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## COMPANY LAW OF THE PEOPLE'S REPUBLIC OF CHINA

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## **Chapter I. General provisions**

### **Article 1**

This Law is enacted in accordance with the Constitution for the purpose of regulating the organisation and conduct of companies, protecting the lawful rights and interests of companies, shareholders, employees and creditors, perfecting the modern enterprise system with Chinese characteristics, promoting entrepreneurship, safeguarding the social and economic order, and facilitating the development of the socialist market economy.

### **Article 2**

A company referred to in this Law means a limited liability company or a joint-stock 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, has independent legal person property and enjoys legal person property rights. The company shall be liable for its debts with all its property.

The legitimate rights and interests of the Company are protected by law against infringement.

### **Article 4**

The shareholders of a limited liability company shall be liable to the company to the extent of their capital contributions; the shareholders of a joint-stock company shall be liable to the company to the extent of their subscribed shares.

The shareholders of the Company enjoy the rights to the Company in accordance with the law, such as the right to return assets, participate in major decision-making and choose managers.

### **Article 5**

A company shall establish its articles of association in accordance with the law. The articles of association shall be binding on the company, its shareholders, directors, supervisors and senior management.

### **Article 6**

A company shall have its own name. The name of the company shall conform to the relevant State regulations.

The right to a company's name is protected by law.

### **Article 7**

A limited liability company established in accordance with this Law shall indicate in its name the words limited liability company or limited company. A joint-stock company established in accordance with this Law shall indicate the words joint-stock company or joint-stock company in its name.

### **Article 8**

A corporation shall be domiciled at the place of its principal office.

### **Article 9**

The business scope of a company shall be stipulated in its articles of association. A company may amend its articles of association to change its scope of business.

The company's business scope belongs to the items that are required to be approved by laws and administrative regulations, should be approved in accordance with the law.

### **Article 10**

The legal representative of a company shall be a director or manager who executes the affairs of the company on behalf of the company in accordance with the provisions of the articles of association.

The resignation of a director or manager who is the legal representative shall be deemed to be simultaneous with the resignation of the legal representative.

If the legal representative resigns, the company shall determine a new legal representative within thirty days from the date of the legal representative's resignation.

### **Article 11**

The legal representative engages in civil activities in the name of the company, the legal consequences of which shall be borne by the company.

Restrictions on the authority of the legal representative by the articles of association or the shareholders' meeting may not be imposed against a bona fide counterparty.

If a legal representative causes damage to another person in the performance of his or her duties, the company shall bear the civil liability. After the company has assumed civil liability, it may, in accordance with the provisions of the law or the company's articles of association, recover compensation from the legal representative who is at fault.

#### **Article 12**

A limited liability company that changes into a joint-stock company shall comply with the conditions for a joint-stock company under this Law. The change of a joint stock limited company into a limited liability company shall comply with the conditions of a limited liability company under this Law.

If a limited liability company is changed into a joint stock company, or a joint stock company is changed into a limited liability company, the debts and liabilities of the company before the change shall be inherited by the company after the change.

#### **Article 13**

The company may establish subsidiaries. Subsidiaries shall have legal personality and bear civil liabilities independently according to law.

A company may establish a branch. A branch has no legal personality and its civil liability is borne by the company.

#### **Article 14**

The Corporation may invest in other enterprises. Where the law provides that a company may not be a contributor that is jointly and severally liable for the debts of the invested enterprise, the provisions shall apply accordingly.

#### **Article 15**

A company investing in other enterprises or providing guarantees for others shall, in accordance with the provisions of the articles of association, be resolved by the board of directors or the shareholders' meeting; if the articles of association provide for limits on the total amount of investment or guarantee and the amount of a single item of investment or guarantee, the prescribed limits shall not be exceeded.

Where a company provides guarantees for shareholders or de facto controllers of the company, a resolution shall be made at a shareholders' meeting. Shareholders specified in the preceding paragraph or shareholders dominated by the de facto controller specified in the preceding paragraph may not participate in the voting on matters specified in the preceding paragraph. Such vote shall be adopted by a majority of the votes held by the other shareholders present at the meeting.

#### **Article 16**

The company shall protect the legitimate rights and

interests of employees, sign labour contracts with them in accordance with the law, participate in social insurance, strengthen labour protection and achieve safe production.

The Company shall adopt various forms to strengthen the vocational education and job training of the Company's employees and improve their quality.

#### **Article 17**

The employees of the Company shall organise trade unions in accordance with the Trade Union Law of the People's Republic of China, carry out trade union activities and safeguard the legitimate rights and interests of the employees. The Company shall provide the necessary conditions for the activities of the trade unions of the Company. The company's trade union shall, on behalf of the employees, conclude collective contracts with the company in accordance with the law on such matters as employees' labour remuneration, working hours, rest and leave, labour safety and health, and insurance and welfare.

The Company shall, in accordance with the Constitution and relevant laws, establish and improve a democratic management system with the staff congress as the basic form, and implement democratic management through the staff congress or other forms. When a company studies and decides on restructuring, dissolution, application for bankruptcy and major issues in operation, or formulates important rules and regulations, it shall listen to the opinions of the company's labour union, and shall also listen to the opinions and suggestions of the employees through the employees' congress or other forms.

#### **Article 18**

In a company, organisations of the Communist Party of China shall be established and carry out Party activities in accordance with the provisions of the Articles of Association of the Communist Party of China. Companies shall provide the necessary conditions for the activities of Party organisations.

#### **Article 19**

The company engages in business activities, shall comply with laws and regulations, abide by social morality and business ethics, be honest and trustworthy, and accept the supervision of the government and the public.

#### **Article 20**

A company engaging in business activities shall give

full consideration to the interests of the company's employees, consumers and other stakeholders, as well as ecological and environmental protection and other public interests of society, and assume social responsibility.

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

#### **Article 21**

The shareholders of a company shall abide by the laws, administrative regulations and the articles of association of the company, exercise their rights as shareholders in accordance with the law, and shall not abuse their rights as shareholders to the detriment of the company or the interests of other shareholders.

A shareholder of a company who abuses the rights of shareholders to cause losses to the company or other shareholders shall be liable for compensation.

#### **Article 22**

The controlling shareholders, de facto controllers, directors, supervisors and senior management of the Company shall not make use of the affiliation to harm the interests of the Company.

Anyone who violates the provisions of the preceding paragraph and causes damage to the Company shall be liable for compensation.

#### **Article 23**

A shareholder of a company who abuses the independent status of the company's legal personality and the limited liability of its shareholders, evades debts and seriously harms the interests of the company's creditors, shall be jointly and severally liable for the debts of the company.

Where a shareholder uses two or more companies under his control to commit the acts provided for in the preceding paragraph, each company shall be jointly and severally liable for the debts of any one of them.

In the case of a company with only one shareholder, if the shareholder cannot prove that the company's property is independent of the shareholder's own property, he or she shall be jointly and severally liable for the company's debts.

#### **Article 24**

The shareholders' meeting, board of directors and board of supervisors of a company may hold meet-

ings and vote by means of electronic communication, unless otherwise provided for in the articles of association.

#### **Article 25**

Resolutions of the shareholders' meeting or the board of directors of a company shall be null and void if their contents are in violation of laws or administrative regulations.

#### **Article 26**

Where the procedures for convening a meeting or the manner of voting at a shareholders' meeting or board of directors' meeting of a company are in violation of laws, administrative regulations or the articles of association of the company, or where the content of a resolution is in violation of the articles of association of the company, the shareholders may, within sixty days from the date on which the resolution is made, request the people's court to revoke it. However, unless the procedures for convening the meeting of the shareholders' meeting or the board of directors' meeting or the manner of voting are only slightly defective and do not materially affect the resolution.

Shareholders who have not been notified to attend the shareholders' meeting may, within sixty days from the date when they knew or should have known that the resolution of the shareholders' meeting had been made, request the people's court to revoke it; if they have not exercised the right of revocation within one year from the date when the resolution was made, the right of revocation shall be extinguished.

#### **Article 27**

A resolution of the shareholders' meeting or the board of directors of a company shall not be valid if any of the following circumstances applies:

- (i) Failure to convene a shareholders' meeting or a meeting of the board of directors to make a resolution;
- (ii) No votes were taken on the resolutions at the shareholders' and board of directors' meetings;
- (c) The number of persons attending the meeting or the number of votes held does not reach the number of persons or the number of votes held as stipulated in this Law or the Articles of Association;
- (d) The number of persons consenting to the resolution or the number of votes held does not

reach the number of persons or the number of votes held as stipulated in this Law or the Articles of Association.

#### **Article 28**

Where a resolution of a shareholders' meeting or board of directors of a company is declared invalid, revoked or confirmed by a people's court to be untenable, the company shall apply to the company registration authority for revocation of the registration that has been applied for in accordance with such resolution.

If a resolution of a shareholders' meeting or board of directors' meeting is declared invalid, revoked or confirmed by a people's court to be untenable, the civil legal relationship formed between the company and a bona fide counterparty in accordance with the resolution shall not be affected.

### **Chapter II. Registration of companies**

#### **Article 29**

The establishment of a company shall, in accordance with law, apply to the company registration authority for registration of its establishment.

Where laws and administrative regulations stipulate that the establishment of a company must be submitted for approval, the approval procedures shall be completed in accordance with the law before the company is registered.

#### **Article 30**

An application for the establishment of a company shall be made by submitting an application for registration of establishment, the articles of association and other documents, and the relevant materials submitted shall be true, lawful and valid.

If the application materials are incomplete or do not meet the legal form, the company registration authority shall inform the materials that need to be corrected at once.

#### **Article 31**

Where an application for the establishment of a company meets the conditions for its establishment under this Law, it shall be registered by the company registration authority as a limited liability company or a company limited by shares, respectively; where it does not meet the conditions for its establishment under this Law, it shall not be regis-

tered as a limited liability company or a company limited by shares.

#### **Article 32**

Matters for company registration include:

- (i) Name;
- (ii) Residence;
- (iii) Registered capital;
- (iv) Scope of business;
- (v) The name of the legal representative;
- (vi) The names of the shareholders of a limited liability company and the promoters of a joint stock company.

The company registration authority shall make the company registration matters stipulated in the preceding paragraph available to the public through the national enterprise credit information publicity system.

#### **Article 33**

A company established in accordance with law shall be issued a business licence by the company registration authority. The date of issuance of the business licence shall be the date of establishment of the company.

The business licence of a company shall contain the name, domicile, registered capital, business scope and name of the legal representative of the company. The company registration authority may issue an electronic business licence. An electronic business licence has the same legal effect as a paper business licence.

#### **Article 34**

Where there is a change in the registered matters of a company, the change shall be registered in accordance with the law.

Unregistered or unaltered corporate registrations are not enforceable against bona fide counterparties.

#### **Article 35**

A company applying for change registration shall submit to the company registration authority the application for change registration signed by the company's legal representative, the resolution or decision on change made in accordance with the law and other documents.

If the change of registered matters involves the amendment of the articles of association of a company, the amended articles of association shall be submitted.



If a company changes its legal representative, the application for registration of the change shall be signed by the changed legal representative.

#### **Article 36**

Where there is a change in the matters recorded in the business licence of a company, the company shall, after registering the change, have its business licence renewed by the company registration authority.

#### **Article 37**

Where a company needs to be terminated due to dissolution, declaration of bankruptcy or other legal reasons, it shall, in accordance with law, apply for cancellation of registration with the company registration authority, which shall announce the termination of the company.

#### **Article 38**

A company establishing a branch shall apply to the company registration authority for registration and obtain a business licence.

#### **Article 39**

Where a company obtains registration of its establishment by misrepresenting its registered capital, submitting false materials or adopting other fraudulent means to conceal important facts, the company registration authority shall revoke the registration in accordance with the provisions of laws and administrative regulations.

#### **Article 40**

The company shall, in accordance with the regulations, make public the following matters through the national enterprise credit information publicity system:

- (i) The amount, manner and date of contribution of capital subscribed and paid in by the shareholders of a limited liability company, and the number of shares subscribed by the promoters of a company limited by shares;
- (ii) Information on changes in equity and shares of shareholders of limited liability companies and promoters of joint stock companies;
- (c) Information on the acquisition, change and cancellation of administrative licences;
- (d) Other information prescribed by laws and administrative regulations.

The company shall ensure that the information dis-

closed in the preceding paragraph is true, accurate and complete.

#### **Article 41**

The company registration authority shall optimise the company registration process, improve the efficiency of company registration, strengthen the construction of information technology, the implementation of online processing and other convenient ways to enhance the level of company registration facilitation.

The Market Supervision and Administration Department under the State Council shall, in accordance with the provisions of this Law and relevant laws and administrative regulations, formulate specific measures for the registration of companies.

### **Chapter III. establishment and organisation of limited liability companies**

#### **Section I. Establishment**

#### **Article 42**

A limited liability company shall be established by the capital contribution of one or more than fifty shareholders.

#### **Article 43**

The 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 course of the establishment of the company.

#### **Article 44**

The legal consequences of the civil activities undertaken by the shareholders of a limited liability company at the time of its establishment for the purpose of establishing the company shall be borne by the company.

If a company is not established, its legal consequences shall be borne by the shareholders at the time of its establishment; if the shareholders at the time of its establishment are two or more persons, they shall be entitled to joint and several claims and shall be liable for joint and several debts.

A third party shall have the right to choose to request the company or the shareholders at the time of its establishment to bear the civil liability arising from the civil activities undertaken by the share-

holders at the time of its establishment in their own name for the purpose of establishing the company. If the shareholders at the time of establishment cause damage to others by performing their duties in the establishment of the company, the company or the shareholders who are not at fault may, after assuming the liability, recover it from the shareholders who are at fault.

#### **Article 45**

The articles of association of a limited liability company shall be formulated jointly by the shareholders.

#### **Article 46**

The articles of association of a limited liability company shall contain the following matters:

- (i) Company name and domicile;
- (ii) The scope of the company's business;
- (iii) Registered capital of the company;
- (d) The name or names of the shareholders;
- (e) The amount, manner and date of contribution of the shareholders;
- (vi) The organs of the Corporation and their methods of formation, powers and rules of procedure;
- (vii) The method for the creation and change of the company's legal representatives;
- (viii) Any other matters that the Shareholders' Meeting deems necessary to stipulate.

The shareholders shall sign or seal the articles of association.

#### **Article 47**

The registered capital of a limited liability company shall be the amount of capital contributions made by all shareholders as registered with the company's registration authority. The capital contributions made by all shareholders shall be paid in full by the shareholders within five years from the date of establishment of the company in accordance with the provisions of the articles of association.

Laws, administrative regulations and decisions of the State Council on the paid-in registered capital of limited liability companies, the minimum amount of registered capital, and the term of shareholders' capital contribution, shall be subject to their provisions.

#### **Article 48**

Shareholders may make capital contributions in money, or in kind, intellectual property rights, land use rights, equity, debentures and other non-monetary property that can be valued in money

and can be transferred in accordance with the law; provided, however, that property that is prohibited from being used as capital contributions under the provisions of laws and administrative regulations is excluded.

Non-monetary property used as capital contributions shall be appraised and verified, and shall not be over- or undervalued. Where laws and administrative regulations provide for appraisal, they shall apply accordingly.

#### **Article 49**

The shareholders shall pay in full and on time the respective capital contributions stipulated in the articles of association of the company.

Shareholders in monetary contributions, the monetary contributions shall be deposited in full into the account opened by the limited liability company in the bank; non-monetary property contributions, shall be dealt with in accordance with the law, the transfer of its property rights.

If a shareholder fails to pay his capital contribution in full and on time, he shall, in addition to paying it in full to the company, be liable for the losses caused to the company.

#### **Article 50**

If, at the time of the establishment of a limited liability company, a shareholder fails to actually pay the capital contribution in accordance with the provisions of the articles of association of the company, or if the actual value of the non-monetary property actually contributed to the company is significantly lower than the amount of the capital contribution subscribed, the other shareholders at the time of the establishment of the company shall be held jointly and severally liable with the shareholder to the extent of the shortfall in the capital contribution.

#### **Article 51**

Upon the establishment of a limited liability company, the board of directors shall verify the capital contribution of the shareholders, and if it is found that a shareholder has not paid the capital contribution stipulated in the articles of association of the company in full and on time, the company shall issue a written reminder to the shareholder to call for the payment of the capital contribution.

If the failure to fulfil the obligations stipulated in the preceding paragraph in a timely manner causes



losses to the company, the responsible director shall be liable for compensation.

#### **Article 52**

If a shareholder fails to pay the capital contribution in accordance with the date specified in the Articles of Association, and the Company issues a written reminder for the payment of the capital contribution in accordance with the provisions of Paragraph 1 of the preceding Article, the Company may specify a grace period for the payment of the capital contribution; such grace period shall not be less than sixty days from the date of the reminder issued by the Company. If the grace period expires and the shareholder still fails to fulfil the obligation to make the capital contribution, the Company may, by resolution of the Board of Directors, issue a notice of forfeiture of rights to the shareholder, and the notice shall be issued in written form. From the date of issuance of the notice, the shareholder loses his/her shareholding in the unpaid capital.

Equity interests lost in accordance with the preceding paragraph shall be transferred in accordance with law, or the registered capital shall be reduced accordingly and the equity interests shall be cancelled; if the equity interests are not transferred or cancelled within six months, the other shareholders of the company shall pay the corresponding capital contributions in full in accordance with the proportion of their capital contributions.

If a shareholder disagrees with the loss of rights, he or she shall file a lawsuit with the People's Court within thirty days from the date of receipt of the notice of loss of rights.

#### **Article 53**

After the establishment of a company, shareholders may not abscond with their capital contributions. If the provisions of the preceding paragraph are violated, the shareholders shall return the absconded capital; if losses are caused to the company, the responsible directors, supervisors and senior management shall be jointly and severally liable for compensation with the shareholders.

#### **Article 54**

If a company fails to pay its debts as they fall due, the company or the creditors of the due claims shall have the right to demand that the shareholders who have subscribed to the capital contribution but have not yet reached the time limit for the

capital contribution pay the capital contribution in advance.

#### **Article 55**

Upon the establishment of a limited liability company, a certificate of capital contribution shall be issued to the shareholders, recording the following matters:

- (i) Company name;
- (ii) Date of incorporation;
- (iii) Registered capital of the company;
- (d) The name or names of the shareholders, the amount of capital contributed and paid-in, the method of capital contribution and the date of capital contribution;
- (v) The number and date of issue of the certificate of contribution.

The certificate of capital contribution is signed by the legal representative and stamped by the company.

#### **Article 56**

A limited liability company shall keep a register of shareholders and record the following matters:

- (i) The name or names and residence of the shareholders;
- (b) The amount of capital contributed and paid in by the shareholders, the manner of contribution and the date of contribution;
- (iii) Certificate of contribution number;
- (iv) The dates of acquisition and loss of shareholder status.

Shareholders whose names are recorded in the register of shareholders may claim to exercise their rights as shareholders in accordance with the register of shareholders.

#### **Article 57**

Shareholders shall have the right to inspect and copy the articles of association, register of shareholders, minutes of shareholders' meetings, resolutions of meetings of the board of directors, resolutions of meetings of the board of supervisors and financial and accounting reports.

Shareholders may request to inspect the company's accounting books and documents. If a shareholder requests to inspect the company's accounting books and documents, he or she shall submit a written request to the company, stating the purpose. If the company has reasonable grounds to believe that a shareholder's access to the account-

ing books and documents has an improper purpose and may harm the company's legitimate interests, it may refuse to provide access and shall reply to the shareholder in writing within fifteen days from the date of the shareholder's written request, stating the reasons. If the company refuses to provide access, the shareholder may file a lawsuit with the People's Court.

Shareholders may entrust intermediary organisations such as accounting firms and law firms to inspect the materials stipulated in the preceding paragraph.

Shareholders and the accounting firms, law firms and other intermediaries entrusted by them to inspect and copy the relevant materials shall comply with the provisions of laws and administrative regulations relating to the protection of state secrets, commercial secrets, personal privacy and personal information.

The provisions of the preceding four paragraphs shall apply to shareholders requesting access to or copying of materials related to the Company's wholly-owned subsidiaries.

## **Section II. Organisational structure**

### **Article 58**

The shareholders' meeting of a limited liability company shall be composed of all shareholders. The shareholders' meeting is the authority of the company and exercises its powers in accordance with this Law.

### **Article 59**

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

- (i) Electing and replacing directors and supervisors and deciding on matters relating to the remuneration of directors and supervisors;
- (ii) Consider for approval the report of the Board of Directors;
- (iii) Consideration and approval of the report of the Supervisory Board;
- (d) Considering and approving the Company's profit distribution plan and loss recovery plan;
- (v) To make a resolution on the increase or reduction of the registered capital of the Company;
- (vi) Resolution on the issuance of corporate bonds;
- (vii) To make resolutions on the merger, division,

dissolution, liquidation or change of corporate form of a company;

- (viii) Amendments to the Articles of Association;
- (ix) Other powers and functions as provided for in the articles of association.

The shareholders' meeting may authorise the board of directors to resolve on the issuance of corporate bonds.

If the shareholders unanimously agree in writing on the matters listed in Paragraph 1 of this Article, they may make a decision directly without convening a shareholders' meeting, and all shareholders shall sign or seal the decision document.

### **Article 60**

A limited liability company with only one shareholder shall not have a shareholders' meeting. Decisions of the shareholders on matters listed in paragraph 1 of the preceding article shall be in writing and shall be signed or sealed by the shareholders and placed in the company.

### **Article 61**

The first shareholders' meeting shall be convened and presided over by the shareholder with the largest capital contribution and shall exercise its powers in accordance with the provisions of this Law.

### **Article 62**

The meetings of the shareholders' meeting shall be divided into regular meetings and extraordinary meetings.

Regular meetings shall be convened on time in accordance with the provisions of the Articles of Association. If shareholders representing more than one-tenth of the voting rights, more than one-third of the directors or the Board of Supervisors propose to convene a temporary meeting, a temporary meeting shall be convened.

### **Article 63**

The meeting of the shareholders' meeting shall be convened by the board of directors and presided over by the chairman of the board of directors; if the chairman of the board of directors is unable to perform his duties or fails to perform his duties, the vice-chairman of the board of directors shall preside over it; if the vice-chairman of the board of directors is unable to perform his duties or fails to perform his duties, the directors shall be presided over by a director jointly elected by a majority of the directors.

If the Board of Directors is unable to perform or fails to perform its duty to convene a shareholders' meeting, the Supervisory Committee shall convene and preside over the meeting; if the Supervisory Committee fails to convene and preside over the meeting, shareholders representing more than one-tenth of the voting rights may convene and preside over the meeting themselves.

#### **Article 64**

A shareholders' meeting shall be convened by giving notice to all shareholders fifteen days prior to the convening of the meeting; provided, however, that unless otherwise provided for in the articles of association or agreed upon by all shareholders. The shareholders' meeting shall take minutes of the decisions on the items under consideration, and the shareholders present at the meeting shall sign or affix their seals on the minutes.

#### **Article 65**

A meeting of the shareholders' meeting shall be held by shareholders exercising their voting rights in accordance with the proportion of their capital contributions; provided, however, that the articles of association of the company shall provide otherwise.

#### **Article 66**

The manner of proceedings and voting procedures of a shareholders' meeting shall be prescribed by the articles of association of the company, except as provided for in this Law.

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

Resolutions of the shareholders' meeting to amend the articles of association, to increase or reduce the registered capital, or to merge, separate, dissolve or change the form of the company shall be passed by shareholders representing two-thirds or more of the voting rights.

#### **Article 67**

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

The Board of Directors exercises the following powers:

- (i) To convene meetings of the Shareholders' Meeting and report to the Shareholders' Meeting;
- (ii) Implementing the resolutions of the Share-

holders' Meeting;

(iii) Decide on the company's business plan and investment programme;

(iv) Formulation of the company's profit distribution programme and loss recovery programme;

(v) To formulate programmes for the increase or reduction of the registered capital of the company and the issuance of corporate bonds;

(vi) To formulate proposals for the merger, division, dissolution or change of corporate form of a company;

(vii) Decide on the establishment of internal management bodies of the Company;

(viii) Decide on the appointment or dismissal of the manager of the Company and his/her remuneration, and also decide on the appointment or dismissal of the deputy manager and the person in charge of finance of the Company and their remuneration based on the nomination of the manager;

(ix) Developing the basic management system of the company;

(j) Other powers and functions provided for in the Articles of Association or granted by the shareholders' meeting.

Limitations on the powers of the board of directors in the articles of association shall not be enforceable against bona fide counterparties.

#### **Article 68**

The board of directors of a limited liability company shall consist of three or more members, and there may be representatives of the company's employees among its members. In a limited liability company with more than 300 employees, except for a supervisory board established in accordance with the law and with employee representatives, there shall be employee representatives on its board of directors. Employee representatives on the board of directors shall be democratically elected by the employees of the company through the employees' congress, employees' meeting or other forms. The Board of Directors shall have a chairman and may have a vice-chairman. The method of selecting the chairman and vice-chairman shall be stipulated in the articles of association.

#### **Article 69**

A limited liability company may, in accordance with the provisions of its articles of association, set up an audit committee consisting of directors

in the board of directors, exercising the powers and functions of the supervisory board as provided for in this Law, without having a supervisory board or supervisors. Employee representatives of the members of the board of directors of a company may become members of the audit committee.

#### **Article 70**

The term of office of the directors shall be prescribed by the articles of association of the Company, but each term of office shall not exceed three years. When a director's term of office expires, he or she may be re-elected.

If a director is not re-elected in a timely manner upon expiry of his term of office, or if a director resigns during his term of office resulting in less than a quorum of the Board of Directors, the original director shall still be required to perform his duties as a director in accordance with the provisions of the laws, administrative regulations and the Articles of Association of the Company until the re-elected director assumes office.

If a director resigns, he shall notify the company in writing and the resignation shall take effect on the date of receipt of the notification by the company; however, if the circumstances stipulated in the preceding paragraph exist, the director shall continue to perform his duties.

#### **Article 71**

The shareholders' meeting may resolve to terminate the appointment of a director, and the termination shall take effect on the date of the resolution.

If a director is dismissed before the expiration of his or her term of office without a valid reason, the director may demand 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 to perform his duties or fails to perform his duties, the Vice Chairman of the Board of Directors shall convene and preside over the meeting; if the Vice Chairman of the Board of Directors is unable to perform his duties or fails to perform his duties, a Director shall be convened and presided over the meeting by one Director co-opted by a majority of Directors.

#### **Article 73**

The mode of proceedings and voting procedures of the board of directors shall be prescribed by the articles of association of the company, except as provided for in this Law.

A meeting of the Board of Directors shall be held with the attendance of a majority of the directors. Resolutions of the Board of Directors shall be adopted by a majority of all directors.

Voting on resolutions of the Board of Directors shall be by one person, one vote.

The Board of Directors shall take minutes of its decisions on the matters before it, which shall be signed by the Directors present at the meeting.

#### **Article 74**

A limited liability company may have a manager, who shall be appointed or dismissed by decision of the board of directors.

The Manager is accountable to the Board of Directors and exercises his powers in accordance with the provisions of the Articles of Association or as authorised by the Board of Directors. The Manager attends the meetings of the Board of Directors.

#### **Article 75**

A limited liability company that is small in size or has a small number of shareholders may not have a board of directors and may have one director who exercises the powers and functions of the board of directors as provided for in this Law. Such director may also be the manager of the company.

#### **Article 76**

A limited liability company shall have a supervisory board, except as otherwise provided in Articles 69 and 83 of this Law.

The Supervisory Board shall consist of three or more members. The members of the Supervisory Board shall include representatives of shareholders and an appropriate proportion of the Company's employee representatives, of which the proportion of employee representatives shall not be less than one-third, with the specific proportion to be stipulated in the Articles of Association of the Company. Employee representatives on the Supervisory Board shall be democratically elected by the employees of the Company through the Employee Representative Assembly, the Employee General Meeting or other forms.

The Supervisory Board shall have a chairman, who

shall be elected by a majority of all supervisors. The Chairman of the Supervisory Board shall convene and preside over the meetings of the Supervisory Board; if the Chairman of the Supervisory Board is unable to perform his duties or fails to perform his duties, a Supervisor shall be convened and presided over the meetings of the Supervisory Board by a Supervisor jointly elected by a majority of Supervisors. Directors and senior management may not concurrently serve as supervisors.

#### **Article 77**

The term of office of the supervisors shall be three years. When the term of office of a supervisor expires, he or she may be re-elected.

If the term of office of a Supervisor expires without a timely re-election, or if a Supervisor resigns during his or her term of office, resulting in the Supervisory Committee having less than a quorum of its members, the original Supervisor shall still perform his or her duties as a Supervisor in accordance with the provisions of the laws, administrative regulations and the Articles of Association of the Company until the Supervisor who has been re-elected assumes his or her office.

#### **Article 78**

The Supervisory Board shall exercise the following powers and functions:

- (i) Inspection of company finances;
- (ii) Supervising the conduct of directors and senior management in the performance of their duties, and proposing the dismissal of directors and senior management who violate laws, administrative regulations, the Articles of Association or resolutions of the shareholders' meeting;
- (c) Require directors and senior management to rectify their behaviour when it is detrimental to the interests of the company;
- (d) Propose the convening of extraordinary shareholders' meetings, and convene and preside over shareholders' meetings when the Board of Directors does not fulfil its duty to convene and preside over shareholders' meetings as provided for in this Law;
- (v) Proposals to the Shareholders' Meeting;
- (f) To institute legal proceedings against directors and senior management in accordance with the provisions of **Article 189** of this Law;
- (vii) Other powers and functions as provided for in the articles of association.

#### **Article 79**

Supervisors may attend the meetings of the Board of Directors and raise questions or suggestions on matters resolved by the Board of Directors.

The Supervisory Committee may conduct investigations when it discovers abnormalities in the Company's operations; if necessary, it may engage an accounting firm or the like to assist it in its work at the Company's expense.

#### **Article 80**

The Board of Supervisors may require directors and senior management to submit reports on the performance of their duties.

Directors and senior management shall truthfully provide the Supervisory Committee with relevant information and data, and shall not impede the Supervisory Committee or Supervisors in the exercise of their powers.

#### **Article 81**

The Board of Supervisors shall meet at least once a year, and the Supervisors may propose the convening of an interim Board of Supervisors meeting.

The manner of proceeding and voting procedures of the Supervisory Board shall be regulated by the Articles of Association of the Company, except as provided for in this Law.

Resolutions of the Supervisory Board shall be adopted by a majority of all Supervisors.

Voting on resolutions of the Supervisory Board shall be by one person, one vote.

The Supervisory Board shall take minutes of its decisions on the items under consideration, which shall be signed by the Supervisors present at the meeting.

#### **Article 82**

Expenses necessary for the Supervisory Board to exercise its powers shall be borne by the Company.

#### **Article 83**

A limited liability company that is small in size or has a small number of shareholders may not have a supervisory board, and may have one supervisor who exercises the powers and functions of the supervisory board as provided for in this Law; with the unanimous consent of all shareholders, it may also not have a supervisor.



## **Chapter IV. Transfer of Equity Interests in a Limited Liability Company**

### **Article 84**

Shareholders of a limited liability company may transfer all or part of their shareholdings to each other.

If a shareholder transfers equity to a person other than a shareholder, he or she shall notify the other shareholders in writing of the quantity, price, method of payment and period of time for the transfer of equity, and the other shareholders shall have the right of first refusal under the same conditions. A shareholder who fails to respond within thirty days from the date of receipt of the written notice shall be deemed to have waived the right of pre-emption. If two or more shareholders exercise the right of first refusal, they shall negotiate to determine their respective purchase ratios; if such negotiation fails, they shall exercise the right of first refusal in accordance with the ratio of their respective capital contributions at the time of the transfer.

If the articles of association of a company provide otherwise for the transfer of shareholdings, the provisions thereof shall apply.

### **Article 85**

When a people's court transfers a shareholder's equity interest in accordance with the compulsory execution procedures prescribed by law, it shall notify the company and all shareholders that other shareholders have the right of first refusal under the same conditions. If the other shareholders do not exercise their right of pre-emption within 20 days from the date of the people's court's notification, they shall be deemed to have waived their right of pre-emption.

### **Article 86**

A shareholder who transfers his or her shareholding shall notify the company in writing, requesting that the register of shareholders be changed; where registration of the change is required, he or she shall also request the company to register the change with the company's registration authority. If the company refuses or fails to respond within a reasonable period of time, the transferor or transferee may, in accordance with the law, file a lawsuit with the People's Court.

In the event of a transfer of shares, the transferee may claim the exercise of shareholders' rights

against the company from the time the transfer is recorded in the register of shareholders.

### **Article 87**

Upon the transfer of an equity interest in accordance with this Law, a company shall promptly cancel the certificate of capital contribution of the original shareholder, issue a certificate of capital contribution to the new shareholder, and accordingly amend the articles of association and the register of shareholders with respect to the shareholders and the amount of their capital contribution. Such amendments to the articles of association need not be voted on by the shareholders' meeting.

### **Article 88**

Where a shareholder transfers an equity interest for which he has made a capital contribution but before the expiry of the capital contribution period, the transferee shall assume the obligation to pay the capital contribution; if the transferee fails to pay the capital contribution in full by the due date, the transferor shall assume the supplementary liability for the capital contribution that the transferee fails to pay by the due date.

If a shareholder who fails to pay the capital contribution in accordance with the capital contribution date stipulated in the articles of association, or if the actual value of the non-monetary property as capital contribution is significantly lower than the amount of the capital contribution, the transferor and the transferee shall be jointly and severally liable to the extent of the shortfall in the capital contribution; if the transferee did not know and should not have known of the existence of the aforesaid circumstance, the transferor shall be held liable.

### **Article 89**

In any of the following circumstances, a shareholder who votes against the resolution of the shareholders' meeting may request the Company to acquire his/her shareholding at a reasonable price:

- (a) The company does not distribute profits to its shareholders for five consecutive years, whereas the company has been continuously profitable for those five years and meets the conditions for the distribution of profits stipulated in this Law;
- (ii) Merger, demerger and transfer of the principal property of the company;
- (c) When the term of business stipulated in the articles of association expires or when other



causes for dissolution stipulated in the articles of association arise, the shareholders' meeting passes a resolution to amend the articles of association to enable the company to survive.

If the shareholders and the Company are unable to reach an agreement on the acquisition of equity within sixty days from the date of the resolution of the shareholders' meeting, the shareholders may, within ninety days from the date of the resolution of the shareholders' meeting, file a lawsuit with the People's Court.

If the controlling shareholder of a company abuses its shareholders' rights to the serious detriment of the interests of the company or other shareholders, the other shareholders shall have the right to request the company to acquire their shareholdings at a reasonable price.

Equity interests in the Company acquired by the Company as a result of the circumstances set forth in paragraphs 1 and 3 of this Article shall be transferred or cancelled in accordance with the law within six months.

#### **Article 90**

Upon the death of a natural person shareholder, his lawful heirs may inherit the shareholder qualification; however, unless otherwise provided for in the articles of association.

### **Chapter V. establishment and organisation of companies limited by shares**

#### **Section I. Establishment**

##### **Article 91**

The establishment of a joint-stock company may take the form of initiation or collection.

Initiation means the establishment of a company by the subscription of all the shares to be issued by the promoters at the time of the establishment of the company.

The establishment of a company by raising funds means the establishment of a company by the promoters subscribing to a portion of the shares to be issued at the time of the establishment of the company, and the rest of the shares being raised from a specific audience or from the public.

##### **Article 92**

For the establishment of a joint stock limited com-

pany, there shall be more than one person and less than 200 persons as promoters, and more than half of the promoters shall have their domicile in the territory of the People's Republic of China.

##### **Article 93**

The promoters of a joint-stock company shall undertake the preparatory affairs of the company.

The promoters shall enter into a promoters' agreement specifying their respective rights and obligations in the establishment of the company.

##### **Article 94**

The establishment of a joint-stock limited company shall be accompanied by the joint formulation of the articles of association by the promoters.

##### **Article 95**

The articles of association of a joint stock limited company shall contain the following matters:

- (i) Company name and domicile;
- (ii) The scope of the company's business;
- (iii) The manner in which the company is established;
- (iv) The registered capital of the company, the number of shares issued and the number of shares issued at the time of its establishment, and the amount per share of par value shares;
- (v) Where class shares are issued, the number of shares of each class and their rights and obligations;
- (vi) The name or names of the promoters, the number of shares subscribed, and the manner of capital contribution;
- (vii) Composition, powers and rules of procedure of the Board of Directors;
- (viii) The method for the creation and change of the company's legal representatives;
- (ix) Composition, powers and rules of procedure of the Supervisory Board;
- (x) Method of distributing profits of the Company;
- (xi) Causes of dissolution of the company and methods of liquidation;
- (xii) The Company's notice and announcement practices;
- (xiii) Any other matters that the Shareholders' Meeting deems necessary to stipulate.

##### **Article 96**

The registered capital of a joint stock limited com-

pany shall be the total amount of the share capital of the issued shares registered with the company's registration office. No shares may be raised from others until the shares subscribed by the promoters are fully paid up.

Where laws, administrative regulations and decisions of the State Council otherwise provide for the minimum registered capital of a joint stock limited company, such provisions shall apply.

#### **Article 97**

Where a joint-stock limited company is established by way of initiation, the initiators shall subscribe to the full amount of shares to be issued upon the establishment of the company as stipulated in the articles of association.

Where a joint-stock limited company is established by raising funds, the shares subscribed by the promoters shall not be less than thirty-five per cent of the total number of shares to be issued at the time of the establishment of the company as stipulated in the articles of association of the company; provided, however, that where otherwise provided for by laws or administrative regulations, such provisions shall apply.

#### **Article 98**

Promoters shall pay the full amount of the shares they have subscribed for before the establishment of the company.

For the capital contribution of promoters, the provisions of Articles 48 and 49(2) of this Law on the capital contribution of shareholders in limited liability companies shall apply.

#### **Article 99**

If a promoter fails to pay for the shares he has subscribed for, or if the actual value of the non-monetary property used as a capital contribution is significantly less than that of the shares subscribed for, the other promoters shall be jointly and severally liable with the promoter to the extent of the shortfall in the capital contribution.

#### **Article 100**

A promoter who publicly raises shares from the public shall publish a prospectus and prepare a subscription book. The subscription form shall set forth the matters listed in paragraphs 2 and 3 of **Article 154** of this Law, and the subscribers shall fill in the number of shares to be subscribed, the amount

of money, the place of residence, and sign or affix their seals. The subscriber shall pay the full amount of the subscribed shares.

#### **Article 101**

After a public offering of shares to the public has been fully paid up, the capital shall be verified and certified by a capital verification institution established in accordance with the law.

#### **Article 102**

A company limited by shares shall make a register of shareholders and keep it at the company. The register of shareholders shall record the following matters:

- (i) The name or names and residence of the shareholders;
- (b) The type and number of shares subscribed by each shareholder;
- (iii) If shares are issued in paper form, the number of the share certificate;
- (iv) The date of acquisition of shares by each shareholder.

#### **Article 103**

The promoters of a joint-stock company established by issue shall convene an inaugural meeting of the company within thirty days from the date on which the shares to be issued upon the establishment of the company have been fully paid up. The promoter shall notify the subscribers of the date of the meeting or make a public announcement fifteen days prior to the convening of the inaugural meeting. The inaugural meeting shall be held in the presence of a majority of the subscribers holding voting rights.

The convening and voting procedures of the founding meeting of a company limited by shares established by way of promotion shall be stipulated in the articles of association of the company or in the agreement of the promoters.

#### **Article 104**

The Founding Meeting of the Company shall exercise the following powers and functions:

- (i) Consideration of the promoters' report on the status of preparation of the company;
- (ii) Adoption of the articles of association;
- (iii) Election of directors and supervisors;
- (iv) Audit of the company's establishment costs;
- (v) Reviewing the valuation of the promoter's

non-monetary property contributions;  
(vi) In the event of force majeure or significant changes in business conditions directly affecting the establishment of the company, a resolution may be made not to establish the company.

Resolutions on the matters set forth in the preceding paragraph shall be adopted by the Founding Meeting by a majority of the votes of the subscribers present at the meeting.

#### **Article 105**

If the shares to be issued at the time of the establishment of a company are not fully raised, or if the promoters fail to convene an inaugural meeting within thirty days after the shares to be issued have been fully paid up, the subscribers may request the promoters to return the shares in accordance with the amount of money paid up plus interest on deposits held by the bank for the same period of time. After the promoters or subscribers have paid their shares or delivered non-monetary property contributions, they may not withdraw their share capital, except in the case of failure to raise the full amount of shares by the due date, failure of the promoters to convene the inaugural meeting by the due date, or the inaugural meeting resolves not to establish the company.

#### **Article 106**

The board of directors shall authorise its representatives to apply to the company registration authority for registration of the establishment of the company within thirty days after the conclusion of the company's founding meeting.

#### **Article 107**

The provisions of **Articles 44, 49(3), 51, 52 and 53** of this Law shall apply to joint stock companies.

#### **Article 108**

When a limited liability company changes into a joint-stock limited company, the total amount of paid-up capital shall not be higher than the net assets of the company. When a limited liability company changes into a joint stock limited company and issues shares publicly to increase its registered capital, it shall do so in accordance with the law.

#### **Article 109**

A joint stock limited company shall keep its articles of association, register of shareholders, minutes of

the shareholders' meeting, minutes of the board of directors' meeting, minutes of the supervisory board's meeting, financial and accounting reports, and a register of bond holders at the Company.

#### **Article 110**

Shareholders shall have the right to inspect and copy the articles of association, register of shareholders, minutes of shareholders' meetings, resolutions of meetings of the board of directors, resolutions of meetings of the board of supervisors, and financial and accounting reports, and to put forward proposals or queries on the operation of the company.

Where a shareholder who has held, individually or in the aggregate, more than three per cent of the shares of a company for more than one hundred and eighty consecutive days requests to inspect the accounting books and documents of the company, the provisions of **Article 57(2), (3) and (4)** of this Law shall apply. Where the articles of association of a company provide for a lower percentage of shareholding, the provisions thereof shall apply.

The provisions of the preceding two paragraphs shall apply to shareholders requesting access to or copying of materials related to the Company's wholly-owned subsidiaries.

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

### **Section II. Shareholders' meetings**

#### **Article 111**

The shareholders' meeting of a company limited by shares shall be composed of all shareholders. The shareholders' meeting shall be the authority of the company and shall exercise its powers in accordance with this Law.

#### **Article 112**

The provisions of paragraphs 1 and 2 of **Article 59** of this Law concerning the powers and functions of the shareholders' meeting of a limited liability company shall apply to the shareholders' meeting of a company limited by shares.

The provision of **Article 60** of this Law that a limited liability company with only one shareholder shall

not have a shareholders' meeting shall apply to a joint stock company with only one shareholder.

#### **Article 113**

The shareholders' meeting shall hold an annual meeting once a year. An extraordinary shareholders' meeting shall be convened within two months in any of the following circumstances:

- (a) When the number of directors is less than two-thirds of the number prescribed by this Law or the number set out in the articles of association;
- (ii) When the company's unrecovered losses amount to one-third of its total share capital;
- (c) At the request of shareholders who individually or collectively hold ten per cent or more of the shares of the company;
- (iv) As deemed necessary by the Board of Directors;
- (v) When the Supervisory Board proposes to convene;
- (vi) Other cases stipulated in the articles of association.

#### **Article 114**

The meeting of the shareholders' meeting shall be convened by the board of directors and presided over by the chairman of the board of directors; if the chairman of the board of directors is unable to perform his duties or fails to perform his duties, the vice-chairman of the board of directors shall preside over it; if the vice-chairman of the board of directors is unable to perform his duties or fails to perform his duties, the directors shall be presided over by a director jointly elected by the majority of directors.

If the Board of Directors is unable to perform or fails to perform its duty to convene a shareholders' meeting, the Supervisory Committee shall promptly convene and preside over the meeting; if the Supervisory Committee fails to convene and preside over the meeting, the shareholders who have held, individually or in the aggregate, more than ten per cent of the shares of the Company for a continuous period of ninety days or more may do so on their own. In the event that shareholders who individually or collectively hold more than ten per cent of the Company's shares request the convening of an extraordinary shareholders' meeting, the Board of Directors or the Supervisory Committee shall make a decision on whether or not to convene an extraor-

dinary shareholders' meeting within ten days from the date of receipt of the request and shall reply to the shareholders in writing.

#### **Article 115**

A shareholders' meeting shall be convened by notifying the shareholders of the time and place of the meeting and the matters to be considered twenty days prior to the convening of the meeting; an extraordinary shareholders' meeting shall be notified to the shareholders fifteen days prior to the convening of the meeting.

Shareholders who individually or collectively hold more than one per cent of the shares of the Company may put forward temporary proposals and submit them in writing to the Board of Directors ten days prior to the date of the shareholders' meeting. The provisional proposal shall have a clear topic and specific resolution matters. The Board of Directors shall notify the other shareholders of the proposal within two days after receiving the proposal and submit the temporary proposal to the shareholders' meeting for consideration; however, unless the temporary proposal is in violation of the provisions of laws, administrative regulations or the Articles of Association of the Company or does not fall within the terms of reference of the shareholders' meeting. The Company shall not increase the shareholding ratio of the shareholder who puts forward the temporary proposal.

A company that makes a public offering of its shares shall give the notices provided for in the preceding two paragraphs by means of a public announcement. The shareholders' meeting shall not resolve on matters not specified in the notice.

#### **Article 116**

Shareholders attending a meeting of the shareholders' meeting shall have one vote for each share held, except for class shareholders. Shares of the Company held by the Corporation shall have no voting rights.

Resolutions of the shareholders' meeting shall be adopted by a majority of the votes held by the shareholders present at the meeting.

Resolutions of the shareholders' meeting to amend the articles of association, to increase or reduce the registered capital, and to merge, separate, dissolve or change the form of the company shall be passed by more than two-thirds of the votes held by the shareholders present at the meeting.

#### **Article 117**

The shareholders' meeting may, in accordance with the provisions of the Articles of Association or the resolution of the shareholders' meeting, adopt a cumulative voting system for the election of directors and supervisors.

The cumulative voting system referred to in this Law means that when a shareholders' meeting elects directors or supervisors, each share has the same number of voting rights as the number of directors or supervisors to be elected, and the voting rights owned by the shareholders may be pooled and used.

#### **Article 118**

Where a shareholder entrusts a proxy to attend a shareholders' meeting, the matters, authority and period for which the proxy is to act shall be clearly defined; the proxy shall submit to the Company a power of attorney for the shareholder and exercise the voting right within the scope of the authorisation.

#### **Article 119**

The shareholders' meeting shall make minutes of the decisions on the items under deliberation, which shall be signed by the presiding officer and the directors present at the meeting. The minutes shall be kept together with the register of signatures of the attending shareholders and the power of attorney for proxy attendance.

### **Section III. Board of Directors, Managers**

#### **Article 120**

A company limited by shares shall have a board of directors, unless otherwise provided for in **Article 128** of this Law.

The provisions of **Articles 67, 68(1), 70 and 71** of this Law shall apply to joint stock companies.

#### **Article 121**

A joint stock limited company may, in accordance with the provisions of its articles of association, set up in its board of directors an audit committee consisting of directors to exercise the powers and functions of the supervisory board as provided for in this Law, and may not have a supervisory board or supervisors.

The Audit Committee shall consist of three or more

members, and a majority of the members shall not hold positions in the Company other than that of director and shall not have any relationship with the Company that may affect their independent and objective judgement. Employee representatives of the Company's Board of Directors may be members of the Audit Committee.

Resolutions of the Board of Auditors shall be adopted by a majority of the members of the Board.

Voting on resolutions of the Board of Auditors shall be by one person, one vote.

The manner of proceedings and voting procedures of the Audit Committee shall be regulated by the Articles of Association of the Company, except as provided for in this Law.

The Company may establish other committees in the Board of Directors as provided for in the Articles of Association.

#### **Article 122**

The Board of Directors shall have a chairman and may have a vice-chairman. The chairman and vice-chairman shall be elected by the Board of Directors by a majority of all directors.

The chairman of the board of directors convenes and presides over the meetings of the board of directors and checks the implementation of the resolutions of the board of directors. The vice-chairman assists the chairman of the board of directors; if the chairman of the board of directors is unable to perform his duties or fails to perform his duties, the vice-chairman shall perform his duties; if the vice-chairman of the board of directors is unable to perform his duties or fails to perform his duties, the majority of the directors of the board of directors shall jointly elect one of them to perform his duties.

#### **Article 123**

The Board of Directors shall hold at least two meetings per year, and all directors and supervisors shall be notified of each meeting ten days before the meeting.

Shareholders representing more than one-tenth of the voting rights, more than one-third of the directors or the Board of Supervisors may propose the convening of a temporary board meeting. The chairman of the board of directors shall convene and preside over the meeting of the board of directors within ten days from the receipt of the proposal.

The Board of Directors may convene ad hoc meet-



ings, and may establish a separate method of notification and time limit for notification of the convening of the Board of Directors.

#### **Article 124**

A meeting of the Board of Directors shall be held only when a majority of the directors are present. Resolutions made by the Board of Directors shall be adopted by a majority of all directors.

Voting on resolutions of the Board of Directors shall be by one person, one vote.

The Board of Directors shall take minutes of its decisions on the matters before it, which shall be signed by the Directors present at the meeting.

#### **Article 125**

Meetings of the Board of Directors shall be attended by the Directors themselves; if a Director is unable to attend for any reason, he/she may delegate in writing to another Director to attend on his/her behalf, and the power of attorney shall set out the scope of authorisation.

Directors shall be liable for the resolutions of the Board of Directors. If a resolution of the board of directors violates laws, administrative regulations or the articles of association, or a resolution of the shareholders' meeting, and causes serious losses to the company, the director who participated in the resolution shall be liable to the company for compensation; if it is proved that he or she has expressed dissent during the voting and recorded it in the minutes of the meeting, he or she may be exempted from liability.

#### **Article 126**

A company limited by shares shall have a manager, who shall be appointed or dismissed by decision of the board of directors.

The Manager is accountable to the Board of Directors and exercises his powers in accordance with the provisions of the Articles of Association or as authorised by the Board of Directors. The Manager attends the meetings of the Board of Directors.

#### **Article 127**

The Board of Directors of the Company may decide that a member of the Board of Directors shall also be the manager.

#### **Article 128**

A joint-stock company that is small in size or has

a small number of shareholders may not have a board of directors, but may have one director who exercises the powers and functions of the board of directors as provided for in this Law. Such director may also be the manager of the company.

#### **Article 129**

A company shall regularly disclose to shareholders the remuneration received by directors, supervisors and senior management from the company.

### **Section IV. Board of Supervisors**

#### **Article 130**

A supervisory board shall be established for a joint stock limited company, unless otherwise provided for in **Article 121(1)** and **Article 133** of this Law.

The Supervisory Board shall consist of three or more members. The members of the Supervisory Board shall include representatives of shareholders and an appropriate proportion of the Company's employee representatives, of which the proportion of employee representatives shall not be less than one-third, with the specific proportion to be stipulated in the Articles of Association of the Company. Employee representatives on the Supervisory Board shall be democratically elected by the Company's employees through the Employee Representative Assembly, Employee Congress or other forms.

The Supervisory Board shall have a chairman and may have a vice-chairman. The Chairman and Vice-Chairman of the Supervisory Board shall be elected by a majority of all the Supervisors. The Chairman of the Supervisory Board shall convene and preside over the meetings of the Supervisory Board; if the Chairman of the Supervisory Board is unable to perform his duties or fails to perform his duties, the Vice-Chairman of the Supervisory Board shall convene and preside over the meetings of the Supervisory Board; and if the Vice-Chairman of the Supervisory Board is unable to perform his duties or fails to perform his duties, a Supervisor shall be elected by a majority of Supervisors to convene and preside over the meetings of the Supervisory Board.

Directors and senior management may not concurrently serve as supervisors.

The provisions of **Article 77** of this Law concerning the term of office of supervisors of limited liability



companies shall apply to the supervisors of joint stock companies.

#### **Article 131**

The provisions of **Articles 78 to 80** of this Law shall apply to the supervisory board of a joint stock company.

Expenses necessary for the exercise of the Supervisory Board's powers shall be borne by the Company.

#### **Article 132**

The Board of Supervisors shall meet at least once every six months. Supervisors may propose the convening of an interim Supervisory Board meeting.

The manner of proceeding and voting procedures of the Supervisory Board shall be regulated by the Articles of Association of the Company, except as provided for in this Law.

Resolutions of the Supervisory Board shall be adopted by a majority of all Supervisors.

Voting on resolutions of the Supervisory Board shall be by one person, one vote.

The Supervisory Board shall take minutes of its decisions on the items under consideration, which shall be signed by the Supervisors present at the meeting.

#### **Article 133**

A joint stock limited company that is small in size or has a small number of shareholders may not have a supervisory board and may have one supervisor who shall exercise the powers and functions of the supervisory board as provided for in this Law.

### **Section V. Special provisions for the organisation of listed companies**

#### **Article 134**

A listed company as referred to in this Law means a joint stock company whose shares are listed and traded on a stock exchange.

#### **Article 135**

Where a listed company purchases or sells significant assets or provides guarantees to others in an amount exceeding 30 per cent of the company's total assets within one year, a resolution shall be made by the shareholders' meeting and passed by more than two-thirds of the votes held by the shareholders present at the meeting.

#### **Article 136**

Listed companies shall have independent directors, and the specific administrative measures shall be prescribed by the securities regulatory authority of the State Council.

The articles of association of a listed company shall, in addition to the matters set out in **Article 95** of this Law, set out the composition and powers of specialised committees of the board of directors, as well as the mechanism for remuneration and assessment of directors, supervisors and senior management in accordance with the provisions of laws and administrative regulations.

#### **Article 137**

Where a listed company establishes an audit committee in the board of directors, the resolution of the board of directors on the following matters shall be passed by a majority of all the members of the audit committee before it is made:

- (i) Hiring and dismissing the accounting firm that undertakes the company's audit;
- (ii) Appointment and dismissal of the Treasurer;
- (iii) Disclosure of financial accounting reports;
- (d) Other matters prescribed by the securities regulatory authorities under the State Council.

#### **Article 138**

A listed company shall have a secretary of the board of directors, who shall be responsible for the preparation of the shareholders' meeting and the board of directors' meeting, the custody of documents and the management of the information of the shareholders of the company, as well as the handling of information disclosure affairs.

#### **Article 139**

Where a director of a listed company has a connected relationship with an enterprise or an individual involved in a matter resolved at a meeting of the board of directors, the director shall promptly report in writing to the board of directors. A director who is in a connected relationship shall not exercise his voting right on the resolution, nor shall he exercise his voting right on behalf of other directors. The meeting of the Board of Directors shall be held with the attendance of a majority of the unrelated directors, and the resolutions made at the meeting of the Board of Directors shall be passed by a majority of the unrelated directors. If the number of unrelated directors present at a board meeting is less than three, the

matter shall be submitted to the shareholders' meeting of the listed company for consideration.

#### **Article 140**

Listed companies shall disclose information on shareholders and de facto controllers in accordance with the law, and the relevant information shall be true, accurate and complete.

It is prohibited to hold shares of listed companies on behalf of others in violation of the provisions of laws and administrative regulations.

#### **Article 141**

A controlling subsidiary of a listed company shall not acquire shares in such listed company.

Where a controlling subsidiary of a listed company holds shares of a listed company as a result of a corporate merger, exercise of pledge rights, etc., it shall not exercise the voting rights corresponding to the shares held and shall dispose of the relevant shares of the listed company in a timely manner.

### **Chapter VI. Issue and transfer of shares in companies limited by shares**

#### **Section I. Issuance of shares**

#### **Article 142**

The capital of a company is divided into shares. All the shares of a company shall be issued either in nominal or non-nominal form, in accordance with the provisions of the company's articles of association. Where par value shares are used, each share shall be of equal value.

The company may convert all issued par shares into no-par shares or convert all no-par shares into par shares in accordance with the provisions of the articles of association.

In the case of shares without par value, more than one half of the proceeds from the issue of shares shall be credited to the registered capital.

#### **Article 143**

The principle of fairness and equity shall apply to the issuance of shares, and each share of the same class shall have equal rights.

Shares of the same class issued at the same time shall be issued on the same terms and at the same price per share; and subscribers shall pay the same price per share for the shares they have subscribed.

#### **Article 144**

A company may issue the following classes of shares with rights different from those of ordinary shares in accordance with the provisions of the articles of association:

- (i) Shares for the preferential or inferior distribution of profits or surplus property;
- (ii) Each share carries more or less voting rights than ordinary shares;
- (iii) Transfer of shares subject to restriction on transfer such as consent of the Company;
- (iv) Other categories of units as specified by the State Council.

A company that makes a public offering of shares may not issue shares of the classes specified in the second and third subparagraphs of the preceding paragraph; except for those that have been issued prior to the public offering.

If the Company issues the class of shares provided for in paragraph 1, subparagraph 2 of this Article, the class of shares shall have the same number of votes as each share of common stock for the election and replacement of supervisors or members of the Audit Committee.

#### **Article 145**

A company that issues class shares shall set out the following matters in its articles of association:

- (i) The order of distribution of profits or surplus property of the class of shares;
- (ii) The number of voting rights of the class of shares;
- (iii) Restrictions on transfer of class shares;
- (iv) Measures to protect the rights and interests of small and medium-sized shareholders;
- (e) Any other matters that the Shareholders' Meeting deems necessary to stipulate.

**Article 146** If a company that issues class shares has matters that may affect the rights of the class shareholders, such as those provided for in paragraph 3 of **Article 116** of this Law, in addition to a resolution of the shareholders' meeting in accordance with paragraph 3 of **Article 116**, the resolution shall be approved by more than two-thirds of the voting rights of the shareholders present at the shareholders' meeting of the class shares.

The articles of association may provide for other matters that require a resolution at a meeting of the class shareholders.

#### **Article 147**

The shares of a company take the form of share certificates. Share certificates are certificates issued by the company certifying the shares held by shareholders.

The shares issued by the company shall be registered shares.

#### **Article 148**

The issue price of shares of par stock may be at par or in excess of par, but may not be less than par.

#### **Article 149**

Stock certificates shall be in paper form or in such other form as may be prescribed by the securities regulatory authority under the State Council.

If a share certificate is in paper form, it shall set out the following principal matters:

- (i) Company name;
- (ii) The date of incorporation or when the shares were issued;
- (c) The type of share certificate, its par value and the number of shares it represents, and, in the case of shares issued without par value, the number of shares represented by the certificate.

If the share certificates are in paper form, they shall also contain the number of the certificate, be signed by the legal representative and sealed by the company.

If the promoter's share certificates are in paper form, they shall be marked with the words promoter's share certificates.

#### **Article 150**

Upon the establishment of a company limited by shares, the share certificates shall be duly delivered to the shareholders. No share certificates may be delivered to shareholders before the company is established.

#### **Article 151**

When a company issues new shares, the shareholders' meeting shall resolve on the following matters:

- (i) Type and amount of new shares;
- (ii) Issue price of new shares;
- (iii) The date from which the new shares will be issued;
- (d) The type and amount of new shares to be issued to existing shareholders;
- (e) In the case of the issuance of shares without par value, the amount of the proceeds from the

issuance of new shares to be credited to the registered capital.

A company issuing new shares may determine its pricing plan based on the company's operations and financial condition.

#### **Article 152**

The articles of association or the shareholders' meeting may authorise the board of directors to decide within three years to issue shares not exceeding fifty per cent of the issued shares. However, a resolution of the shareholders' meeting shall be required if the capital contribution is made in the form of non-monetary property.

If the decision of the Board of Directors to issue shares in accordance with the preceding paragraph results in a change in the registered capital of the Company or the number of issued shares, the amendment of such matters recorded in the Articles of Association need not be voted on by the shareholders' meeting.

#### **Article 153**

Where the Articles of Association of a company or the shareholders' meeting authorises the board of directors to decide on the issue of new shares, the resolution of the board of directors shall be passed by more than two-thirds of all the directors.

#### **Article 154**

A company shall register with the securities regulatory authorities under the State Council and publish a prospectus when it raises shares publicly. The prospectus shall be accompanied by the articles of association and shall set out the following matters:

- (i) Total number of shares issued;
- (ii) The nominal amount and issue price of the par value shares or the issue price of the no-par value shares;
- (iii) Use of funds raised;
- (iv) Rights and obligations of subscribers;
- (v) Types of shares and their rights and obligations;
- (f) The date of commencement and termination of the Share Offer and a statement that the subscribers may withdraw their subscription in the event that the Share Offer is not fully paid.

Where shares are issued on the establishment of the company, the number of shares subscribed by the promoters shall also be stated.

#### **Article 155**

A company that publicly raises shares from the public shall have them underwritten by a securities company established in accordance with the law and sign an underwriting agreement.

#### **Article 156**

A company that raises shares from the public shall conclude an agreement with a bank for the collection of the shares.

The bank collecting the payment shall receive and keep the payment in accordance with the agreement, issue a receipt to the subscriber who has paid the payment, and shall be obliged to issue a certificate of receipt to the relevant authorities.

A company shall make an announcement after it has issued shares for the full amount of the proceeds.

### **Section II. Transfer of shares**

#### **Article 157**

Shares held by shareholders of a joint stock limited company may be transferred to other shareholders or to persons other than the shareholders; if the articles of association of the company impose restrictions on the transfer of shares, the transfer shall be effected in accordance with the provisions of the articles of association.

#### **Article 158**

The transfer of shares by a shareholder shall be carried out in a securities trading place established by law or in other ways prescribed by the State Council.

#### **Article 159**

The transfer of shares shall be effected by the shareholders by means of endorsement or in any other manner provided for by laws or administrative regulations; after the transfer, the Company shall record the name or names and domicile of the transferee in the register of shareholders.

No change in the register of shareholders shall be made within twenty days prior to the convening of the shareholders' meeting or within five days prior to the base date on which the Company decides to distribute dividends. Where laws, administrative regulations or the securities regulatory authorities under the State Council otherwise provide for changes to the register of shareholders of a listed company, such provisions shall apply.

#### **Article 160**

Shares issued by a company prior to its public offering of shares may not be transferred within one year from the date on which the company's shares are listed and traded on a stock exchange. Where laws, administrative regulations or the securities regulatory authorities under the State Council otherwise provide for the transfer of shares of the Company held by shareholders or de facto controllers of a listed company, such provisions shall apply accordingly.

Directors, supervisors and senior management of the Company shall declare to the Company their holdings of the Company's shares and changes therein, and shall not transfer more than twenty-five per cent of the total number of shares of the Company held by them in each year of their term of office as determined at the time of their assumption of office; the shares of the Company held by them shall not be transferred for one year from the date of listing and trading of the Company's shares. The shares of the Company held by the aforesaid persons may not be transferred within six months after their departure from office. The Articles of Association may make other restrictive provisions on the transfer of the Company's shares held by the Company's directors, supervisors and senior management.

If the shares are pledged within the period of restriction on transfer prescribed by laws or administrative regulations, the pledgee shall not exercise the pledge right within the period of restriction on transfer.

#### **Article 161**

In any of the following circumstances, a shareholder who votes against the resolution of the shareholders' meeting may request the company to acquire his/her shares at a reasonable price, except in the case of a company that has publicly issued shares:

- (a) The company does not distribute profits to its shareholders for five consecutive years, whereas the company has been continuously profitable for those five years and meets the conditions for the distribution of profits stipulated in this Law;
- (ii) Transfer of principal property by the company;
- (c) When the term of business stipulated in the articles of association expires or when other causes for dissolution stipulated in the articles of association arise, the shareholders' meeting passes a resolution to amend the articles of association to enable the company to survive.

If the shareholders and the Company are unable to reach an agreement on the acquisition of shares within sixty days from the date of the resolution of the shareholders' meeting, the shareholders may, within ninety days from the date of the resolution of the shareholders' meeting, file a lawsuit with the People's Court.

The shares of the Company acquired by the Company as a result of the circumstances set forth in paragraph 1 of this Article shall be transferred or cancelled in accordance with the law within six months.

#### **Article 162**

A company may not acquire shares of the Company. However, except under one of the following circumstances:

- (i) Reduction of the registered capital of the company;
- (ii) Merger with other companies holding shares in the Company;
- (iii) Use of shares for employee share ownership plans or equity incentives;
- (d) Shareholders requesting the company to acquire their shares because they disagree with the resolution of the shareholders' meeting on the merger or demerger of the company;
- (v) Use of shares for the conversion of corporate bonds issued by the company that are convertible into shares;
- (vi) Necessary for the listed company to maintain its corporate value and shareholders' interests.

The acquisition of the Company's shares by the Company under the circumstances set forth in the first and second subparagraphs of the preceding paragraph shall be resolved by a shareholders' meeting; the acquisition of the Company's shares by the Company under the circumstances set forth in the third, fifth and sixth subparagraphs of the preceding paragraph may be resolved by a meeting of the Board of Directors with more than two-thirds of the directors present, in accordance with the Articles of Association of the Company or with the authorisation of the shareholders' meeting.

After the Company acquires the shares of the Company in accordance with the provisions of Paragraph 1 of this Article, in the case of the first item, the shares shall be cancelled within ten days from the date of acquisition; in the case of the second item and the fourth item, they shall be transferred or cancelled within six months; and in the case of

the third item, the fifth item, and the sixth item, the number of shares of the Company held by the Company in the aggregate shall not exceed ten per cent of the total number of the issued shares of the Company, and they shall be transferred or cancelled within three years. or cancelled within three years. Where a listed company acquires shares of the Company, it shall fulfil its information disclosure obligations in accordance with the provisions of the Securities Law of the People's Republic of China. Where a listed company acquires shares of the Company under the circumstances set forth in the third, fifth and sixth subparagraphs of the first paragraph of this Article, it shall do so through open and centralised trading.

The Company shall not accept shares of the Company as the subject of a pledge.

#### **Article 163**

A company shall not provide grants, loans, guarantees and other financial assistance for others to acquire shares of the Company or its parent company, except where the company implements an employee shareholding plan.

In the interests of the Company, by resolution of the shareholders' meeting, or by resolution of the Board of Directors in accordance with the Articles of Association or the authorisation of the shareholders' meeting, the Company may provide financial assistance to others for the acquisition of shares in the Company or its parent company, provided that the cumulative total amount of such financial assistance shall not exceed ten per cent of the total amount of issued share capital. Resolutions made by the Board of Directors shall be passed by more than two-thirds of all directors.

If violation of the provisions of the preceding two paragraphs causes losses to the Company, the responsible directors, supervisors and senior management shall be liable for compensation.

#### **Article 164**

If a share certificate is stolen, lost or extinguished, a shareholder may, in accordance with the public notice procedure prescribed by the Civil Procedure Law of the People's Republic of China, request the people's court to declare the certificate to be invalid. After the people's court declares the stock certificate to be invalid, the shareholder may apply to the Company for the issuance of a replacement stock certificate.



#### **Article 165**

The shares of a listed company shall be listed and traded in accordance with the relevant laws and administrative regulations and the trading rules of the stock exchange.

#### **Article 166**

A listed company shall disclose relevant information in accordance with the provisions of laws and administrative regulations.

#### **Article 167**

Upon the death of a natural person shareholder, his lawful heirs may succeed to the status of shareholder; however, unless otherwise provided in the articles of association of a joint stock limited company whose transfer of shares is restricted.

### **Chapter VII. Special provisions for the organisation of state-funded companies**

#### **Article 168**

The provisions of this Chapter shall apply to the organisational structure of state-funded companies; if not provided for in this Chapter, other provisions of this Law shall apply.

The state-funded companies referred to in this Law are wholly state-owned companies and state capital holding companies funded by the state, including state-funded limited liability companies and joint-stock companies.

**Article 169** State-funded companies, the State Council or local people's governments, respectively, on behalf of the State in accordance with the law to fulfil the responsibilities of contributors, enjoy the rights and interests of contributors. The State Council or the local people's government may authorise the State-owned Assets Supervision and Administration Agency or other departments or agencies to perform funder's duties on behalf of the people's government at their respective levels in respect of state-funded companies.

Institutions and departments that perform funder duties on behalf of the people's government at this level, hereinafter collectively referred to as institutions that perform funder duties.

#### **Article 170**

The organisations of the Communist Party of Chi-

na in state-funded companies shall, in accordance with the provisions of the Articles of Association of the Communist Party of China, play a leading role in studying and discussing major business management matters of the company, and support the organisations of the company in exercising their powers in accordance with the law.

#### **Article 171**

The articles of association of a wholly State-owned company shall be formulated by the body that performs the duties of an investor.

#### **Article 172**

A wholly State-owned company shall not have a shareholders' meeting, and the authority of the shareholders' meeting shall be exercised by an organ performing the duties of an investor. The agency performing the duties of a contributor may authorise the board of directors of the company to exercise part of the powers and functions of the shareholders' meeting, but the enactment and amendment of the articles of association of the company, the merger, separation, dissolution and application for bankruptcy of the company, the increase or reduction of the registered capital, and the distribution of profits shall be decided by the agency performing the duties of a contributor.

#### **Article 173**

The board of directors of a wholly State-owned company shall exercise its powers in accordance with the provisions of this Law.

A majority of the members of the board of directors of a wholly state-owned company shall be outside directors and shall include representatives of the company's employees.

The members of the Board of Directors shall be appointed by the body that performs the duties of a contributor; however, the employee representatives on the Board of Directors shall be elected by the Company's Employee Representative Assembly. The Board of Directors shall have a chairman and may have a vice-chairman. The chairman and vice-chairman shall be appointed from among the members of the board of directors by the body that performs the duties of a contributor.

#### **Article 174**

The manager of a wholly state-owned company shall be appointed or dismissed by the board of directors.



A member of the Board of Directors may also be a manager with the consent of the body that performs the duties of a funder.

#### **Article 175**

Directors and senior managers of wholly state-owned companies may not take up part-time employment in other limited liability companies, joint-stock companies or other economic organisations without the consent of the organ performing the duties of an investor.

#### **Article 176**

Where a wholly state-owned company establishes an audit committee consisting of directors on its board of directors to exercise the powers and functions of the supervisory board as provided for in this Law, there shall be no supervisory board or supervisors.

#### **Article 177**

A state-funded company shall, in accordance with law, establish and improve its internal supervision, management and risk control system and strengthen its internal compliance management.

### **Chapter VIII. Qualifications and Obligations of Directors, Supervisors and Senior Management of the Company**

#### **Article 178**

Any person who is in any of the following circumstances shall not be a director, supervisor or senior manager of the Company:

- (i) Incompetence or restriction of the capacity to act;
- (b) If a person has been sentenced for embezzlement, bribery, misappropriation of property, misappropriation of property or disruption of the socialist market economic order, or has been deprived of his political rights for a crime and the period of execution has not exceeded five years, and if he has been pronounced to be on probation, the probationary period has not exceeded two years from the date of expiry of the probationary period;
- (c) If a person who is a director or a factory director or manager of a company or enterprise in insolvent liquidation is personally responsible for the insolvency of the company or enterprise,

not more than three years have elapsed since the date of the completion of the insolvent liquidation of the company or enterprise;

(d) If he or she is the legal representative of a company or enterprise whose business licence has been revoked or which has been ordered to close down due to a violation of the law and for which he or she is personally liable, not more than three years have elapsed since the date on which the company or enterprise had its business licence revoked or was ordered to close down;

(v) Individuals who have been classified by the people's courts as executors in default because they have incurred debts of a large amount that have not been settled by the due date.

If a person elects or appoints a director or supervisor or appoints a senior manager in violation of the provisions of the preceding paragraph, such election, appointment or appointment shall be null and void.

If any of the circumstances listed in paragraph 1 of this Article occurs during the term of office of a director, supervisor or senior manager, the Company shall dismiss him or her from his or her office.

#### **Article 179**

Directors, supervisors and senior management shall comply with laws, administrative regulations and the Articles of Association.

#### **Article 180**

Directors, supervisors and senior management have a duty of loyalty to the Company and shall take measures to avoid conflicts between their own interests and the interests of the Company, and shall not make use of their positions to gain undue advantage.

Directors, Supervisors and senior management have a duty of diligence to the Company and shall perform their duties with the reasonable care normally expected of a manager in the best interests of the Company.

The provisions of the preceding two paragraphs shall apply to controlling shareholders and de facto controllers of a company who do not serve as directors of the company but actually execute the affairs of the company.

#### **Article 181**

Directors, supervisors and senior management shall not engage in the following behaviours:

- (i) Misappropriation of company property and misappropriation of company funds;
- (ii) Storing company funds in his/her personal name or in an account opened in the name of another individual;
- (iii) Using his or her official position to pay bribes or receive other illegal income;
- (iv) Accepting commissions from others for trading with the Company for his own benefit;
- (v) Unauthorised disclosure of company secrets;
- (vi) Other acts that violate the duty of loyalty to the Company.

#### **Article 182**

Directors, supervisors and senior management, who directly or indirectly enter into contracts or conduct transactions with the Company, shall report to the Board of Directors or the shareholders' meeting on matters relating to the entering into of contracts or the conduct of transactions, which shall be adopted by a resolution of the Board of Directors or the shareholders' meeting in accordance with the provisions of the Articles of Association of the Company.

The provisions of the preceding paragraph shall apply to contracts or transactions entered into with the Company by close family members of Directors, Supervisors or senior management, enterprises directly or indirectly controlled by Directors, Supervisors or senior management or their close family members, and connected persons with whom Directors, Supervisors or senior management have other affiliations.

#### **Article 183**

Directors, supervisors and senior management shall not make use of the convenience of their positions to seek business opportunities belonging to the Company for themselves or others. However, one of the following circumstances is excluded:

- (a) Report to the Board of Directors or the shareholders' meeting, and be adopted by a resolution of the Board of Directors or the shareholders' meeting in accordance with the provisions of the Articles of Association;
- (ii) The company is unable to take advantage of the business opportunity in accordance with the provisions of laws, administrative regulations or the articles of association of the company.

#### **Article 184**

No director, supervisor or senior management of-

ficer may operate a business of the same kind as that of the company in which he or she is employed on his or her own account or on behalf of others without reporting to the board of directors or the shareholders' meeting and obtaining a resolution from the board of directors or the shareholders' meeting in accordance with the provisions of the articles of association.

#### **Article 185**

When the Board of Directors resolves on the matters provided for in Articles 182 to 184 of this Law, the connected directors shall not participate in the voting and their voting rights shall not be counted in the total number of voting rights. If the number of unrelated directors present at a meeting of the Board of Directors is less than three, the matter shall be submitted to the shareholders' meeting for consideration.

#### **Article 186**

Income derived by directors, supervisors and senior management in violation of the provisions of Articles 181 to 184 of this Law shall belong to the Company.

#### **Article 187**

Where a shareholders' meeting requests directors, supervisors or senior management to attend the meeting, the directors, supervisors or senior management shall attend the meeting and be subject to shareholders' questioning.

#### **Article 188**

Directors, supervisors and senior management shall be liable for compensation if they cause losses to the Company by carrying out their duties in violation of laws, administrative regulations or the Company's Articles of Association.

#### **Article 189**

If the directors or senior management personnel are in the circumstances provided for in the preceding Article, the shareholders of a limited liability company, or the shareholders of a joint stock limited company who have held, individually or in the aggregate, more than one hundred per cent of the shares of the company for more than one hundred and eighty consecutive days, may request, in writing, that the Board of Supervisors bring a lawsuit in the People's Courts; and if the supervisors are

in the circumstances provided for in the preceding Article, the said shareholders may request, in writing, that the Board of Directors bring a lawsuit in the People's Courts.

If the Supervisory Board or the Board of Directors refuses to initiate litigation after receiving a written request from a shareholder as stipulated in the preceding paragraph, or fails to initiate litigation within thirty days from the date of receipt of the request, or if the situation is so urgent that the interests of the Company will be irreparably harmed if the litigation is not initiated immediately, the shareholders as stipulated in the preceding paragraph shall have the right to initiate litigation in their own names and in the interests of the Company directly in the People's Courts.

If another person infringes upon the lawful rights and interests of the company and causes damage to the company, the shareholders as provided for in the first paragraph of this Article may bring an action in the People's Court in accordance with the provisions of the preceding two paragraphs.

If the directors, supervisors or senior management of a wholly-owned subsidiary of the Company are involved in any of the circumstances stipulated in the preceding Article, or if others infringe upon the legitimate rights and interests of a wholly-owned subsidiary of the Company and cause losses, the shareholders of a limited liability company, or the shareholders of a joint stock company who have held, individually or in the aggregate, more than one per cent of the shares of the company for more than one hundred and eighty consecutive days, may, in accordance with the provisions of the preceding three paragraphs, request in writing the supervisory committee or the board of directors of the wholly-owned subsidiary to bring a lawsuit or to bring a lawsuit directly to the People's Court in its own name.

#### **Article 190**

If a director or senior management personnel violates the provisions of laws, administrative regulations or the articles of association of a company to the detriment of the interests of the shareholders, the shareholders may bring a lawsuit to the people's court.

#### **Article 191**

If a director or senior management personnel performs his duties and causes damage to another

person, the company shall be liable to pay compensation; if the director or senior management personnel is intentional or grossly negligent, he shall also be liable to pay compensation.

#### **Article 192**

If a controlling shareholder or actual controller of a company instructs a director or senior management personnel to engage in an act that is detrimental to the interests of the company or the shareholders, he or she shall be jointly and severally liable with such director or senior management personnel.

#### **Article 193**

A company may, during the term of office of a director, take out liability insurance for the liability of the director arising from the performance of his duties for the company.

After the company has taken out or renewed liability insurance for its directors, the board of directors shall report to the shareholders' meeting on the amount of liability insurance taken out, the scope of coverage and the premium rate.

### **Chapter IX. Corporate bonds**

#### **Article 194**

The corporate bonds referred to in this Law refer to securities issued by a company that agree to repay principal and interest on a regular basis.

Corporate bonds can be issued publicly or privately. The issuance and trading of corporate bonds shall comply with the provisions of the Securities Law of the People's Republic of China and other laws and administrative regulations.

#### **Article 195**

A public offering of corporate bonds shall be registered by the securities regulatory authority under the State Council, which shall announce the method of raising corporate bonds.

The method of raising corporate bonds shall set out the following principal matters:

- (i) Company name;
- (ii) Use of Bond Proceeds;
- (iii) The total amount of the bonds and the coupon amount of the bonds;
- (iv) The manner in which the interest rate on the bonds is determined;
- (v) The period and manner of repayment of prin-

- cipal and interest;
- (vi) Bond guarantees;
- (vii) The price at which the bonds are to be issued and the date from which they are to be issued;
- (viii) The amount of net assets of the company;
- (ix) Total outstanding corporate bonds issued;
- (x) Underwriters of corporate bonds.

#### **Article 196**

Where a company issues corporate bonds in paper form, the name of the company, the coupon amount of the bonds, the interest rate, the repayment period and other matters shall be set out on the bonds and signed by the legal representative and sealed by the company.

#### **Article 197**

Corporate bonds shall be registered bonds.

#### **Article 198**

A company issuing corporate bonds shall maintain a register of holders of corporate bonds.

Where corporate bonds are issued, the following shall be set out in the register of holders of corporate bonds:

- (i) The name or names and residence of the bondholders;
- (ii) The date on which the bondholders acquired the bonds and the number of the bonds;
- (c) The total amount of the bonds, the coupon amount of the bonds, the interest rate, and the term and manner of repayment of principal and interest;
- (iv) The date of issuance of the bonds.

#### **Article 199**

The registration and settlement institution for corporate bonds shall establish a system for the registration, deposit, interest payment and redemption of bonds.

#### **Article 200**

Corporate bonds may be transferred at a price agreed between the transferor and the transferee. The transfer of corporate bonds shall be in accordance with the provisions of laws and administrative regulations.

#### **Article 201**

Corporate bonds shall be transferred by bondholders by means of endorsement or other means

prescribed by laws and administrative regulations; after the transfer, the Company shall record the name and domicile of the transferee in the register of holders of corporate bonds.

#### **Article 202**

A joint stock limited company may, by resolution of the shareholders' meeting, or by resolution of the board of directors authorised by the articles of association or the shareholders' meeting, issue corporate bonds convertible into shares and prescribe specific methods of conversion. The issuance of corporate bonds convertible into shares by a listed company shall be registered by the securities regulatory authority under the State Council.

The issuance of corporate bonds convertible into shares shall be marked on the bonds with the words convertible corporate bonds and the amount of convertible corporate bonds shall be set out in the register of holders of corporate bonds.

#### **Article 203**

Where a company issues corporate bonds convertible into shares, the company shall exchange the shares for shares to the bondholders in accordance with its conversion method, but the bondholders shall have the right to choose whether to convert the shares or not. Except as otherwise provided by laws and administrative regulations.

#### **Article 204**

Where a public offering of corporate bonds is made, a bondholders' meeting shall be established for the same period of time for the bondholders, and provisions shall be made for the convening procedures of the bondholders' meeting, the rules of the meeting, and other important matters in the methods for the collection of bonds. The bondholders' meeting may make resolutions on matters in which the bondholders have an interest.

Unless otherwise agreed in the Company's bond offering method, the resolution of the bondholders' meeting shall be effective for all bondholders for the same period.

#### **Article 205**

In the case of a public offering of corporate bonds, the issuer shall employ a bond trustee for the bondholders, who shall handle for the bondholders such matters as receiving liquidation, preservation of claims, lawsuits relating to the bonds, and par-

ticipation in the debtor's bankruptcy proceedings.

#### **Article 206**

The bond trustee shall be diligent and perform its fiduciary duties impartially and shall not prejudice the interests of bondholders.

If there is a conflict of interest between the trustee and the bondholders that may be detrimental to the interests of the bondholders, the bondholders' meeting may resolve to change the bond trustee.

The bond trustee shall be liable for compensation if it violates laws, administrative regulations or resolutions of the bondholders' meeting to the detriment of the interests of the bondholders.

### **Chapter X. Corporate finance, accounting**

#### **Article 207**

A company shall establish its own financial and accounting system in accordance with the laws, administrative regulations and the provisions of the financial department of the State Council.

#### **Article 208**

A company shall prepare a financial accounting report at the end of each fiscal year, which shall be audited by an accounting firm in accordance with the law.

Financial accounting reports shall be made in accordance with the laws, administrative regulations and the provisions of the financial department of the State Council.

#### **Article 209**

A limited liability company shall send the financial accounting report to the shareholders in accordance with the time limit specified in the articles of association.

The financial and accounting report of a company limited by shares shall be made available for inspection by the shareholders at the Company not later than twenty days before the annual general meeting; a company limited by shares which has publicly issued shares shall announce its financial and accounting report.

#### **Article 210**

When a company distributes its after-tax profit for the year, ten per cent of the profit shall be withdrawn and included in the company's legal reserve.

If the accumulated amount of the company's legal reserve is fifty per cent or more of the company's registered capital, it may not be withdrawn.

If the company's legal reserve is insufficient to make up for the losses of previous years, the company shall make up for the losses with the current year's profits before withdrawing the legal reserve in accordance with the preceding paragraph.

After the company has withdrawn the statutory provident fund from the profit after tax, it may also withdraw any provident fund from the profit after tax by resolution of the shareholders' meeting.

After making up for losses and withdrawing provident fund, the remaining after-tax profit of the company shall be distributed to the limited liability company in proportion to the paid-in capital of the shareholders, unless all the shareholders have agreed not to distribute the profit in accordance with the ratio of capital contribution, and to the joint stock limited company in accordance with the ratio of the shares held by the shareholders, unless otherwise provided in the articles of association of the company.

No profits may be distributed from the Company's shares held by the Company.

#### **Article 211**

If a company distributes profits to its shareholders in violation of these regulations, the shareholders shall return the profits distributed in violation of the regulations to the company; if losses are caused to the company, the shareholders and the directors, supervisors, and senior management who are responsible for the losses shall be liable for compensation.

#### **Article 212**

If the shareholders' meeting makes a resolution on the distribution of profits, the board of directors shall make the distribution within six months from the date of the resolution of the shareholders' meeting.

#### **Article 213**

The premium received by a company from the issue of shares at an issue price in excess of the par value of the shares, the amount of the proceeds from the issue of no-par shares not credited to the registered capital, and other items required by the financial department of the State Council to be included in the capital reserve fund shall be classified as the capital reserve fund of the company.



#### **Article 214**

The provident fund of a company shall be used to make up for the company's losses, expand the company's production and operation or be converted to increase the company's registered capital.

Provident fund to make up for the company's losses, should first use the arbitrary provident fund and legal reserve; still can not make up for the capital reserve can be used in accordance with the provisions of the capital reserve.

When a legal reserve is converted to increase registered capital, the amount of such reserve retained shall not be less than twenty-five per cent of the registered capital of the company before the conversion.

#### **Article 215**

The employment or dismissal of an accounting firm undertaking the Company's auditing business shall be decided by the shareholders' meeting, the Board of Directors or the Board of Supervisors in accordance with the provisions of the Articles of Association of the Company.

When the shareholders' meeting, the board of directors or the supervisory board of the Company votes on the dismissal of the accounting firm, the accounting firm shall be allowed to state its opinion.

#### **Article 216**

A company shall provide true and complete accounting documents, accounting books, financial accounting reports and other accounting information to the accounting firm it employs, and shall not refuse, conceal or misrepresent them.

#### **Article 217**

A company shall not maintain any accounting books other than the statutory accounting books.

For company funds, no accounts shall be opened and stored in the name of any individual.

### **Chapter XI. Merger, demerger, capital increase and capital reduction of a company**

#### **Article 218**

A merger of companies may take the form of a merger by absorption or a merger by de novo establishment.

The absorption of one company by another is a merger by absorption, and the absorbed company

is dissolved. The merger of two or more companies to create a new company is a merger by creation, and the merging parties are dissolved.

#### **Article 219**

In the event of a merger between a company and a company in which it holds 90 per cent or more of the shares, the merged company shall not be required to pass a resolution at a shareholders' meeting but shall notify the other shareholders, who shall have the right to request the company to acquire their equity or shares at a reasonable price. A merger of companies may be effected without a resolution of the shareholders' meeting if the price paid for the merger does not exceed ten per cent of the net assets of the company; provided, however, that the articles of association of the company provide otherwise.

If the merger of a company pursuant to the preceding two paragraphs is not resolved by the shareholders' meeting, it shall be resolved by the board of directors.

#### **Article 220**

A merger of companies shall be effected by the parties to the merger signing a merger agreement and preparing a balance sheet and a list of property. The company shall notify the creditors within ten days from the date of the resolution on the merger and make an announcement in a newspaper or on the national enterprise credit information publicity system within thirty days. Within thirty days from the date of receipt of the notice, or within forty-five days from the date of the announcement if the notice has not been received, the creditors may demand that the company settle its debts or provide corresponding guarantees.

#### **Article 221**

In the event of a merger of companies, the debts and liabilities of the merging parties shall be inherited by the company surviving the merger or by the newly established company.

#### **Article 222**

If a company is separated, its property shall be divided accordingly.

A company shall prepare a balance sheet and an inventory of its property in the event of a separation. The company shall notify the creditors within ten days from the date of the resolution on separation,



and make an announcement in a newspaper or on the national enterprise credit information publicity system within thirty days.

#### **Article 223**

The debts of a company prior to its separation shall be borne jointly and severally by the company after separation. However, unless otherwise agreed in the written agreement reached between the company and the creditors on the settlement of debts before the separation.

#### **Article 224**

A company that reduces its registered capital shall prepare a balance sheet and an inventory of its property.

The company shall notify the creditors within ten days from the date of the resolution of the shareholders' meeting to reduce the registered capital, and make an announcement in a newspaper or the national enterprise credit information publicity system within thirty days. The creditors shall have the right to demand the company to settle the debts or provide corresponding guarantees within thirty days from the date of receipt of the notice, or within forty-five days from the date of the announcement if they have not received the notice.

If a company reduces its registered capital, it shall reduce the amount of capital contribution or shares according to the proportion of the shareholders' capital contribution or shareholding, unless otherwise provided by law, agreed by all the shareholders of the limited liability company, or stipulated in the articles of association of the joint stock limited company.

#### **Article 225**

If a company still has losses after making up for them in accordance with the provisions of paragraph 2 of **Article 214** of this Law, it may reduce its registered capital to make up for the losses. If the registered capital is reduced to make up for the loss, the company shall not make any distribution to the shareholders, nor shall the shareholders be exempted from the obligation to pay the capital contribution or the share capital.

Where the registered capital is reduced in accordance with the provisions of the preceding paragraph, the provisions of the second paragraph of the preceding Article shall not apply, but an announcement shall be made in a newspaper or on

the national enterprise credit information publicity system within thirty days from the date of the resolution of the shareholders' meeting on the reduction of the registered capital.

After a company reduces its registered capital in accordance with the provisions of the preceding two paragraphs, it may not distribute profits until the accumulated amount of the legal reserve and arbitrary reserve reaches fifty per cent of the company's registered capital.

#### **Article 226**

If the registered capital is reduced in violation of the provisions of this Law, the shareholders shall return the funds they have received, and if the capital contribution of the shareholders is reduced, it shall be restored to its original state; if it causes losses to the company, the shareholders and the directors, supervisors, and senior management who are responsible for the losses shall be liable for compensation.

#### **Article 227**

When a limited liability company increases its registered capital, the shareholders shall, under the same conditions, have the right to preferentially make contributions in proportion to the paid-in capital. However, unless all the shareholders agree not to give priority to contributions in accordance with the proportion of paid-in capital, the shareholders shall have the right to make contributions in accordance with the proportion of paid-in capital.

When a joint stock limited company issues new shares for the purpose of increasing its registered capital, the shareholders shall not be entitled to preferential subscription rights, unless otherwise provided for in the articles of association of the company or decided by a resolution of the shareholders' meeting that the shareholders shall be entitled to preferential subscription rights.

#### **Article 228**

When a limited liability company increases its registered capital, the contribution of shareholders to the new capital shall be implemented in accordance with the relevant provisions of this Law on the establishment of limited liability companies for the payment of capital contributions.

When a joint-stock company issues new shares for the purpose of increasing its registered capital, the subscription of new shares by its shareholders shall

be carried out in accordance with the provisions relating to the payment of contributions by a joint-stock company established under this Law.

## **Chapter XII. dissolution and liquidation of companies**

### **Article 229**

The company is dissolved for the following reasons:

- (i) The expiration of the business period specified in the articles of association or the occurrence of other causes of dissolution specified in the articles of association;
- (ii) Dissolution by resolution of the shareholders' meeting;
- (iii) Dissolution due to merger or demerger of the company;
- (d) Being suspended, ordered to close or revoked in accordance with the law;
- (e) Dissolution by the people's court in accordance with the provisions of **Article 231** of this Law.

The company shall, within ten days of the occurrence of the reasons for dissolution as stipulated in the preceding paragraph, make public the reasons for dissolution through the national enterprise credit information publicity system.

### **Article 230**

If a company is in the situation of paragraph 1 (1) and (2) of the preceding article and has not yet distributed its property to its shareholders, it may survive by amending its articles of association or by a resolution of the shareholders' meeting.

Amendments to the articles of association or resolutions of the shareholders' meeting in accordance with the provisions of the preceding paragraph shall be adopted by shareholders holding more than two-thirds of the voting rights in the case of a limited liability company, or by shareholders present at the shareholders' meeting in the case of a joint-stock company, by more than two-thirds of the voting rights of the shareholders present at the meeting.

### **Article 231**

If a company experiences serious difficulties in its operation and management, and its continued existence will cause significant losses to the interests of shareholders and cannot be resolved by other

means, shareholders holding ten per cent or more of the voting rights of the company may request the People's Court to dissolve the company.

### **Article 232**

If a company is dissolved as a result of the provisions of subparagraphs 1 (a), (b), (d) and (e) of paragraph 1 of **Article 229** of this Law, it shall be liquidated. The directors, who are the obligors of the company's liquidation, shall form a liquidation group to carry out the liquidation within fifteen days from the date on which the cause of dissolution arises.

The liquidation group shall consist of the directors, unless the articles of association provide otherwise or the shareholders resolve to elect another person. If the liquidation obligor fails to fulfil its liquidation obligations in a timely manner and causes losses to the company or creditors, it shall be liable for compensation.

### **Article 233**

Where a company shall be liquidated in accordance with the provisions of Paragraph 1 of the preceding Article, and if it fails to set up a liquidation group to carry out liquidation after the expiry of the time limit or fails to carry out liquidation after the establishment of the liquidation group, the interested party may apply to the People's Court for appointing the relevant persons to form a liquidation group to carry out liquidation. The people's court shall accept the application and promptly organise a liquidation group to carry out the liquidation.

Where a company is dissolved as a result of the provisions of Paragraph 1(4) of **Article 229** of this Law, the department that made the decision to revoke the business licence, order closure or revocation or the company's registration authority may apply to the People's Court for the appointment of the relevant persons to form a liquidation group to carry out the liquidation.

### **Article 234**

The liquidation group shall exercise the following powers and functions during the liquidation period:

- (i) Cleaning up the company's property and preparing separate balance sheets and inventories of the property;
- (ii) Notification and publication of creditors;
- (iii) Disposal of the outstanding business of the company in connection with its liquidation;

- (iv) Settlement of tax arrears and taxes arising from the liquidation process;
- (v) Clearance of claims and debts;
- (vi) Distribution of the remaining property of the company after the settlement of its debts;
- (vii) Representing the Company in civil litigation activities.

#### **Article 235**

The liquidation group shall notify the creditors within ten days from the date of its establishment, and make an announcement in a newspaper or on the national enterprise credit information publicity system within sixty days. The creditors shall declare their claims to the liquidation group within thirty days from the date of receipt of the notice, or within forty-five days from the date of the announcement if they have not received the notice.

A creditor declaring a claim shall state the matters to which the claim relates and provide supporting documents. The liquidation group shall register the claims.

The liquidation group may not satisfy creditors during the period in which claims are being filed.

#### **Article 236**

The liquidation group shall, after cleaning up the company's property and preparing the balance sheet and property list, formulate a liquidation plan and report it to the shareholders' meeting or the people's court for confirmation.

The remaining property of the company after payment of liquidation expenses, employees' salaries, social insurance costs and statutory compensation, payment of outstanding taxes and settlement of company debts shall be distributed to limited liability companies in accordance with the proportion of shareholders' capital contributions, and to joint-stock companies in accordance with the proportion of shares held by shareholders.

During the liquidation period, the company survives, but may not carry out business activities unrelated to the liquidation. The property of the company may not be distributed to the shareholders until it has been liquidated in accordance with the preceding paragraph.

#### **Article 237**

If the liquidation group, after cleaning up the company's property and preparing the balance sheet and property list, finds that the company's prop-

erty is insufficient to settle its debts, it shall, in accordance with the law, apply to the people's court for bankruptcy and liquidation.

After the people's court accepts the bankruptcy application, the liquidation group shall transfer the liquidation affairs to the bankruptcy administrator appointed by the people's court.

#### **Article 238**

The members of the liquidation group shall fulfil their duties in liquidation and shall have the obligations of loyalty and diligence.

If the members of the liquidation group are negligent in performing their liquidation duties and cause losses to the company, they shall be liable for compensation; if they cause losses to creditors due to intent or gross negligence, they shall be liable for compensation.

#### **Article 239**

Upon completion of the liquidation of a company, the liquidation group shall prepare a liquidation report, report it to the shareholders' meeting or the people's court for confirmation, and submit it to the company registration authority for cancellation of the company registration.

#### **Article 240**

If a company has not incurred any debts during its existence, or has settled all its debts, the company's registration may be cancelled through a simplified procedure in accordance with the provisions upon the undertaking of all shareholders.

The cancellation of a company's registration through the simplified procedure shall be announced through the national enterprise credit information publicity system for a period of not less than twenty days. If there is no objection after the expiration of the announcement period, the company may apply to the company registration authority for cancellation of company registration within twenty days.

If a company cancels its company registration through a simplified procedure, and the shareholders have made an untrue commitment to the contents of the first paragraph of this article, they shall be jointly and severally liable for the debts incurred prior to the cancellation of the registration.

#### **Article 241**

Where a company has been revoked its business

licence, ordered to close down or withdrawn, and has not applied to the company registration authority for cancellation of the company registration for a period of three years, the company registration authority may make a public announcement through the National Enterprise Credit Information Public Disclosure System, for a period of not less than sixty days. If there is no objection after the expiration of the announcement period, the company registration authority may cancel the company registration.

If the registration of a company is cancelled in accordance with the provisions of the preceding paragraph, the liability of the former shareholders of the company and the persons liable for liquidation shall not be affected.

#### **Article 242**

If a company is declared bankrupt in accordance with law, it shall implement bankruptcy liquidation in accordance with the law on enterprise bankruptcy.

### **Chapter XIII. Branches of foreign companies**

#### **Article 243**

A foreign company referred to in this Law means a company established outside the territory of the People's Republic of China in accordance with foreign laws.

#### **Article 244**

A foreign company that establishes a branch in the territory of the People's Republic of China shall apply to the competent Chinese authorities and submit its articles of association, the certificate of company registration of the country to which it belongs and other relevant documents, and upon approval, it shall register with the company registration authority in accordance with law and obtain a business licence.

The methods for approving branches of foreign companies shall be separately regulated by the State Council.

#### **Article 245**

A foreign company that establishes a branch in the territory of the People's Republic of China shall designate in the territory of the People's Republic of China a representative or agent in charge of the branch, and shall allocate to the branch funds

appropriate to the business activities in which it is engaged.

Where there is a need to set a minimum limit on the operating capital of a branch of a foreign company, the State Council shall make separate provisions.

#### **Article 246**

A branch of a foreign corporation shall indicate in its name the nationality and form of liability of the foreign corporation.

A branch of a foreign company shall keep the articles of association of the foreign company in its own office.

#### **Article 247**

Branches established by foreign companies in the territory of the People's Republic of China shall not have Chinese legal personality.

A foreign company bears civil liability for the business activities carried out by its branches in the territory of the People's Republic of China.

#### **Article 248**

A branch of a foreign company that has been approved for establishment and is engaged in business activities in the territory of the People's Republic of China shall abide by Chinese laws, shall not harm the social and public interests of China, and its lawful rights and interests shall be protected by Chinese laws.

#### **Article 249**

When a foreign company withdraws its branch in the territory of the People's Republic of China, it shall settle its debts in accordance with the law and carry out liquidation in accordance with the provisions of this Law concerning the procedures for the liquidation of companies. The property of its branches may not be transferred outside the territory of the People's Republic of China before the debts are settled.

### **Chapter XIV. Legal Liability**

#### **Article 250**

Where, in violation of the provisions of this Law, a company obtains company registration by misrepresenting its registered capital, submitting false materials or adopting other fraudulent means to

conceal important facts, the company registration authority shall order rectification, and impose a fine of not less than five per cent and not more than fifteen per cent of the amount of the misrepresented registered capital on the company that misrepresented its registered capital; and on the company that submits false materials or adopts other fraudulent means to conceal important facts, a fine of not less than A fine of not less than fifty thousand yuan and not more than two million yuan; if the circumstances are serious, the business licence shall be revoked; and the directly responsible supervisors and other directly responsible persons shall be fined not less than thirty thousand yuan and not more than three hundred thousand yuan.

#### **Article 251**

Where a company fails to disclose relevant information in accordance with the provisions of **Article 40** of this Law or fails to truthfully disclose relevant information, the company's registration authority shall order rectification and may impose a fine of not less than 10,000 yuan and not more than 50,000 yuan. Where the circumstances are serious, a fine of not less than 50,000 yuan and not more than 200,000 yuan shall be imposed; and a fine of not less than 10,000 yuan and not more than 100,000 yuan shall be imposed on the directly responsible supervisors and other directly responsible persons.

#### **Article 252**

Where a promoter or shareholder of a company makes a false capital contribution and fails to deliver, or fails to deliver on time, monetary or non-monetary property as a capital contribution, the company registration authority shall order the company to make corrections, and may impose a fine of not less than 50,000 yuan and not more than 200,000 yuan; where the circumstances are serious, the company shall be imposed with a fine of not less than five per cent and not more than fifteen per cent of the amount of the false capital contribution or the amount of the uncontributed capital, and shall impose a fine of not less than 10,000 yuan on the directly responsible supervisory personnel and other directly responsible personnel. responsible personnel shall be fined not less than 10,000 yuan and not more than 100,000 yuan.

#### **Article 253**

If a promoter or shareholder of a company, after

the establishment of the company, absconds with its capital contribution, the company registration authority shall order rectification and impose a fine of not less than five per cent and not more than fifteen per cent of the amount of the absconded capital; and impose a fine of not less than 30,000 yuan and not more than 300,000 yuan on the directly responsible supervisory personnel and other directly responsible personnel.

#### **Article 254**

Anyone who commits any of the following acts shall be punished by the financial departments of the people's governments at or above the county level in accordance with the provisions of the Accounting Law of the People's Republic of China and other laws and administrative regulations:

- (i) Keeping accounting books in addition to the statutory accounting books;
- (ii) Providing a financial accounting report that contains a false statement or conceals a material fact.

#### **Article 255**

Where a company fails to notify or publicise its creditors in accordance with the provisions of this Law in the event of a merger, demerger, reduction of registered capital or liquidation, the company's registration authority shall order the company to rectify the situation and impose a fine of not less than 10,000 yuan and not more than 100,000 yuan on the company.

#### **Article 256**

Where a company, in the course of liquidation, conceals its property, makes false entries in its balance sheet or property list, or distributes the company's property before settling its debts, the company's registration authority shall order rectification, and impose on the company a fine of not less than five per cent and not more than ten per cent of the amount of the concealed property or the distribution of the company's property before settling its debts; and on the supervisory personnel directly responsible for the company and other personnel directly responsible for the company a fine of not less than ten thousand yuan and not more than one hundred thousand yuan. A fine of not less than ten thousand yuan and not more than one hundred thousand yuan.

#### **Article 257**

Where an organisation undertaking asset appraisal,



capital verification or validation provides false materials or provides a report with material omissions, it shall be punished by the relevant authorities in accordance with the provisions of the Law of the People's Republic of China on Asset Appraisal, the Law of the People's Republic of China on Certified Public Accountants and other laws and administrative regulations.

If an institution that undertakes asset appraisal, capital verification or certification causes losses to the creditors of the company due to inaccurate appraisal results, capital verification or certification certificates issued by the institution, it shall be liable for compensation to the extent of the amount of the inaccuracy of its appraisal or certification, except if it can prove that it is not at fault.

#### **Article 258**

Where a company registration authority fails to perform its duties or performs its duties improperly in violation of the provisions of laws and administrative regulations, the leading and directly responsible persons shall be given administrative sanctions in accordance with the law.

#### **Article 259**

Where a person who is not legally registered as a limited liability company or a joint stock limited company but uses the name of a limited liability company or a joint stock limited company, or where a person who is not legally registered as a branch of a limited liability company or a joint stock limited company but uses the name of a branch of a limited liability company or a joint stock limited company, is ordered by the company registration authority to rectify the situation or is prohibited from doing so, and may be fined not more than one hundred thousand yuan. fine.

#### **Article 260**

If a company fails to open for business for more than six months after its establishment without a valid reason, or if it ceases to operate on its own for more than six consecutive months after its opening, the company's registration authority may revoke its business licence, unless the company closes down in accordance with the law.

If a company fails to register the relevant changes in accordance with the provisions of this Law in the event of a change in the registered matters of the company, the company's registration author-

ity shall order the registration to be made within a certain period of time; and if the company fails to do so after the expiry of that period of time, it shall impose a fine of not less than 10,000 and not more than 100,000 yuan.

#### **Article 261**

Where a foreign company establishes a branch in the territory of the People's Republic of China without authorisation in violation of the provisions of this Law, it shall be ordered by the company registration authority to make corrections or to close down, and may be fined not less than 50,000 yuan and not more than 200,000 yuan.

#### **Article 262**

A business licence shall be revoked if the name of the company is used to engage in serious illegal acts that endanger national security or the public interests of society.

#### **Article 263**

If a company violates the provisions of this Law and is liable to bear civil liability and pay fines or penalties, it shall bear the civil liability first if its property is insufficient to pay them.

#### **Article 264**

Anyone who violates the provisions of this Law and constitutes an offence shall be investigated for criminal responsibility in accordance with the law.

### **Chapter XV. By-laws**

#### **Article 265**

Meaning of the following terms in this Law:

(a) Senior management, meaning the manager, deputy manager, financial controller of the company, the secretary of the board of directors of the listed company and other persons as stipulated in the articles of association of the company.

(b) Controlling shareholders are shareholders whose capital contribution exceeds 50 per cent of the total capital of a limited liability company or whose shareholding exceeds 50 per cent of the total share capital of a joint stock limited company; and shareholders whose capital contribution or shareholding is less than 50 per cent but whose voting rights based on the capital contribution or shareholding are sufficient to have a significant

influence on the resolutions of the shareholders' meeting.

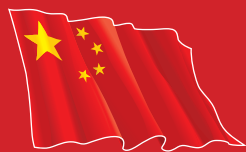
(iii) A person in effective control is a person who, through an investment relationship, agreement or other arrangement, is in a position to exercise effective control over the behaviour of the company.

(d) Affiliated relationship means the relationship between controlling shareholders, de facto controllers, directors, supervisors and senior management of a company and the enterprises they directly or indirectly control, as well as other relationships that may lead to the transfer of the company's interests. However, enterprises controlled by the State are related to each other not only because they are also controlled by the State.

#### **Article 266**

This Act shall enter into force on 1 July 2024.

Where a company that has been registered and established prior to the commencement of this Law has made a capital contribution for a period exceeding the period provided for in this Law, it shall, unless otherwise provided by law, administrative regulation or the State Council, gradually adjust the capital contribution to a period within the period provided for in this Law; where the capital contribution period or the amount of the capital contribution is clearly abnormal, the company registration authority may, in accordance with the law, require that the capital contribution be adjusted in a timely manner. The specific implementation methods shall be prescribed by the State Council.



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