元以下的罚款。

**第二百五十一条** 公司未依照本法第四十条规定公示有关信息或者不如实公示有关信息的，由公司登记机关责令改正，可以处以一万元以上五万元以下的罚款。情节严重的，处以五万元以上二十万元以下的罚款；对直接负责的主管人员和其他直接责任人员处以一万元以上十万元以下的罚款。

**第二百五十二条** 公司的发起人、股东虚假出资，未交付或者未按期交付作为出资的货币或者非货币财产的，由公司登记机关责令改正，可以处以五万元以上二十万元以下的罚款；情节严重的，处以虚假出资或者未出资金额百分之五以上百分之十五以下的罚款；对直接负责的主管人员和其他直接责任人员处以一万元以上十万元以下的罚款。

**第二百五十三条** 公司的发起人、股东在公司成立后，抽逃其出资的，由公司登记机关责令改正，处以所抽逃出资金额百分之五以上百分之

十五以下的罚款；对直接负责的主管人员和其他直接责任人员处以三万元以上三十万元以下的罚款。

**第二百五十四条** 有下列行为之一的，由县级以上人民政府财政部门依照《中华人民共和国会计法》等法律、行政法规的规定处罚：

- (一) 在法定的会计账簿以外另立会计账簿；
- (二) 提供存在虚假记载或者隐瞒重要事实的财务会计报告。

**第二百五十五条** 公司在合并、分立、减少注册资本或者进行清算时，不依照本法规定通知或者公告债权人的，由公司登记机关责令改正，对公司处以一万元以上十万元以下的罚款。

**第二百五十六条** 公司在进行清算时，隐匿财产，对资产负债表或者财产清单作虚假记载，或者在未清偿债务前分配公司财产的，由公司登记机关责令改正，对公司处以隐匿财产或者未清偿债务前分配公司财产金额百分之五以上百分之十以下的罚款；对直接负责的主管人员和其他直接责任人员处以一万元以上十万元以下的罚款。

**第二百五十七条** 承担资产评估、验资或者验证的机构提供虚假材料或者提供有重大遗漏的报告，由有关部门依照《中华人民共和国资产评估法》、《中华人民共和国注册会计师法》等法律、行政法规的规定处罚。

承担资产评估、验资或者验证的机构因其出具的评估结果、验资或者验证证明不实，给公司债权人造成损失的，除能够证明自己没有过错的外，在其评估或者证明不实的金额范围内承担赔偿责任。

**第二百五十八条** 公司登记机关违反法律、行政法规规定未履行职责或者履行职责不当的，对负有责任的领导人员和直接责任人员依法给予

政务处分。

**第二百五十九条** 未依法登记为有限责任公司或者股份有限公司，而冒用有限责任公司或者股份有限公司名义的，或者未依法登记为有限责任公司或者股份有限公司的分公司，而冒用有限责任公司或者股份有限公司的分公司名义的，由公司登记机关责令改正或者予以取缔，可以并处十万元以下的罚款。

**第二百六十条** 公司成立后无正当理由超过六个月未开业的，或者开业后自行停业连续六个月以上的，公司登记机关可以吊销营业执照，但公司依法办理歇业的除外。

公司登记事项发生变更时，未依照本法规定办理有关变更登记的，由公司登记机关责令限期登记；逾期不登记的，处以一万元以上十万元以下的罚款。

**第二百六十一条** 外国公司违反本法规定，擅自在中华人民共和国境内设立分支机构的，由公司登记机关责令改正或者关闭，可以并处五万元以上二十万元以下的罚款。

**第二百六十二条** 利用公司名义从事危害国家安全、社会公共利益的严重违法行为的，吊销营业执照。

**第二百六十三条** 公司违反本法规定，应当承担民事赔偿责任和缴纳罚款、罚金的，其财产不足以支付时，先承担民事赔偿责任。

**第二百六十四条** 违反本法规定，构成犯罪的，依法追究刑事责任。

## 第十五章 附 则

**第二百六十五条** 本法下列用语的含义：

(一) 高级管理人员，是指公司的经理、副经理、财务负责人，上市公司董事会秘书和公司章程规定的其他人员。

(二) 控股股东，是指其出资额占有限责任公司资本总额超过百分之五十或者其持有的股份占股份有限公司股本总额超过百分之五十的股东；出资额或者持有股份的比例虽然低于百分之五十，但依其出资额或者持有的股份所享有的表决权已足以对股东会的决议产生重大影响的股东。

(三) 实际控制人，是指通过投资关系、协议或者其他安排，能够实际支配公司行为的人。

(四) 关联关系，是指公司控股股东、实际控制人、董事、监事、高级管理人员与其直接或者间接控制的企业之间的关系，以及可能导致公司利益转移的其他关系。但是，国家控股的企业之间不仅因为同受国家控股而具有关联关系。

**第二百六十六条** 本法自 2024 年 7 月 1 日起施行。

本法施行前已登记设立的公司，出资期限超过本法规定的期限的，除法律、行政法规或者国务院另有规定外，应当逐步调整至本法规定的期限以内；对于出资期限、出资额明显异常的，公司登记机关可以依法要求其及时调整。具体实施办法由国务院规定。

# 境内企业境外发行证券和上市管理试行办法

## 第一章 总则

**第一条** 为规范中华人民共和国境内企业直接或者间接到境外发行证券或者将其证券在境外上市交易（以下简称境外发行上市）相关活动，促进境内企业依法合规利用境外资本市场实现规范健康发展，根据《中华人民共和国证券法》等法律，制定本办法。

**第二条** 境内企业直接境外发行上市，是指在境内登记设立的股份有限公司境外发行上市。

境内企业间接境外发行上市，是指主要经营活动在境内的企业，以在境外注册的企业的名义，基于境内企业的股权、资产、收益或其他类似权益境外发行上市。

本办法所称证券，是指境内企业直接或者间接在境外发行上市的股票、存托凭证、可转换为股票的公司债券或者其他具有股权性质的证券。

**第三条** 境内企业境外发行上市活动，应当遵守外商投资、国有资产管理、行业监管、境外投资等法律、行政法规和国家有关规定，不得扰乱境内市场秩序，不得损害国家利益、社会公共利益和境内投资者合法权益。

**第四条** 境内企业境外发行上市活动的监督管理，应当贯彻党和国家路线方针政策、决策部署，统筹发展和安全。

中国证券监督管理委员会（以下简称中国证监会）依法

对境内企业境外发行上市活动实施监督管理。中国证监会、国务院有关主管部门依法在各自职责范围内，对境外发行上市的境内企业以及在境内为其提供相应服务的证券公司、证券服务机构实施监督管理。

中国证监会会同国务院有关主管部门建立境内企业境外发行上市监督管理协调机制，加强政策规则衔接、监督管理协调和信息共享。

**第五条** 中国证监会、国务院有关主管部门按照对等互惠原则，加强与境外证券监督管理机构、有关主管部门的监督管理合作，实施跨境监督管理。

## **第二章 境外发行上市**

**第六条** 境外发行上市的境内企业应当依照《中华人民共和国公司法》《中华人民共和国会计法》等法律、行政法规和国家有关规定制定章程，完善内部控制制度，规范公司治理和财务、会计行为。

**第七条** 境外发行上市的境内企业应当遵守国家保密法律制度，采取必要措施落实保密责任，不得泄露国家秘密和国家机关工作秘密。

境内企业境外发行上市涉及向境外提供个人信息和重要数据等的，应当符合法律、行政法规和国家有关规定。

**第八条** 存在下列情形之一的，不得境外发行上市：

（一）法律、行政法规或者国家有关规定明确禁止上市融资的；

（二）经国务院有关主管部门依法审查认定，境外发行上市可能危害国家安全的；

（三）境内企业或者其控股股东、实际控制人最近3年内存在贪污、贿赂、侵占财产、挪用财产或者破坏社会主义市场经济秩序的刑事犯罪的；

（四）境内企业因涉嫌犯罪或者重大违法违规行为正在被依法立案调查，尚未有明确结论意见的；

（五）控股股东或者受控股股东、实际控制人支配的股东持有的股权存在重大权属纠纷的。

**第九条** 境内企业境外发行上市活动，应当严格遵守外商投资、网络安全、数据安全等国家安全法律、行政法规和有关规定，切实履行维护国家安全的义务。涉及安全审查的，应当在向境外证券监督管理机构、交易场所等提交发行上市申请前依法履行相关安全审查程序。

境外发行上市的境内企业应当根据国务院有关主管部门要求，采取及时整改、作出承诺、剥离业务资产等措施，消除或者避免境外发行上市对国家安全的影晌。

**第十条** 境内企业境外发行上市的发行对象应当为境外投资者，但符合本条第二款规定或者国家另有规定的除外。

直接境外发行上市的境内企业实施股权激励或者发行证券购买资产的，可以向符合中国证监会规定的境内特定对象发行证券。

境内国有企业依照前款规定向境内特定对象发行证券的，应当同时符合国有资产管理的相关规定。



**第十一条** 境内企业境外发行上市的，可以以外币或者人民币募集资金、进行分红派息。

境内企业境外发行证券所募资金的用途和投向，应当符合法律、行政法规和国家有关规定。

境内企业境外发行上市相关资金的汇兑及跨境流动，应当符合国家跨境投融资、外汇管理和跨境人民币管理等规定。

**第十二条** 从事境内企业境外发行上市业务的证券公司、证券服务机构和人员，应当遵守法律、行政法规和国家有关规定，遵循行业公认的业务标准和道德规范，严格履行法定职责，保证所制作、出具文件的真实性、准确性和完整性，不得以对国家法律政策、营商环境、司法状况等进行歪曲、贬损的方式在所制作、出具的文件中发表意见。

### **第三章 备案要求**

**第十三条** 境外发行上市的境内企业，应当依照本办法向中国证监会备案，报送备案报告、法律意见书等有关材料，真实、准确、完整地说明股东信息等情况。

**第十四条** 境内企业直接境外发行上市的，由发行人向中国证监会备案。

境内企业间接境外发行上市的，发行人应当指定一家主要境内运营实体为境内责任人，向中国证监会备案。

**第十五条** 发行人同时符合下列情形的，认定为境内企业间接境外发行上市：

（一）境内企业最近一个会计年度的营业收入、利润总额、总资产或者净资产，任一指标占发行人同期经审计合并财务报表相关数据的比例超过 50%；

（二）经营活动的主要环节在境内开展或者主要场所位于境内，或者负责经营管理的高级管理人员多数为中国公民或者经常居住地位于境内。

境内企业间接境外发行上市的认定，遵循实质重于形式的原则。

**第十六条** 发行人境外首次公开发行或者上市的，应当在境外提交发行上市申请文件后 3 个工作日内向中国证监会备案。

发行人境外发行上市后，在同一境外市场发行证券的，应当在发行完成后 3 个工作日内向中国证监会备案。

发行人境外发行上市后，在其他境外市场发行上市的，应当按照本条第一款规定备案。

**第十七条** 通过一次或者多次收购、换股、划转以及其他交易安排实现境内企业资产直接或者间接境外上市，境内企业应当按照第十六条第一款规定备案，不涉及在境外提交申请文件的，应当在上市公司首次公告交易具体安排之日起 3 个工作日内备案。

**第十八条** 境内企业直接境外发行上市的，持有其境内未上市股份的股东申请将其持有的境内未上市股份转换为境外上市股份并到境外交易场所上市流通，应当符合中国证监会有关规定，并委托境内企业向中国证监会备案。

前款所称境内未上市股份，是指境内企业已发行但未在境内交易场所上市或者挂牌交易的股份。境内未上市股份应当在境内证券登记结算机构集中登记存管。境外上市股份的登记结算安排等适用境外上市地的规定。

**第十九条** 备案材料完备、符合规定的，中国证监会自收到备案材料之日起 20 个工作日内办结备案，并通过网站公示备案信息。

备案材料不完备或者不符合规定的，中国证监会在收到备案材料后 5 个工作日内告知发行人需要补充的材料。发行人应当在 30 个工作日内补充材料。在备案过程中，发行人可能存在本办法第八条规定情形的，中国证监会可以征求国务院有关主管部门意见。补充材料和征求意见的时间均不计算在备案时限内。

中国证监会依据本办法制定备案指引，明确备案操作要求、备案材料内容、格式和应当附具的文件等。

**第二十条** 境内企业境外发行上市的备案材料应当真实、准确、完整，不得有虚假记载、误导性陈述或者重大遗漏。境内企业及其控股股东、实际控制人、董事、监事、高级管理人员应当依法履行信息披露义务，诚实守信、勤勉尽责，保证备案材料真实、准确、完整。

证券公司、律师事务所应当对备案材料进行充分核查验证，不得存在下列情形：

（一）备案材料内容存在相互矛盾或者同一事实表述不一致且有实质性差异；

(二) 备案材料内容表述不清、逻辑混乱,严重影响理解;

(三) 未对企业是否符合本办法第十五条认定标准进行充分论证;

(四) 未及时报告或者说明重大事项。

**第二十一条** 境外证券公司担任境内企业境外发行上市业务保荐人或者主承销商的,应当自首次签订业务协议之日起 10 个工作日内向中国证监会备案,并应当于每年 1 月 31 日前向中国证监会报送上年度从事境内企业境外发行上市业务情况的报告。

境外证券公司在本办法施行前已经签订业务协议,正在担任境内企业境外发行上市业务保荐人或者主承销商的,应当自本办法施行之日起 30 个工作日内进行备案。

## 第四章 监督管理

**第二十二条** 发行人境外发行上市后发生下列重大事项,应当自相关事项发生并公告之日起 3 个工作日内向中国证监会报告具体情况:

(一) 控制权变更;

(二) 被境外证券监督管理机构或者有关主管部门采取调查、处罚等措施;

(三) 转换上市地位或者上市板块;

(四) 主动终止上市或者强制终止上市。

发行人境外发行上市后主要业务经营活动发生重大变

化，不再属于备案范围的，应当自相关变化发生之日起3个工作日内，向中国证监会提交专项报告及境内律师事务所出具的法律意见书，说明有关情况。

**第二十三条** 中国证监会、国务院有关主管部门按照职责分工，依法对境外发行上市的境内企业，以及证券公司、证券服务机构在境内开展的境内企业境外发行上市业务进行监督检查或者调查。

**第二十四条** 为维护市场秩序，中国证监会、国务院有关主管部门可以按照职责分工，视情节轻重，对违反本办法的境外发行上市的境内企业以及在境内为其提供相应服务的证券公司、证券服务机构及其相关执业人员采取责令改正、监管谈话、出具警示函等措施。

**第二十五条** 境内企业境外发行上市前存在本办法第八条所列情形的，应当暂缓或者终止境外发行上市，并及时向中国证监会、国务院有关主管部门报告。

**第二十六条** 境内企业境外发行上市违反本办法，或者境外证券公司违反本办法第二十一条规定的，中国证监会可以通过跨境监督管理合作机制通报境外证券监督管理机构。

境外证券监督管理机构对境内企业境外发行上市及相关活动进行调查取证，根据跨境监督管理合作机制向中国证监会提出协查请求的，中国证监会可以依法提供必要协助。境内单位和个人按照境外证券监督管理机构调查取证要求提供相关文件和资料的，应当经中国证监会和国务院有关主管部门同意。

## 第五章 法律责任

**第二十七条** 境内企业违反本办法第十三条规定未履行备案程序，或者违反本办法第八条、第二十五条规定境外发行上市的，由中国证监会责令改正，给予警告，并处以 100 万元以上 1000 万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以 50 万元以上 500 万元以下的罚款。

境内企业的控股股东、实际控制人组织、指使从事前款违法行为的，处以 100 万元以上 1000 万元以下的罚款。对直接负责的主管人员和其他直接责任人员，处以 50 万元以上 500 万元以下的罚款。

证券公司、证券服务机构未按照职责督促企业遵守本办法第八条、第十三条、第二十五条规定的，给予警告，并处以 50 万元以上 500 万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以 20 万元以上 200 万元以下的罚款。

**第二十八条** 境内企业的备案材料存在虚假记载、误导性陈述或者重大遗漏的，由中国证监会责令改正，给予警告，并处以 100 万元以上 1000 万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以 50 万元以上 500 万元以下的罚款。

境内企业的控股股东、实际控制人组织、指使从事前款违法行为，或者隐瞒相关事项导致发生前款情形的，处以 100

万元以上 1000 万元以下的罚款。对直接负责的主管人员和其他直接责任人员，处以 50 万元以上 500 万元以下的罚款。

**第二十九条** 证券公司、证券服务机构未勤勉尽责，依据境内法律、行政法规和国家有关规定制作、出具的文件存在虚假记载、误导性陈述或者重大遗漏，或者依据境外上市地规则制作、出具的文件存在虚假记载、误导性陈述或者重大遗漏扰乱境内市场秩序，损害境内投资者合法权益的，由中国证监会、国务院有关主管部门责令改正，给予警告，并处业务收入 1 倍以上 10 倍以下的罚款；没有业务收入或者业务收入不足 50 万元的，处以 50 万元以上 500 万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处 20 万元以上 200 万元以下的罚款。

**第三十条** 违反本办法的其他有关规定，有关法律、行政法规有处罚规定的，依照其规定给予处罚。

**第三十一条** 违反本办法或者其他法律、行政法规，情节严重的，中国证监会可以对有关责任人员采取证券市场禁入的措施。构成犯罪的，依法追究刑事责任。

**第三十二条** 中国证监会依法将有关市场主体遵守本办法的情况纳入证券市场诚信档案并共享至全国信用信息共享平台，会同有关部门加强信息共享，依法依规实施惩戒。

## 第六章 附则

**第三十三条** 境内上市公司控股或者实际控制的境内企业境外发行上市，以及境内上市公司以境内证券为基础在境

外发行可转换为境内证券的存托凭证等证券品种，应当同时符合中国证监会的其他相关规定，并按照本办法备案。

**第三十四条** 本办法所称境内企业，是指在中华人民共和国境内登记设立的企业，包括直接境外发行上市的境内股份有限公司和间接境外发行上市主体的境内运营实体。

本办法所称证券公司、证券服务机构，是指从事境内企业境外发行上市业务的境内外证券公司、证券服务机构。

**第三十五条** 本办法自 2023 年 3 月 31 日起施行。《关于执行<到境外上市公司章程必备条款>的通知》同时废止。



**Company Law of the People's Republic of China (Revised in 2023)**

Promulgation date	2023/12/29	Effective region	NATIONAL
Promulgator	Standing Committee of the National People's Congress	Document no	Order of the President of the People's Republic of China No. 15
Effectiveness	Effective	Effective date	2024/07/01
Category	General ( Corporate Law->General )		

Company Law of the People's Republic of China (Revised in 2023)

Order of the President of the People's Republic of China No. 15

December 29, 2023

The Company Law of the People's Republic of China has been revised and adopted by the Seventh Session of the Standing Committee of the 14th National People's Congress of the People's Republic of China on December 29, 2023, and is hereby promulgated and shall come into effect on July 1, 2024.

Xi Jinping, President of the People's Republic of China

Company Law of the People's Republic of China

(Adopted at the Fifth Session of the Standing Committee of the Eighth National People's Congress on December 29, 1993; amended for the first time in accordance with the Decision on Amending the Company Law of the People's Republic of China at the 13th Session of the Standing Committee of the Ninth People's Congress on December 25, 1999; amended for the second time in accordance with the Decision on Amending the Company Law of the People's Republic of China at the 11th Session of the Standing Committee of the Tenth National People's Congress on August 28, 2004; revised for the first time at the 18th Session of the Standing Committee of the Tenth National People's Congress on October 27, 2005; amended for the third time in accordance with the Decision on Amending Seven Laws Including the Law of the People's Republic of China on the Protection of the Marine Environment at the Sixth Session of the Standing Committee of the 12th National People's Congress on December 28, 2013; amended for the fourth time in accordance with the Decision on Amending the Company Law of the People's Republic of China at the Sixth Session of the Standing Committee of the 13th National People's Congress on October 26, 2018; and revised for the second time at the Seventh Session of the Standing Committee of the 14th National People's Congress on December 29, 2023)

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## Chapter I General Provisions

Article 1 The Company Law of the People's Republic of China (hereinafter referred to as the "Law") is formulated in accordance with the Constitution to regulate the organization and activities of companies, protect the lawful rights and interests of companies, shareholders, employees and creditors, improve the modern enterprise system with Chinese characteristics, advocate entrepreneurship, maintain the social economic order, and promote the development of the socialist market economy.

Article 2 For the purposes of this Law, the term "company" refers to a limited liability company or a joint stock limited company established within the territory of the People's Republic of China in accordance with this Law.

Article 3 A company is an enterprise legal person which has independent legal person property and enjoys legal person property rights. A company shall be liable for its debts to the extent of all its assets. The lawful rights and interests of a company are protected by law from infringement.

Article 4 A shareholder of a limited liability company is liable to the company to the extent of its subscribed capital contribution. A shareholder of a joint stock limited company is liable to the company to the extent of the shares it has subscribed for. Shareholders of a company are entitled under the law to rights including the return on equity, participation in the making of material decisions, and selection of managers.

Article 5 A company shall formulate its articles of association in accordance with the law. The articles of association shall be binding on the company and its shareholders, directors, supervisors, and senior officers.

Article 6 A company shall have its own name. A company's name shall comply with relevant national regulations of the State. The right of a company to its name is protected by law.

Article 7 A limited liability company established in accordance with this Law shall include the words "limited liability company" or "limited company" in its name. A joint stock limited company established in accordance with this Law shall include the words "joint stock limited company" or "joint stock company" in its name.

Article 8 A company's domicile shall be where its main administrative organization is located.

Article 9 A company's business scope shall be defined in its articles of association. A company may change its business scope by amending its articles of association. Where the business scope of a company includes any item subject to approval pursuant to any law or administrative regulations, the approval shall be obtained in accordance with the law.

Article 10 The legal representative of a company shall, as stipulated in the articles of association, be the director or company manager representing the company in the execution of company affairs. If a director or the company manager serving as the legal representative resigns, it is considered a simultaneous resignation from the position of the legal representative. In the event of the resignation of the legal representative, the company must appoint a new legal representative within 30 days from the date of the legal representative's resignation.

Article 11 The legal consequences of civil activities conducted by a company's legal representative in the name of the company shall be borne by the company. Restrictions on the powers of a company's legal representative by the company's articles of association or shareholders' meeting shall not be enforceable against bona fide third parties. If a company's legal representative, in the course of performing duties, causes harm to others, the company shall bear civil liability. After assuming civil liability, the company may seek compensation from

the legal representative at fault in accordance with the law or the company's articles of association.

Article 12 A limited liability company that seeks to convert into a joint stock limited company shall satisfy the conditions prescribed in this Law for joint stock limited companies. A joint stock limited company that seeks to convert into a limited liability company shall satisfy the conditions prescribed in this Law for limited liability companies.

In either of the aforementioned cases, the claims and debts of the company prior to the conversion shall be succeeded by the company after the conversion.

Article 13 A company may establish subsidiaries. A subsidiary enjoys legal-person status and shall independently bear its own civil liability in accordance with the law.

A company may establish branches. A branch does not enjoy legal-person status and its civil liability shall be borne by the company.

Article 14 A company may invest in other enterprises.

Where any law provides that a company shall not become a capital contributor that shall bear joint and several liability for the debts of the invested enterprise, such provisions shall apply.

Article 15 If a company intends to invest in any other enterprise or provide a guarantee for any other person, a resolution shall be adopted, as stipulated in the company's articles of association, by the company's board of directors or shareholders' meeting; where the articles of association prescribe any limit on the total amount of investments or guaranties allowed, or on the amount of a single investment or guarantee allowed, the said total amount or amount shall not exceed the limit prescribed.

If a company intends to provide a guarantee for any shareholder or actual controller of the company, a resolution shall be adopted by the shareholders' meeting.

No shareholder referred to in the preceding paragraph or under the control of the actual controller referred to in the preceding paragraph shall participate in voting on any matter described in the preceding paragraph. Any such resolution shall be adopted by a majority vote from the other shareholders attending the meeting.

Article 16 A company shall protect the lawful rights and interests of its employees, enter into employment contracts with its employees in accordance with the law, take out social insurance for employees, and strengthen labor protection to ensure work safety.

A company shall, through various means, enhance the professional education and in-service training of its employees to improve the quality of the workforce.

Article 17 Employees of a company shall, in accordance with the Trade Union Law of the People's Republic of China, organize a trade union, which shall carry out trade union activities and safeguard the lawful rights and interests of the employees. The company shall provide the necessary conditions for its trade union to carry out its activities. The trade union shall, on behalf of the employees, enter into collective contracts with the company with respect to matters such as remuneration, working hours, leave and rest, work safety and sanitation, insurance, and welfare and of the employees in accordance with the law.

In accordance with the Constitution and other relevant laws, a company shall establish a sound democratic management system, with the employee representative assembly as the fundamental form, and implement democratic management through the employee representative assembly or other means.

When making a decision on company restructuring, dissolution, filing for bankruptcy, or any material issue relating to its business operations, or formulating any important rule or regulation, a company shall take into account the opinions of its trade union, as well as the opinions and proposals of its employees through the employee representative assembly or other means.

Article 18 Organizations of the Communist Party of China shall be established within companies in accordance with the Constitution of the Communist Party of China and carry out Party activities. Companies shall provide the necessary conditions for Party activities.

Article 19 In conducting its business activities, a company shall abide by laws and regulations, observe social ethics and business ethics, act in good faith, and be subject to government and public oversight.

Article 20 In conducting its business activities, a company shall fully consider the interests of company employees, consumers, and other stakeholders, as well as social and public interests such as ecological environmental protection, and undertake social responsibility.

The State encourages companies to participate in social welfare activities and publish social responsibility reports.

Article 21 Shareholders of a company shall abide by laws, administrative regulations and articles of association and exercise their shareholder rights in accordance with the law, and shall not damage the interests of the company or other shareholders by abusing their shareholder rights. A shareholder of a company shall be liable for compensation for any losses caused to the company or to other shareholders due to their abuse of shareholder rights.

Article 22 No controlling shareholder, actual controller, director, supervisor, or senior officer of a company shall harm the interests of the company through the exploitation of a related-party relationship. Any individual who violates the preceding paragraph, resulting in losses to the company, shall be liable for compensation.

Article 23 If any shareholder of a company evades the payment of debts by abusing the company's independent status as a legal person or the limited liability of shareholders, thereby seriously damaging the interests of any creditor of the company, the shareholder shall bear joint and several liability for the debts of the company.

If a shareholder utilizes two or more companies under their control to carry out actions specified in the preceding paragraph, each of these companies shall bear joint and several liability for the debts of any of the companies.

In the case of a company with a sole shareholder, if the shareholder cannot prove the independence of the company's assets from their own, the shareholder shall bear joint and several liability for the company's debts.

Article 24 Meetings and voting of the shareholders' meeting, board of directors, and board of supervisors of a company may be conducted through electronic communication methods, unless otherwise stipulated in the company's articles of association.

Article 25 Any resolution of the shareholders' meeting or board of directors with content that violates any law or administrative regulations shall be null and void.

Article 26 If the procedure for convening a shareholders' meeting or a meeting of the board of directors, or the voting method used in such a meeting, violates any law, administrative regulations or the company's articles of association, or if any resolution adopted includes content that violates the company's articles of association, shareholders may, within 60 days from the date of adopting the resolution, request the people's court to annul it, except in cases where there are only minor defects in the procedure for convening the meeting or the voting method used in the meeting, which had no material impact on the resolution.

Shareholders that were not notified to attend a shareholders' meeting may request the people's court to annul a resolution adopted at the meeting within 60 days from the date when they became aware or should have been aware of the adoption of the resolution; if the right to annul is not exercised within one year from the date of adopting the resolution, the right to annul shall be extinguished.

Article 27 A resolution of the shareholders' meeting or board of directors shall not be established in any of the following circumstances:

- (1) Where the shareholders' meeting or board of directors' meeting was not convened to make the resolution;
- (2) Where the shareholders' meeting or board of directors' meeting did not vote on the matter subject to the resolution;
- (3) Where the number of attendees or the voting rights held by them did not reach the number or proportion stipulated in this Law or the company's articles of association; or
- (4) Where the number of those agreeing to the resolution or the voting rights held by them did not reach the number or proportion stipulated in this Law or the company's articles of association.

Article 28 If a resolution of the shareholders' meeting or board of directors of a company is declared invalid, annulled, or confirmed as not established by the people's court, the company shall apply to the company registration authority to cancel the registration already processed based on that resolution. If a resolution of the shareholders' meeting or board of directors of a company is declared invalid, annulled, or confirmed as not established by the people's court, any civil juristic relationship created by the company with a bona fide third party based on such resolution shall be not affected.

Article 29 To establish a company, an application for registration shall be filed with the company registration authority in accordance with the law.

Where any law or administrative regulations provide that the establishment of a company is subject to approval, the approval formalities shall be fulfilled in accordance with the law before the registration of the company.

Article 30 To apply for the establishment of a company, documents including a registration application and the company's articles of association shall be submitted, and the relevant materials submitted shall be truthful, legal, and valid.

If the application materials are incomplete or do not meet the statutory requirements, the company registration authority shall inform the applicant of any materials that need to be corrected or supplemented all at once.

Article 31 If an application for establishment of a company meets the establishment conditions prescribed in this Law, the company registration authority shall register the company as a limited liability company or joint stock limited company; if the application does not meet the establishment conditions prescribed in this Law, it shall not be registered as a limited liability company or joint stock limited company.

Article 32 The particulars to be registered for a company include:

- (1) Name;
- (2) Domicile;
- (3) Registered capital;
- (4) Business scope;
- (5) Name of the legal representative; and
- (6) Names of shareholders for a limited liability company or promoters for a joint stock limited company.

The company registration authority shall disclose a company's registered items outlined in the preceding paragraph to the public through the National Enterprise Credit Information Publicity System.

Article 33 A legally established company shall be issued a business license by the company registration authority. The date of issuance of the business license for a company shall be the date of establishment of the company.

A company's business license shall state the company's name, domicile, registered capital, business scope, and name of the legal representative, among other particulars.

The company registration authority may issue an electronic business license. An electronic business license has the same legal force as a paper-based business license.

Article 34 Any changes to the registered items of a company shall be subject to alteration registration in accordance with the law.

Any particulars to be registered by a company that have not been registered or changed without alteration registration shall not be enforceable against bona fide third parties.

Article 35 When a company applies for alteration registration, it shall submit to the company registration authority documents including an alteration registration application signed by the legal representative of the company, and the legally adopted resolution or decision regarding the alteration.

In cases where alteration registration involves amendments to the company's articles of association, the amended articles of association shall be submitted.

In the case of a change in the legal representative of the company, the alteration registration application shall be signed by the newly appointed legal representative.

Article 36 In the event of any changes to the details recorded in a company's business license, the company shall complete alteration registration before being issued a new business license by the company registration authority.

Article 37 If a company is to be terminated due to dissolution, declaration of bankruptcy, or other statutory reasons, it shall apply for deregistration to the company registration authority in accordance with the law, and the termination of the company shall be announced by the company registration authority.

Article 38 To establish a branch, the company shall file a registration application with the company registration authority to obtain a business license.

Article 39 The registration of the establishment of a company shall be revoked by the company registration authority in accordance with laws or administrative regulations if it was obtained by misstating its

registered capital, submitting false documentation or using any other fraudulent means to conceal any important fact.

Article 40 A company shall, as required, publicly disclose the following details through the National Enterprise Credit Information Publicity System:

- (1) The subscribed and paid-in capital, contribution methods, and contribution dates of shareholders for a limited liability company, and the quantity of shares subscribed by promoters for a joint stock limited company;
- (2) Information on changes in the equity or shares of shareholders for a limited liability company and promoters for a joint stock limited company;
- (3) Information on the receipt, changes, or cancellation in respect of any administrative permit; and
- (4) Other information as stipulated by laws or administrative regulations.

A company shall ensure that the disclosed information outlined in the preceding paragraph is true, accurate, and complete.

Article 41 The company registration authority shall optimize the company registration process, improve registration efficiency, enhance information technology development, and promote convenient methods such as online processing, to enhance the accessibility of company registration.

The State Administration for Market Regulation shall formulate specific measures for company registration based on this Law and relevant laws and administrative regulations.

### Chapter III Establishment and Organizational Structure of Limited Liability Companies

#### Section 1 Establishment

Article 42 A limited liability company shall be funded and established by one to 50 shareholders.

Article 43 Shareholders of a limited liability company at the time of its establishment may enter into an establishment agreement to specify their respective rights and obligations in the process of establishing the company.

Article 44 The legal consequences of any civil activities conducted by a shareholder of a limited liability company at the time of establishment for the establishment of the company shall be borne by the company.

In cases where the company is not established, the legal consequences shall be borne by the shareholders at the time of establishment; if there are two or more shareholders at the time of establishment, they shall have joint and several claims and bear joint and several liabilities.

For civil liability arising from any civil activities conducted by a shareholder at the time of establishment, in their own name, for the establishment of the company, a third party shall have the right to choose to claim against either the company or the shareholder at the time of establishment.

If a shareholder at the time of establishment causes harm to another person due to performance of their responsibilities for the establishment of the company, the company or other faultless shareholders may seek to recover any resulting compensation liability borne by them from the shareholder at fault.

Article 45 When establishing a limited liability company, the shareholders shall jointly formulate the company's articles of association.

Article 46 The articles of association of a limited liability company shall specify the following matters:

- (1) Name and domicile of the company;
- (2) Business scope of the company;
- (3) Registered capital of the company;
- (4) Names of shareholders;
- (5) Amounts, methods, and dates of capital contributions by shareholders;
- (6) Internal bodies and their establishment, powers, and rules of procedure;
- (7) Methods for selecting and changing the company's legal representative; and
- (8) Any other matters deemed necessary to specify by the shareholders' meeting.

Shareholders shall affix their signatures or seals on the company's articles of association.

Article 47 The registered capital of a limited liability company is the total amount of capital subscribed by all shareholders as registered with the company registration authority. The subscribed capital shall be fully paid by the shareholders within five years from the date of the company's establishment as stipulated in the company's articles of association.

Where the paid-in registered capital, the minimum registered capital, or the payment deadline for capital contributions by shareholders is otherwise provided by any laws, administrative regulations, or decisions of the State Council, those provisions shall prevail.

Article 48 Shareholders may contribute capital in cash, in kind, or with intellectual property rights, land use rights, equity, debt claims, or other non-monetary assets which can be valued in monetary terms and legally transferred, except for assets not eligible for capital contribution under any other law or administrative regulations.

The value of any non-monetary asset used for capital contribution shall be appraised and verified, and shall not be overestimated or underestimated. Where any law or administrative regulations provide for the appraisal of values, such provisions shall apply.

Article 49 Each shareholder shall pay the capital contribution they subscribed in full and on time as stipulated in the articles of association.

Shareholders making contributions in cash shall deposit the full amount into a bank account opened by the limited liability company. Those making contributions with non-monetary assets shall complete the procedures for the transfer of property rights in accordance with the law.

Shareholders that fail to contribute the capital in full and on time shall, in addition to making full payment to the company, also be liable for compensating the losses caused to the company.

Article 50 When a limited liability company is established, if a shareholder fails to make actual payment of capital contributions as stipulated in the company's articles of association, or if the actual value of non-monetary assets actually contributed falls significantly below the subscribed capital amount, the other shareholders at the time of establishment shall bear joint and several liability with that shareholder within the shortfall in contributions.

Article 51 After the establishment of a limited liability company, the board of directors shall verify the shareholders' capital contributions. If it is found that a shareholder has not paid the contribution on time and in full as stipulated in the company's articles of association, the company shall issue a written payment demand to that shareholder for the outstanding amount.

In the case of failure to fulfill the obligation stipulated in the preceding paragraph in a timely manner, resulting in losses to the company, any directors held responsible shall be liable for compensation.

Article 52 If a shareholder fails to pay contributions by the date specified in the company's articles of association, and the company issues a written payment demand in accordance with the first paragraph of the preceding Article, the company may specify a grace period for the payment in the written payment demand; the grace period shall not be less than 60 days from the date the company issues the payment demand. Upon expiration of the grace period, if the shareholder still fails to fulfill the contribution obligation, the company, through a resolution of the board of directors, may issue a notice of forfeiture to the shareholder, and such notice shall be in writing. From the date of the notice, the shareholder loses the rights to the unpaid capital shares.

The shares forfeited according to the preceding paragraph shall be transferred in accordance with the law or the registered capital shall be reduced accordingly with the cancellation of those shares; if the transfer or cancellation is not completed within six months, the other shareholders of the company shall fully pay the shortfall in proportion to their respective contributions.

If the shareholder has objections to the forfeiture, they shall initiate legal action in the people's court within 30 days from the date of receiving the notice of forfeiture.

Article 53 After the establishment of the company, shareholders shall not withdraw their paid-in capital contributions.

In the event of a violation of the preceding paragraph, the shareholder in violation shall return the withdrawn contribution amount; if such action causes losses to the company, any directors, supervisors, and senior officers of the company held responsible shall bear joint and several liability for compensation along with that shareholder.

Article 54 If a company is unable to meet its matured obligations, the company or the creditors of the matured debts shall have the right to demand early contributions from shareholders whose subscribed capital contributions are not yet due for payment.

Article 55 After the establishment of a limited liability company, each shareholder shall be issued a capital contribution certificate, which shall record the following details:

(1) Name of the company;

- (2) Date of establishment of the company;
- (3) Registered capital of the company;
- (4) Name of the shareholder, their subscribed and paid-in capital amounts, contribution method, and contribution date; and
- (5) Serial number of the capital contribution certificate and date of issuance.

The capital contribution certificate shall bear the signature of the legal representative and the company seal.

Article 56 A limited liability company shall maintain a register of members, which shall record the following details:

- (1) Name and domicile of each shareholder;
- (2) Each shareholder's subscribed and paid-in capital amounts, contribution method, contribution date;
- (3) Serial number of each capital contribution certificate; and
- (4) Date of receipt or loss of shareholder status for each shareholder.

Shareholders listed in the register of members may, based on this register, claim and exercise their shareholder rights.

Article 57 Shareholders are entitled to inspect and copy the company's articles of association, register of members, minutes of shareholders' meetings, resolutions of the board of directors, resolutions of the board of supervisors, and financial accounting reports.

Shareholders may request to inspect the company's accounting books and accounting documents.

Requests to inspect the accounting books or accounting documents shall be submitted by shareholders to the company in writing, specifying the purpose. If the company has good reason to believe that a shareholder's request to inspect the company's accounting books or accounting documents is for any improper purpose that may harm the lawful interests of the company, the company may reject the request and shall, within 15 days from the date of submission of the written request by the shareholder, issue a written reply to the shareholder, stating the reasons for the rejection. In cases where a company rejects a shareholder's request to inspect the company's accounting books, the shareholder may initiate legal action in the people's court.

Shareholders may appoint intermediary institutions such as accounting firms or law firms to inspect the materials specified in the preceding paragraph.

When shareholders and their appointed intermediary institutions, such as accounting firms or law firms, inspect or copy the relevant materials, they shall comply with laws and administrative regulations, including those relate to the protection of state secrets, trade secrets, personal privacy, and personal information.

The provisions of the preceding four paragraphs shall apply to shareholders' requests to inspect or copy the relevant materials of any wholly-owned subsidiary of the company.

## Section 2 Organizational Structure

Article 58 The shareholders' meeting of a limited liability company shall comprise all its shareholders. The shareholders' meeting is the company's governing body and shall exercise functions and powers in accordance with this Law.

Article 59 The shareholders' meeting shall exercise the following functions and powers:

- (1) Elect and replace directors and supervisors and determine matters relating to their remunerations;
- (2) Deliberate on and approve reports of the board of directors;
- (3) Deliberate on and approve reports of the board of supervisors;
- (4) Deliberate on and approve the company's profit distribution plans and loss recovery plans;
- (5) Make resolutions on any increase or decrease of the company's registered capital;
- (6) Make resolutions on the issuance of corporate bonds;
- (7) Make resolutions on any merger, division, dissolution, liquidation, or change of corporate form of the company;
- (8) Amend the articles of association; and
- (9) Any other functions or powers specified in the articles of association.

The shareholders' meeting may authorize the board of directors to make resolutions regarding the issuance of corporate bonds.

For matters listed in the first paragraph of this article, if shareholders unanimously express their consent in writing, convening a shareholders' meeting is not required, and a decision can be made directly, which shall be affixed with the signatures or seals of all the shareholders.

Article 60 A limited liability company with a sole shareholder has no shareholders' meetings. When the shareholder makes a decision on any of the matters listed in the first paragraph of the preceding Article, it



shall be done in writing and placed within its premises after being signed or sealed by the shareholder.

Article 61 The inaugural shareholders' meeting shall be convened and presided over by the shareholder with the largest capital contribution, and shall exercise its functions and powers in accordance with this Law.

Article 62 Shareholders' meetings shall be classified into regular meetings and interim meetings. Regular meetings shall be held on schedule as stipulated in the company's articles of association. An interim meeting shall be convened if proposed by shareholders representing one-tenth or more of the voting rights, one-third or more of the directors, or the board of supervisors.

Article 63 A shareholders' meeting shall be convened by the board of directors and presided over by the chairman of the board of directors. If the chairman is unable or fails to perform the duties, the deputy chairman of the board of directors shall preside over the meeting; if the deputy chairman is unable or fails to perform the duties, a director shall be nominated by a majority of the directors to preside over the meeting.

If the board of directors is unable or fails to fulfill its duty to convene a shareholders' meeting, it shall be convened and presided over by the board of supervisors; if the board of supervisors does not convene or preside over it, shareholders representing one-tenth or more of the voting rights may convene and preside over the meeting on their own initiative.

Article 64 Unless otherwise specified in the articles of association or otherwise agreed upon by all the shareholders, notice of the shareholders' meeting shall be provided to each shareholder at least 15 days before the meeting.

The shareholders' meeting shall take minutes of the decisions made on matters discussed at its meetings, which shall be signed or sealed by the attending shareholders.

Article 65 Unless otherwise specified in a company's articles of association, shareholders shall exercise their voting rights at shareholders' meetings in proportion to their respective capital contributions.

Article 66 Unless otherwise provided in this Law, the deliberation and voting procedures of the shareholders' meeting shall be specified by a company's articles of association.

A resolution of the shareholders' meeting shall be adopted by shareholders representing a majority of the voting rights.

Any resolution at the shareholders' meeting to amend the articles of association, increase or decrease the registered capital, or regarding a merger, division, dissolution, or change of corporate form of the company, shall be adopted by shareholders representing two-thirds or more of the voting rights.

Article 67 A limited liability company shall establish a board of directors, except as otherwise provided in Article 75 of this Law.

The board of directors shall exercise the following functions and powers:

- (1) Convene shareholders' meetings and report its work to the shareholders' meetings;
- (2) Execute resolutions of the shareholders' meetings;
- (3) Determine the company's business plans and investment plans;
- (4) Formulate the company's profit distribution plans and loss recovery plans;
- (5) Formulate the company's plans for the increase or decrease of its registered capital and the issuance of corporate bonds;
- (6) Formulate plans for any merger, division, dissolution or change of corporate form of the company;
- (7) Determine the establishment of the company's internal management bodies;
- (8) Determine the appointment or removal of the company manager and the manager's remuneration, and based on nominations by the manager, determine the appointment or removal of any deputy manager and the head of finance and their remuneration;
- (9) Develop the company's basic management policies; and
- (10) Any other functions or powers specified in the articles of association or granted by the shareholders' meeting.

Any restrictions on the functions and powers of the board of directors in the articles of association shall not be enforceable against bona fide third parties.

Article 68 The board of directors of a limited liability company shall consist of three or more members, and may include employee representatives among them. In the case of a limited liability company with three hundred or more employees, except when a board of supervisors has been established including a number of employee representatives among its members as required by law, the company's board of directors shall

include employee representatives among its members. An employee representative on the board of directors shall be elected by the company's employees through the employee representative assembly, employee assembly, or other forms of democratic elections.

The board of directors shall appoint one chairman and may appoint deputy chairmen. The methods for selecting the chairman and deputy chairmen shall be stipulated in the company's articles of association.

Article 69 A limited liability company may, as stipulated in its articles of association, establish an audit committee within the board of directors composed of directors to exercise the functions and powers prescribed for the board of supervisors by this Law, without establishing a board of supervisor or supervisor. An employee representative among the members of the board of directors may also become a member of the audit committee.

Article 70 The term of office of directors shall be specified by the articles of association, but in any case shall not exceed three years. A director may, upon the expiration of their term of office, hold the directorship in consecutive terms if re-elected.

If the re-election of directors is not held in time after the term of office of the existing directors has expired, or if the number of members of the board of directors falls below the quorum due to the resignation of any director during their term of office, the original director shall, before the newly-elected director assumes the position, perform directors' duties in accordance with laws, administrative regulations, and the articles of association.

Resignation of a director shall be notified to the company in writing, and the resignation shall become effective on the date the company receives the notice, except in the circumstances prescribed in the preceding paragraph, where the director shall continue to perform duties.

Article 71 The shareholders' meeting may make a resolution to dismiss a director, and the dismissal shall become effective on the date the resolution is adopted.

If a director is dismissed without good cause before the end of their term, the director may claim compensation from the company.

Article 72 A meeting of the board of directors shall be convened and presided over by the chairman of the board of directors. If the chairman of the board of directors is unable or fails to perform the duties, the meeting shall be convened and presided over by the deputy chairman of the board of directors; if the deputy chairman is unable or fails to perform the duties, the meeting shall be convened and presided over by a director nominated by a majority of the directors.

Article 73 Unless otherwise provided in this Law, the deliberation and voting procedures of the board of directors shall be specified by the company's articles of association.

A meeting of the board of directors shall only be held with the presence of a majority of the directors. Any resolution of the board of directors shall be adopted by a majority of all the directors.

Each director shall have one vote in the voting on any board resolution.

The board of directors shall take minutes of decisions made on matters discussed at its meetings, and attending directors shall sign the meeting minutes.

Article 74 A limited liability company may appoint a company manager, who shall be appointed or removed by the board of directors.

The company manager shall report to the board of directors and exercise functions and powers as specified in the articles of association or as authorized by the board of directors. The company manager shall attend meetings of the board of directors as a non-voting attendee.

Article 75 A limited liability company with a smaller scale or fewer shareholders may appoint one director without establishing a board of directors to exercise the functions and powers prescribed for the board of directors by this Law. This director may serve concurrently as the company manager.

Article 76 A limited liability company shall have a board of supervisors, unless otherwise stipulated in Article 69 or 83 of this Law.

The board of supervisors shall be composed of three or more members. The board of supervisors shall include shareholders' representatives and an appropriate proportion of employee representatives, with employee representatives accounting for at least one-third of the total members, and the specific proportion shall be stipulated by the company's articles of association.

An employee representative on the board of supervisors shall be elected by the company's employees through the employee representative assembly, employee assembly, or other forms of democratic elections.

The board of supervisors shall appoint one chairman, who shall be elected by a majority of all the supervisors. A meeting of the board of supervisors shall be convened and presided over by the chairman of the board of supervisors; if the chairman is unable or fails to perform the duties, the meeting shall be convened and presided over by a supervisor nominated by a majority of the supervisors.

No director or senior officer shall concurrently serve as a supervisor.

Article 77 The term of office of a supervisor shall be three years. A supervisor may, upon the expiration of their term of office, hold the supervisor's position in consecutive terms if re-elected.

If the re-election of supervisors is not held in time after the expiration of the term of office of the existing supervisors, or if the number of members of the board of supervisors falls below the quorum due to the resignation of any supervisor during their term of office, the original supervisor shall, before the newly-elected supervisor assumes the position, perform supervisors' duties in accordance with relevant laws, administrative regulations, and the articles of association.

Article 78 The board of supervisors shall exercise the following functions and powers:

- (1) Inspect the financial affairs of the company;
- (2) Supervise performance of the directors and senior officers of their respective duties and propose the dismissal of any director or senior officer who violates any law, administrative regulations, the articles of association, or any resolution of the shareholders' meeting;
- (3) Require any director or senior officer to make rectification where their actions damage the interests of the company;
- (4) Propose the holding of interim shareholders' meetings and convene and preside over shareholders' meetings when the board of directors fails to perform its duties in this regard as prescribed in this Law;
- (5) Put forward proposals at shareholders' meetings;
- (6) Initiate legal action against any director or senior officer in accordance with Article 189 of this Law; and
- (7) Any other functions or powers specified in the articles of association.

Article 79 Supervisors may attend meetings of the board of directors as non-voting attendees, and may raise questions or put forward suggestions about the matters subject to resolution by the board of directors.

Upon discovering any abnormalities in the company's business operations, the board of supervisors may initiate an investigation; if necessary, it may engage an accounting firm, at the company's expense, to assist with the investigation.

Article 80 The board of supervisors may require directors and senior officers to submit reports on the performance of their duties.

Directors and senior officers shall truthfully provide the board of supervisors with the relevant information and materials and shall not obstruct the board of supervisors or its members from exercising their powers.

Article 81 The board of supervisors shall hold at least one meeting a year. Any supervisor may propose an interim meeting of the board of supervisors.

Unless otherwise specified in this Law, the deliberation and voting procedures of the board of supervisors shall be specified by the articles of association.

Any resolution of the board of supervisors shall be adopted by a majority of all the supervisors.

Each supervisor shall have one vote in the voting on any resolution of the board of supervisors.

The board of supervisors shall take minutes of decisions made on matters discussed at a meeting, and the minutes shall be signed by the supervisors present at the meeting.

Article 82 All expenses necessarily incurred by the board of supervisors in exercising its functions and powers shall be borne by the company.

Article 83 A limited liability company with a smaller scale or fewer shareholders may appoint one supervisor without establishing a board of supervisors to exercise the functions and powers prescribed for the board of supervisors by this Law; upon consensus of all the shareholders, it may have no supervisor.

#### Chapter IV Transfer of Equity in Limited Liability Companies

Article 84 Shareholders of a limited liability company may transfer their equity in the company in whole or in part between them.

Shareholders transferring their equity to parties outside the existing shareholders shall provide written notice to other shareholders on matters including the quantity, price, payment method, and deadline for the equity transfer, and other shareholders shall have the right of first refusal to purchase on the same

terms. If a shareholder does not respond within 30 days of receiving the written notice, it is considered a waiver of the right of first refusal. If two or more shareholders exercise the right of first refusal, they shall determine their respective purchase proportions through negotiation; in case of failure to reach an agreement through negotiation, the right of first refusal shall be exercised in proportion to their respective capital contributions at the time of the transfer.

Where there are other provisions in the company's articles of association regarding equity transfer, those provisions shall prevail.

Article 85 When a people's court transfers a shareholder's equity pursuant to a mandatory enforcement procedure provided by law, the court shall notify the company and all the shareholders of the right of first refusal to purchase on the same terms. Non-exercise of the right of first refusal by the other shareholders within 20 days from receipt of the court's notification shall be deemed as a waiver of the right of first refusal.

Article 86 Shareholders shall notify the company in writing when transferring equity, requesting a change in the register of members; if alteration registration is required, the shareholder may request the company to go through alteration registration with the company registration authority. In the event of refusal or no response from the company within a reasonable period, the transferor or transferee may initiate legal action in the people's court as provided by law.

In the case of equity transfer, the transferee may exercise shareholder rights from the time of entry in the register of members.

Article 87 After an equity transfer in accordance with this Law, the company shall promptly cancel the capital contribution certificate of the original shareholder, issue a capital contribution certificate to the new shareholder, and modify the relevant records of shareholders and their capital contributions in the articles of association and register of members accordingly. Such modification is not subject to a vote of the shareholders' meeting.

Article 88 In cases where a shareholder transfers equity representing subscribed capital contributions not yet due for payment, the transferee shall assume the obligation to make the corresponding payment; if the transferee fails to make payment on time and in full, the transferor shall bear complementary liability for the unpaid amount of subscribed contributions by the transferee.

In cases where a shareholder transfers equity without paying the contributions by the deadline as stipulated in the company's articles of association or where the actual value of non-monetary assets contributed falls significantly below the subscribed capital amount, the transferor and transferee shall bear joint and several liability within the shortfall in contributions; if the transferee does not know or should not have known of the above situation, the liability shall be borne by the transferor.

Article 89 In any of the following circumstances, a shareholder voting against the relevant resolution of the shareholders' meeting may request the company to purchase its equity at a reasonable price:

- (1) Where the company has not distributed profits to shareholders for five consecutive years, while the company has been profitable during these five consecutive years and meets the conditions for profit distribution stipulated in this Law;
- (2) In the event of a merger, division, or transfer of principal assets by the company; or
- (3) Where the term specified in the articles of association for the company's operation expires or any of the other causes for dissolution stipulated in the articles of association arises, and the shareholders' meeting adopts a resolution to amend the articles of association to keep the company in existence.

If no agreement on the repurchase of equity is reached between the shareholder and the company within 60 days from the date of adopting the relevant resolution by the shareholders' meeting, the shareholder may initiate legal action in the people's court within 90 days from the date of adopting the resolution.

In cases where a controlling shareholder of the company abuses shareholder rights, causing serious harm to the interests of the company or other shareholders, other shareholders shall have the right to request the company to repurchase their equity at a reasonable price.

The company shall, within six months of a purchase of its own equity due to circumstances specified in the first or third paragraph of this Article, transfer or cancel the purchased equity in accordance with the law.

Article 90 After the death of a shareholder who is a natural person, their shareholder status may be inherited by their lawful heir, except where otherwise stipulated in the articles of association.

## Chapter V Establishment and Organizational Structure of Joint Stock Limited Companies

### Section 1 Establishment

Article 91 Establishment by promotion or by stock flotation may be used as the method to establish a joint stock limited company.

The term "establishment by promotion" refers to the establishment of a company by the promoters subscribing for all the shares required to be issued at the time of the company's establishment.

The term "establishment by stock flotation" refers to establishment of a company where the promoters subscribe for a portion of the shares required to be issued at the time of the company's establishment, and the remaining shares are offered to specified investors or the general public.

Article 92 A joint stock limited company shall be established by one to 200 promoters, and a majority of the promoters shall be domiciled within the territory of China.

Article 93 Promoters of a joint stock limited company shall undertake the affairs related to the establishment of the company.

The promoters shall enter into a promoters' agreement to specify their respective rights and obligations in the process of establishing the company.

Article 94 When establishing a joint stock limited company, the promoters shall jointly formulate the company's articles of association.

Article 95 The articles of association of a joint stock limited company shall specify the following matters:

- (1) Name and domicile of the company;
- (2) Business scope of the company;
- (3) Method of establishment;
- (4) Registered capital, total quantity of shares issued, quantity of shares issued at the time of establishment, and the par value per share;
- (5) For non-ordinary shares issued, the quantity of shares of each type and its corresponding rights and obligations;
- (6) Names of promoters and their respective subscribed share quantities and contribution methods;
- (7) Composition, functions and powers, and the rules of procedure of the board of directors;
- (8) Methods for selecting and changing the company's legal representative;
- (9) Composition, functions and powers, and the rules of procedure of the board of supervisors;
- (10) Methods for distribution of profits;
- (11) Causes for dissolution and liquidation methods;
- (12) Methods for notices or public announcements by the company; and
- (13) Any other matters deemed necessary by the shareholders' meeting.

Article 96 The registered capital of a joint stock limited company is the total value of its issued shares as registered with the company registration authority. Before the subscribed shares by the promoters are fully paid up, no shares shall be offered to others.

Where the minimum registered capital of a joint stock limited company is otherwise provided by any laws, administrative regulations, or decisions of the State Council, those provisions shall prevail.

Article 97 When establishing a joint stock limited company by promotion, the promoters shall subscribe for all the shares required to be issued at the time of the company's establishment as stipulated in its articles of association.

When establishing a joint stock limited company by stock flotation, the promoters shall subscribe for no less than 35% of the total shares required to be issued at the time of the company's establishment as stipulated in its articles of association, unless otherwise provided in any law or administrative regulations.

Article 98 Promoters shall pay in full for their subscribed shares before the establishment of the company. The provisions of Article 48 and the second paragraph of Article 49 of this Law regarding capital contributions by shareholders in limited liability companies shall apply to promoters' capital contributions.

Article 99 If a promoter fails to pay for their subscribed shares, or if the actual value of non-monetary assets contributed falls significantly below the subscribed shares, the other promoters, shall bear joint and several liability, along with the promoter, within the shortfall in contributions.

Article 100 Promoters conducting a public offering of shares shall publish a prospectus and prepare a share subscription form. The share subscription form shall include the details specified in the second and third paragraphs of Article 154, and subscribers shall fill in the quantity and price of the shares they subscribe for and their domicile, and affix their signature or seal on the form. Subscribers shall pay for their

subscribed shares in full.

Article 101 After shares publicly offered are fully paid, a legally established capital verification institution shall verify the raised capital and issue a certification.

Article 102 A joint stock limited company shall prepare a shareholder register and place it within its premises. The shareholder register shall record the following details:

- (1) Name and domicile of each shareholder;
- (2) Type and quantity of subscribed shares for each shareholder;
- (3) For stocks issued in paper form, the stock serial numbers; and
- (4) The date on which each shareholder acquired their shares.

Article 103 Promoters for the establishment of a joint stock limited company by stock flotation shall convene a company establishment meeting within 30 days from the date when the shares required to be issued at the time of establishment is paid for in full. The promoters shall notify each subscriber of the meeting date or announce it publicly at least 15 days before the establishment meeting. The establishment meeting shall only be held with the presence of subscribers representing a majority of voting rights. The procedures for convening and voting at the establishment meeting for establishing a joint stock limited company by promotion shall be specified in the articles of association or the promoters' agreement.

Article 104 The company establishment meeting shall exercise the following functions and powers:

- (1) Deliberate on the report on pre-establishment activities prepared by the promoters;
  - (2) Adopt the articles of association;
  - (3) Elect directors and supervisors;
  - (4) Verify expenses incurred in establishing the company;
  - (5) Verify the value of any non-monetary assets contributed by the promoters; and
  - (6) In the event of any force majeure or material changes in operating conditions that may affect the establishment of the company, consider adopting a resolution not to establish the company.
- Any resolution at the establishment meeting regarding any of the matters outlined in the previous paragraph shall be adopted by a majority vote of the voting rights held by subscribers present at the meeting.

Article 105 If the shares required to be issued at the time of the establishment of a company are not fully subscribed, or if, after the full payment for the issued shares, the promoters fail to convene an establishment meeting within 30 days, any subscriber may demand the promoters to refund their subscriptions, plus the interest calculated based on the bank interest rate for the corresponding period. After the promoters and subscribers have paid for their subscribed shares or delivered non-monetary assets as contributions, they shall not withdraw their capital except in cases where the issued shares are not fully subscribed within the specified period, the promoters fail to convene an establishment meeting within the prescribed period, or the establishment meeting resolves not to establish the company.

Article 106 The board of directors shall authorize representatives to apply for registration with the company registration authority within 30 days after the conclusion of the establishment meeting.

Article 107 The provisions of Article 44, the third paragraph of Article 49, Article 51, Article 52, and Article 53 of this Law shall apply to joint stock limited companies.

Article 108 When a limited liability company is changed into a joint stock limited company, the total amount of paid-in capital converted shall not be higher than the company's net assets. When a limited liability company is changed into a joint stock limited company, any public offering of shares by the company to increase its registered capital shall be conducted in accordance with the law.

Article 109 A joint stock limited company shall prepare and place within its premises, its articles of association, shareholder register, minutes of shareholders' meetings, minutes of meetings of the board of directors, minutes of meetings of the board of supervisors, financial accounting reports, and register of bondholders.

Article 110 Shareholders shall be entitled to inspect and copy the articles of association, shareholder register, minutes of shareholders' meetings, resolutions of the board of directors, resolutions of the board of supervisors, and financial accounting reports, and put forward proposals or raise questions about the company's business operations.

If a shareholder individually holding or shareholders collectively holding 3% or more of the company's

shares for 180 or more consecutive days request to inspect the company's accounting books or accounting documents, the provisions of the second, third, and fourth paragraphs of Article 57 of this Law shall apply. Where a lower equity ownership percentage is stipulated by the company's articles of association, such stipulation shall prevail.

The provisions of the preceding two paragraphs shall be applicable to the requests by shareholders to inspect or copy the relevant materials of a wholly-owned subsidiary of the company.

Shareholders of listed companies shall comply with the provisions of the Securities Law of the People's Republic of China and other relevant laws and administrative regulations in the inspection and copying of the relevant materials.

## Section 2 Shareholders' Meeting

Article 111 The shareholders' meeting of a joint stock limited company shall comprise all its shareholders. The shareholders' meeting is the company's governing body and shall exercise functions and powers in accordance with this Law.

Article 112 The provisions of the first and second paragraphs of Article 59 of this Law regarding the functions and powers of the shareholders' meeting of a limited liability company shall apply to the shareholders' meeting of a joint stock limited company.

The provisions of Article 60 of this Law regarding the non-establishment of a shareholders' meeting for a limited liability company with a sole shareholder shall apply to a joint stock limited company with a sole shareholder.

Article 113 The shareholders' meeting shall be held annually. An interim shareholders' meeting shall be held within two months in any of the following circumstances:

- (1) Where the number of directors falls below two thirds of the minimum number of directors as required by this Law or as specified in the articles of association;
- (2) Where the company's uncovered losses reach one third of its total share capital;
- (3) Where it is requested by a shareholder individually holding, or shareholders collectively holding 10% or more of the company's shares;
- (4) Where it is deemed necessary by the board of directors;
- (5) Where it is proposed by the board of supervisors; or
- (6) Any other circumstances specified in the articles of association.

Article 114 A shareholders' meeting shall be convened by the board of directors and presided over by the chairman of the board of directors; if the chairman is unable or fails to perform the duties, the meeting shall be presided over by the deputy chairman of the board of directors; if the deputy chairman of the board of directors is unable or fails to perform the duties, the meeting shall be presided over by a director nominated by a majority of the directors.

If the board of directors is unable or fails to fulfill its duty to convene a shareholders' meeting, the meeting shall be convened and presided over by the board of supervisors; if the board of supervisors does not convene or preside over the meeting, a shareholder individually holding or shareholders collectively holding 10% or more of the company's shares for 90 or more consecutive days may convene and preside over the meeting on their own initiative.

If a shareholder individually holding or shareholders collectively holding 10% or more of the company's shares, requests the convening of an interim shareholders' meeting, the board of directors or the board of supervisors shall, within 10 days from the date of receiving the request, decide whether to convene the interim shareholders' meeting and provide a written response to the shareholder(s).

Article 115 Shareholders shall be notified at least 20 days before a shareholders' meeting of the time and place of the meeting and the matters to be deliberated at the meeting; shareholders shall be notified at least 15 days before an interim shareholders' meeting.

A shareholder individually holding or shareholders collectively holding 1% or more of the company's shares may present an interim proposal in writing to the board of directors at least 10 days before a shareholders' meeting. The interim proposal shall include a specific issue for discussion along with any concrete matter for resolution. Within two days of receiving the proposal, the board of directors shall notify other shareholders and submit it for deliberation at the shareholders' meeting, except for any proposal that violates laws, administrative regulations, or the articles of association, or any proposal that falls outside the purview of the shareholders' meeting. The company shall not increase the shareholding percentage for shareholders proposing interim proposals.

For companies with publicly issued shares, the notice described in the preceding two paragraphs shall be given by way of public announcement.

The shareholders' meeting shall not make resolutions on matters not specified in the notice.

Article 116 Shareholders attending a shareholders' meeting shall have one voting right for each share they hold, except for shareholders of non-ordinary shares. The company's own shares held by the company do not carry voting rights.

Any resolution at a shareholders' meeting shall be adopted by a majority vote of the voting rights held by shareholders present at the meeting.

Any resolution at the shareholders' meeting to amend the articles of association, increase or decrease the registered capital, or regarding a merger, division, dissolution, or change of corporate form of the company, shall be adopted by shareholders representing two-thirds or more of the voting rights.

Article 117 The shareholders' meeting may, as stipulated in the articles of association or through a resolution of the shareholders' meeting, adopt a cumulative voting system for the election of directors and supervisors.

For the purposes of this Law, the term "cumulative voting system" refers to a voting system whereby shareholders can multiply their voting rights by the number of candidates and cast their votes for one candidate for director or supervisor when electing a directors or supervisor at the shareholders' meeting.

Article 118 A shareholder may appoint a proxy to attend a shareholders' meeting, specifying the authorized matter, power, and term; the appointed proxy shall present a proxy form issued by the shareholder to the company and exercise voting rights within the scope of the authorization.

Article 119 The shareholders' meeting shall take minutes of decisions made on matters discussed at its meetings. The chair of the meeting and attending directors shall sign the minutes. The minutes shall be retained together with the sign-in sheet of attending shareholders and any proxy forms.

### Section 3 Board of Directors and Company Manager

Article 120 A joint stock limited company shall establish the board of directors, unless otherwise stipulated in Article 128 of this Law.

The provisions of Article 67, the first paragraph of Article 68, Article 70, and Article 71 of this Law shall apply to joint stock limited companies.

Article 121 A joint stock limited company may, as stipulated in its articles of association, establish an audit committee within the board of directors composed of directors to exercise the functions and powers prescribed for the board of supervisors by this Law, without establishing a board of supervisor or supervisor.

The audit committee shall consist of three or more members, and a majority of the members shall not hold any position in the company other than director, and shall not have any relationship with the company that may affect their independent and objective judgment. Any employee representative among the members of the board of directors may become a member of the audit committee.

Any resolution of the audit committee shall be adopted by a majority vote of the committee members. Each member of the audit committee shall have one vote in the voting on any resolution of the committee. The deliberation and voting procedures of the audit committee, except as otherwise provided by this law, shall be stipulated by the company's articles of association.

The company may, in accordance with the provisions of the company's articles of association, establish other committees in the board of directors.

Article 122 The board of directors shall appoint one chairman and may appoint deputy chairmen. The chairman and any deputy chairman shall be elected by a majority of all the directors.

The chairman of the board of directors shall convene and preside over the meetings of the board of directors and inspect the implementation of resolutions of the board of directors. The deputy chairman shall assist the chairman in the latter's responsibilities and shall perform the chairman's duties in the event that the chairman is unable or fails to perform the duties; if the deputy chairman of the board of directors is unable or fails to perform their duties, a director nominated by a majority of the directors shall perform the duties.

Article 123 The board of directors shall hold at least two meetings per year, and notice of a meeting of the board of directors shall be provided to each director and each supervisor at least 10 days before the meeting.

Shareholders representing one tenth or more of the voting rights, one third or more of the directors, or the board of supervisors may propose an interim meeting of the board of directors. The chairman of the board



of directors shall, within 10 days of receiving such a proposal, call and preside over a board meeting. For an interim meeting of the board of directors, method and time limit for providing notice of the meeting may be separately determined.

Article 124 A meeting of the board of directors shall only be held with the presence of a majority of the directors. Any resolution of the board of directors shall be adopted by a majority of all the directors. Each director shall have one vote in the voting on any board resolution. The board of directors shall take minutes of decisions made on matters discussed at its meetings, and attending directors shall sign the meeting minutes.

Article 125 Directors shall attend meetings of the board of directors in person; if a director is unable to attend due to any reason, they may appoint another director in writing to represent them, and the power of attorney shall specify the scope of authorization. Directors shall be held responsible for resolutions of the board of directors. In cases where a resolution of the board of directors violates any law, administrative regulations, the articles of association, or any resolution of the shareholders' meeting, resulting in serious losses to the company, the directors participating in adopting the resolution shall be liable to compensate the company; if a director is proven to have raised an objection to such resolution and the objection is recorded in the meeting minutes, the director may be exempted from liability.

Article 126 A joint stock limited company shall appoint a company manager, who shall be appointed or removed by the board of directors. The company manager shall report to the board of directors and exercise functions and powers as specified in the articles of association or as authorized by the board of directors. The company manager shall attend meetings of the board of directors as a non-voting attendee.

Article 127 The board of directors of a company may appoint one of its members to serve concurrently as the company manager.

Article 128 A joint stock limited company with a smaller scale or fewer shareholders may appoint one director without establishing a board of directors to exercise the functions and powers prescribed for the board of directors by this Law. This director may serve concurrently as the company manager.

Article 129 A company shall regularly disclose information to its shareholders regarding the remuneration paid by the company to its directors, supervisors, and senior officers.

#### Section 4 Board of Supervisors

Article 130 A joint stock limited company shall have a board of supervisors, unless otherwise stipulated in the first paragraph of Article 121 or Article 133 of this Law.

The board of supervisors shall be composed of three or more members. The board of supervisors shall include shareholders' representatives and an appropriate proportion of employee representatives, with employee representatives accounting for at least one-third of the total members, and the specific proportion shall be stipulated by the company's articles of association. An employee representative on the board of supervisors shall be elected by the company's employees through the employee representative assembly, employee assembly, or other forms of democratic elections.

The board of supervisors shall appoint one chairman and may appoint deputy chairmen. The chairman and any deputy chairman shall be elected by a majority of all the supervisors. A meeting of the board of supervisors shall be convened and presided over by the chairman of the board of supervisors; if the chairman is unable or fails to perform the duties, the meeting shall be convened and presided over by the deputy chairman; if the deputy chairman is unable or fails to perform the duties, the meeting shall be convened and presided over by a director nominated by a majority of the directors.

No director or senior officer shall concurrently serve as a supervisor.

The provisions of Article 77 of this Law regarding the term of office for supervisors of limited liability companies shall apply to supervisors of joint stock limited companies.

Article 131 The provisions of Articles 78 to 80 of this Law on the functions and powers of the board of supervisors of a limited liability company shall apply to the board of supervisors of a joint stock limited company.

All expenses necessarily incurred by the board of supervisors in exercising its functions and powers shall be borne by the company.

Article 132 The board of supervisors shall hold at least one meeting every six months. Any supervisor may propose an interim meeting of the board of supervisors.

Unless otherwise specified in this Law, the deliberation and voting procedures of the board of supervisors shall be specified by the articles of association.

Any resolution of the board of supervisors shall be adopted by a majority of all the supervisors.

Each supervisor shall have one vote in the voting on any resolution of the board of supervisors.

The board of supervisors shall take minutes of decisions made on matters discussed at its meetings, and attending directors shall sign the meeting minutes.

Article 133 A joint stock limited company with a smaller scale or fewer shareholders may appoint one supervisor without establishing a board of supervisors to exercise the functions and powers prescribed for the board of supervisors by this Law.

## Section 5 Special Provisions on the Organizational Structure of Listed Companies

Article 134 For the purposes of this Law, the term "listed company" refers to any joint stock limited company whose stock is listed for trading on a stock exchange.

Article 135 For the purchase or sale of major assets or provision of guarantees for others by a listed company, where the amount within a year is to exceed 30% of the company's total assets, a resolution of the shareholders' meeting is required, which shall be adopted by two-thirds or more of the voting rights of shareholders present at the meeting.

Article 136 Listed companies shall appoint independent directors, for which the specific administrative measures shall be provided by the securities regulatory authority under the State Council.

In addition to specifying the matters stipulated in Article 95 of this Law, the articles of association of a listed company shall also specify, as prescribed in laws and administrative regulations, matters such as the composition and functions and powers of any special committee of the board of directors, as well as the remuneration and evaluation mechanisms for directors, supervisors, and senior officers.

Article 137 If a listed company has established an audit committee within the board of directors, before the board of directors adopts a resolution on any of the following matters, the resolution shall be adopted by a majority of all members of the audit committee:

- (1) Appointment or removal of the accounting firm providing audit services to the company;
- (2) Appointment or removal of the head of finance;
- (3) Disclosure of financial accounting reports; or
- (4) Any other matters as stipulated by the securities regulatory authority under the State Council.

Article 138 A listed company may appoint a secretary to the board of directors, who shall be responsible for matters such as preparing for shareholders' meetings and meetings of the board of directors, preserving documents, managing documentation on the company's shareholders, and handling information disclosure.

Article 139 If a director of a listed company has a related-party relationship with any enterprise or individual involved in a matter subject to resolution at a meeting of the board of directors, the director shall report the situation in writing to the board of directors. The related director shall not exercise voting rights on the resolution either on their own behalf or on behalf of another director. The board meeting may be held with the presence of a majority of unrelated directors, and any resolution made at the meeting must be adopted by a majority of the unrelated directors. If the number of unrelated directors present at the board meeting is less than three, the matter shall be submitted for deliberation at the listed company's shareholders' meeting.

Article 140 Listed companies shall disclose information about their shareholders and actual controllers in accordance with the law, and the relevant information shall be truthful, accurate, and complete. Holding stocks of listed companies in nominee against laws and regulations is prohibited.

Article 141 A controlled subsidiary of a listed company shall not acquire shares of the listed company. If a controlled subsidiary of a listed company holds shares of the listed company due to reasons such as a merger or the exercise of a pledge, it shall not exercise the voting rights corresponding to the held shares and shall promptly dispose of the shares.

## Chapter VI Issuance and Transfer of Shares in Joint Stock Limited Companies

## Section 1 Issuance of Shares

Article 142 The capital of a company is divided into shares. All shares of the company may be either par value shares or non-par value shares, as stipulated by the company's articles of association. In the case of par value shares, the value assigned to each share shall be equal.

The company may, as stipulated in its articles of association, convert all issued par value shares into non-par value shares or all non-par value shares into par value shares.

In the case of non-par value shares, one-half or more of the proceeds from the issuance of the shares shall be included in the registered capital.

Article 143 Shares shall be issued in accordance with the principles of fairness and impartiality, and shares of the same type shall be entitled to the same rights.

Shares of the same type in the same issuance shall be issued at the same price and on the same terms; the per-share price paid by subscribers for their subscribed shares shall be the same.

Article 144 A company may issue shares with rights distinct from ordinary shares as stipulated in its articles of association, including:

- (1) Shares with priority or inferior rights to profit or residual distribution;
- (2) Shares with voting rights per share greater than or less than ordinary shares;
- (3) Shares whose transfer is subject to the company's approval or with other transfer restrictions; and
- (4) Other types of shares as provided for by the State Council.

Companies publicly issuing shares are prohibited from issuing non-ordinary shares described in subparagraph (2) or (3) of the preceding paragraph, except those issued before the public offering.

If a company has issued non-ordinary shares specified in subparagraph (2) of the first paragraph of this Article, for the election and replacement of supervisors or members of the audit committee, each non-ordinary share shall carry the same voting rights as ordinary shares.

Article 145 For companies with non-ordinary shares issued, the following matters shall be specified in the company's articles of association:

- (1) The sequence of rights to profit or residual distribution for the non-ordinary shares;
- (2) The number of voting rights for the non-ordinary shares;
- (3) Transfer restrictions on the non-ordinary shares;
- (4) Measures to protect the rights and interests of minority shareholders; and
- (5) Any other matters deemed necessary to specify by the shareholders' meeting.

Article 146 For companies with non-ordinary shares issued, if a matter such as any outlined in the third paragraph of Article 116 of this Law arises that may affect the rights of holders of the non-ordinary shares, in addition to requiring a resolution by the shareholders' meeting as stipulated in the third paragraph of Article 116, the matter shall also be approval at the meeting of holders of the non-ordinary shares by the corresponding shareholders representing two-thirds or more of the voting rights present at the meeting. The articles of association may stipulate other matters that require a resolution of the meeting of holders of non-ordinary shares.

Article 147 A company's shares shall take the form of stocks. Stocks are certificates issued by a company to represent the ownership of shares held by shareholders.

The stocks issued by a company shall be registered stocks.

Article 148 The issue price of par value stock may be based on the face value or exceed the face value but shall not be lower than the face value.

Article 149 Stocks may be in paper form or in other forms as stipulated by the securities regulatory authority under the State Council.

Stocks in paper form shall include the following principal details:

- (1) Company name;
- (2) Date of company establishment or the time of stock issuance; and
- (3) Stock type, face value, and the number of shares represented, and for non-par value stocks, the number of shares represented.

Stocks in paper form shall also include the stock serial number and bear the signature of the legal representative and the company seal.

Stocks issued to promoters in paper form shall bear the words "promoter's stocks".

Article 150 A joint stock limited company shall formally deliver stocks to its shareholders after its establishment. No stock shall be delivered by a company to its shareholders before its establishment.

Article 151 For the issuance of new shares by a company, a resolution on the following matters shall be made by the shareholders' meeting:

- (1) Type and quantity of new shares to be issued;
- (2) Issue price;
- (3) Offering period;
- (4) Type and amount of the new shares to be issued to existing shareholders; and
- (5) In the case of issuing non-par value shares, the amount of proceeds from the new share issuance to be included in the registered capital.

A company issuing new shares may set the issue price based on its business operations and financial status.

Article 152 The articles of association or the shareholders' meeting may authorize the board of directors to decide, within three years, on the issuance of shares not exceeding 50% of the issued shares. However, any contribution made in the form of non-monetary assets shall be subject to resolution at the shareholders' meeting.

If the board of directors, in accordance with the provisions of the preceding paragraph, decides to issue shares, leading to changes in the company's registered capital or the quantity of issued shares, the modification of the relevant entries in the articles of association shall not require a vote by the shareholders' meeting.

Article 153 If the articles of association or the shareholders' meeting authorizes the board of directors to decide on the issuance of new shares, the relevant resolution of the board of directors shall be adopted by two-thirds or more of all the directors.

Article 154 A company conducting a public offering of shares shall register the offering with the securities regulatory authority under the State Council and publish a prospectus.

The prospectus shall include the company's articles of association and specify the following matters:

- (1) Total number of shares to be issued;
- (2) Face value and issue price for par value shares, or issue price for non-par value shares;
- (3) Purpose of the raised capital;
- (4) Rights and obligations of subscribers;
- (5) Type of shares and their rights and obligations; and
- (6) The period for the current share offering, and an statement that subscribers may withdraw their subscriptions if the shares issued are not fully subscribed within the specified period.

A company issuing shares at the time of establishment shall also specify in the prospectus the quantity of shares subscribed by the promoters.

Article 155 Companies conducting public offerings of shares shall have such offerings underwritten by legally established securities companies and enter into underwriting agreements with them.

Article 156 A company conducting a public offering of shares shall enter into an agreement with a bank for the collection of payments for the shares on behalf of the company.

The appointed collecting bank shall receive and hold payments for shares on behalf of the company in accordance with the agreement, issue payment receipts to subscribers making payments, and be obligated to provide proof of the receipt of payments to relevant authorities.

After the issued shares have been fully subscribed and paid for, the company shall issue a public announcement.

## Section 2 Transfer of Shares

Article 157 Shareholders of a joint stock limited company may transfer their shares in the company to other shareholders, or to parties outside the shareholders; where there are restrictions on share transfers in the company's articles of association, those restrictions shall apply.

Article 158 Any transfer of shares by a shareholder shall be conducted through a legally established stock exchange or by any other means as prescribed by the State Council.

Article 159 Stocks shall be transferred by shareholders through endorsement or other methods as stipulated by laws or administrative regulations; after a transfer, the company shall record the name and

domicile of the transferee in the shareholder register.

No changes to the shareholder register shall be made within 20 days before a shareholders' meeting or five days before the ex-dividend date decided by the company. Where any laws, administrative regulations, or the securities regulatory authority under the State Council have other provisions regarding changes to the shareholder register for listed companies, those provisions shall prevail.

Article 160 Shares issued by a company before its public offering of shares shall not be transferred within one year of the date on which the company's stock is listed for trading on a stock exchange. Where any laws, administrative regulations, or the securities regulatory authority under the State Council have other provisions regarding the transfer of shares of a listed company by its shareholders or actual controllers, those provisions shall prevail.

Directors, supervisors, and senior officers of a company shall declare to the company the company shares they hold and any changes in their shareholdings, and the shares transferred by any director, supervisor, or senior officer of the company in any year during their term of office shall not exceed 25% of such individual's total stake in the company; company shares held by any director, supervisor or senior officer shall not be transferred within one year of the date on which the company's stock is listed for trading on a stock exchange. None of the aforementioned individuals may transfer the company shares held within half a year of their departure from the company. The articles of association may specify other restrictions on transfers of company shares by directors, supervisors and senior officers.

If shares are pledged within a restricted period for transfer specified by laws or administrative regulations, the pledgee shall not exercise the pledge during the restricted period for transfer.

Article 161 In any of the following circumstances, a shareholder voting against the relevant resolution of the shareholders' meeting may request the company to repurchase their shares at a reasonable price, unless the company has publicly offered shares:

- (1) Where the company has not distributed profits to shareholders for five consecutive years, while the company has been profitable during these five consecutive years and meets the conditions for profit distribution stipulated in this Law;
- (2) Where the company transfers its principal assets; or
- (3) Where the term specified in the articles of association for the company's operation expires or any of the other causes for dissolution stipulated in the articles of association arises, and the shareholders' meeting adopts a resolution to amend the articles of association to keep the company in existence.

If no agreement on the repurchase of shares is reached between the shareholder and the company within 60 days from the date of adopting the relevant resolution by the shareholders' meeting, the shareholder may initiate legal action in the people's court within 90 days from the date of adopting the resolution.

Shares of the company repurchased due to the circumstances specified in the first paragraph of this Article shall be transferred or cancelled within six months in accordance with the law.

Article 162 A company shall not acquire its own shares except in any of the following circumstances:

- (1) Where the company decreases its registered capital;
  - (2) Where the company plans to merge with another company that is one of its existing shareholders;
  - (3) Where the acquired shares are used for an employee stock ownership plan or stock ownership incentive scheme;
  - (4) Where any shareholder requests the company to repurchase their shares due to their objection to a resolution adopted by the shareholders' meeting concerning a merger or division of the company;
  - (5) Where the acquired shares are used to convert convertible corporate bonds issued by the company; or
  - (6) Where it is necessary for the listed company to maintain its corporate value and shareholders' equity.
- Any acquisition of its own shares by a company due to the circumstances specified in subparagraph (1) or (2) of the preceding paragraph shall be subject to a resolution of the shareholders' meeting; any acquisition of its own shares by a company due to the circumstances specified in subparagraph (3), (5), or (6) of the preceding paragraph shall be subject to a resolution of a meeting of the board of directors with two-thirds or more of the directors present, as stipulated in the articles of association or authorized by the shareholders' meeting.

After acquiring its own shares by a company in accordance with the first paragraph of this Article, the company shall cancel the acquired shares within 10 days of the acquisition if it falls under the circumstances specified in the subparagraph (1), or transfer or cancel the acquired shares within six months of the acquisition if it falls under the circumstances specified in subparagraph (2) or (4), or if the acquisition falls under the circumstances specified in subparagraph (3), (5), or (6), hold a total number of its own shares not exceeding 10% of its total shares issued and transfer or cancel the relevant shares within three years of the acquisition.

A listed company acquiring its own shares shall fulfill the information disclosure obligations specified in the Securities Law of the People's Republic of China. Any acquisition of its own shares by a listed company in

the circumstances specified in subparagraph (3), (5), or (6) of the first paragraph of this Article shall be made through public centralized trading.

No company may accept its own shares as the subject of a pledge.

Article 163 A company shall not provide gifts, loans, guarantees, or other financial assistance for others to acquire shares of the company or its parent company, except for the implementation of an employee stock ownership plan.

For the benefit of the company, a company may, upon a resolution of the shareholders' meeting, or a resolution of the board of directors made in accordance with the company's articles of association or authorization of the shareholders' meeting, provide financial assistance for others to acquire shares of the company or its parent company, provided that the cumulative total amount of financial assistance provided shall not exceed 10% of its total issued share capital. Such a resolution of the board of directors shall be adopted by two-thirds or more of all the directors.

In cases of a violation of the preceding two paragraphs that results in losses to the company, any directors, supervisors, and senior officers held responsible for the violation shall be liable for compensation.

Article 164 In the event of theft, loss, or destruction of stocks, the relevant shareholder may apply to the people's court for invalidating the stocks under the procedure for public invitation to assert claims prescribed in the Civil Procedure Law of the People's Republic of China. After the people's court invalidates the stocks, the relevant shareholder may submit an application to the company for the reissuance of the stocks.

Article 165 The stock of a listed company shall be listed for trading in accordance with relevant laws, administrative regulations, and the trading rules of the stock exchange where it is listed for trading.

Article 166 Listed companies shall disclose relevant information in accordance with laws or administrative regulations.

Article 167 After the death of a shareholder who is a natural person, their shareholder status may be inherited by their lawful heir, except in a joint stock limited company with restrictions on share transfers whose articles of association stipulate otherwise.

## Chapter VII Special Provisions on the Organizational Structure of State-Invested Companies

Article 168 The organizational structure of state-invested companies shall be governed by the provisions of this Chapter; in the absence of specific provisions in this Chapter, other provisions of this Law shall apply. For the purposes of this Law, the term "state-invested company" refers to a wholly state-owned company or state-owned capital holding company funded by the state, including state-funded limited liability companies and state-funded joint stock limited companies.

Article 169 The State Council or local people's governments shall perform the investor's responsibilities and enjoy investor's rights and interests on behalf of the State in regard to state-invested companies in accordance with the law. The State Council or local people's governments may authorize the state-owned assets supervision and administration authority or other authorities or institutions to perform the investor's responsibilities for state-invested companies on behalf of the people's governments at the corresponding level.

The institutions and authorities performing the investor's responsibilities on behalf of local people's governments are collectively referred to as institutions performing the investor's responsibilities.

Article 170 The organization of the Communist Party of China (CPC) established within a state-invested company shall exercise leadership in accordance with the Constitution of the Communist Party of China, study and discuss material business and management matters of the company, and support the exercise of functions and powers in accordance with the law through the company's organizational structure.

Article 171 The articles of association of a wholly state-owned company shall be formulated by the institution performing the investor's responsibilities.

Article 172 A wholly state-owned companies shall have no shareholders' meeting, and the institution performing the investor's responsibilities shall exercise the functions and powers of the shareholders' meeting. The institution performing the investor's responsibilities may authorize the board of directors of the company to exercise partial functions and powers of the shareholders' meeting, but decisions on the formulation and amendment of the company's articles of association, the company's merger, division,

dissolution, filing for bankruptcy, increase or decrease of registered capital, and profit distribution shall be made by the institution performing the investor's responsibilities.

Article 173 The board of directors of a wholly state-owned company shall exercise its functions and powers in accordance with the provisions of this Law.

The board of directors of a wholly state-owned company shall have more than half of its members as external directors, and include any number of employee representatives among its members.

Members of the board of directors shall be appointed by the institution performing the investor's responsibilities, except for employee representatives among the board members, who shall be elected by the employee representative assembly.

The board of directors shall appoint one chairman and may appoint deputy chairmen. The chairman and any deputy chairman shall be designated by the institution performing the investor's responsibilities from among the board members.

Article 174 The company manager of a wholly state-owned company shall be appointed or removed by the board of directors.

With the approval of the institution performing the investor's responsibilities, a member of the board of directors may concurrently serve as the company manager.

Article 175 Directors and senior officers of a wholly state-owned company, without the approval of the institution performing the investor's responsibilities, shall not concurrently hold a position in other limited liability companies, joint-stock companies, or other economic organizations.

Article 176 If a wholly state-owned company establishes an audit committee within the board of directors composed of directors to exercise the functions and powers prescribed for the board of supervisors by this Law, no separate board of supervisors or supervisors shall be appointed.

Article 177 State-invested companies shall, in accordance with the law, establish sound internal supervision and management and risk control systems and strengthen internal compliance management.

#### Chapter VIII Qualifications and Obligations of Company Directors, Supervisors and Senior Officers

Article 178 None of the following individuals shall be eligible for appointment as a director, supervisor, or senior officer of a company:

- (1) Any individual without civil capacity or with limited civil capacity;
- (2) Any individual who has been subjected to criminal punishment for corruption, bribery, embezzlement or misappropriation of property, or disruption of the economic order of the socialist market, or who has ever been deprived of political rights due to a criminal conviction, and five years have not elapsed since the term of punishment was completed, or in the case of a suspended sentence, two years have not elapsed since the probation period was completed;
- (3) Any former director, factory director, or company manager of a company or enterprise which has been declared bankrupt and liquidated, and where the individual was personally responsible for the bankruptcy of the company or enterprise, and three years have not elapsed since the bankruptcy and liquidation were completed;
- (4) Any former legal representative of a company or enterprise which has had its business license revoked or been ordered to shut down due to any violation of the law, and where the individual was personally responsible for the situation, and three years have not elapsed since the date of revocation of business license or shutdown order; and
- (5) Any individual identified as a subject of enforcement for breach of trust by the people's court for failure to repay a significant amount of overdue debts.

The election or appointment of any director, supervisor, or senior officer in violation of the preceding paragraph shall be invalid.

Any existing director, supervisor, or senior officer who falls under the circumstances described in the first paragraph of this Article during their term of office shall be removed by the company from the corresponding position.

Article 179 Directors, supervisors, and senior officers shall abide by laws, administrative regulations, and the company's articles of association.

Article 180 Directors, supervisors, and senior officers owe a duty of loyalty to the company and shall take measures to avoid conflicts of interest between their personal interests and the interests of the company, and shall not use their authority to seek improper benefits.

Directors, supervisors, and senior officers owe a duty of diligence to the company, and in the execution of their duties, shall exercise the usual and reasonable care that a manager should have for the maximum benefit of the company.

The provisions of the preceding two paragraphs shall also apply to controlling shareholders and actual controllers of companies who do not serve as directors but actually execute company affairs.

Article 181 Directors, supervisors, and senior officers shall not engage in the following conduct:

- (1) Embezzling company property or misappropriating company funds;
- (2) Diverting company funds into an account held in their own name or in the name of any other individual;
- (3) Using their authority to engage in bribery or accept other illegal income;
- (4) Personally accepting commissions on transactions to which the company is a party;
- (5) Disclosing confidential company information without authorization; and
- (6) Other conduct that violates the duty of loyalty to the company.

Article 182 Directors, supervisors, and senior officers, whether directly or indirectly, entering into a contract or engaging in a transaction with the company, shall report matters related to the contract execution or transaction to the board of directors or the shareholders' meeting and obtain approval in accordance with the company's articles of association through resolutions of the board of directors or the shareholders' meeting.

The provisions of the preceding paragraph shall also apply to the close relatives of directors, supervisors, or senior officers, enterprises directly or indirectly controlled by directors, supervisors, or senior officers or their close relatives, and parties having other related-party relationships with directors, supervisors, or senior officers who enter into contracts or engage in transactions with the company.

Article 183 Directors, supervisors, and senior officers shall not use their positions to seek any business opportunity available to the company for themselves or others, except in any of the following circumstances:

- (1) Where the activity is reported to the board of directors or the shareholders' meeting and approved in accordance with the company's articles of association through resolutions of the board of directors or the shareholders' meeting; or
- (2) Where the company cannot exploit the business opportunity according to any laws, administrative regulations, or the company's articles of association.

Article 184 Directors, supervisors, and senior officers shall not operate businesses, either self-owned or owned by others, similar to those of the company they serve, without reporting to the board of directors or the shareholders' meeting and obtaining approval in accordance with the company's articles of association through resolutions of the board of directors or the shareholders' meeting.

Article 185 When the board of directors deliberates on any of the matters stipulated in Articles 182 to 184 of this Law, directors with related-party concerns shall not participate in the voting, and their voting rights shall not be counted in the total voting rights. If the number of directors without related-party concerns present at the board meeting is less than three, the matter shall be submitted for deliberation at the shareholders' meeting.

Article 186 Income obtained by directors, supervisors, and senior officers in violation of the provisions of Articles 181 to 184 of this Law shall be attributed to the company.

Article 187 If the shareholders' meeting requires the attendance of any director, supervisor, or senior officer, the person shall attend and answer the shareholders' inquiries.

Article 188 If directors, supervisors, and senior officers violate any laws, administrative regulations, or the company's articles of association in the course of performing their duties, they shall be liable to compensate the company for any losses caused to it.

Article 189 In cases where any director or senior officer falls under the circumstances specified in the preceding Article, any shareholder of the company if it is a limited liability company, or if it is a joint stock limited company, any shareholder individually or shareholders collectively holding 1% or more of the shares for 180 or more consecutive days, may make a written request to the board of supervisors to initiate legal action in the people's court; in cases where a supervisor falls under the circumstances specified in the preceding Article, the aforementioned shareholder or shareholders may make a written request to the board of directors to initiate legal action in the people's court.

If the board of supervisors or the board of directors refuses to initiate legal action after receiving a written



request described in the preceding paragraph, or fails to initiate legal action within 30 days of receiving the request, or in the event of an emergency, where failing to immediately initiate legal action would result in irreparable damage to the interests of the company, the shareholder or shareholders specified in the preceding paragraph may initiate legal action in their own name in the people's court.

In cases where the lawful rights and interests of a company are infringed by any other person, resulting in losses to the company, the shareholder or shareholders specified in the first paragraph of this Article may initiate legal action in the people's court in accordance with the provisions of the preceding two paragraphs.

In cases where any director, supervisor, or senior officer of a wholly-owned subsidiary of the company falls under the circumstances specified in the preceding Article, or the lawful rights and interests of the wholly-owned subsidiary of the company are infringed by any other person, resulting in any losses, any shareholder of the company if it is a limited liability company, or if it is a joint stock limited company, any shareholder individually or shareholders collectively holding 1% or more of the shares for 180 or more consecutive days, may, pursuant to the provisions of the preceding three paragraphs, make a written request to the board of supervisors or the board of directors of the wholly-owned subsidiary to initiate legal action in the people's court, or directly initiate legal action in their own name in the people's court.

Article 190 In cases where any director or senior officer violates any laws, administrative regulations, or the articles of association, resulting in damage to the shareholders' interests, shareholders may initiate legal action in the people's court.

Article 191 For losses caused to others by a director or senior officer during the performance of their duties, the company shall be liable for compensation; the director or senior officer with intent or gross negligence shall also be liable for compensation.

Article 192 In cases where a controlling shareholder or actual controller of the company instructs any director or senior officer to engage in action harmful to the interests of the company or its shareholders, such controlling shareholder or actual controller shall bear joint and several liability along with the director or senior officer.

Article 193 The company may, during the term of office of a director, take out liability insurance to cover the compensation liability borne by the director due to the performance of company duties. After the company takes out or renews liability insurance for a director, the board of directors shall report the insured amount, coverage, and premium rate of the liability insurance to the shareholders' meeting.

## Chapter IX Corporate Bonds

Article 194 For the purposes of this Law, the term "corporate bonds" refers to negotiable securities issued by a company with a specified schedule for principal repayment and interest payment. Corporate bonds may be publicly issued or privately placed. The issuance and trading of corporate bonds shall comply with the Securities Law of the People's Republic of China and other laws and administrative regulations.

Article 195 A company conducting a public issuance of corporate bonds shall register the issuance with the securities regulatory authority under the State Council and publish an offering circular. The offering circular shall specify the following principal matters:

- (1) Company name;
- (2) Purpose of the raised capital from the bond issuance;
- (3) Total issue size and face value of the bonds;
- (4) Method for determining the coupon rate on the bonds;
- (5) Maturity date and method for principal repayment and interest payment;
- (6) Any guarantees provided for the bonds;
- (7) Bond issue price and offering period;
- (8) Net assets of the company;
- (9) Total amount of the company's corporate bonds outstanding; and
- (10) Underwriters of the bonds.

Article 196 Any bonds issued by a company in paper form shall have details including the company name, face value, coupon rate, maturity date stated thereon, and shall bear the signature of the legal representative of the company and the company seal.

Article 197 Corporate bonds shall be issued in the form of registered bonds.

Article 198 A company shall prepare and maintain a register of bondholders for a corporate bond issuance. The register of bondholders for a corporate bond issuance shall include the following details:

- (1) Name and domicile of each bondholder;
- (2) Date of acquisition and serial numbers of the bonds acquired by each shareholder;
- (3) Total issue size, face value, coupon rate, maturity date and method for principal repayment and interest payment for the bonds; and
- (4) Bond issue date.

Article 199 The registration and settlement institutions for corporate bonds shall establish rules relating to bond registration and custody, interest payment, encashment, etc.

Article 200 Corporate bonds may be transferred, and the transfer price shall be negotiated between the transferor and the transferee.

Transfers of corporate bonds shall comply with laws and administrative regulations.

Article 201 Corporate bonds shall be transferred by bondholders through endorsement or other methods as stipulated by laws or administrative regulations; after a transfer, the company shall record the name and domicile of the transferee in the register of bondholders.

Article 202 A joint stock liability company may, upon a resolution of the shareholders' meeting, or a resolution of the board of directors as authorized under the company's articles of association or by the shareholders' meeting, issue convertible corporate bonds with a specific conversion method specified. Any issuance of convertible corporate bonds by listed companies shall be registered with the securities regulatory authority under the State Council.

Convertible corporate bonds issued shall bear the words "convertible corporate bonds", and the quantity of the issued bonds shall be specified in the register of bondholders.

Article 203 A company with issued convertible corporate bonds shall exchange its stocks for such bonds held by bondholders in accordance with the prescribed conversion method, while bondholders shall have the option to choose whether to convert their bonds or not, unless it is otherwise stipulated by any laws or administrative regulations.

Article 204 When publicly issuing bonds, a bondholders' meeting shall be established for the bondholders of the corresponding issuance, and the procedure for convening the bondholders' meeting, meeting rules, and other important matters shall be specified in the offering circular for the bonds. The bondholders' meeting may make resolutions on matters that concern the interests of the bondholders.

Unless otherwise stipulated in the offering circular, resolutions of the bondholders' meeting shall be binding on all bondholders of the corresponding issuance.

Article 205 When publicly issuing corporate bonds, the issuer shall appoint a bond trustee for bondholders to handle matters for them such as the receipt of repayments to retire bonds, debt preservation, litigation related to the bonds, and participation in any bankruptcy proceedings of the debtor.

Article 206 The bond trustee shall fulfill their trustee's responsibilities with due diligence and impartiality, and shall not harm the interests of bondholders.

In the event of a conflict of interest between the bond trustee and bondholders, which may harm the interests of bondholders, the bondholders' meeting may adopt a resolution to change the bond trustee. If the bond trustee violates any laws, administrative regulations, or resolutions of the bondholders' meeting, resulting in harm to the interests of bondholders, they shall be liable for compensation.

## Chapter X Corporate Finance and Accounting

Article 207 Companies shall establish their corporate financial and accounting policies in accordance with laws, administrative regulations, and the regulations of the finance authority under the State Council.

Article 208 Companies shall prepare a financial accounting report at the end of each financial year and have it audited by an accounting firm in accordance with the law.

Financial accounting reports shall be prepared in accordance with laws, administrative regulations, and the regulations of the finance authority under the State Council.

Article 209 A limited liability company shall submit its financial accounting report to each shareholder

within the time limit prescribed in the company's articles of association.

The financial accounting report of a joint stock limited company shall be prepared at least 20 days before the annual shareholders' meeting and placed within its premises for inspection by shareholders; a joint stock limited company that has publicly offered shares shall publish its financial accounting report.

Article 210 When a company distributes its after-tax profits for the current year, it shall set aside 10% of the profits to be included in the company's statutory reserve. A company may elect not to do so if its aggregate statutory reserve reaches 50% or more of its registered capital.

If a company's statutory reserve is insufficient to cover previous years' losses, the current year's profits shall first be used to cover such losses before being set aside as provided in the preceding paragraph.

After a company sets aside an amount for statutory reserve from its after-tax profits, it may, subject to a resolution of the shareholders' meeting, set aside an amount for discretionary reserve from its after-tax profits.

If any after-tax profits remain after losses are covered and reserves are set aside, the profits shall be distributed to shareholders on a pro rata basis, reflecting the respective proportion of capital contributed by each shareholder in the case of a limited liability company, unless all shareholders agree not to distribute the profits according to the proportion of capital contribution; in the case of a joint stock limited company, the profits shall be distributed on a pro rata basis, reflecting the respective proportion of shares held by each shareholder, unless otherwise stipulated in the company's articles of association.

No profit shall be distributed for shares held by the company itself.

Article 211 In cases where a company distributes profits to any shareholder in violation of this Law, the shareholder shall return the distributed profits involved in the violation to the company; if losses are caused thereby to the company, the shareholders, as well as any directors, supervisors, and senior officers responsible for the violation, shall be liable for compensation.

Article 212 When the shareholders' meeting adopts a resolution on the distribution of profits, the board of directors shall distribute the profits within six months from the date of adopting the resolution.

Article 213 The premium received from the issuance of shares by the company at a price exceeding the face value of the stocks, the amount of capital obtained from the issuance of non-par value shares that is not included in the registered capital, and other items stipulated by the finance authority under the State Council to be included in the capital reserve, shall be included in the capital reserve.

Article 214 A company's reserves shall be used to cover its losses, expand its production and business, or increase its registered capital.

When using a company's reserves to cover its losses, any discretionary reserve and statutory reserve balances shall first be used to cover such losses; if there is still a shortfall, the capital reserve may be used in accordance with regulations.

When converting statutory reserve into an increase in registered capital, the remaining balance of such reserve shall not be less than 25% of the company's registered capital before the conversion.

Article 215 The appointment or removal of an accounting firm by a company as its auditor shall be subject to a resolution of the shareholders' meeting, the board of directors, or the board of supervisors as stipulated in the company's articles of association.

When the shareholders' meeting, the board of directors, or the board of supervisors vote on removing an accounting firm as its auditor, the accounting firm shall be allowed to state its opinions.

Article 216 A company shall provide truthful and complete accounting documents, accounting books, financial accounting reports, and other accounting information to its appointed accounting firm, and shall not refuse to do so or conceal or falsely state any such information.

Article 217 A company shall not have any separate accounting books outside the statutory accounting books.

No company funds shall be held in an account under any individual's name.

## Chapter XI Corporate Merger, Division, and Increase and Decrease in Registered Capital

Article 218 Corporate merger may take the form of merger by absorption or merger by consolidation. In the case of merger by absorption, one company absorbs another company, and the company being absorbed is dissolved. In the case of merger by consolidation, two or more companies merge to become a new company, and the merging companies are dissolved.

Article 219 When a company merges with another company in which it holds 90% or more of the shares, the company being merged is not required to submit the merger to a resolution of the shareholders' meeting, but it shall notify the other shareholders, and the other shareholders shall have the right to request the company to repurchase their equity or shares at a reasonable price. If the payment for a merger to be made by a company does not exceed 10% of its net assets, a resolution of the shareholders' meeting is not required for the merger, except as otherwise stipulated in the company's articles of association. In cases where a merger is not subject to a resolution of the shareholders' meeting according to the preceding two paragraphs, it shall be subject to a resolution of the board of directors.

Article 220 The parties to a corporate merger shall enter into a merger agreement and prepare balance sheets and schedules of assets. Each merging company shall notify its creditors within 10 days of adopting the resolution on the merger, and make a public announcement through a newspaper or the National Enterprise Credit Information Publicity System within 30 days of adopting the resolution. Any creditor may, within 30 days of receiving such notice, or within 45 days of the public announcement if the creditor does not receive the notice, require the company to repay the owed debt in full or provide a corresponding guarantee.

Article 221 The claims and debts of the parties to a corporate merger shall be succeeded to by the company surviving the merger or by the new company established as a result of the merger.

Article 222 A company going through a division shall divide its assets accordingly. A company going through a division shall prepare a balance sheet and a schedule of assets. The company shall notify its creditors within 10 days of adopting the resolution on the division, and make a public announcement through a newspaper or the National Enterprise Credit Information Publicity System within 30 days of adopting the resolution.

Article 223 The companies resulting from a corporate division shall be jointly and severally liable for the divided company's outstanding debts, unless otherwise specified in a written agreement on debt repayment between the company and its creditors concluded before the division.

Article 224 A company decreasing its registered capital shall prepare a balance sheet and a schedule of assets. The company shall notify its creditors within 10 days of adopting the resolution by the shareholders' meeting on the decrease in registered capital, and make a public announcement through a newspaper or the National Enterprise Credit Information Publicity System within 30 days of adopting the resolution. Any creditor may, within 30 days of receiving such notice, or within 45 days of the public announcement if the creditor does not receive the notice, require the company to repay the owed debt in full or provide a corresponding guarantee. A company decreasing its registered capital shall decrease shareholders' contributions or shares on a pro rata basis, except as otherwise stipulated by law, agreed upon by all shareholders in the case of a limited liability company, or stipulated in the articles of association in the case of a joint stock limited company.

Article 225 After a company covers losses as provided in the second paragraph of Article 214 of this Law, if there are still losses, the company may decrease its registered capital to make up for the losses. In the case of decreasing the registered capital to make up for losses, the company shall not distribute profits to shareholders or exempt shareholders from the obligation to pay contributions or share capital. In the case of a decrease in registered capital pursuant to the preceding paragraph, the second paragraph of the preceding Article shall not apply, but a public announcement shall be made through a newspaper or the National Enterprise Credit Information Publicity System within 30 days of adopting the resolution on the decrease in registered capital by the shareholders' meeting. After a company decreases its registered capital as provided in the preceding two paragraphs, profits shall not be distributed until the aggregate amount of statutory reserve and discretionary reserve reaches 50% of the company's registered capital.

Article 226 In cases where a decrease in a company's registered capital violates the provisions of this Law, shareholders shall return the funds received, and any decrease in shareholders' contributions shall be reinstated; if any losses are caused thereby to the company, shareholders, as well as any directors, supervisors, and senior officers responsible for the violation, shall be liable for compensation.

Article 227 When a limited liability company increases its registered capital, shareholders shall have the

preemptive right to subscribe for the increased capital under the same terms, in proportion to their respective current paid-in contributions, unless all shareholders agree to waive the proportional allocation of the preemptive right for the increased capital.

When a joint stock limited company issues new shares to increase its registered capital, shareholders do not have the preemptive right to subscribe for the new shares, unless otherwise stipulated in the company's articles of association or unless a resolution of the shareholders' meeting grants shareholders such right.

Article 228 Provisions of this Law relating to the payment of capital contributions at the establishment of a limited liability company shall apply to the subscription of increased capital by shareholders when a limited liability company increases its registered capital.

Provisions of this Law relating to the payment for shares at the establishment of a joint stock limited company shall apply to the subscription of new shares by shareholders when a joint stock liability company issues new shares to increase its registered capital.

## Chapter XII Company Dissolution and Liquidation

Article 229 A company may be dissolved if:

- (1) The term prescribed in its articles of association for its operation expires or any other cause for dissolution as stipulated in its articles of association arises;
  - (2) The shareholders' meeting resolves to dissolve the company;
  - (3) Dissolution of the company is necessary due to a merger or division of the company;
  - (4) Its business license is revoked or it is ordered to shut down or dissolve in accordance with the law; or
  - (5) The people's court makes an order for dissolution of the company as provided in Article 231 of this Law.
- If any of the causes for dissolution outlined in the preceding paragraph arises, the company shall disclose the cause for dissolution within 10 days through the National Enterprise Credit Information Publicity System.

Article 230 In cases where a company falls under the circumstances specified in subparagraph (1) or (2) of the first paragraph of the preceding Article and has not yet distributed its assets to shareholders, it may continue its existence by amending its articles of association or by resolution of the shareholders' meeting. An amendment to the company's articles of association or a resolution of the shareholders' meeting, as provided in the preceding paragraph, must be passed by shareholders representing two-thirds or more of the voting rights in the case of a limited liability company, or by shareholders present at the meeting representing two-thirds or more of the voting rights.

Article 231 In cases where a company encounters serious business or management difficulties that would result in material losses to the interests of shareholders if the company continues to exist, and the situation cannot be resolved by any other means, shareholders representing 10% or more of the voting rights may request the people's court to dissolve the company.

Article 232 If a company is dissolved pursuant to subparagraph (1), (2), (4), or (5) of the first paragraph of Article 229 of this Law, it shall undergo liquidation. Directors shall act as the liquidators and form a liquidation group within 15 days from the date when the cause for dissolution arises. The liquidation team shall be composed of directors, unless otherwise stipulated in the company's articles of association or appointed by a resolution of the shareholders' meeting. If the liquidators fail to fulfill their liquidation obligations in a timely manner, resulting in losses to the company or its creditors, they shall be liable for compensation.

Article 233 If a company required to undergo liquidation according to the preceding Article fails to form a liquidation group within the prescribed period or fails to proceed with liquidation after forming a liquidation group, any stakeholders may apply to the people's court to designate relevant individuals to form a liquidation group for the liquidation. The people's court shall accept the application and promptly organize a liquidation group to conduct the liquidation.

If a company is dissolved pursuant to subparagraph (4) of the first paragraph of Article 229 of this Law, the authority or company registration authority making the decision on the revocation of the business license or ordering the shutdown or dissolution may apply to the people's court to designate relevant individuals to form a liquidation group for the company's liquidation.

Article 234 The liquidation group shall exercise the following functions and powers during the liquidation:

- (1) Liquidate the company's assets and produce a balance sheet and a schedule of assets;
- (2) Notify the company's creditors by way of notice or public announcement;

- (3) Manage and clear the remaining business of the company;
- (4) Settle the company's outstanding taxes and any tax liabilities incurred in the course of the liquidation;
- (5) Settle the company's accounts payable and recover its accounts receivable;
- (6) Dispose of the company's residual assets; and
- (7) Represent the company in any civil litigation to which it is a party.

Article 235 The liquidation group shall notify the company's creditors within 10 days of its formation, and make a public announcement through a newspaper or the National Enterprise Credit Information Publicity System within 60 days of its formation. Any creditor shall, within 30 days of receiving the notice, or within 45 days of the public announcement in the event that the creditor does not receive the notice, submit their debt claim to the liquidation group.

When submitting a debt claim, a creditor shall provide relevant details and supporting evidence. The liquidation group shall record all debts claimed.

The liquidation group shall not repay any creditor during the debt claim period.

Article 236 The liquidation group shall, after liquidating the assets of the company and producing a balance sheet and a schedule of assets, formulate a liquidation plan and present it to the shareholders' meeting or to the people's court for confirmation.

Any remaining assets after payment of liquidation expenses, employee wages, social security contributions, statutory severance payments, outstanding taxes, and outstanding debts shall be distributed to shareholders on a pro rata basis, reflecting the respective proportion of capital contributed by each shareholder in the case of a limited liability company, or the respective proportion of shares held by each shareholder in the case of a joint stock limited company.

A company in liquidation shall continue to exist during the liquidation but shall not engage in any business activity unrelated to the liquidation. No company assets may be distributed to any shareholder before being used as described in the preceding paragraph.

Article 237 If, after liquidating the assets of the company and formulating a balance sheet and a schedule of assets, the liquidation group discovers that the company's assets are insufficient to fully cover its debts, it shall file a bankruptcy application with the people's court.

After the people's court accepts the bankruptcy application, the liquidation group shall hand over liquidation affairs to the administrator designated by the people's court.

Article 238 Members of the liquidation group shall fulfill liquidation responsibilities with a duty of loyalty and diligence.

Any member of the liquidation group who neglects their liquidation responsibilities and causes losses to the company shall be liable for compensation; if losses are caused to any creditor due to intent or gross negligence, such member shall be liable for compensation.

Article 239 Upon completing the liquidation of the company, the liquidation group shall prepare a liquidation report and submit it to the shareholders' meeting or the people's court for confirmation, as well as to the company registration authority to apply for deregistration of the company.

Article 240 If a company incurs no debts during its existence or has settled all its debts, as assured by an unanimous commitment of the shareholders, the company may be deregistered through the summary procedure as provided.

The deregistration of a company through the summary procedure shall be announced through the National Enterprise Credit Information Publicity System, with an announcement period of no less than 20 days.

Upon the expiration of the announcement period without objection, the company may apply for deregistration to the company registration authority within 20 days.

In the event of the deregistration of a company through the summary procedure, if shareholders provide a false commitment regarding the content specified in the first paragraph of this Article, they shall bear joint and several liability for the debts outstanding before the deregistration.

Article 241 In cases where a company has its business license revoked, or is ordered to shut down or dissolve and fails to apply for deregistration with the company registration authority within a period of three years, the company registration authority may announce the case through the National Enterprise Credit Information Publicity System, with an announcement period of no less than 60 days. Upon the expiration of the announcement period without objection, the company registration authority may deregister the company.

The deregistration of a company pursuant to the preceding paragraph does not affect the obligations of the company's original shareholders and liquidators.

Article 242 Any company declared bankrupt in accordance with the law shall be liquidated in bankruptcy in accordance with the laws pertaining to corporate bankruptcy.

### Chapter XIII Branches of Foreign Companies

Article 243 For the purposes of this Law, the term "foreign company" refers to a company established outside the territory of the People's Republic of China under any foreign law.

Article 244 Any foreign company that intends to establish a branch within the territory of the People's Republic of China shall submit an application to the competent Chinese authority, along with its articles of association, certificate of incorporation issued in its country of domicile, and other supporting documentation, and upon obtaining approval, shall fulfill relevant registration procedures with the company registration authority in accordance with the law, and obtain a business license. The measures for the approval of branches of foreign companies shall be separately provided by the State Council.

Article 245 When a foreign company establishes a branch within the territory of the People's Republic of China, it shall designate a representative or agent within the territory of the People's Republic of China to take charge of the branch, and allocate funds to the branch commensurate with the business activities it engages in.

Where a minimum amount of operating funds is required for branches of foreign companies, it shall be separately provided by the State Council.

Article 246 The name of any branch of a foreign company shall indicate its country of domicile and its form of liability structure.

Any branch of a foreign company shall make its articles of association available at its premises.

Article 247 Branches of foreign companies established within the territory of the People's Republic of China do not have Chinese legal-person status.

Foreign companies shall bear civil liability for the business activities conducted by their branches within the territory of the People's Republic of China.

Article 248 In engaging in business activities within the territory of the People's Republic of China, branches of foreign companies approved to be established shall abide by Chinese laws and must not harm Chinese social or public interests, and their lawful rights and interests shall be protected by Chinese laws.

Article 249 When a foreign company closes any branch within the territory of the People's Republic of China, it shall fully settle the debts of the branch in accordance with the law and liquidate it in accordance with the provisions of this Law relating to the procedure for the liquidation of companies. No assets of the branch may be transferred out of the territory of the People's Republic of China before its debts are fully settled.

### Chapter XIV Legal Liability

Article 250 In cases where the registration of a company is obtained in violation of this Law by falsely stating the registered capital, submitting false documentation, or using any other fraudulent means to conceal important facts, the company registration authority shall order corrections, and for falsely stating the registered capital, impose a fine between 5% and 15% of the falsely stated amount on the company; or for submitting false documentation or using any other fraudulent means to conceal important facts, impose a fine between CNY50,000 and CNY2,000,000 on the company; if the circumstances are serious, the business license of the company shall be revoked; and a fine between CNY30,000 and CNY 300,000 shall be imposed on any person directly in charge and other persons directly liable.

Article 251 In cases where a company fails to disclose or fails to truthfully disclose relevant information in accordance with Article 40 of this Law, the company registration authority shall order corrections, and may impose a fine between CNY10,000 and CNY50,000 on the company. If the circumstances are serious, a fine between CNY50,000 and CNY200,000 shall be imposed on the company; and a fine between CNY10,000 to CNY100,000 shall be imposed on any person directly in charge and other persons directly liable.

Article 252 In cases where any promoter or shareholder of a company makes false contributions, or fails to deliver or deliver on time the monetary or non-monetary assets to be contributed, the company

registration authority shall order corrections and may impose a fine between CNY50,000 and CNY200,000 on that person; if the circumstances are serious, a fine between 5% and 15% of the falsely stated or undelivered contribution amount shall be imposed on that person; and a fine between CNY10,000 and CNY100,000 shall be imposed on any person directly in charge and other persons directly liable.

Article 253 In cases where any promoter or shareholder of a company withdraws their capital contribution after the establishment of the company, the company registration authority shall order corrections and impose a fine between 5% and 15% of the withdrawn contribution amount on that person; and a fine between CNY30,000 and CNY300,000 shall be imposed on any person directly in charge and other persons directly liable.

Article 254 If any the following acts occurs, financial authorities under the people's governments at or above the county level shall, in accordance with the Accounting Law of the People's Republic of China and other laws and administrative regulations, impose penalties:

- (1) Having any separate accounting books outside the statutory accounting books; or
- (2) Providing any financial accounting report with any false records or important facts concealed.

Article 255 Any company that fails to notify its creditors by way of notice or public announcement of a merger, division, decrease in registered capital or liquidation of the company, as required by this Law, shall be ordered to make corrections and fined between CNY10,000 and CNY100,000 by the company registration authority.

Article 256 In cases where a company, during its liquidation, conceals any of its assets or makes any false entries in its balance sheet or schedule of assets, or distributes any of its assets before fully settling its outstanding debts, the company registration authority shall order corrections and impose on it a fine between 5% and 10% of the value of the concealed assets or assets distributed before full settlement of debts; a fine between CNY10,000 and CNY100,000 shall be imposed on any person directly in charge and other persons directly liable.

Article 257 Any institution undertaking asset appraisal, capital verification, or certification that provides false materials or submits any report with material omissions shall be subjected to penalties by the relevant authority in accordance with laws and administrative regulations, including the Asset Appraisal Law of the People's Republic of China and the Law of the People's Republic of China on Certified Public Accountants.

Any institution undertaking asset appraisal, capital verification, or certification that issues any untrue appraisal results or certificates of capital verification or certification, and results in losses to any creditor of a company, shall be liable for compensation within the amount of the discrepancy, unless it can prove no fault on its part.

Article 258 If the company registration authority violates any laws or administrative regulations by failing to perform its duties or failing to perform its duties properly, governmental sanctions shall be imposed in accordance with the law on any leader directly in charge and other persons directly liable.

Article 259 In cases where business is conducted in the name of a limited liability company or joint stock limited company without registering the relevant entity as such in accordance with the law, or conducted in the name of a branch of a limited liability company or joint stock limited company without registering the relevant entity as such in accordance with the law, the company registration authority shall order corrections or ban the entity, and may concurrently impose a fine of up to CNY100,000.

Article 260 In cases where any company, without justifiable reason, fails to commence business within six months of establishment or suspends its business of its own volition for six consecutive months or more after commencing business, the company registration authority may revoke its business license, except where the company has fulfilled the procedure for business closure in accordance with the law.

Any company that fails to complete the relevant alteration registration in accordance with this Law for any changes in its registered particulars shall be ordered by the company registration authority to fulfill the procedure within a specific period; if it fails to do so within such period, it shall be fined between CNY10,000 and CNY100,000.

Article 261 Any foreign company that violates this Law by establishing a branch within the territory of the People's Republic of China without permission shall be ordered by the company registration authority to make corrections or to shut down the branch, and may be concurrently fined between CNY50,000 and CNY200,000.



Article 262 For any serious illegal activity engaged in the name of a company that endangers national security or social or public interests, the business license of that company shall be revoked.

Article 263 Companies that are liable for civil compensation and any fines or financial penalties due to any violations of this Law, shall first assume their civil compensation liability if their assets are insufficient to cover all the liabilities.

Article 264 Anyone who violates this Law and constitutes a criminal offense shall be held criminally liable in accordance with the law.

#### Chapter XV Supplementary Provisions

Article 265 For the purposes of the Law, the terms below shall have the following definitions:

(1) "Senior officer" refers to the company manager, deputy company manager, head of finance, secretary to the board of directors of a listed company, or any other individual as specified in the articles of association.

(2) "Controlling shareholder" refers to a shareholder whose capital contribution accounts for 50% or more of the total capital in the case of a limited liability company, or a shareholder whose shares account for more than 50% of the total share capital in the case of a joint stock limited company, or a shareholder whose capital contribution or share proportion is less than 50% of the total capital or share capital but whose voting rights corresponding to such capital contribution or share proportion are sufficient to exert a material influence on resolutions of the shareholders' meeting.

(3) "Actual controller" refers to any person who can exert actual control over the company through any investment relationships, agreements, or other arrangements.

(4) "Related-party relationship" refers to any relationship between a controlling shareholder, actual controller, director, supervisor, or senior officer of a company and an enterprise directly or indirectly controlled by that person, as well as any other relationship that may result in the transfer of any interest in the company. However, state-controlled enterprises do not have a related-party relationship between them solely due to being controlled by the state.

Article 266 This Law shall come into force on July 1, 2024.

For companies already registered for establishment before this Law enters into force, if their capital contribution period exceeds the period stipulated in this Law, they shall gradually adjust to the period specified in this Law, unless otherwise provided by any laws, administrative regulations, or the State Council; in cases where the contribution period or amounts are significantly abnormal, the company registration authority may, in accordance with the law, require timely adjustments. The specific implementation measures shall be provided by the State Council.

### Trial Administrative Measures of Overseas Securities Offering and Listing by Domestic Companies

Promulgation date	2023/02/17	Effective region	NATIONAL
Promulgator	China Securities Regulatory Commission	Document no	Announcement of the China Securities Regulatory Commission [2023] No. 43
Effectiveness	Effective	Effective date	2023/03/31
Category	Securities ( Securities & Futures Law->Securities )		

#### Trial Administrative Measures of Overseas Securities Offering and Listing by Domestic Companies

#### Announcement of the China Securities Regulatory Commission [2023] No. 43

17 February 2023

Upon approval by the State Council, the China Securities Regulatory Commission hereby releases the Trial Administrative Measures of Overseas Securities Offering and Listing by Domestic Companies, which will come into effect on 31 March 2023.

#### Appendix I: Trial Administrative Measures of Overseas Securities Offering and Listing by Domestic Companies

##### Chapter I General Provisions

Article 1 This Measures is formulated to regulate overseas securities offering and listing activities by domestic companies, either in direct or indirect form (hereinafter collectively referred to as overseas offering and listing), and promote lawful use of overseas capital markets by domestic companies to achieve regulated and sound development, in accordance with statutes including the Securities Law of the People's Republic of China.

Article 2 Direct overseas offering and listing by domestic companies refers to such overseas offering and listing by a joint-stock company incorporated domestically.

Indirect overseas offering and listing by domestic companies refers to such overseas offering and listing by a company in the name of an overseas incorporated entity, whereas the company's major business operations are located domestically and such offering and listing is based on the underlying equity, assets, earnings or other similar rights of a domestic company.

For the purpose of this Measures, securities refer to equity shares, depository receipts, corporate bonds convertible to equity shares, and other equity securities that are offered and listed overseas, either directly or indirectly, by domestic companies.

Article 3 Overseas offering and listing by domestic companies shall abide by laws, administrative regulations and relevant state rules concerning foreign investment in China, state-owned asset administration, industry regulation and outbound investment. Such overseas offering and listing shall not disrupt domestic market order, harm state or public interest or undermine the lawful rights and interests of domestic investors.

Article 4 Overseas offering and listing by domestic companies shall be supervised and regulated in accordance with the lines, principles, policies, decisions and plans of the Party and the state, ensuring both development and security.

China Securities Regulatory Commission (the "CSRC") shall exercise supervision and regulation over the overseas offering and listing activities by domestic companies according to law. The CSRC and competent authorities under the State Council shall, to the extent of their respective mandate and according to law, exercise supervision and regulation over domestic companies that offer and list securities in overseas markets, and securities companies and securities service providers that provide domestic services to such activities.

The CSRC shall set up a supervisory and regulatory coordination mechanism with competent authorities under the State Council, with a view to strengthening policy cohesiveness, regulatory coordination and

cross-agency information sharing.

Article 5 The CSRC and competent authorities under the State Council will, under the principle of reciprocity, step up supervisory and regulatory cooperation with overseas securities regulatory agencies and competent authorities to implement cross-border supervision and regulation.

## Chapter II Overseas Offering and Listing

Article 6 A domestic company that seeks to offer and list securities in overseas markets shall abide by applicable laws, including the Company Law of the People's Republic of China and the Accounting Law of the People's Republic of China, administrative regulations and relevant state rules, and formulate articles of association, improve internal control system, enhance corporate governance, and promote compliance in corporate finance and accounting practices.

Article 7 A domestic company that seeks to offer and list securities in overseas markets shall abide by national secrecy laws and relevant provisions and take necessary measures to fulfill confidentiality obligations. Divulgence of state secrets or working secrets of government agencies is strictly prohibited. Provision of personal information, important data and etc. to overseas parties in relation to overseas offering and listing of domestic companies shall be in compliance with applicable laws, administrative regulations and relevant state rules.

Article 8 No overseas offering and listing shall be made under any of the following circumstances:

- (1) where such securities offering and listing is explicitly prohibited by provisions in laws, administrative regulations and relevant state rules;
- (2) where the intended securities offering and listing may endanger national security as reviewed and determined by competent authorities under the State Council in accordance with law;
- (3) where the domestic company intending to make the securities offering and listing, or its controlling shareholders and the actual controller, have committed crimes such as corruption, bribery, embezzlement, misappropriation of property or undermining the order of the socialist market economy during the latest three years;
- (4) where the domestic company intending to make the securities offering and listing is suspected of committing crimes or major violations of laws and regulations, and is under investigation according to law, and no conclusion has yet been made thereof;
- (5) where there are material ownership disputes over equity held by the domestic company's controlling shareholder or by other shareholders that are controlled by the controlling shareholder and/or actual controller.

Article 9 Overseas offering and listing by domestic companies shall be made in strict compliance with relevant laws, administrative regulations and rules concerning national security in spheres of foreign investment, cybersecurity, data security and etc., and duly fulfill their obligations to protect national security. If the intended overseas offering and listing necessitates a national security review, relevant security review procedures shall be completed according to law before the application for such offering and listing is submitted to any overseas parties such as securities regulatory agencies and trading venues. A domestic company that seeks to offer and list securities in overseas markets shall, as per requirement by competent authorities under the State Council, take such measures as timely rectification, commitment and divestiture of relevant business and assets, to eliminate or avert any impact on national security resulting from such overseas offering and listing.

Article 10 Target investors of overseas offering and listing by domestic companies shall be overseas investors, unless prescribed in the following paragraph or otherwise stipulated by the state. A domestic company that seeks to offer and list securities in overseas markets for the purpose of implementing equity incentive plans or financing asset acquisitions may offer securities to eligible domestic investors that meet the standards prescribed by the CSRC.

A domestic state-owned company that seeks to offer securities to eligible domestic investors as prescribed in the preceding paragraphs shall also comply with relevant regulations of state-owned assets administration.

Article 11 A company that offers and lists securities on overseas markets may raise funds and pay dividends in a foreign currency or the Chinese Yuan (RMB).

"Proceeds from the company's overseas securities offering shall be used and invested for purposes in compliance with laws, administrative regulations and relevant state rules.

Currency conversion and cross-border remittance of funds in relation to overseas offering and listing by

domestic companies shall comply with state regulations concerning cross-border investment and financing, foreign exchange administration, and cross-border RMB administration.

Article 12 Securities companies, securities service providers and practitioners engaged in overseas offering and listing by domestic companies shall abide by laws, administrative regulations and relevant state rules, observe industry-accepted professional standards and ethical norms, and rigorously fulfill statutory duties to ensure the truthfulness, accuracy and completeness of the documents that they produce and issue. Securities companies, securities service providers and practitioners engaged in overseas offering and listing by domestic companies shall not, in the document they produce and issue, make any comments in a manner that misrepresents or disparages laws and policies, business environment and judicial situation, etc. of the state.

### Chapter III Filing Requirements

Article 13 A domestic company that seeks to offer and list securities in overseas markets shall fulfill the filing procedure with the CSRC as per requirement of this Measures, submit relevant materials that contain a filing report and a legal opinion, and provide truthful, accurate and complete information on the shareholders and etc.

Article 14 Where a domestic company seeks to directly offer and list securities in overseas markets, the issuer shall file with the CSRC.

Where a domestic company seeks to indirectly offer and list securities in overseas markets, the issuer shall designate a major domestic operating entity, which shall, as the domestic responsible entity, file with the CSRC.

Article 15 Any overseas offering and listing made by an issuer that meets both the following conditions will be determined as indirect:

(1) 50% or more of the issuer's operating revenue, total profit, total assets or net assets as documented in its audited consolidated financial statements for the most recent accounting year is accounted for by domestic companies; and

(2) the main parts of the issuer's business activities are conducted in the Chinese Mainland, or its main places of business are located in the Chinese Mainland, or the senior managers in charge of its business operation and management are mostly Chinese citizens or domiciled in the Chinese Mainland.

The determination as to whether or not an overseas offering and listing by domestic companies is indirect, shall be made on a substance over form basis.

Article 16 Initial public offerings or listings in overseas markets shall be filed with the CSRC within 3 working days after the relevant application is submitted overseas.

Subsequent securities offerings of an issuer in the same overseas market where it has previously offered and listed securities shall be filed with the CSRC within 3 working days after the offering is completed. Subsequent securities offerings and listings of an issuer in other overseas markets than where it has offered and listed shall be filed pursuant to provisions in the first paragraph of this Article.

Article 17 A domestic company that seeks to directly or indirectly list its domestic assets in overseas markets through single or multiple acquisitions, share swaps, transfers of shares or other means, shall fulfill the filing procedure as prescribed in the first paragraph of Article 16 herein. Where overseas application documents are not required, the filing shall be made within 3 working days after the first public disclosure of the specifics of the transaction is made by the listed company.

Article 18 For a domestic company directly offering and listing overseas, shareholders of its domestic unlisted shares applying to convert such shares into shares listed and traded on an overseas trading venue shall conform to relevant regulations promulgated by the CSRC, and authorize the domestic company to file with the CSRC on their behalf.

The term "domestic unlisted shares" in the preceding paragraph refers to shares offered by a domestic company but not listed or quoted for trading on any domestic trading venues. Domestic unlisted shares shall be centrally registered and deposited at a domestic securities depository and settlement agency. The registration and settlement of overseas listed shares is subject to applicable rules in overseas markets.

Article 19 Where the filing documents are complete and in compliance with stipulated requirements, the CSRC will, within 20 working days after receiving the filing documents, conclude the filing procedure and publish the filing results on the CSRC website.

Where the filing documents are incomplete or do not conform to stipulated requirements, the CSRC shall

request supplementation and amendment thereto within 5 working days after receiving the filing documents. The issuer should then complete supplementation and amendment within 30 working days. During the filing process, where the issuer may be involved in circumstances prescribed in Article 8 herein, the CSRC may consult with competent authorities under the State Council. Time taken for filing document supplementation and the CSRC consultation shall not be counted in the time limit for filing. The CSRC may formulate filing guidelines based on this Measures to illustrate specific requirements for the format, content and attachments of filing documents.

Article 20 Filing documents for overseas offering and listing by domestic companies shall be truthful, accurate and complete. No misrepresentation, misleading statement or major omission is allowed. The domestic company and its controlling shareholders, actual controllers, board directors, supervisors, and senior executives shall fulfill their information disclosure obligations according to law, practice with integrity and due diligence in ensuring the truthfulness, accuracy and completeness of the filing documents. Securities companies and law firms should make thorough examination and verification of filing documents, and ensure none of the circumstances specified below occurs:

- (1) the filing documents contain conflicting or inconsistent and materially different descriptions of the same facts;
- (2) the filing documents are considerably difficult to understand due to lack of clarity and logic in writing;
- (3) the filing documents fail to prove whether the company meets the conditions prescribed in Article 15 herein;
- (4) failure to report material events timely as required.

Article 21 An overseas securities company that serves as a sponsor or lead underwriter for overseas securities offering and listing by domestic companies shall file with the CSRC within 10 working days after signing its first engagement agreement for such business, and submit to the CSRC, no later than January 31 each year, an annual report on its business activities in the previous year associated with overseas securities offering and listing by domestic companies.

An overseas securities company that has entered into engagement agreements before the effectuation of this Measures and is serving in practice as a sponsor or lead underwriter for overseas securities offering and listing by domestic companies shall file with the CSRC within 30 working days after this Measures takes effect.

#### Chapter IV Supervision and Regulation

Article 22 Upon the occurrence of any of the material events specified below after an issuer has offered and listed securities in an overseas market, the issuer shall submit a report thereof to CSRC within 3 working days after the occurrence and public disclosure of the event:

- (1) change of control;
- (2) investigations or sanctions imposed by overseas securities regulatory agencies or other relevant competent authorities;
- (3) change of listing status or transfer of listing segment;
- (4) voluntary or mandatory delisting.

Where an issuer's main business undergoes material changes after overseas offering and listing, and is therefore beyond the scope of business stated in the filing documents, such issuer shall submit to the CSRC an ad hoc report and a relevant legal opinion issued by a domestic law firm within 3 working days after occurrence of the changes.

Article 23 The CSRC and competent authorities under the State Council shall, to the extent of their respective mandate and according to law, carry out supervisory inspections or investigations of domestic companies whose securities are offered and listed overseas, and of the related business undertakings carried out by securities companies and securities service providers in the Chinese Mainland.

Article 24 For violations of this Measures by domestic companies offering and listing overseas, and securities companies, securities service providers and relevant practitioners providing service to such overseas offering and listing from the Chinese Mainland, the CSRC and competent authorities under the State Council may, for the purpose of maintaining market integrity and to the extent of their respective mandate, impose administrative regulatory measures including order for correction, regulatory talks and warning letters, proportionate to the severity of the violations.

Article 25 A domestic company found in violation of Article 8 herein prior to an overseas offering and listing shall postpone or terminate the intended overseas offering and listing, and report to the CSRC and competent authorities under the State Council in a timely manner.

Article 26 Where the overseas offering and listing by a domestic company is in violation of this Measures, or where a foreign securities company is in violation of Article 21 herein, the CSRC may inform its regulatory counterparts in the overseas jurisdictions via cross-border securities regulatory cooperation mechanisms. Where an overseas securities regulatory agency intends to carry out investigation and evidence collection regarding overseas offering and listing activities by a domestic company, and request assistance of the CSRC under relevant cross-border securities regulatory cooperation mechanisms, the CSRC may provide necessary assistance in accordance with law. Any domestic entity or individual providing documents and materials requested by an overseas securities regulatory agency out of investigative or evidence collection purposes, shall not provide such information without prior approval from the CSRC and competent authorities under the State Council.

## Chapter V Legal Liabilities

Article 27 Where a domestic company fails to fulfill filing procedure as stipulated by Article 13 herein, or offers and lists securities in an overseas market in violation of Articles 8 and 25 herein, the CSRC shall order rectification, issue warnings to such domestic company, and impose a fine of between RMB 1,000,000 yuan and RMB 10,000,000 yuan. Directly liable persons-in-charge and other directly liable persons shall be warned and each imposed a fine of between RMB 500,000 yuan and RMB 5,000,000 yuan.

Controlling shareholders and actual controllers of the domestic company that organize or instruct the aforementioned violations shall be imposed a fine of RMB 1,000,000 yuan and RMB 10,000,000 yuan. Directly liable persons-in-charge and other directly liable persons shall be each imposed a fine of between RMB 500,000 yuan and RMB 5,000,000 yuan.

Securities companies and securities service providers that fail to duly urge compliance by the domestic company with Articles 8, 13 and 25 herein shall be warned and imposed a fine of between RMB 500,000 yuan and RMB 5,000,000 yuan. Directly liable persons-in-charge and other directly liable persons shall be warned and each imposed a fine of between RMB 200,000 yuan and RMB 2,000,000 yuan.

Article 28 Where the filing documents submitted by a domestic company contains misrepresentation, misleading statement or material omission, the CSRC shall issue correction orders and warnings, and impose a fine of between RMB 1,000,000 yuan and RMB 10,000,000 yuan. Directly liable persons-in-charge and other directly liable persons shall be warned and each imposed a fine of between RMB 500,000 yuan and RMB 5,000,000 yuan.

Controlling shareholders and actual controllers of the domestic company that organize or instruct the aforementioned violations, or enable the aforementioned violations by concealing relevant matters, shall be imposed a fine of RMB 1,000,000 yuan and RMB 10,000,000 yuan. Directly liable persons-in-charge and other directly liable persons shall be each imposed a fine of between RMB 500,000 yuan and RMB 5,000,000 yuan.

Article 29 Where a securities company or securities service provider, failing to practice with due diligence, either: 1) makes misrepresentation, misleading statement or material omission in documents produced and issued in compliance with domestic laws, administrative regulations or relevant rules promulgated by the state, or; 2) makes misrepresentation, misleading statement or material omission in documents produced and issued in compliance with rules of the overseas listing market, and thereby disrupts domestic market order and undermines lawful rights and interests of domestic investors, the CSRC and competent authorities under the State Council shall issue correction orders and warnings, and impose a fine of between one and ten times of the revenue if any, or of between RMB 500,000 yuan and RMB 5,000,000 yuan in the absence of a revenue therefrom or if the revenue was less than RMB 500,000 yuan. Directly liable persons-in-charge and other directly liable persons shall be warned and each imposed a fine of between RMB 200,000 yuan and RMB 2,000,000 yuan.

Article 30 Violations of other articles of this Measures that are penalizable under other laws or administrative regulations shall be penalized accordingly.

Article 31 For cases of severe violations of this Measures or other laws and administrative regulations, the CSRC may impose a ban on entering into the securities market upon the relevant responsible persons. Any such violation that constitutes a crime shall be investigated for criminal liability according to law.

Article 32 The CSRC shall, in accordance with law, incorporate the compliance status of relevant market participants with this Measures into the Securities Market Integrity Archives and upload the record to the National Credit Information Sharing Platform, with a view to strengthening cross-agency information sharing through concerted efforts with competent authorities, and enforcing punishment and deterrence in

accordance with laws and regulations.

#### Chapter VI Supplementary Provisions

Article 33 Overseas offering and listing by subordinate companies majority-owned by or under the actual control of a domestically listed company, and overseas issuance by domestically listed companies of securities such as depository receipts that are based on and convertible into domestic securities shall also comply with other applicable rules and regulations promulgated by the CSRC, and be filed in accordance with this Measures.

Article 34 For the purpose of this Measures, domestic companies herein refers to companies incorporated within the Chinese Mainland, including domestic joint-stock companies whose securities are directly offered and listed overseas and the domestic operating entities of companies whose securities are indirectly offered and listed overseas.

For the purpose of this Measures, securities companies and securities service providers herein refers to securities companies and securities service providers, both domestic and overseas, that undertake business in relation to overseas offering and listing by domestic companies.

Article 35 This Measures shall come into effect on 31 March 2023. The Notice on Implementing "Essential Clauses of Articles of Association for Companies Seeking to List Overseas" shall be simultaneously invalidated.

(English translation source: CSRC website)

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