ATTACHMENT 61

Public
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Securities Law of the People's Republic of China

Order of the President
(Order No. 43 [2005])

The Securities Law of the People's Republic of China was amended and adopted at the 18th Meeting of the Standing Committee of the 10th National People's Congress of the People's Republic of China on October 27, 2005. We hereby promulgate the Securities Law of the People's Republic of China, as amended, which shall come into force as of January 1, 2006.
President of the People's Republic of China Hu Jintao
October 27, 2005

Securities Law of the People's Republic of China

(Adopted at the 6th Meeting of the Standing Committee of the 9th National People's Congress on December 29, 1998, amended at the 18th Meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on October 27, 2005 according to the Decision on Amending the Securities Law of the People's Republic of China which was made at the 11th meeting of the Standing Committee of the 10th People's Congress on August 28, 2004)
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Chapter I General Provisions

Article 1 The present Law is formulated in order to standardize the issuance and trading of securities, protect the legitimate rights and interests of investors, safeguard the economic order and public interests of the society and promote the development of the socialist market economy.

Article 2 The present Law shall apply to the issuance and trading of stocks, corporate bonds as well as any other

securities as lawfully recognized by the State Council within the territory of the People's Republic of China. Where there is no such provision in the present Law, the provisions of the Corporation Law of the People's Republic of China and other relevant laws and administrative regulations shall apply.
Any listed trading of government bonds and share of securities investment funds shall be governed by the present Law. In case there is any special provision in any other law or administrative Regulation, such special provision shall prevail.
The measures for the administration of issuance and trading of securities derivatives shall be prescribed by the State Council according to the principles of the Present Law.

Article 3 The issuance and trading of securities shall be carried out according to the principles of openness, fairness and impartiality.

Article 4 The parties involved in any issuance or transaction of securities shall have equal legal status and shall uphold the principles of free will, compensation, and uprightness and creditworthiness.

Article 5 The issuance and trading of securities shall abide by laws and administrative regulations. Any fraud, insider trading or manipulation of the securities market shall be prohibited.

Article 6 The divided operation and management shall be applied to the industries of securities, banking, trust and insurance. The securities companies and the business organs of banks, trust, and insurance shall be separately established, unless it is otherwise provided for by the state.

Article 7 The securities regulatory authority under the State Council shall carry out centralized and unified supervision and administration of the national securities market.
The securities regulatory authority under the State Council may, according to the relevant requirements, establish dispatched offices, which shall perform their duties and functions of supervision and administration according to their authorization.

Article 8 Under the centralized and unified supervision and administration of the state regarding the issuance and trading of securities, a securities industrial association shall be established according to law, which shall adopt the self-regulating administration.

Article 9 The auditing organs of the state shall carry out auditing supervision of the securities exchanges, securities companies, securities registration and clearing institutions, and securities regulatory bodies.

Chapter II Issuance of Securities

Article 10 A public issuance of securities shall meet the requirements of the relevant laws and administrative regulations, and shall be reported to the securities regulatory authority under the State Council or any department as authorized by the State Council for examination and approval according to law. Without any examination and approval according to law, no entity or individual may make a public issuance of any securities.
It shall be deemed as a public issuance under any of the following circumstances:
(1) Making a public issuance of securities towards unspecified objects;
(2) Making a public issuance of securities to accumulatively more than 200 specified objects;
(3) Making a public issuance as prescribed by any law or administrative regulation.
For any securities that are not issued in a public manner, the means of advertising, public inducement or public issuance in any disguised form shall not be adopted thereto.

Article 11 An issuer that applies for the public issuance of stocks or convertible corporate bonds by means of underwriting according to law or for the public issuance of any other securities, which is subject to recommendation as is prescribed by any law or administrative regulation, shall hire an institution with the qualification of recommendation as its recommender.
A recommender shall observe the operational rules and industrial norms and, based on the principles of being honesty,

creditworthy, diligent and accountable, carry out a prudent examination of the application documents and information disclosure materials of its issuers as well as supervise and urge its issuers to operate in a regulative manner.
The qualification requirements of the recommender as well as the relevant measures for administration shall be formulated by the securities regulatory authority under the State Council.

Article 12 A public offer of stocks for establishing a joint stock limited company shall meet the requirements as prescribed in the Corporation Law of the People's Republic of China as well as any other requirements as prescribed by the securities regulatory authority under the State Council which have been approved by the State Council. An application for public offer of stocks as well as the following documents shall be reported to the securities regulatory authority under the State Council:
(1) The constitution of the company;
(2) The promoter's agreement;
(3) The name or title of the promoter, the amount of shares as subscribed to by the promoters, the category of contributed capital as well as the capital verification certification;
(4) The prospectus;
(5) The name and address of the bank that receives the funds as generated from the issuance of stocks on the behalf of the company; and
(6) The name of the underwriting organization as well as the relevant agreements.
Where a recommender shall be hired, as is prescribed by the present Law, a Recommendation Letter of Issuance as produced by the recommender shall be submitted as well.
Where the establishment of a company shall be reported for approval, as is prescribed by any law or administrative regulation, the relevant approval documents shall be submitted as well.

Article 13 An initial public offer (IPO) of stocks of a company shall meet the following requirements:
(1) Having a complete and well-operated organization;
(2) Having the capability of making profits continuously and a sound financial status;
(3) Having no false record in its financial statements over the latest 3 years and having no other major irregularity; and
(4) Meeting any other requirements as prescribed by the securities regulatory authority under the State Council which have been approved by the State Council.
A listed company that makes any initial non-public offer of stocks shall meet the requirements as prescribed by the securities regulatory authority under the State Council, which have been approved by the State Council and shall be reported to the securities regulatory authority under the State Council for examination and approval.

Article 14 A company that makes an IPO of stocks shall file an application for public offer of stocks and submit the following documents to the securities regulatory authority under the State Council:
(1) The business license of the company;
(2) The constitution of the company;
(3) The resolution of the general assembly of shareholders;
(4) The prospectus;
(5) The financial statements;
(6) The name and address of the bank that receives the funds as generated from the public offer of stocks on the behalf of the company; and
(7) The name of the underwriting institution as well as the relevant agreements.
Where a recommender shall be hired, as is prescribed by the present Law, the Recommendation Letter of Issuance as produced by the recommender shall be submitted as well

Article 15 The funds as raised through public offer of stocks made by a company shall be used according to the purpose as prescribed in the prospectus. Any alteration of the use of funds as prescribed in the prospectus shall be subject to a

resolution of the general assembly of shareholders. Where the company fails to correct any unlawful alteration of its use of funds or where any alteration of its use of funds fails to be adopted by the general assembly of shareholders, the relevant company shall not make any IPO of stocks. In the foregoing circumstance, a company shall not make any non-public offer of stocks.

Article 16 A public issuance of corporate bonds shall meet the following requirements:
(1) The net asset of a joint stock limited company is no less than RMB 30 million yuan and the net asset of a limited-liability company is no less than RMB 60 million yuan;
(2) The accumulated bond balance constitutes no more than 40 % of the net asset of a company;
(3) The average distributable profits over the latest 3 years are sufficient to pay the 1-year interests of corporate bonds;
(4) The investment of raised funds complies with the industrial policies of the state;
(5) The yield rate of bonds does not surpass the level of interest rate as set by the State Council; and
(6) Any other requirements as prescribed by the State Council.
The funds as raised through public issuance of corporate bonds shall be used for the verified purposes and shall not be used for covering any deficit or non-production expenditure.
The public issuance of convertible corporate bonds as made by a listed company shall not only meet the requirements as provided for in paragraph 1 herein but also meet the requirements of the present Law on the public offer of stocks, and shall be reported to the securities regulatory authority under the State Council for examination and approval.

Article 17 As to an application for public issuance of corporate bonds, the following documents shall be reported to the department as authorized by the State Council or the securities regulatory authority under the State Council:
(1) The business license of the company;
(2) The constitution of the company;
(3) The procedures for issuing corporate bonds;
(4) An assent appraisal report and an asset verification report; and
(5) Any other document as prescribed by the department as authorized by the State Council or by the securities regulatory authority under the State Council.
Where a recommender shall be hired, as is prescribed by the present Law, the Recommendation Letter of Issuance as produced by the recommender shall be submitted as well.

Article 18 Under any of the following circumstances, no more public issuance of corporate bonds may be carried out:
(1) Where the corporate bonds as issued in the previous public issuance haven't been fully subscribed;
(2) Where a company has any breach relating to the corporate bonds as publicly issued or any other debts, or has postponed the payment of the relevant principal plus interests, and such situation still exists; or
(3) Where a company violates the present Law by altering the purpose of use of the funds raised through public issuance of corporate bonds.

Article 19 The formats and ways of submitting application documents as reported by an issuer for examination and approval of securities issuance according to law shall be prescribed by the competent organ or department in charge of examination and approval.

Article 20 The application documents for securities issuance as reported by an issuer to the securities regulatory authority under the State Council or the department as authorized by the State Council shall be authentic, accurate and complete. A securities trading service institution and its staff that produces the relevant documents for securities issuance shall strictly perform its/his statutory functions and duties and guarantee the authenticity, accuracy and integrity of the documents as produced thereby.

Article 21 Where an issuer applies for an IPO of stocks, it shall, after submitting the application documents, disclose the relevant application documents in advance according to the provisions of the securities regulatory authority under the

State Council.

Article 22 The securities regulatory authority under the State Council shall establish an issuance examination committee, which shall examine the applications for stock issuance according to law.
The issuance examination committee shall be composed of professionals from the securities regulatory authority under the State Council and other relevant experts from outside the said authority, cast votes to decide on the applications for stock issuance and give its examination opinions.
The specific formulation measures, tenure of members as well as work procedures of the issuance examination committee shall be formulated by the securities regulatory authority under the State Council.

Article 23 The securities regulatory authority under the State Council shall take charge of the examination and approval of the applications for stock issuance according to the statutory requirements. The procedures for examination and approval shall be publicized and shall be subject to supervision according to law.
The personnel participating in the examination and verification of stock issuance shall not have any interest relationship with an issuance applicant, shall not directly or indirectly accept any present of the issuance applicant, not hold any stock as verified for issuance, and shall not have any private contact with an issuance applicant.
The department as authorized by the State Council shall carry out the examination and approval of applications for issuance of corporate bonds by referring to the preceding 2 paragraphs herein.

Article 24 The securities regulatory authority under the State Council or the department as authorized by the State Council shall, within 3 months as of accepting an application for securities issuance, make an decision on approval or disapproval according to the statutory requirements and procedures, but the time for an issuer to supplement or correct its application documents for issuance according to the relevant requirements shall not be calculated in the aforesaid term for examination and approval. In the case of disapproval, an explanation shall be given.

Article 25 Where an application for securities issuance has been approved, the relevant issuer shall, according to the provisions of the relevant laws and administrative regulations, announce the relevant financing documents of public issuance before publicly issuing any securities and shall make the aforesaid documents available for public reference in a designated place.
Before the information of securities issuance is publicized according to law, no insider may publicize or divulge relevant information.
An issuer shall not issue any securities before making an announcement of the relevant financing documents of public issuance.

Article 26 The securities regulatory authority under the State council or the department as authorized by the State Council shall, where finding any decision on approving securities issuance fails to comply with the relevant statutory requirements and procedures and if the relevant securities haven't been issued, revoke the decision on approval and terminate the issuance For any securities that have been issued but haven't been listed, the relevant decision on approval for issuance shall be revoked. The relevant issuer shall, according to the issuing price plus interests as calculated at the bank deposit rate for the corresponding period of time, refund the securities holders. A recommender shall bear several and joint liabilities together with the relevant issuer, except for one who is able to prove that he has no fault therein. Where any controlling shareholder or actual controller has any fault, he shall bear several and joint liabilities together with the relevant issuer,

Article 27 After a legal offer of stocks, an issuer shall be responsible for any flux in its operations or profits by itself. The investment risk as incurred therefrom shall be borne by investors themselves.

Article 28 Where an issuer issues any securities to any non-specified object and if the said securities shall be underwritten by a securities company, as is provided for by any law or administrative regulation, the issuer shall conclude an

underwriting agreement with a securities company. The forms of "sale by proxy" or "exclusive sale" shall be adopted for the underwriting of securities.
The term "sale by proxy" refers to an underwriting form, whereby a securities company sells securities as a proxy of the relevant issuer and, upon the end of the underwriting period, returns all the securities unsold to the relevant issuer.
The term "exclusive sale" refers to an underwriting form, whereby a securities company purchases all of the securities of an issuer according to the agreement there between or purchases all of the remaining unsold securities by itself upon the end of the underwriting period.

Article 29 An issuer that makes public issuance of securities has the right to select a securities company for underwriting according to law at its own will. A securities company shall not canvass any securities underwriting business by any unjust competition means.

Article 30 Where a securities company underwrites any securities, it shall conclude an agreement with the relevant issuer on sale by proxy or exclusive sale, which shall indicate the following items:
(1) The name, domicile as well as the name of the legal representative of the parties concerned;
(2) The classes, quantity, amount as well as issuing prices of the securities under sale by proxy or exclusive sale;
(3) The term of sale by proxy or exclusive sale as well as the start-stop date;
(4) The ways and date of payment for sale by proxy or exclusive sale;
(5) The expenses for and settlement methods of sale by proxy or exclusive sale;
(6) The liabilities for breach; and
(7) Any other matter as prescribed by the securities regulatory authority under the State Council.

Article 31 A securities company that engages in the underwriting of securities shall carry out verification on the authenticity, accuracy and integrity of the financing documents of public issuance. Where any false record, misleading statement or major omission is found, no sales activity may be carried out. Where any securities have been sold out under the foregoing circumstances, the relevant sales activity shall be immediately terminated and measures for correction shall be taken.

Article 32 Where the total face value of securities as issued to non-specified objects exceed RMB 50 million yuan, the said securities shall be underwritten by an underwriting syndicate. An underwriting syndicate shall be composed of a securities company acting as the principal underwriter and other participant underwriters.

Article 33 The term for sale by proxy or exclusive sale shall not exceed than 90 days at the most.
A securities company shall, within the term of sale by proxy or exclusive sale, guarantee the priority of the relevant subscribers in purchasing securities under sale by proxy or exclusive sale. A securities company shall not reserve in advance any securities under sale by proxy thereby or purchase in advance and sustain any securities under exclusive sale thereby

Article 34 Where any stock is issued at a premium, the issuing price thereof shall be determined through negotiation between the relevant issuer and the securities company that engages in the underwriting.

Article 35 As for a public offer of stocks through sale by proxy, when the term of sale by proxy expires and if the number of stocks fails to reach 70 % of the planned number in the public offer, it shall be deemed as a failure. The relevant issuer shall refund the issuing price plus interests as calculated at the bank deposit rate for the contemporary period of time to the subscribers of stocks.

Article 36 In a public offer of stocks, when the term for sale by proxy or exclusive sale expires, the issuer shall report the information on stock issuance to the securities regulatory authority under the State Council for archival filing within the prescribed term.

Chapter III Trading of Securities

Section I General Provisions

Article 37 The securities as purchased and sold by any party who is involved in any securities trading shall be the securities that have been legally issued and delivered.
Any securities that have been illegally issued shall not be purchased or sold.

Article 38 Any stocks, corporate bonds or any other securities that have been legally issued, where there are any restrictive provisions of laws on the term of transfer thereof, shall not be purchased or sold within the restricted term.

Article 39 Any stocks, corporate bonds or any other securities that have been publicly issued according to law shall be listed in a stock exchange as legally established or in any other places for securities trading as approved by the State Council.

Article 40 The means of public and centralized trading or any other means as approval by the securities regulatory authority under the State Council shall be adopted for the listed trading of securities in stock exchanges.

Article 41 The securities as purchased or sold by the parties involved in securities trading may be in paper form or in any other form as approval by the securities regulatory authority under the State Council.

Article 42 The securities trading shall be carried out in the form of spot goods as well as any other form as prescribed by the State Council.

Article 43 The practitioners in stock exchanges, securities companies and securities registration and clearing institutions, the functionary of securities regulatory bodies, as well as any other personnel who have been prohibited by any law or administrative regulation from engaging in any stock trading shall not, within their tenures or the relevant statutory term, hold or purchase or sell any stock directly or in any assumed name or in the name of any other person, nor may they accept any stocks from any other person as a present.
Anyone, before becoming any person as prescribed in the preceding paragraph herein, shall transfer the stocks he has held according to law.

Article 44 The stock exchanges, securities companies, as well as securities registration and clearing institutions shall keep confidential the accounts as opened for their clients according to law.

Article 45 A securities trading service institution and the relevant personnel that produce such documents as auditing reports, asset appraisal reports or legal opinions for stock issuance shall not purchase or sell any of the aforesaid stocks within the underwriting term of stocks or within 6 months as of the expiration of the underwriting term of stocks.
Except for the provisions as prescribed in the preceding paragraph herein, a securities trading service institutions and the relevant personnel that produce such documents as auditing reports, asset appraisal reports or legal opinions for listed companies shall not purchase or sell any of the aforesaid stocks within the period from the day when he accepts the entrustment of the listed company to the day when the aforesaid documents are publicized.

Article 46 The fee charge for securities trading shall be reasonable. The charging items, rates and methods shall be publicized.
The charging items, rates, and administrative measures of securities trading shall be uniformly formulated by the relevant administrative department of the State Council.

Article 47 Where any director, supervisor and senior manager of a listed company or any shareholder who holds more than 5% of the shares of a listed company, sells the stocks of the company as held within 6 months after purchase, or purchases any stock as sold within 6 months thereafter, the proceeds as generated therefrom shall be incorporated into the profits of the relevant company. The board of directors of the company shall take back the proceeds. However, where

a securities company holds more than 5% of the shares of a listed company, which are the residual stocks after sale by proxy as purchased thereby, the sale of the foregoing stocks shall not be limited by the term of 6 months.
Where the board of directors of a company fails to implement the provisions as prescribed in the preceding paragraph herein, the shareholders concerned have the right to require the board of directors to implement them within 30 days.
Where the board of directors of a company fails to implement them within the aforesaid term, the shareholders shall have the right to directly file a lawsuit with the people's court in their own names for the interests of the company.
Where the board of directors of a company fails to implement the provisions as prescribed in paragraph 1 herein, the directors in charge shall bear several and joint liabilities according to law.

Section II Listing of Securities

Article 48 An application for the listing of any securities shall be filed with a stock exchange and shall be subject to the examination and approval of the stock exchange according to law, and a listing agreement shall be concluded by both parties.
Stock exchanges shall, according to the decision of the department as authorized by the State Council, arrange for the listing of government bonds.

Article 49 For an application for the listing of any stocks, convertible corporate bonds or any other securities, which are subject to recommendation as is prescribed by any law or administrative regulation, an institution with the qualification of recommendation shall be hired as the recommender.
The provisions of paragraphs 2 and 3 of Article 11 of the present Law shall apply to the recommender of stock listing.

Article 50 A joint stock limited company that applies for the listing of its stocks shall meet the following requirements:
(1) The stocks shall have been publicly issued upon the approval of the securities regulatory authority under the State Council;
(2) The total amount of capital stock of the company shall be no less than RMB 30 million yuan;
(3) The shares as publicly issued shall reach more than 25 % of the total amount of corporate shares; where the total amount of capital stock of a company exceeds RMB 0 4 billion yuan, the shares as publicly issued shall be no less than 10% thereof; and
(4) The company shall not have any major irregularity over the latest three years and there is no false record in its financial statements.
A stock exchange may prescribe the requirements of listing that are more strict than those as prescribed in the preceding paragraph herein, which shall be reported to the securities regulatory authority under the State Council for approval.

Article 51 The state encourages the listing of corporate stocks that comply with the relevant industrial policies and meet the relevant requirements of listing.

Article 52 As to an application for the listing of stocks, the following documents shall be submitted to a stock exchange:
(1) The listing report;
(2) The resolution of the general assembly of shareholders regarding the application for the listing of stocks;
(3) The constitution of the company;
(4) The business license of the company;
(5) The financial statements of the company for the latest three years as audited by an accounting firm according to law;
(6) The legal opinions as well as the Recommendation Letter of Listing;
(7) The latest prospectus; and
(8) Any other document as prescribed by the listing rules of the stock exchange.

Article 53 Where an application for the listing of stocks have been approved by the stock exchange, the relevant company that has concluded a listing agreement thereon shall announce the relevant documents for stock listing within the

prescribed period and shall make the said documents available for public reference in designated places.

Article 54 A company that has concluded a listing agreement shall not only announce the documents as prescribed in the preceding Article herein but also announce the following items:
(1) The date when the stocks have been approved to be listed in a stock exchange;
(2) The name list of the top 10 shareholders who hold the largest number of shares in the company as well as the amount of stocks they hold;
(3) The actual controller of the company; and
(4) The names of the directors, supervisors and senior managers of the company as well as the relevant information on the stocks and bonds of the company they hold.

Article 55 Where a listed company is under any of the following circumstances, the stock exchange shall decide to suspend the listing of its stocks:
(1) Where the total amount of capital stock or share distribution of the company changes and thus fails to meet the requirements for listing;
(2) Where the company fails to publicize its financial status according to the relevant provisions or has any false record in its financial statements, which may mislead the investors;
(3) Where the company has any major irregularity;
(4) Where the company has been operating at a loss for the latest 3 consecutive years; or
(5) Under any other circumstance as prescribed in the listing rules of the stock exchange.

Article 56 Where a listed company is under any of the following circumstances, the stock exchange shall decide to terminate the listing of its stocks:
(1) Where the total amount of capital stock or share distribution of the company changes and thus fails to meet the requirements of listing, and where the company fails again to meet the requirements of listing within the period as prescribed by the stock exchange;
(2) Where the company fails to publicize its financial status according to the relevant provisions or has any false record in its financial statements, and refuses to make any correction;
(3) Where the company has been operating at a loss for the latest 3 consecutive years and fails to gain profits in last year;
(4) Where the company is dissolved or is declared bankrupt; or
(5) Under any other circumstance as prescribed in the listing rules of the stock exchange.

Article 57 A company shall, when applying for the listing of corporate bonds, meet the following requirements:
(1) The term of corporate bonds shall be more than 1 year;
(2) The amount of corporate bonds to be actually issued shall be no less than RMB 50 million yuan; and
(3) The company shall meet the statutory requirements for the issuance of corporate bonds when applying for the listing of its bonds.

Article 58 A company shall, when applying for the listing of its corporate bonds, report the following documents to the stock exchange:
(1) The listing report;
(2) The resolution as adopted by the board of directors regarding the application for listing;
(3) The constitution of the company;
(4) The business license of the company;
(5) The measures for financing through the issuance of corporate bonds;
(6) The amount of corporate bonds to be actually issued; and
(7) Any other document as prescribed in the listing rules of the stock exchange.
As to an application for the listing of convertible corporate bonds, the Recommendation Letter of Listing as produced by

the relevant recommender shall be submitted.

Article 59 Where an application for the listing of corporate bonds has been approved by the stock exchange, the company that has concluded a listing agreement thereon shall, within the prescribed period, announce its report on the listing of its corporate bonds as well as the relevant documents, and make its application documents available for public reference in designated places.

Article 60 After any corporate bonds are listed, where the relevant company is under any of the following circumstances, the stock exchange may decide to suspend the listing of its corporate bonds:
(1) Where the company has any major irregularity;
(2) Where the company has any major change and thus fails to meet the requirements for the listing of corporate bonds;
(3) Where the funds as raised through the issuance of corporate bonds fail to be used according to the verified purposes of use;
(4) Where the company fails to perform its obligations according to the measures for financing through the issuance of corporate bonds; or
(5) Where the company has been operating at a loss for the latest 2 consecutive years.

Article 61 Where a company is under any of the circumstances as described in item (1) or (4) of the preceding Article and the consequences as incurred therefrom have been verified to be serious, or where a company is under any of the circumstances as described in item (2), (3), or (5) of the preceding Article and fails to eliminate the relevant consequences within a specified time limit, the stock exchange shall decide to terminate the listing of corporate bonds of the company. Where a company is dissolved or declared bankrupt, the stock exchange shall terminate the listing of the corporate bonds thereof.

Article 62 Any company, which is dissatisfied with the decision of the stock exchange on disapproving, suspending or terminating its listing, may apply to the review organ as established by the stock exchange for review.

Section III On-going Disclosure of Information

Article 63 The information as disclosed by issuers and listed companies according to law shall be authentic, accurate and complete and shall not have any false record, misleading statement or major omission.

Article 64 For the stocks that have been publicly issued upon the verification of the securities regulatory authority under the State Council or for the corporate bonds that have been publicly issued upon the verification of the department as authorized by the State Council according to law, the prospectus or the measures for financing through the issuance of corporate bonds shall be announced. In an IPO of stocks or corporate bonds, the relevant financial statements shall be announced as well.

Article 65 A company whose shares or bonds have been listed for trading shall, within two months as of the end of the first half of each accounting year, submit to the securities regulatory authority under the State Council and the stock exchange a midterm report indicating the following contents and make a public announcement for it:
(1) The financial statements and business situation of the company;
(2) The major litigation the company is involved in;
(3) The particulars of any change concerning the shares or corporate bonds thereof it has already issued;
(4) The important matters as submitted to the general assembly of shareholders for deliberation; and
(5) Any other matter as prescribed by the securities regulatory authority under the State Council.

Article 66 A listed company whose shares or bonds have been listed for trading shall, within four months as of the end of each accounting year, submit to the securities regulatory authority under the State Council and the stock exchange an annual report indicating the following contents, and make a public announcement for it:

(1) A brief account of the company's general situation;
(2) The financial statement and business situation of the company;
(3) A brief introduction to the directors, supervisors, and senior managers of the company well as the information regarding their shareholdings;
(4) The information on the shares and corporate bonds it has already issued, including a name list of the top 10 shareholders who hold the largest number of shares in the company as well as the amount of shares each of them holds; and
(5) The actual controller of the company; and
(6) Any other matter as prescribed by the securities regulatory authority under the State Council.

Article 67 In the case of a major event that may considerably affect the trading price of a listed company's shares and that is not yet known to the investors, the listed company shall immediately submit a temporary report regarding the said major event to the securities regulatory authority under the State Council and the stock exchange, and make an announcement to the general public as well, in which the cause, present situation, and possible legal consequence of the event shall be indicated:
The term "major event" as mentioned in the preceding paragraph herein refers to any of the following circumstances:
(1) A major change in the business guidelines or business scope of the company;
(2) A decision of the company on any major investment or major asset purchase;
(3) An important contract as concluded by the company, which may have an important effect on the assets, liabilities, rights, interests or business achievements of the company;
(4) The incurrence of any major debt in the company or default on any major debt that is due;
(5) The incurrence of any major deficit or a major loss in the company;
(6) A major change in the external conditions for the business operation of the company;
(7) A change concerning directors, no less than one-third of supervisors or managers of the company;
(8) A considerable change in the holdings of shareholders or actual controllers each of whom holds or controls no less than 5% of the company's shares;
(9) A decision of the company on capital decrease, merger, division, dissolution, or application for bankruptcy;
(10) Any major litigation in which the company is involved, or where the resolution of the general assembly of shareholders or the board of directors have been cancelled or announced invalid;
(11) Where the company is involved in any crime, which has been filed as a case as well as investigated into by the judicial organ or where any director, supervisor or senior manager of the company is subject to compulsory measures as rendered by the judicial organ; or
(12) Any other matter as prescribed by the securities regulatory authority under the State Council.

Article 68 The directors and senor managers of a listed company shall produce written opinions to confirm the periodic reports of the company.
The board of supervisors of a listed company shall carry out an examination on the periodic report of its company as formulated by the board of directors and produce the relevant examination opinions in written form.
The directors, supervisors and senior managers of a listed company shall guarantee the authenticity, accuracy and integrity of the information as disclosed by the listed company.

Article 69 Where any of the prospectus, measures for financing through the issuance of corporate bonds, financial statements, listing reports, annual reports, midterm reports, temporary reports or any disclosed information that has been announced by an issuer or listed company has any false record, misleading statement or major omission, and thus incurs losses to investors in the process of securities trading, the issuer or the listed company shall bear the liabilities of compensation. Any director, supervisor, senior manager or any other person of the issuer or the listed company as held to be directly responsible shall take several and joint liabilities of compensation, unless he is able to prove that he has no

fault therein. Where any shareholder or actual controller of an issuer or a listed company has any fault, he or it shall bear several and joint liabilities of compensation together with the relevant issuer or listed company.

Article 70 The information which must be disclosed as prescribed by law shall be publicized through the media as designated by the securities regulatory authority under the State Council and shall, at the same time, be made available for public reference at the company's domicile and the stock exchange.

Article 71 The securities regulatory authority under the State Council shall carry out supervision over the annual reports, midterm reports, temporary reports of listed companies as well as their announcements, over the distribution or rationing of new shares of such listed companies, and over the controlling shareholders and information disclosure obligors of the listed companies.
The securities regulatory body, stock exchange, recommender or securities company involved in underwriting as well as the relevant personnel thereof shall not, before an announcement is made by the company according to the provisions of the relevant laws and administrative regulations, divulge any content concerned before making the announcement.

Article 72 Where a stock exchange decides to suspend or terminate the listing of any securities, it shall announce the decision in a timely manner and report it to the securities regulatory authority under the State Council for archival filing.

Section IV Prohibited Trading Acts

Article 73 Any insider who has access to any insider information of securities trading or who has unlawfully obtained any insider information is prohibited from taking advantage of the insider information he holds to engage in any securities trading.

Article 74 The insiders who have access to insider information of securities trading include:
(1) Directors, supervisors, and senior managers of an issuer;
(2) Shareholders who hold more than 5% of the shares of a company as well as the directors, supervisors, and senior managers thereof, or the actual controller of a company as well as the directors, supervisors, and senior managers thereof;
(3) The holding company of an issuer as well as the directors, supervisors, and senior managers thereof;
(4) The personnel who may take advantage of their posts in their company to obtain any insider information of the company concerning the issuance and trading of its securities;
(5) The functionaries of the securities regulatory body, and other personnel who administer the issuance and trading of securities pursuant to their statutory functions and duties;
(6) The relevant personnel of the recommendation institutions, securities companies engaging in underwriting, stock exchanges, securities registration and clearing institutions, and securities trading service organizations; and
(7) Any other person as prescribed by the securities regulatory authority under the State Council.

Article 75 The term "insider information" refers to the information that concerns the business or finance of a company or may have a major effect on the market price of the securities thereof and that hasn't been publicized in securities trading. All of the following information falls into the scope of insider information:
(1) The major events as prescribed in paragraph 2 of Article 67 of the present Law;
(2) The plan of a company concerning any distribution of dividends or increase of capital;
(3) Any major change in the company's equity structure;
(4) Any major change in the guaranty of the company's debt;
(5) Where the mortgaged, sold or discarded value of any major asset as involved in the business operation of the company exceeds 30 % of the said asset at a single time;
(6) Where any act as conducted by any director, supervisor or senior manager of the company may be rendered to be responsible for any major damage and compensation;

(7) The relevant plan of a listed company regarding acquisition; and
(8) Any other important information that has been recognized by the securities regulatory authority under the State Council as having a marked effect on the trading prices of securities.

Article 76 Any insider who has access to insider information or has unlawfully obtained any insider information on securities trading may not purchase or sell the securities of the relevant company, or divulge such information, or advise any other person to purchase or sell such securities.
Where there is any other provision of the present Law on governing the purchase of shares of a listed company by a natural person, legal person or any other organization who individually holds or holds with any other person no less than 5% of the company's shares by means of an agreement or any other arrangement, such provision shall prevail.
Where any insider trading incurs any loss to investors, the actor shall make compensations according to law.

Article 77 Anyone is prohibited from manipulating the securities market by any of the following means:
(1) Whether anyone, independently or in collusion with others, manipulates the trading price of securities or trading quantity of securities by centralizing their advantages in funds, their shareholding advantages or taking their information advantage to trade jointly or continuously;
(2) Where anyone collaborates with any other person to trade securities pursuant to the time, price and method as agreed upon in advance, thereby affecting the price or quantity of the securities traded;
(3) Where anyone trades securities between the accounts under his own control, thereby affecting the price or quantity of the securities traded; or
(4) Where anyone manipulates the securities market by any other means.
Where anyone incurs any loss to investors by manipulating the securities market, the actor shall be subject to the liabilities of compensation according to law.

Article 78 It is prohibited for state functionaries, practitioners of the news media as well as other relevant personnel concerned to disturb the securities market by fabricating or disseminating any false information.
It is prohibited for stock exchanges, securities companies, securities registration and clearing institutions, securities trading service institutions and the practitioners thereof, as well as the securities industry associations, the securities regulatory bodies and their functionaries to make any false statement or give any misleading information in the activities of securities trading.
The securities market information as disseminated by any media shall be authentic and objective. Any dissemination of misleading information is prohibited.

Article 79 It is prohibited for a securities company as well as the practitioners thereof to commit any of the following fraudulent acts in the process of securities trading, which may injure the interests of their clients:
(1) Violating the entrustment of its client by purchasing or selling any securities on its behalf;
(2) Failing to provide any client with written confirmation of any transaction within the prescribed period of time;
(3) Misappropriating the securities as entrusted by any client for purchase or sale, or misappropriating the funds in any client's account;
(4)Unlawfully purchasing or selling securities for its client without authorization, or unlawfully purchasing or selling any securities in the name of any client;
(5) Inveigling any client into making any unnecessary purchase or sale of securities in order to obtain commissions;
(6) Making use of mass media or by any other means to provide or disseminate any false or misleading information to investors; or
(7) Having any other act that goes against the true intention as expressed by a client and damages the interests thereof.
Where anyone practices any trickery and thus incurs any loss to the relevant clients, the actor shall make compensations according to law.

Article 80 It's prohibited for any legal person to unlawfully make use of any other person's account to undertake any securities trading. It's prohibited for any legal person to lend its own or any other person's securities account.

Article 81 The channel for capital to enter into the stock market shall be broadened according to law. It's prohibited for any unqualified capital to go into the stock market.

Article 82 It's prohibited for any person to misappropriate any public fund to trade securities.

Article 83 The state-owned enterprises and state-controlled enterprises that engage in any trading of listed stocks shall observe the relevant provisions of the state.

Article 84 When stock exchanges, securities companies, securities registration and clearing institutions, securities trading service organizations as well as their functionaries discover any prohibited activities in securities trading, they shall report such activities to the securities regulation body in a timely manner.

Chapter IV Acquisition of Listed Companies

Article 85 An investor may purchase a listed company by means of tender offer or agreement as well as by any other legal means.

Article 86 When an investor, through securities trading at a stock exchange, comes to hold individually or with any other person 5 % of the shares as issued by a listed company by means of agreement or any other arrangement, the investor shall, within three days as of the date when such shareholding becomes a fact, submit a written report to the securities regulatory authority under the State Council and the stock exchange, notify the relevant listed company and announce the fact to the general public. Within the aforesaid prescribed period, the investor may not purchase or sell any more shares of the listed company.
Once an investor holds individually or with any other person 5 % of the shares as issued by a listed company by means of agreement or any other arrangement, he shall, pursuant to the provisions of the preceding paragraph herein, make a report and announcement for each 5% increase or decrease in the proportion of the issued shares of the said company he holds through securities trading at the stock exchange. Within the reporting period as well as two days after the relevant the report and announcement are made, the investor may not purchase or sell any more shares of the listed company.

Article 87 The written report and announcement as made according to the provisions of the preceding article shall include the following contents:
(1) The name and domicile of the shareholder;
(2) The description and amount of the shares as held; and
(3) The date on which the shareholding or any increase or decrease in the shareholding reaches the statutory percentage.

Article 88 Where an investor holds individually or with any other person 30% of the stocks as issued by a listed company by means of agreement or any other arrangement through securities trading at the stock exchange and continues the purchase, he shall issue a tender offer to all the shareholders of the said listed company to purchase all of or part of the shares of the listed company.
It shall be stipulated in a tender offer as issued to a listed company that, where the amount of shares the shareholders of the target company promise to sell exceeds the scheduled amount of stocks for purchase, the purchaser shall carry out the acquisition in proportion.

Article 89 Before any tender offer is issued pursuant to the provisions in the preceding article, the relevant purchaser shall submit a report on the acquisition of a listed company to the securities regulatory authority under the State Council beforehand, which shall indicate the following items:
(1) The name and domicile of the purchaser;
(2) The decision of the purchaser on acquisition;

(3) The name of the target listed company;
(4) The purpose of acquisition;
(5) The detailed description of the shares to be purchased and the amount of shares scheduled to be purchased in schedule;
(6) The term and price of the acquisition;
(7) The amount and warranty of the funds as required by the acquisition; and
(8) The proportion of the amount of shares of the target company as held by the purchaser in the total amount of shares issued by the target company, when the report on the acquisition of the listed company is reported.
A purchaser shall concurrently submit to the stock exchange a report on the acquisition of the relevant company.

Article 90 A purchaser shall, 15 days after the report on the acquisition of a listed company is submitted pursuant to the preceding article, announce its tender offer. Within the aforesaid term, where the securities regulatory authority under the State Council finds that the acquisition report of the listed company fails to meet the provisions of the relevant laws and administrative regulations, it shall notify the relevant purchaser in a timely manner, and the relevant purchaser shall not announce its tender offer.
The term for acquisition as stipulated in a tender offer shall be no less than 30 days but no more than 60 days.

Article 91 Within the term for acceptance as prescribed in the tender offer, no purchaser may revoke its tender offer. Where a purchaser requests for altering its tender offer, it shall submit a report to the securities regulatory authority under the State Council and the stock exchange in advance and announce the alteration upon their approval.

Article 92 All the terms and conditions of acquisition as stipulated in a tender offer shall apply to all the shareholders of a target company.

Article 93 In the case of an acquisition by tender offer, a purchaser shall not, within the term for acquisition, sell any share of the target company, nor shall it buy any share of the target company by any other means that hasn't been stipulated bin its tender offer or that go beyond the terms and conditions as stipulated in its tender offer.

Article 94 In the case of an agreement-based acquisition, a purchaser may carry out share transfer with the shareholders of the target company by means of agreement according to the provisions of the relevant laws and administrative regulations.
In the case of an acquisition of a listed company by agreement, a purchaser shall, within three days after the acquisition agreement is reached, submit a written report on the acquisition agreement to the securities regulatory authority under the State Council and the stock exchange, and shall announce it to the general public.
No acquisition agreement may be performed before the relevant announcement is made.

Article 95 In the case of an agreement-based acquisition, both parties to the agreement may temporarily entrust a securities registration and clearing institution to keep the stocks as transferred and deposit the relevant funds in a designated bank.

Article 96 In the case of an agreement-based acquisition, where a purchaser has purchased, held individually or with any other person 30% of the shares as issued by a listed company through agreement or any other arrangement and if the acquisition continues, the purchaser shall issue an offer to all of the shareholders of the target listed company for purchasing all of or part of the company's shares, unless it is exempted from making a tender offer by the securities regulatory authority under the State Council.
A purchaser that purchases the shares of a listed company by means of tender offer according to the provisions of the preceding paragraph herein shall observe the provisions of Articles 89 through 93 of the present Law.

Article 97 Upon the expiration of a term for acquisition, where the share distribution of an target company fails to meet the requirements of listing, the listing of stocks of the said listed company shall be terminated by the stock exchange

according to law. The shareholders that still hold the shares of the target company have the right to sell their shares in light of the equal terms as stipulated in the relevant tender offer, and the purchaser shall make the purchase.
When an acquisition is concluded, if a target company fails to meet the requirements for remaining a joint stock limited company any more, its form of enterprise shall be altered according to law.

Article 98 In the acquisition of a listed company, the stocks of the target company held by a purchaser shall not be transferred within 12 months after the acquisition is concluded.

Article 99 When an acquisition is concluded, if the purchaser merges with the target company by dissolving the target company, the original shares of the dissolved company shall be exchanged by the purchaser according to law.

Article 100 Where an acquisition is concluded, a purchaser shall, within 15 days, report the acquisition to the securities regulatory authority under the State Council and the stock exchange, and shall make an announcement for it.

Article 101 The purchase of the shares of a listed company as held by an organization that has been authorized by the state for investment shall be subject to the approval of the relevant administrative departments according to the provisions of the State Council.
The securities regulatory authority under the State Council shall formulate specific measures for the acquisition of listed companies according to the principles of the present Law.

Chapter V Stock Exchanges

Article 102 The term "stock exchange" refers to a legal person that provides the relevant place and facilities for concentrated securities trading, organizes and supervises the securities trading and applies a self-regulated administration.
The establishment and dissolution of a stock exchange shall be subject to the decision of the State Council.

Article 103 A constitution shall be formulated for the establishment of a stock exchange.
The formulation and revision of the constitution of a stock exchange shall be subject to the approval of the securities regulatory authority under the State Council.

Article 104 The words "stock exchange" shall be indicated in the name of a stock exchange. No other entity or individual may use the words "stock exchange" or its like in its or his name.

Article 105 The income at the discretion of a stock exchange which is generated from various commissions shall first be used to guarantee the normal operation of the place and facilities of the stock exchange as well as the gradual improvement thereof.
The gains as accumulated by a stock exchange that adopts a membership system shall belong to its members. The rights and interests of the stock exchange shall be jointly shared by its members. No accumulated gains of a stock exchange may be distributed to any member within its existence.

Article 106 A stock exchange shall have a council.

Article 107 A stock exchange shall have a general manager, who shall be subject to the appointment and dismissal of the securities regulatory authority under the State Council.

Article 108 Anyone, who is under the circumstance as prescribed in Article 147 of the Corporation Law of the People's Republic of China or any of the following circumstances, shall not assume the post of person-in-charge of a stock exchange:
(1) Where the person-in-charge of a stock exchange or securities registration and clearing institution or any director, supervisor or senior manager of a securities company who has been removed from his post for his irregularity or disciplinary breach and 5 years have not elapsed as of the day when he was removed from his post; or

(2) Where a professional of a law firm, accounting firm, or investment consulting organization, financial advising organization, credit rating institution, asset appraisal institution or asset verification institution who has been disqualified for his irregularity or disciplinary breach and 5 years have not elapsed as of the day when he was removed from his post.

Article 109 A practitioner of a stock exchange, securities registration and clearing institution, securities trading service organization or securities company or any functionary of the state organ, who has been dismissed for his irregularity or disciplinary breach, shall not be employed as a practitioner of any stock exchange.

Article 110 Anyone who enters into a stock exchange to engage in the centralized trading of securities must be a member of the stock exchange.

Article 111 An investor shall conclude an entrustment agreement with a securities company on securities trading, open a securities trading account in a securities company and entrust the securities company, in written form, by telephone or any other means, to purchase or sell securities on its behalf.

Article 112 A securities company shall, based on the entrustment of its investors, declare for securities dealings and engage in the centralized trading at a stock exchange according to the rules of securities trading and shall, on the basis of trading results, bear the relevant liabilities of settlement and delivery. A securities registration and clearing institution shall, on the basis of trading results and according to the rules of settlement and delivery, conduct settlement and delivery of securities and capital with the relevant securities company, and handle the formalities of transfer registration of securities for the clients of the relevant securities company.

Article 113 A stock exchange shall guarantee a fair centralized trading, announce up-to-the-minute quotations of securities trading, formulate the quotation tables of the securities market on the basis of trading days, and make announcements for it.
Without permission of the stock exchange, no entity or individual may announce any up-to-the-minute quotations of securities trading.

Article 114 Where any normal trading of securities is disturbed by an emergency, a stock exchange may take the measures of a technical suspension of trading. In the case of an emergency of force majeure or for the purpose of preserving the normal order of securities trading, a stock exchange may decide a temporary speed bump.
Where a stock exchange adopts the measure of technical suspension of trading or decides on a temporary speed bump, it shall report it to the securities regulatory authority under the State Council in a timely manner.

Article 115 A stock exchange shall exercise a real-time monitoring of securities trading and shall, according to the requirements of the securities regulatory authority under the State Council, report any abnormal trading thereto.
A stock exchange shall carry out supervision over the information as disclosed by the listed companies or the relevant obligor of information disclosure, supervise and urge them to disclose information in a timely and accurate manner according to law.
A stock exchange may, when it so requires, restrict the trading through a securities account where there is any major abnormal trading and shall report it to the securities regulatory authority under the State Council for archival filing.

Article 116 A stock exchange shall withdraw a certain proportion of funds from the transaction fees, membership fees and seat fees it has charged to establish a risk fund. The risk fund shall be subject to the administration of the council of the stock exchange.
The specific withdrawal proportion and use of the risk fund shall be provided for by the securities regulatory authority under the State Council in collaboration with the fiscal department of the State Council.

Article 117 A stock exchange shall deposit its risk fund into a special account of its opening bank and shall not unlawfully use it.

Article 118 A stock exchange shall, pursuant to the laws and administrative regulations on securities, formulate rules on listing, trading and membership administration as well as any other relevant rules, and shall report them to the securities regulatory authority under the State Council for approval.

Article 119 Where any person-in-charge and any other practitioner of a stock exchange has any interest relationship or any of his relatives has any interest relationship with the performance of his duties relating to securities trading, he shall withdraw.

Article 120 Any trading result of a transaction, which has been conducted in accordance with the trading rules as formulated according to law, shall not be altered. A trader who has conducted any rule-breaking trading shall not be exempted from civil liabilities. The proceeds as generated from the rule-breaking trading shall be dealt with pursuant to the relevant regulations.

Article 121 Where any staff member of a stock exchange who engages in securities trading violates any trading rule of the stock exchange, the stock exchange shall impose upon him a disciplinary sanction. Under any serious circumstances, the qualification thereof shall be revoked and the violator shall be prohibited from entering into the stock exchange to engage in any securities trading.

Chapter VI Securities Companies

Article 122 The establishment of a securities company shall be subject to the examination and approval of the securities regulatory authority under the State Council. No entity or individual may engage in any securities operations without the approval of the securities regulatory authority under the State Council.

Article 123 The term "securities company" as mentioned in the present Law refers to a limited- liability company or joint stock limited company that is established and engages in the business operation of securities according to the Corporation Law of the People's Republic of China as well as the provisions of the present Law.

Article 124 The establishment of a securities company shall meet the following requirements:
(1) Having a corporation constitution that meets the relevant laws and administrative regulations;
(2) The major shareholders having the ability to make profits continuously, enjoying good credit standing, and having no irregular or rule-breaking record over the latest 3 years, and its net asset being no less than 0.2 billion yuan.
(3) Having a registered capital that meets the provisions of the present Law;
(4) The directors, supervisors and senior managers thereof having the qualification for assuming such posts and its practitioners having the qualification to engage in the securities business;
(5) Having a complete risk management system as well as an internal control system;
(6) Having a qualified business place and facilities for operations; and
(7) Meeting any other requirement as prescribed by laws and administrative regulations as well as the provisions of the securities regulatory authority under the State Council, which have been approved by the State Council.

Article 125 A securities company may undertake some or all of the following business operations upon the approval of the securities regulatory authority under the State Council:
(1) Securities brokerage;
(2) Securities Investment consultation;
(3) Financial advising relating to the activities of securities trading or securities investment;
(4) Underwriting and recommendation of securities;
(5) Self-operations of securities;
(6) Securities asset management; and
(7) Any other business operations concerning securities.

Article 126 A securities company shall indicate the words "limited-liability securities company" or "joint stock limited securities company" in its name.

Article 127 Where a securities company engages in the business operation as prescribed in item (1), (2) or (3) of Article 125 of the present Law, its registered capital shall be RMB 50 million yuan at the least. Where a securities company engages in any of the business operations as prescribed in item (4), (5), (6) or (7) therein, its bottom-line registered capital shall be RMB 100 million yuan; Where a securities company engages in two or more business operations as prescribed in item (4), (5), (6) or (7) therein, its bottom-line registered capital shall be 500 million yuan. The registered capital of a securities company shall be paid-in capital.
The securities regulatory authority under the State Council may, according to the principle of prudent supervision and in light of the risk rating of all business operations, adjust the requirement of minimum amount of registered capital, which shall be no less than the minimum amount as prescribed in the preceding paragraph herein.

Article 128 The securities regulatory authority under the State Council shall, within 6 months as of accepting an application for establishing a securities company, carry out an examination according to the statutory requirements and procedures and on the basis of the principle of prudent supervision, make a decision on approval or disapproval, and thereafter notify the relevant applicant. In the case of disapproval, an explanation shall be given.
Where an application for establishing a securities company has been approved, an applicant shall, within the prescribed period, apply for registration of establishment with the organ in charge of corporation registration and collect its business license therefrom.
A securities company shall, within 15 days as of collecting its business license, apply for a Securities Business Permit with the securities regulatory authority under the State Council. Without a Securities Business Permit, a securities company shall not engage in any business operation of securities.

Article 129 Where a securities company establishes, purchases or cancels a branch, alters its business scope or registered capital, alters its shareholders who hold more than 5% of its stock rights or the actual controller, alters any important article of its constitution, has any merger or spilt-up, alters its form of corporation, suspends its business operations, goes through dissolution or bankruptcy procedures, it shall be subject to the approval of the securities regulatory authority under the State Council.
Where a securities company establishes or purchases a securities operation institution abroad or purchases the shares of any securities operational institution abroad, it shall be subject to the approval of the securities regulatory authority under the State Council.

Article 130 The securities regulatory authority under the State Council shall formulate provisions on the risk control indicators of a securities company such as net capital, the ratio between net capital and liabilities, the ratio between net capital and net assets, the ratio between net capital and operational scale of self-operation, underwriting and asset management, the ratio between liabilities and net asset, as well as the ratio between current assets and current liabilities.
A securities company shall not provide any financing or guaranty for its shareholders or any related person thereof.

Article 131 The directors, supervisors and senior managers of a securities company shall be honest and upright, have good morals, be familiar with the laws and administrative regulations on securities, and have the ability of operation and management as required by the performance of their functions and duties, and shall have obtained the post-holding qualification as verified by the securities regulatory authority under the State Council before assuming their posts.
Anyone who is under any circumstance as prescribed in Article 147 of the Corporation Law of the People's Republic of China or is under any of the following circumstances shall not hold the post of director, supervisor or senior manager of a securities company:
(1) Where a person-in-charge of a stock exchange or securities registration and clearing institution or a director, supervisor or senior manager of a securities company has been removed from his post for his irregularity or disciplinary

breach and 5 years have not elapsed as of the day when he is removed from his post; and
(2) Where a professional of a law firm, accounting firm or investment consulting organization, financial advising organization, credit rating institution, asset appraisal institution or asset verification institution has been disqualified for his irregularity or disciplinary breach and 5 years have not elapsed as of the day when he is removed from his post.

Article 132 A practitioner of a stock exchange, securities registration and clearing institution, securities trading service institution or securities company or any functionary of the state organ, who has been dismissed for his irregularity or disciplinary breach, shall not be employed as a practitioner of a stock exchange.

Article 133 A functionary of any state organ and any other personnel as prohibited by any law or administrative regulation from taking any part-time job in a company shall not take any job in a securities company on a part-time basis.

Article 134 The state shall establish a securities investor protection fund. The securities investor protection fund shall be composed of the capital paid by securities companies and any other capital lawfully raised. The specific measures for financing, administration and use of the foregoing fund shall be formulated by the State Council.

Article 135 A securities company shall withdraw a trading risk reserve from its annual after-tax profits to cover any possible loss from securities trading. The specific proportion for withdrawal shall be prescribed by the securities regulatory authority under the State Council.

Article 136 A securities company shall establish and improve an internal control system, adopt effective measures of separation so as to prevent any interest conflict between the company and its clients or between different clients thereof.
A securities company shall undertake its operations of securities brokerage, underwriting, self-operation and asset management in a separate manner and may not mix them up.

Article 137 A securities company shall undertake its self-operations in its own name and shall not do so in the name of any other person or in any individual's name.
A securities company shall undertake its self-operations by using its own capital and funds it has lawfully raised.
A securities company shall not lend its self-operation account to any other person.

Article 138 A securities company may enjoy its right of independent management according to law and its legal operations shall not be interfered.

Article 139 The trading settlement funds of the clients of a securities company shall be deposited in a commercial bank and be managed through the separate accounts as opened in the name of each client. The specific measures and implementation procedures shall be formulated by the State Council.
A securities company shall not incorporate any trading settlement funds or securities of its clients into its own assets. Any entity or individual is prohibited from misusing any trading settlement funds or securities of its/his clients in any form.
Where a securities company goes through bankruptcy procedures or is under liquidation, the trading settlement funds or securities of its client shall not be defined as its insolvent assets or liquidation assets. Under any other circumstance as irrelevant to the liabilities of its clients or under any other circumstance as prescribed by law, the trading settlement funds or securities of its clients shall not be sealed-up, frozen, deducted or enforced compulsorily.

Article 140 Where a securities company engages in any brokerage business, it shall arrange for a uniformly formulated power of attorney of securities trading for the entrusting party. Where any other means of entrustment is adopted, the relevant entrustment records shall be made.
For an entrustment of securities trading as made by a client, disregard whether the trading is concluded or not, the entrustment records shall be kept in the relevant securities company within the prescribed period.

Article 141 Upon accepting an entrustment for securities trading, a securities company shall, on the basis of the description of the securities, trading volume, method of quoting, price band, etc. as indicated in the power of attorney,

undertake securities trading as an agent according to the trading rules and make trading faithful records. After a transaction is concluded, a securities company shall, according to the relevant regulations, formulate a transaction report and deliver it to the relevant clients.
The statements in check sheet made for confirming trading acts against the results of securities trading shall be authentic. Such statements shall be subject to the examination of an examiner other than the relevant transaction handler himself, on a transaction-by-transaction basis, so as to guarantee the consistency between the balance of securities in book account and the securities as actually held.

Article 142 Where a securities company provides any service of securities financing through securities trading for its client, it shall meet the provisions of the State Council and shall be subject to the approval of the securities regulatory authority under the State Council.

Article 143 A securities company that engages in brokerage operations shall not decide any purchase or sale of securities, class selection of securities, trading volume or trading price on the basis of full entrustment of its client.

Article 144 A securities company shall not make any promise to its clients on the proceeds as generated from securities trading or on compensating the loss as incurred from securities trading by any means.

Article 145 A securities company and the practitioners thereof shall not privately accept any entrustment of its client for securities trading beyond its business place as established according to law.

Article 146 Where any practitioner of a securities company violates the trading rules by implementing the instructions of his securities company or taking advantage of his post in any securities trading, the relevant securities company shall bear all the liabilities as incurred therefrom.

Article 147 A securities company shall keep the materials of its clients regarding account opening, entrustment records, trading records and internal management as well as its business operations in a proper manner. No one may conceal, forge, alter or damage any of the aforesaid materials. The term for keeping the aforesaid materials shall be no less than 20 years.

Article 148 A securities company shall, according to the relevant provisions, report the information and materials regarding its operations and management such as its business operations and financial status to the securities regulatory authority under the State Council. The securities regulatory authority under the State Council is empowered to require the securities company as well as the shareholders and actual controllers thereof to provide the relevant information and materials within a prescribed period.
The information and materials as reported or provided by the securities company and the shareholders and actual controllers thereof to the securities regulatory authority under the State Council shall be authentic, accurate and complete.

Article 149 The securities regulatory authority under the State Council may, when believing it is necessary, entrust an accounting firm or an asset appraisal institution to carry out an auditing or appraisal on the financial status, internal control as well as asset value of any securities company. The specific measures thereof shall be formulated by the securities regulatory authority under the State Council in collaboration with the relevant administrative departments.

Article 150 Where the net capital or any other indicator of risk control of a securities company fails to satisfy the relevant provisions, the securities regulatory authority under the State Council shall order it to correct in a prescribed period. Where a securities company fails to correct within the prescribed period or any act thereof has injured the sound operation of the securities company or has damaged the legitimate rights and interests of its clients, the securities regulatory authority under the State Council may take the following measures in light of different circumstances:
(1) Restricting its business operations, ordering it to suspend some business operations and stopping the approval of any new operations thereof;

(2) Stopping the approval for establishing or taking over any business branch;
(3) Restricting its distribution of dividends, restricting the payment of remunerations to or provision of welfare for its directors, supervisors or senior managers;
(4) Restricting any transfer of property or the setting of any other right to its property;
(5) Ordering it to alter its directors, supervisors and senior managers or restricting the right thereof;
(6) Ordering the controlling shareholders to transfer their stock rights or restricting its shareholders from exercising the shareholders' rights; and
(7) Revoking the relevant business license.
A securities company shall, upon rectification, submit a report to the securities regulatory authority under the State Council. The securities regulatory authority under the State Council shall lift the relevant measures as prescribed in the preceding paragraph herein within 3 days as of concluding the relevant examination and acceptance of the securities company that has met the requirements of risk control indicators upon examination and acceptance.

Article 151 Where a shareholder of a securities company makes any fake capital contribution or spirits away registered capital, the securities regulatory authority under the State Council shall order him to correct within a prescribed period and may order him to transfer the stock rights of the securities company it holds.
Before a shareholder as prescribed in the preceding paragraph herein corrects his irregularity and transfers the stock right of the securities company it holds according to the relevant requirements, the securities regulatory authority under the State Council may restrict the shareholders' rights thereof.

Article 152 Where any director, supervisor or senior manager of a securities company fails to fulfill his fiduciary duties and thus incurs any major irregularity or rule-breaking act or major risk to his securities company, the securities regulatory authority under the State Council may revoke the post-holding qualification thereof and order his company to remove him from his post and replace him with a new one.

Article 153 Where any illegal operation of a securities company or any major risk thereof seriously disturbs the order of the securities market or injures the interests of the relevant investors, the securities regulatory authority under the State Council may take such supervisory measures as suspending its business for rectification, designating any other institution for trusteeship, take-over or cancellation.

Article 154 During a period when a securities company is ordered to suspend its business for rectification, or is designated for trusteeship, or is being taken over or liquidated, or where any major risk occurs, the following measures may be adopted to the directors, supervisors, senior managers or any other person of the securities company as held to be directly responsible, upon the approval of the securities regulatory authority under the State Council:
(1) Notifying the exit administrative organ to prevent him from exiting the Chinese territory; and
(2) Requesting the judicial organ to prohibit him from moving, transferring his properties or disposing of his properties by any other means, or setting any other right to his properties.

Chapter VII Securities Registration and Clearing Institutions

Article 155 A securities registration and clearing institution is a non-profit legal person that provides centralized registration, custody and settlement services for securities trading.
The establishment of a securities registration and clearing institution shall be subject to the approval of the securities regulatory authority under the State Council.

Article 156 The establishment of a securities registration and clearing institution shall meet the following requirements:
(1) Its self-owned capital shall be no less than 0.2 billion yuan;
(2) It shall have a place and the facilities as required by the services of securities registration, custody and settlement;
(3) Its major managers and practitioners shall have the securities practice qualification; and

(4) It shall meet any other requirement as prescribed by the securities regulatory authority under the State Council.
The words "securities registration and clearing" shall be indicated in the name of a securities registration and clearing institution.

Article 157 A securities registration and clearing institution shall perform the following functions:
(1) The establishment of securities accounts and settlement accounts;
(2) The custody and transfer of securities;
(3) The registration of roster of securities holders;
(4) The settlement and delivery for listed securities trading of a stock exchange;
(5) The distribution of securities rights and interests on the basis of the entrustment of issuers;
(6) The handling of any inquiry relating to the aforesaid business operations; and
(7) Any other business operations as approved by the securities regulatory authority under the State Council.

Article 158 The way of nationally centralized and unified operations shall be adopted for the registration and settlement of securities.
The constitution and operational rules of a securities registration and clearing institution shall be formulated according to law and shall be subject to the approval of the securities regulatory authority under the State Council.

Article 159 The securities as held by the relevant holders shall all be put under the custody of a securities registration and clearing institution in a listed trading.
A securities registration and clearing institution shall not misappropriate any securities of its clients.

Article 160 A securities registration and clearing institution shall provide the roster of securities holders as well as the relevant materials to a securities issuer.
A securities registration and clearing institution shall, according to the result of securities registration and settlement, affirm the fact that a securities holder holds the relevant securities and provide the relevant registration materials to the securities holder.
A securities registration and clearing institution shall guarantee the authenticity, accuracy and integrity of the roster of securities holders as well as records of transfer registration, and shall not conceal, forge, alter or damage any of the aforesaid materials.

Article 161 A securities registration and clearing institution shall take the following measures to guarantee the sound operation of its business:
(1) Having the necessary service equipment and complete data protection measures;
(2) Having established complete management systems concerning operation, finance and security protection; and
(3) Having established a complete risk control system.

Article 162 A securities registration and clearing institution shall keep the original voucher of registration, custody and settlement as well as the relevant documents and materials in a proper manner. The term for keeping the aforesaid materials shall be no less than 20 years.

Article 163 A securities registration and clearing institution shall establish a clearing risk fund so as to pay in advance or make up any loss of the securities registration and clearing institution as incurred from default delivery, technical malfunction, operational fault or force majeure.
The securities clearing risk fund shall be withdrawn from the business incomes and proceeds of the securities registration and clearing institution and may be paid by clearing participants according to a specified percentage of securities trading volume.
The measures for raising and managing the securities clearing risk fund shall be formulated by the securities regulatory authority under the State Council in collaboration with the fiscal department of the State Council.

Article 164 The securities clearing risk fund shall be deposited into a special account of a designated bank and shall be subject to special management.
Where a securities registration and clearing institution makes any compensation by using the securities clearing risk fund, it may recourse the payment to the relevant person who is held responsible.

Article 165 An application for dissolving a securities registration and clearing institution shall be subject to the approval of the securities regulatory authority under the State Council.

Article 166 An investor who entrusts a securities company to undertake any securities trading shall apply for opening a securities account. A securities registration and clearing institution shall, according to the relevant provisions, open a securities account for the investor in his own name.
An investor who applies for opening an account shall hold the legitimate certificates certifying his identity of a Chinese citizen or its qualification of a Chinese legal person, unless it is otherwise provided for by the state.

Article 167 A securities registration and clearing institution shall, when providing netting service for a stock exchange, require the relevant clearing participant to deliver securities and funds in full amount and provide guaranty of delivery according to the principles of delivery versus payment (DVP).
Before a delivery is concluded, nobody may use the securities, funds or collaterals as involved in the delivery.
Where a clearing participant fails to perform the duty of delivery according to the schedule, a securities registration and clearing institution has the right to dispose of the properties as prescribed in the preceding paragraph herein according to the operational rules.

Article 168 The clearing funds and securities as collected by a securities registration and clearing institution according to the operational rules shall be deposited into a special account for settlement and delivery. The settlement and delivery that can only be applied to the securities trading as concluded according to the operational rules and shall not be enforced compulsorily.

Chapter VIII Securities Trading Service Institutions

Article 169 Where an investment consulting institution, financial advising institution, credit rating institution, asset appraisal institution, or accounting firm engages in any securities trading service, it shall be subject to the approval of the securities regulatory authority under the State Council and the relevant administrative departments.
The measures for the administration of examination and approval of the practice of securities trading services by the investment consulting institutions, financial advising institutions, credit rating institutions, asset appraisal institutions and accounting firms shall be formulated by the securities regulatory authority under the State Council and the relevant administrative departments.

Article 170 The staff of an investment consulting institution, financial advising institution or credit rating institution who engage in securities trading services shall have the special knowledge of securities as well as work experience in the securities business or securities trading services for more than 2 years. The standards for recognizing the securities practice qualification and the measures for administration thereof shall be formulated by the securities regulatory authority under the State Council.

Article 171 An investment consulting institution as well as its practitioners that engage in securities trading services shall not have any of the following acts:
(1) Engaging in any securities investment as an agent on behalf of its entrusting party;
(2) Concluding any agreement with any entrusting party on sharing the gains of securities investment or bearing the loss of securities investment;
(3) Purchasing or selling any stock of a listed company, for which the consulting institution provides services;
(4) Providing or disseminating any false or misleading information to investors through media or by any other means; or

(5) Having any other act as prohibited by any law or administrative regulation.
Any institution or person that has any of the acts as prescribed in the preceding paragraph herein and thus incurs any loss to investors shall bear the liabilities of compensation.

Article 172 An investment consulting institution or credit rating institution that engages in securities trading services shall charge commissions for the services it provides according to the rates of or measures for fee charging as formulated by the relevant administrative department of the State Council.

Article 173 Where a securities trading service institution formulates and issues any auditing report, asset appraisal report, financial advising report, credit rating report or legal opinions for the issuance, listing and trading of securities, it shall be assiduous and dutiful by carrying out examination and verification for the authenticity, accuracy and integrity of the contents of the documents applied as the base. In the case of any false record, misleading statement or major omission in the documents it has formulated or issued, which incurs any loss to any other person, the relevant securities trading service institution shall bear several and joint liabilities together with the relevant issuer and listed company, unless a securities trading service institution has the ability to prove its faultlessness.

Chapter IX Securities Industrial Associations

Article 174 A securities industrial association is a self-disciplinary organization for the securities industry and is a public organization with the status of a legal person.
A securities company shall join a securities industrial association.
The organ of power of a securities industrial association is the general assembly of its members.

Article 175 The constitution of a securities industrial association shall be formulated by the general assembly of its members and shall be reported to the securities regulatory authority under the State Council for archival filing.

Article 176 A securities industrial association shall perform the following functions and duties:
(1) Educating and organizing its members to observe the laws and administrative regulations on securities;
(2) Safeguarding the legitimate rights and interests of its members and reporting the suggestions and demands of its members to the securities regulatory body;
(3) Collecting and sorting out the securities information and providing services for its members;
(4) Formulating the rules that shall be observed by its members, organizing the vocational training for the practitioners of its member entities and carrying out vocational exchanges between its members;
(5) Holding mediation over any dispute regarding securities operation between its members or between its members and clients;
(6) Organizing its members to do research on the development, operation, etc. of the securities industry;
(7) Supervising and examining the acts of its members and, according to the relevant provisions, giving a disciplinary sanction to any member that violates any law or administrative regulation or the constitution of the association; and
(8) Performing any other functions and duties as stipulated by the constitution of the industrial association.

Article 177 A council shall be established within the securities industrial association. The members of the council shall be selected through election according to the provisions of the constitution.

Chapter X Securities Regulatory Bodies

Article 178 The securities regulatory authority under the State Council shall carry out supervision and administration of the securities market according to law so as to preserve the order of the securities market and guarantee the legitimate operations thereof.

Article 179 The securities regulatory authority under the State Council shall perform the following functions and duties regarding the supervision and administration of the securities market:

(1) Formulating the relevant rules and regulations on the supervision and administration of the securities market and exercising the power of examination or verification according to law;
(2) Carrying out the supervision and administration of the issuance, listing, trading, registration, custody and settlement of securities according to law;
(3) Carrying out supervision and administration of the securities activities of the securities issuers, listed companies, stock exchanges, securities companies, securities registration and clearing institutions, securities investment fund management companies and securities trading service institutions according to law;
(4) Formulating the standards for securities practice qualification and code of conduct and carrying out supervision and implementation according to law;
(5) Carrying out supervision and examination of information disclosure regarding the issuance, listing and trading of securities;
(6) Offering guidance for and carrying out supervision of the activities of the securities industrial associations according to law;
(7) Investigating into and punishing any violation of any law or administrative regulation on the supervision and administration of the securities market according to law; and
(8) Performing any other functions and duties as prescribed by any law or administrative regulation.
The securities regulatory authority under the State council may establish a cooperative mechanism of supervision and administration in collaboration with the securities regulatory bodies of other countries and regions and conducts trans-border supervision and administration.

Article 180 Where the securities regulatory authority under the State Council performs its duties and functions, it has the power to take the following measures:
(1) Carrying an on-the-spot examination to a securities issuer, listing company, securities company, securities investment fund management company, securities trading service company, stock exchange or securities registration and clearing institution;
(2) Making investigation and collecting evidence in a place where any suspected irregularity has happened;
(3) Consulting the parties concerned or any entity or individual relating to a case under investigation and requiring the relevant entity or person to give explanations on the matters relating to a case under investigation;
(4) Referring to and photocopying such materials as the registration of property right and the communication records relating to the case under investigation;
(5) Referring to and photocopying the securities trading records, transfer registration records, financial statements as well as any other relevant documents and materials of any entity or individual relating to a case under investigation; sealing up any document or material that may be transferred, concealed or damaged;
(6) Consulting the capital account, security account or bank account of any relevant party concerned in or any entity or individual relating to a case under investigation; in the case of any evidence certifying that any property as involved in a case, such as illegal proceeds or securities, has been or may be transferred or concealed; or where any important evidence has been or may be concealed, forged or damaged, freezing or sealing up the foregoing properties or evidence upon the approval of the principal of the securities regulatory authority under the State Council;
(7) When investigating into any major securities irregularity such as manipulation of the securities market or insider trading, upon the approval of the principal of the securities regulatory authority under the State Council, restricting the securities trading of the parties concerned in a case under investigation, whereby the restriction term shall not exceed 15 trading days; under any complicated circumstance, the restriction term may be extended for another 15 trading day.

Article 181 Where the securities regulatory authority under the State Council performs its functions and duties of supervision or examination or investigation, there shall be no less than two people carrying out the supervision and examination, who shall show their legitimate certificates and the notice of supervision and examination as well as investigation. Where there are less than two people carrying out the supervision and examination or investigation or they

fail to show their legitimate certificates and the notice of supervision and examination or investigation, the entity under examination and investigation has the right to refuse.

Article 182 The functionary of the securities regulatory authority under the State Council shall be duteous, impartial and clean, and handle matters according to law, and shall not take advantage of his post to seek any unjust interests or divulge any commercial secret of the relevant entity or individual it has access to in his performance of duty.

Article 183 Where the securities regulatory authority under the State Council performs its functions and duties according to law, the entity or individual under examination and investigation shall offer assistance, provide the relevant documents and materials in a faithful manner and shall not refuse any legitimate requirement, obstruct the performance of duties and functions or conceal any document or material concerned.

Article 184 The regulations, rules as well as the working system of supervision and administration as formulated by the securities regulatory authority under the State Council according to law shall be publicized to the general public.
The securities regulatory authority under the State Council shall, according to the results of investigation, decide the punishment on any securities irregularity, which shall be publicized to the general public.

Article 185 The securities regulatory authority under the State Council shall establish an information pooling mechanism for supervision and administration in collaboration with any other financial regulatory authority under the State Council. Where the securities regulatory authority under the State Council performs its functions and duties of supervision and examination or investigation according to law, the relevant departments shall show cooperation.

Article 186 Where the securities regulatory authority under the State Council finds any securities irregularity as involved in a suspected crime when performing its functions and duties according to law, it shall transfer the case to the judicial organ for handling.

Article 187 The functionary of the securities regulatory authority under the State Council shall not hold any post in any organization under its supervision.

Chapter XII Legal Liabilities

Article 188 Where any company unlawfully makes any public issuance of securities or does so in any disguised form without the examination and approval of the statutory organ, it shall be ordered to cease the issuance, return the funds it has raised plus a deposit interest as calculated at the interest rate of the bank for the corresponding period of time and be imposed a fine of 1% up to 5% of the funds it has illegally raised. A company that has been established through any unlawful public issuance of securities or through any unlawful public issuance of securities in any disguised form shall be revoked by the organ or department that performs the functions and duties of supervision and administration in collaboration with the local people's government at or above the county level. The person-in-charge or any other person as held to be directly responsible shall be given a warning and be fined 30, 000 yuan up to 300, 000 yuan.

Article 189 Where an issuer fails to meet the requirements of issuance and cheats for the verification for issuance by any fraudulent means, if the relevant securities haven't been issued, it shall be fined 300, 000 yuan up to 600, 000 yuan; if the relevant securities have been issued, it shall be fined 1% up to 5% of the illegal proceeds it has unlawfully raised. The person-in-charge and any other person as held to be directly responsible shall be fined 30, 000 yuan up to 300, 000 yuan. Any controlling shareholder or actual controller of an issuer that instigates any irregularity as prescribed in the preceding paragraph herein shall be subject to the punishments as prescribed in the preceding paragraph.

Article 190 Where a securities company underwrites or purchases or sells, as an agent, any securities which have been unlawfully issued in a public manner without examination and approval, it shall be ordered to stop its entrusted underwriting or purchase or sale. The illegal proceeds shall be confiscated and a fine of 1 up to 5 times its illegal proceeds shall be imposed. Where there is no illegal proceeds or its illegal proceeds is less than 300, 000 yuan, a fine of 300, 000

yuan up to 60, 000 yuan shall be imposed. Where any loss has been incurred to any investor, the securities company shall bear several and joint liabilities of compensation together with the issuer. The person-in-charge and any other person as held to be directly responsible shall be given a warning and fined 30, 000 yuan up to 300, 000 yuan, and the post-holding qualification or securities practice qualification thereof shall be revoked.

Article 191 Where a securities company that engages in securities underwriting is under any of the following circumstances, it shall be ordered to correct and be given a warning. The illegal proceeds shall be confiscated and a fine of 30, 000 yuan up to 600, 000 yuan may be imposed concurrently. Under any serious circumstances, the relevant business license thereof shall be suspended or revoked. Where any loss has been incurred to any other securities underwriting institution or investor, it shall be subject to the liabilities of compensation according to law. The person-in-charge and any other person as held to be directly responsible shall be given a warning and may be concurrently fined 30, 000 yuan up to 300, 000 yuan. Under any serious circumstances, the post-holding qualification or securities practice qualification thereof shall be revoked:
(1) Conducting any advertising or any other publicity for recommendation, which is false or may mislead investors;
(2) Canvassing any underwriting business by any means of unjust competition; or
(3) Having any other irregularity in violation of the relevant provisions on securities underwriting.

Article 192 Where a recommender produces a recommendation letter with any false record, misleading statement or major omission, or fails to perform any other statutory functions and duties, it shall be ordered to correct and be given a warning. Its business income shall be confiscated and a fine of 1 up to 5 times its business income shall be imposed. Under any serious circumstances, the relevant business license shall be suspended or revoked. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be fined 30, 000 yuan up to 300, 000 yuan. Under any serious circumstances, the post-holding qualification or securities practice qualification thereof shall be revoked.

Article 193 Where an issuer, a listed company or any other obligor of information disclosure fails to disclose information according to the relevant provisions or where there is any false record, misleading or major omission in the information it has disclosed, it shall be ordered to correct, given a warning and imposed a fine of 300, 000 yuan up to 600, 000 yuan. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan.
Where an issuer, a listed company or any other obligor of information disclosure fails to submit relevant reports or where there is any false record, misleading or major omission in any report it has submitted, it shall ordered to correct, given a warning and imposed a fine of 300, 000 yuan up to 600, 000 yuan. The person-in-charge and any other person-in-charge as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan.
The controlling shareholder or actual controller of any issuer, listed company or any other obligor of information disclosure instigates any irregularity as prescribed in the preceding 2 paragraphs herein shall be subject to the punishments as prescribed in the preceding 2 paragraphs.

Article 194 Where any issuer or listed company unlawfully alters the purpose of use of funds as raised through public issuance of securities, it shall be ordered to correct. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan.
The controlling shareholder or actual controller of any issuer or listed company who instigates any irregularity as prescribed in the preceding paragraph herein shall be given a warning and be imposed a fine of 300, 000 yuan up to 600, 000 yuan. The person-in-charge and any other person as held to be directly responsible shall be subject to the punishment according to the provisions of the preceding paragraph.

Article 195 Where any director, supervisor, or senior manager of a listed company or a shareholder who holds more than 5% of the shares of a listed company violates the provisions of Article 47 of the present Law by buying or purchasing any stock of the listed company, he shall be given a warning and be concurrently imposed a fine of 30,000 yuan up to 100, 000

yuan.

Article 196 Any stock exchange as illegally established shall be banned by the people's government above the county level. Its illegal proceeds shall be confiscated and a fine of 1 up to 5 times its illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than 100, 000 yuan, a fine of 100, 000 yuan up to 500, 000 yuan shall be imposed. The person-in-charge and an other as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan.

Article 197 Any securities company that is unlawfully established or that unlawfully undertakes any securities operation without approval shall be banned by the securities regulatory body, the illegal proceeds shall be confiscated and a fine of 1 up to 5 times the illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than 300, 000 yuan, a fine of 300, 000 yuan up to 600, 000 yuan shall be imposed. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan.

Article 198 Where any personnel without a post-holding qualification or securities practice qualification is unlawfully employed as in violation of the provisions of the present Law, the securities regulatory body shall order it to correct, give it a warning and impose upon it a fine of 100, 000 yuan up to 300, 000 yuan. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 100, 000 yuan.

Article 199 Where any person who is prohibited by any law or administrative regulation from engaging in securities trading holds or purchases or sells any stock directly or in an assumed name or in the name of any other person, he shall be ordered to dispose of the stocks he unlawfully holds according to law. The illegal proceeds shall be confiscated and a fine of no more than the equivalent value of the stocks traded shall be imposed. In the case of any functionary of the state, an administrative sanction shall be given according to law.

Article 200 Where any practitioner of a stock exchange, securities company, securities registration and clearing institution or any functionary of any securities industrial association provides any false material or conceals, forges, alters or damages any trading record for the purpose of inducing investors to purchase or sell securities, the securities practice qualification thereof shall be revoked and a fine of 30, 000 yuan up to 100, 000 yuan shall be imposed. In the case of any functionary of the state, an administrative sanction shall be given according to law.

Article 201 Where a securities trading service institution and its staffs that produce any auditing report, asset appraisal report or legal opinions for the issuance of stocks violate the provisions of Article 45 of the present Law by purchasing or selling any stock, it shall be ordered to dispose of the stocks it or illegally holds according to law. The illegal proceeds shall be confiscated and a fine of no more than the equivalent value of the stocks traded shall be imposed.

Article 202 Where an insider who has access to insider information of securities trading or any person who has obtained any insider information purchases or sells the securities, divulges relevant information or advises any other person to purchase or sell securities before the information regarding the issuance or trading of securities or any other information that may have any big impact on the price of the securities is publicized, he shall be ordered to dispose of the securities he illegally holds according to law. The illegal proceeds shall be confiscated and a fine of 1 up to 5 times the illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than 30, 000 yuan, a fine of 30, 000 yuan up to 600, 000 yuan shall be imposed. Where an entity is involved in any insider trading, the person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan. Any functionary of the securities regulatory body that conducts any insider trading shall be given a heavier punishment.

Article 203 Where anyone violates the present Law by manipulating the securities market, he shall be ordered to dispose of the securities he illegally holds according to law. The illegal proceeds shall be confiscated and a fine of a fine of 1 up to 5 times the illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than 30,

000 yuan, a fine of 300, 000 yuan up to 3,000, 000 yuan shall be imposed. Where an entity manipulates the securities market, the person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 100,000 yuan up to 600, 000 yuan as well.

Article 204 Where anyone violates the relevant laws by purchasing or selling any securities during a period when the transfer of such securities is prohibited, he shall be ordered to correct, be given a warning and be imposed a fine of no more than the equivalent value of the securities as traded. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan.

Article 205 Where a securities company violates the present Law by providing any securities financing, the illegal proceeds shall be confiscated, the relevant business license shall be suspended or revoked, and a fine of no more than the equivalent value of the funds as raised through securities financing shall be imposed. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan, and the relevant post-holding qualification or securities practice qualification shall be revoked.

Article 206 Where anyone violates the provisions of paragraph 1 or 3 of Article 78 of the present Law by disturbing the securities market, the securities regulatory body shall order it to correct. The illegal proceeds shall be revoked and a fine of 1 up to 5 times of the illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than 30, 000 yuan, a fine of 30, 000 yuan up to 200, 000 yuan shall be imposed.

Article 207 Anyone who violates Paragraph 2 of Article 78 of the present Law by making false statements or providing misleading information in securities dealings shall be ordered to correct, and be fined 30,000 yuan up to 200,000 yuan. If the violator is a state functionary, he shall be given an administrative sanction, in addition.

Article 208 Where any legal person violates the present Law by opening any account in any other person's name or making use of any other person's account to purchase or sell any securities, it shall be ordered to correct and be imposed a fine of 1 up to 5 times the illegal proceeds. Where there is no illegal proceeds or the illegal proceeds is less than 30, 000 yuan, a fine of 30, 000 yuan up to 300, 000 yuan shall be imposed. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 100, 000 yuan.
Where a securities company provides any securities trading account of its own or of any other person for any irregularity as prescribed in the preceding paragraph herein, he shall not only be subject to the punishments as prescribed in the preceding paragraph, the post-holding qualification or securities practice qualification of the person-in-charge or any other person as held to be directly responsible shall be revoked as well.

Article 209 Where a securities company violates the present Law by engaging in the self-operation of securities by assuming any other's name or any individual's name, it shall be ordered to correct. The illegal proceeds shall be confiscated and a fine of 1 up to 5 times the illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than 30, 000 yuan, a fine of 300, 000 yuan up to 600, 000 yuan shall be imposed. Under any serious circumstances, the business license of securities self-operation shall be suspended or revoked. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 100, 000 yuan, and the relevant post-holding qualification or securities practice qualification shall be revoked.

Article 210 Where a securities company purchases or sells any securities or carries out any trading in violation of the entrustment of its clients or handles any other non-trading matter in violation of the true intension as expressed by its clients, it shall be ordered to correct and be imposed a fine of 10, 000 yuan up to 100, 000 yuan. Where any loss has been incurred to its client, it shall be subject to the liabilities of compensation according to law.

Article 211 Where a securities company or securities registration and clearing institution misappropriates any fund or securities of its client, or unlawfully purchases or sells any securities for its client without any entrustment, it shall be ordered to correct. The illegal proceeds shall be confiscated and a fine of 1 up to 5 times the illegal proceeds shall be

imposed. Where there is no illegal proceeds or the illegal proceeds is less than 100, 000 yuan, a fine of 100, 000 yuan up to 600, 000 yuan shall be imposed. Under any serious circumstances, it shall be ordered to close or the relevant business license thereof shall be revoked. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan and the relevant post-holding qualification or securities practice qualification thereof shall be revoked.

Article 212 Where a securities company undertakes any brokerage business, accepts the full entrustment of any client to purchase or sell any securities or makes any promise on the proceeds as generated from securities trading or on the compensation of any loss as incurred from securities trading, it shall be ordered to correct. The illegal proceeds shall be confiscated and a fine of 50, 000 yuan up to 200, 000 yuan shall be imposed. The relevant business license may be suspended or revoked. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 100, 000 yuan. The relevant post-holding qualification or securities practice qualification thereof may be revoked.

Article 213 Where a purchaser fails to perform its obligations of announcing the acquisition of a listed company, issuing a tender offer or submitting an acquisition report of a listed company or unlawfully altering its tender offer, etc. according to the present Law, it shall be ordered to correct, given a warning and be imposed a fine of 100, 000 yuan up to 300, 000 yuan. Before making any correction, for the stocks a purchaser holds individually or with any other person through an agreement or any other arrangement, the voting right thereof shall not be exercised. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan.

Article 214 Where a purchaser or the controlling shareholder of any purchaser takes advantage of the acquisition of any listed company to injure the legitimate rights and interests of the target company as well as the shareholders thereof, it shall be ordered to correct and be given a warning. Under any serious circumstances, a fine of 100, 000 yuan up to 600, 000 yuan shall be imposed. Where any loss is incurred to the target company or the shareholders thereof, it shall be subject to the liabilities of compensation according to law. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 300, 000 yuan.

Article 215 Where a securities company or any of its practitioners violates the present Law by privately accepting the entrustment of purchasing or selling securities from any client, it shall be ordered to correct and be given a warning. The illegal proceeds shall be confiscated and a fine of 1 up to 5 times the illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than 100, 000 yuan, a fine of 100, 000 yuan up to 300, 000 yuan shall be imposed.

Article 216 Where a securities company violates the relevant provisions by undertaking any trading of unlisted securities without approval, it shall be ordered to correct. The illegal proceeds shall be confiscated and a fine of 1 up to 5 times the illegal proceeds shall be imposed.

Article 217 Where a securities company fails to start its business operations 3 months after establishment without any justifiable reason, or suspends its business operations for a consecutive 3 months, the organ in charge of corporation registration shall revoke the business license of the company.

Article 218 Where any securities company violates the provisions of Article 129 of the present Law by unlawfully establishing, purchasing or revoking any branch, or unlawfully going through any merge, split-up, business suspension, dissolution or bankruptcy, or establishing, purchasing a securities operation institution abroad or purchasing the shares of any securities operation institution abroad, it shall be ordered to correct. The illegal proceeds shall be confiscated and a fine of 1 up to 5 times the illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than 100, 000 yuan, a fine of 100, 000 yuan up to 600, 000 yuan shall be imposed. The person-in-charge and any

other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 100, 000 yuan.
Where any securities company violates the provisions of Article 129 of the present Law by altering any of the relevant items, it shall be ordered to correct and be imposed a fine of 100, 000 yuan up to 300, 000 yuan. The person-in-charge and any other person as held to be directly responsible shall be given a warning and imposed a fine of no more than 50, 000 yuan.

Article 219 Where a securities company violates the present Law by engaging in any securities operation beyond its permitted business scope, it shall be ordered to correct. The illegal proceeds shall be confiscated and a fine of 1 up to 5 times the illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than 300, 000 yuan, a fine of 300, 000 yuan up to 600, 000 yuan shall be imposed. Under any serious circumstances, it shall be ordered to close down. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 100, 000 yuan, and the relevant post-holding qualification or securities practice qualification shall be revoked.

Article 220 Where a securities company fails to carry out its securities operation of brokerage, underwriting, self-operation or asset management in a separate manner according to law but mixes its own securities operation with other operations, it shall be ordered to correct. The illegal proceeds shall be confiscated and a fine of 300, 000 yuan up to 600, 000 yuan shall be imposed. Under any serious circumstances, the relevant business license shall be revoked. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 100, 000 yuan. Under any serious circumstances, the relevant post-holding qualification or securities practice qualification shall be revoked.

Article 221 Where a securities company submits any false document of certification or adopts any other fraudulent means to conceal any major fact so as to cheat for the securities business license or a securities company has any severe irregularity in the securities trading and thus, fails to meet the requirements of business operation any more, the securities regulatory body shall revoke its securities business license.

Article 222 Where a securities company or its shareholder or actual controller violates the relevant provisions by refusing to report or provide information or materials regarding its business and management to the securities regulatory body or in the case of any false record, misleading statement or major omission in the aforesaid information or materials as reported or submitted, it shall be ordered to correct, be given a warning and be fined 30, 000 yuan up to 300, 000 yuan. The relevant business license of the securities company may be suspended or revoked. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be fined no more than 30,000 yuan, and the relevant post-holding qualification or securities practice qualification shall be revoked.
Where a securities company provides financing or guaranty for its shareholder or any person related to its shareholder, it shall be ordered to correct, be given a warning and be imposed a fine of 100, 000 yuan up to 300, 000. The person-in-charge and any other person as held to be directly responsible shall be imposed a fine of 30, 000 yuan up to 100, 000 yuan. Where a shareholder has any fault, the securities regulatory authority under the State Council may restrict his shareholders' right before he makes the correction according to the relevant requirements. Where anyone refuses to correct, he may be ordered to transfer the stock right of the securities company he holds.

Article 223 Where a securities trading service institution fails to fulfill its accountability in a diligent and dutiful manner so that any document it formulated or produced has any false record, misleading statement or major omission, it shall be ordered to correct. The proceeds as generated from its business shall be confiscated. Its securities business license shall be suspended or revoked. A fine of 1 up to 5 times its business income shall be imposed. The person-in-charge and any other person as held to be directly responsible shall be given a warning and be imposed a fine of 30,000 yuan up to 100, 000 yuan, and the relevant post-holding qualification or securities practice qualification shall be revoked.

Article 224 Anyone that violates the present Law by issuing or underwriting any corporate bond shall be given a punishment by the department as authorized by the State Council according to the relevant provisions of the present Law.

Article 225 Where a listed company, securities company, stock exchange, securities registration and clearing institution, or securities trading service institution fails to keep the relevant documents and materials according to the relevant provisions, it shall be ordered to correct, be given a warning and be imposed a fine of 30, 000 yuan up to 300, 000 yuan. Where any relevant document or material is concealed, forged, altered or damaged, the violator shall be given a warning and be imposed a fine of 300, 000 yuan up to 600, 000 yuan.

Article 226 Where a securities registration and clearing institution is unlawfully established without approval of the State Council, it shall be cancelled by the securities regulatory body, its illegal proceeds shall be confiscated, and a fine of 1 up to 5 times of the illegal proceeds shall be imposed upon it.
Where an investment consulting institution, financial advising institution, credit rating institution, asset appraisal institution or accounting firm undertakes any securities trading service without the relevant approval, it shall be ordered to correct. The illegal proceeds shall be confiscated, and a fine of 1 up to 5 times of the illegal proceeds shall be imposed upon it.
Where a securities registration and clearing institution or a securities service trading institution violates the present Law or any operational rules it has formulated according to law, the securities regulatory body shall order it to correct, confiscate the illegal proceeds, and impose upon it a fine of 1 up to 5 times the illegal proceeds. Where there is no illegal proceeds or the illegal proceeds is less than 100, 000 yuan, a fine of 100, 000 yuan up to 300, 000 yuan shall be imposed. Under any serious circumstances, it shall be ordered to close down or its securities business license shall be revoked.

Article 227 Where the securities regulatory authority under the State Council or the department as authorized by the State Council is under any of the following circumstances, the person-in-charge and any other person as held to be directly responsible shall be given an administrative sanction according to law:
(1) Verifying or approving an application for issuing securities or for establishing a securities company, which fails to comply with the present Law;
(2) Taking such measures as on-the-spot examination, investigation and evidence collection, consultation, freeze-up or seal-up as in violation of the provisions of Article 180 of the present Law;
(3) Giving any administrative sanction to the relevant institution or personnel as in violation of the relevant provisions; or
(4) Performing any other functions and duties in an unlawful manner.

Article 228 Where any functionary of the securities regulatory body or any member of the issuance examination committee fails to perform the duties and functions as prescribed in the present Law, abuses his power, neglects his duty, takes advantage of his post to seek any unjust interests or divulges any commercial secret of the relevant entity or individual as accessible in his performance, he shall be subject to legal liabilities.

Article 229 Where a stock exchange grants any approval to an application for securities listing that fails to meet the requirements as prescribed in the present Law, it shall be given a warning. Its business income shall be confiscated and a fine of 1 up to 5 times its business income shall be imposed. The person-in-charge and any other person as held to be directly responsible shall be imposed a fine of 30, 000 yuan up to 300, 000 yuan.

Article 230 Where anyone refuses or obstructs the securities regulatory body and its functionary in its or his performance of the functions and duties of supervision, examination and investigation by means of violence or threat, he shall be given an administrative sanction of public security according to law.

Article 231 Anyone who violates the present Law and constitutes a crime shall be subject to criminal liabilities according to law.

Article 232 Where anyone violates the present Law and shall be subject to civil liabilities of compensation and payment of fines and penalties, and if his properties are not sufficient to cover all the payment at the same time, he shall bear civil

liabilities.

Article 233 Where anyone violates the relevant laws and administrative regulations or the relevant provisions of the securities regulatory authority under the State Council and is under any serious circumstances, the securities regulatory authority under the State Council may take measures to prohibit the relevant persons as held to be responsible from entering into the securities market.
The term "prohibition from entering into the securities market" as mentioned in the preceding paragraph refers to a system, whereby a person shall not undertake any securities practice or hold the post of director, supervisor or senior manager of a listed company within a prescribed term or for life.

Article 234 The fines as collected and the illegal proceeds as confiscated shall be all turned over into the State Treasury.

Article 235 Any party concerned that is dissatisfied with a decision of the securities regulatory body or a department as authorized by the State Council on punishment may apply for an administrative review or file a litigation with the people's court.

Chapter XII Supplementary Provisions

Article 236 The securities that have been approved for listed trading in a stock exchange according to the relevant administrative regulations before the present Law comes into force may continue to be traded according to law.
The securities operation institutions that have been approved for establishment according to the relevant administrative regulations and the provisions of the administrative department of finance of the State Council before the present Law comes into force but fails to completely comply with the provisions of the present Law shall meet the requirements as prescribed by the present Law within a prescribed term. The specific measures for implementation shall be separately prescribed by the State Council.

Article 237 An issuer that applies for verifying the public issuance of any stocks or corporate bonds shall pay the expenses for examination according to the relevant provisions.

Article 238 Where a domestic enterprise directly or indirectly goes abroad to issue any securities abroad or whose securities are listed abroad for trading, it shall be subject to the approval of the securities regulatory authority under the State Council according to the relevant provisions of the State Council.

Article 239 As to any subscription or trading of stocks of a domestic company in a foreign currency, the specific measures shall be separately formulated by the State Council.

Article 240 The present Measures shall come into force as of January 1, 2006.

中华人民共和国主席令

第 四十三 号

《中华人民共和国证券法》已由中华人民共和国第十届全国人民代表大会常务委员会第十八次会议于2005年10月27日修订通过，现将修订后的《中华人民共和国证券法》公布，自2006年1月1日起施行。

中华人民共和国主席 胡锦涛

2005年10月27日

中华人民共和国证券法

（1998年12月29日第九届全国人民代表大会常务委员会第六次会议通过 根据2004年8月28日第十届全国人民代表大会常务委员会第十一次会议《关于修改〈中华人民共和国证券法〉的决定》修正 2005年10月27日第十届全国人民代表大会常务委员会第十八次会议修订）

目 录

第一章　总　　则

第一条　为了规范证券发行和交易行为，保护投资者的合法权益，维护社会经济秩序和社会公共利益，促进社会主义市场经济的发展，制定本法。

第二条　在中华人民共和国境内，股票、公司债券和国务院依法认定的其他证券的发行和交易，适用本法；本法未规定的，适用《中华人民共和国公司法》和其他法律、行政法规的规定。

政府债券、证券投资基金份额的上市交易，适用本法；其他法律、行政法规另有规定的，适用其规定。

证券衍生品种发行、交易的管理办法，由国务院依照本法的原则规定。

第三条　证券的发行、交易活动，必须实行公开、公平、公正的原则。

第四条　证券发行、交易活动的当事人具有平等的法律地位，应当遵守自愿、有偿、诚实信用的原则。

第五条　证券的发行、交易活动，必须遵守法律、行政法规；禁止欺诈、内幕交易和操纵证券市场的行为。

第六条　证券业和银行业、信托业、保险业实行分业经营、分业管理，证券公司与银行、信托、保险业务机构分别设立。国家另有规定的除外。

第五十九条 公司债券上市交易申请经证券交易所审核同意后，签订上市协议的公司应当在规定的期限内公告公司债券上市文件及有关文件，并将其申请文件置备于指定场所供公众查阅。

第六十条 公司债券上市交易后，公司有下列情形之一的，由证券交易所决定暂停其公司债券上市交易：

（一）公司有重大违法行为；

（二）公司情况发生重大变化不符合公司债券上市条件；

（三）发行公司债券所募集的资金不按照核准的用途使用；

（四）未按照公司债券募集办法履行义务；

（五）公司最近二年连续亏损。

第六十一条 公司有前条第（一）项、第（四）项所列情形之一经查实后果严重的，或者有前条第（二）项、第（三）项、第（五）项所列情形之一，在限期内未能消除的，由证券交易所决定终止其公司债券上市交易。

公司解散或者被宣告破产的，由证券交易所终止其公司债券上市交易。

第六十二条 对证券交易所作出的不予上市、暂停上市、终止上市决定不服的，可以向证券交易所设立的复核机构申请复核。

第三节 持续信息公开

第六十三条 发行人、上市公司依法披露的信息，必须真实、准确、完整，不得有虚假记载、误导性陈述或者重大遗漏。

第六十四条 经国务院证券监督管理机构核准依法公开发行股票，或者经国务院授权的部门核准依法公开发行公司债券，应当公告招股说明书、公司债券募集办法。依法公开发行新股或者公司债券的，还应当公告财务会计报告。

第六十五条 上市公司和公司债券上市交易的公司，应当在每一会计年度的上半年结束之日起二个月内，向国务院证券监督管理机构和证券交易所报送记载以下内容的中期报告，并予公告：

（一）公司财务会计报告和经营情况；

（二）涉及公司的重大诉讼事项；

（三）已发行的股票、公司债券变动情况；

（四）提交股东大会审议的重要事项；

（五）国务院证券监督管理机构规定的其他事项。

第六十六条 上市公司和公司债券上市交易的公司，应当在每一会计年度结束之日起四个月内，向国务院证券监督管理机构和证券交易所报送记载以下内容的年度报告，并予公告：

（一）公司概况；

（二）公司财务会计报告和经营情况；

（三）董事、监事、高级管理人员简介及其持股情况；

（四）已发行的股票、公司债券情况，包括持有公司股份最多的前十名股东的名单和持股数额；

（五）公司的实际控制人；

（六）国务院证券监督管理机构规定的其他事项。

第六十七条 发生可能对上市公司股票交易价格产生较大影响的重大事件，投资者尚未得知时，上市公司应当立即将有关该重大事件的情况向国务院证券监督管理机构和证券交易所报送临时报告，并予公告，说明事件的起因、目前的状态和可能产生的法律后果。

下列情况为前款所称重大事件：

（一）公司的经营方针和经营范围的重大变化；

（二）公司的重大投资行为和重大的购置财产的决定；

（三）公司订立重要合同，可能对公司的资产、负债、权益和经营成果产生重要影响；

（四）公司发生重大债务和未能清偿到期重大债务的违约情况；

（五）公司发生重大亏损或者重大损失；

（六）公司生产经营的外部条件发生的重大变化；

（七）公司的董事、三分之一以上监事或者经理发生变动；

（八）持有公司百分之五以上股份的股东或者实际控制人，其持有股份或者控制公司的情况发生较大变化；

（九）公司减资、合并、分立、解散及申请破产的决定；

（十）涉及公司的重大诉讼，股东大会、董事会决议被依法撤销或者宣告无效；

（十一）公司涉嫌犯罪被司法机关立案调查，公司董事、监事、高级管理人员涉嫌犯罪被司法机关采取强制措施；

（十二）国务院证券监督管理机构规定的其他事项。

第六十八条 上市公司董事、高级管理人员应当对公司定期报告签署书面确认意见。

上市公司监事会应当对董事会编制的公司定期报告进行审核并提出书面审核意见。

上市公司董事、监事、高级管理人员应当保证上市公司所披露的信息真实、准确、完整。

第六十九条 发行人、上市公司公告的招股说明书、公司债券募集办法、财务会计报告、上市报告文件、年度报告、中期报告、临时报告以及其他信息披露资料，有虚假记载、误导性陈述或者重大遗漏，致使投资者在证券交易中遭受损失的，发行人、上市公司应当承担赔偿责任；发行人、上市公司的董事、监事、高级管理人员和其他直接责任人员以及保荐人、承销的证券公司，应当与发行人、上市公司承担连带赔偿责任，但是能够证明自己没有过错的除外；发行人、上市公司的控股股东、实际控制人有过错的，应当与发行人、上市公司承担连带赔偿责任。

第七十条 依法必须披露的信息，应当在国务院证券监督管理机构指定的媒体发布，同时将其置备于公司住所、证券交易所，供社会公众查阅。

第七十一条 国务院证券监督管理机构对上市公司年度报告、中期报告、临时报告以及公告的情况进行监督，对上市公司分派或者配售新股的情况进行监督，对上市公司控股股东和信息披露义务人的行为进行监督。

证券监督管理机构、证券交易所、保荐人、承销的证券公司及有关人员，对公司依照法律、行政法规规定必须作出的公告，在公告前不得泄露其内容。

第七十二条 证券交易所决定暂停或者终止证券上市交易的，应当及时公告，并报国务院证券监督管理机构备案。

第四节 禁止的交易行为

第七十三条 禁止证券交易内幕信息的知情人和非法获取内幕信息的人利用内幕信息从事证券交易活动。

第七十四条 证券交易内幕信息的知情人包括：

（一）发行人的董事、监事、高级管理人员；

（二）持有公司百分之五以上股份的股东及其董事、监事、高级管理人员，公司的实际控制人及其董事、监事、高级管理人员；

（三）发行人控股的公司及其董事、监事、高级管理人员；

（四）由于所任公司职务可以获取公司有关内幕信息的人员；

（五）证券监督管理机构工作人员以及由于法定职责对证券的发行、交易进行管理的其他人员；

（六）保荐人、承销的证券公司、证券交易所、证券登记结算机构、证券服务机构的有关人员；

（七）国务院证券监督管理机构规定的其他人。

第七十五条 证券交易活动中，涉及公司的经营、财务或者对该公司证券的市场价格有重大影响的尚未公开的信息，为内幕信息。

下列信息皆属内幕信息：

（一）本法第六十七条第二款所列重大事件；

（二）公司分配股利或者增资的计划；

（三）公司股权结构的重大变化；

（四）公司债务担保的重大变更；

（五）公司营业用主要资产的抵押、出售或者报废一次超过该资产的百分之三十；

（六）公司的董事、监事、高级管理人员的行为可能依法承担重大损害赔偿责任；

（七）上市公司收购的有关方案；

（八）国务院证券监督管理机构认定的对证券交易价格有显著影响的其他重要信息。

第七十六条 证券交易内幕信息的知情人和非法获取内幕信息的人，在内幕信息公开前，不得买卖该公司的证券，或者泄露该信息，或者建议他人买卖该证券。

持有或者通过协议、其他安排与他人共同持有公司百分之五以上股份的自然人、法人、其他组织

收购上市公司的股份，本法另有规定的，适用其规定。

内幕交易行为给投资者造成损失的，行为人应当依法承担赔偿责任。

第七十七条 禁止任何人以下列手段操纵证券市场：

（一）单独或者通过合谋，集中资金优势、持股优势或者利用信息优势联合或者连续买卖，操纵证券交易价格或者证券交易量；

（二）与他人串通，以事先约定的时间、价格和方式相互进行证券交易，影响证券交易价格或者证券交易量；

（三）在自己实际控制的账户之间进行证券交易，影响证券交易价格或者证券交易量；

（四）以其他手段操纵证券市场。

操纵证券市场行为给投资者造成损失的，行为人应当依法承担赔偿责任。

第七十八条 禁止国家工作人员、传播媒介从业人员和有关人员编造、传播虚假信息，扰乱证券市场。

禁止证券交易所、证券公司、证券登记结算机构、证券服务机构及其从业人员，证券业协会、证券监督管理机构及其工作人员，在证券交易活动中作出虚假陈述或者信息误导。

各种传播媒介传播证券市场信息必须真实、客观，禁止误导。

第七十九条 禁止证券公司及其从业人员从事下列损害客户利益的欺诈行为：

（一）违背客户的委托为其买卖证券；

（二）不在规定时间内向客户提供交易的书面确认文件；

（三）挪用客户所委托买卖的证券或者客户账户上的资金；

（四）未经客户的委托，擅自为客户买卖证券，或者假借客户的名义买卖证券；

（五）为牟取佣金收入，诱使客户进行不必要的证券买卖；

（六）利用传播媒介或者通过其他方式提供、传播虚假或者误导投资者的信息；

（七）其他违背客户真实意思表示，损害客户利益的行为。

欺诈客户行为给客户造成损失的，行为人应当依法承担赔偿责任。

第八十条 禁止法人非法利用他人账户从事证券交易；禁止法人出借自己或者他人的证券账户。

第八十一条 依法拓宽资金入市渠道，禁止资金违规流入股市。

第八十二条 禁止任何人挪用公款买卖证券。

第八十三条 国有企业和国有资产控股的企业买卖上市交易的股票，必须遵守国家有关规定。

第八十四条 证券交易所、证券公司、证券登记结算机构、证券服务机构及其从业人员对证券交易中发现的禁止的交易行为，应当及时向证券监督管理机构报告。

第四章 上市公司的收购

第八十五条 投资者可以采取要约收购、协议收购及其他合法方式收购上市公司。

第八十六条 通过证券交易所的证券交易，投资者持有或者通过协议、其他安排与他人共同持有一个上市公司已发行的股份达到百分之五时，应当在该事实发生之日起三日内，向国务院证券监督管理机构、证券交易所作出书面报告，通知该上市公司，并予公告；在上述期限内，不得再行买卖该上市公司的股票。

投资者持有或者通过协议、其他安排与他人共同持有一个上市公司已发行的股份达到百分之五后，其所持该上市公司已发行的股份比例每增加或者减少百分之五，应当依照前款规定进行报告和公告。在报告期限内和作出报告、公告后二日内，不得再行买卖该上市公司的股票。

第八十七条 依照前条规定所作的书面报告和公告，应当包括下列内容：

（一）持股人的名称、住所；

（二）持有的股票的名称、数额；

（三）持股达到法定比例或者持股增减变化达到法定比例的日期。

第八十八条 通过证券交易所的证券交易，投资者持有或者通过协议、其他安排与他人共同持有一个上市公司已发行的股份达到百分之三十时，继续进行收购的，应当依法向该上市公司所有股东发出收购上市公司全部或者部分股份的要约。

收购上市公司部分股份的收购要约应当约定，被收购公司股东承诺出售的股份数额超过预定收购的股份数额的，收购人按比例进行收购。

第八十九条 依照前条规定发出收购要约，收购人必须事先向国务院证券监督管理机构报送上市

公司收购报告书，并载明下列事项：

（一）收购人的名称、住所；

（二）收购人关于收购的决定；

（三）被收购的上市公司名称；

（四）收购目的；

（五）收购股份的详细名称和预定收购的股份数额；

（六）收购期限、收购价格；

（七）收购所需资金额及资金保证；

（八）报送上市公司收购报告书时持有被收购公司股份数占该公司已发行的股份总数的比例。

收购人还应当将上市公司收购报告书同时提交证券交易所。

第九十条 收购人在依照前条规定报送上市公司收购报告书之日起十五日后，公告其收购要约。在上述期限内，国务院证券监督管理机构发现上市公司收购报告书不符合法律、行政法规规定的，应当及时告知收购人，收购人不得公告其收购要约。

收购要约约定的收购期限不得少于三十日，并不得超过六十日。

第九十一条 在收购要约确定的承诺期限内，收购人不得撤销其收购要约。收购人需要变更收购要约的，必须事先向国务院证券监督管理机构及证券交易所提出报告，经批准后，予以公告。

第九十二条 收购要约提出的各项收购条件，适用于被收购公司的所有股东。

第九十三条 采取要约收购方式的，收购人在收购期限内，不得卖出被收购公司的股票，也不得采取要约规定以外的形式和超出要约的条件买入被收购公司的股票。

第九十四条 采取协议收购方式的，收购人可以依照法律、行政法规的规定同被收购公司的股东以协议方式进行股份转让。

以协议方式收购上市公司时，达成协议后，收购人必须在三日内将该收购协议向国务院证券监督管理机构及证券交易所作出书面报告，并予公告。

在公告前不得履行收购协议。

第九十五条 采取协议收购方式的，协议双方可以临时委托证券登记结算机构保管协议转让的股

票，并将资金存放于指定的银行。

第九十六条 采取协议收购方式的，收购人收购或者通过协议、其他安排与他人共同收购一个上市公司已发行的股份达到百分之三十时，继续进行收购的，应当向该上市公司所有股东发出收购上市公司全部或者部分股份的要约。但是，经国务院证券监督管理机构免除发出要约的除外。

收购人依照前款规定以要约方式收购上市公司股份，应当遵守本法第八十九条至第九十三条的规定。

第九十七条 收购期限届满，被收购公司股权分布不符合上市条件的，该上市公司的股票应当由证券交易所依法终止上市交易；其余仍持有被收购公司股票的股东，有权向收购人以收购要约的同等条件出售其股票，收购人应当收购。

收购行为完成后，被收购公司不再具备股份有限公司条件的，应当依法变更企业形式。

第九十八条 在上市公司收购中，收购人持有的被收购的上市公司的股票，在收购行为完成后的十二个月内不得转让。

第九十九条 收购行为完成后，收购人与被收购公司合并，并将该公司解散的，被解散公司的原有股票由收购人依法更换。

第一百条 收购行为完成后，收购人应当在十五日内将收购情况报告国务院证券监督管理机构和证券交易所，并予公告。

第一百零一条 收购上市公司中由国家授权投资的机构持有的股份，应当按照国务院的规定，经有关主管部门批准。

国务院证券监督管理机构应当依照本法的原则制定上市公司收购的具体办法。

第五章 证券交易所

第一百零二条 证券交易所是为证券集中交易提供场所和设施，组织和监督证券交易，实行自律管理的法人。

证券交易所的设立和解散，由国务院决定。

第一百零三条 设立证券交易所必须制定章程。

证券交易所章程的制定和修改，必须经国务院证券监督管理机构批准。

第一百零四条 证券交易所必须在其名称中标明证券交易所字样。其他任何单位或者个人不得使用证券交易所或者近似的名称。

第一百零五条 证券交易所可以自行支配的各项费用收入，应当首先用于保证其证券交易场所和设施的正常运行并逐步改善。

实行会员制的证券交易所的财产积累归会员所有，其权益由会员共同享有，在其存续期间，不得将其财产积累分配给会员。

第一百零六条 证券交易所设理事会。

第一百零七条 证券交易所设总经理一人，由国务院证券监督管理机构任免。

第一百零八条 有《中华人民共和国公司法》第一百四十七条规定的情形或者下列情形之一的，不得担任证券交易所的负责人：

（一）因违法行为或者违纪行为被解除职务的证券交易所、证券登记结算机构的负责人或者证券公司的董事、监事、高级管理人员，自被解除职务之日起未逾五年；

（二）因违法行为或者违纪行为被撤销资格的律师、注册会计师或者投资咨询机构、财务顾问机构、资信评级机构、资产评估机构、验证机构的专业人员，自被撤销资格之日起未逾五年。

第一百零九条 因违法行为或者违纪行为被开除的证券交易所、证券登记结算机构、证券服务机构、证券公司的从业人员和被开除的国家机关工作人员，不得招聘为证券交易所的从业人员。

第一百一十条 进入证券交易所参与集中交易的，必须是证券交易所的会员。

第一百一十一条 投资者应当与证券公司签订证券交易委托协议，并在证券公司开立证券交易账户，以书面、电话以及其他方式，委托该证券公司代其买卖证券。

第一百一十二条 证券公司根据投资者的委托，按照证券交易规则提出交易申报，参与证券交易所场内的集中交易，并根据成交结果承担相应的清算交收责任；证券登记结算机构根据成交结果，按照清算交收规则，与证券公司进行证券和资金的清算交收，并为证券公司客户办理证券的登记过户手续。

第一百一十三条 证券交易所应当为组织公平的集中交易提供保障，公布证券交易即时行情，并

按交易日制作证券市场行情表，予以公布。

未经证券交易所许可，任何单位和个人不得发布证券交易即时行情。

第一百一十四条 因突发性事件而影响证券交易的正常进行时，证券交易所可以采取技术性停牌的措施；因不可抗力的突发性事件或者为维护证券交易的正常秩序，证券交易所可以决定临时停市。

证券交易所采取技术性停牌或者决定临时停市，必须及时报告国务院证券监督管理机构。

第一百一十五条 证券交易所对证券交易实行实时监控，并按照国务院证券监督管理机构的要求，对异常的交易情况提出报告。

证券交易所应当对上市公司及相关信息披露义务人披露信息进行监督，督促其依法及时、准确地披露信息。

证券交易所根据需要，可以对出现重大异常交易情况的证券账户限制交易，并报国务院证券监督管理机构备案。

第一百一十六条 证券交易所应当从其收取的交易费用和会员费、席位费中提取一定比例的金额设立风险基金。风险基金由证券交易所理事会管理。

风险基金提取的具体比例和使用办法，由国务院证券监督管理机构会同国务院财政部门规定。

第一百一十七条 证券交易所应当将收存的风险基金存入开户银行专门账户，不得擅自使用。

第一百一十八条 证券交易所依照证券法律、行政法规制定上市规则、交易规则、会员管理规则和其他有关规则，并报国务院证券监督管理机构批准。

第一百一十九条 证券交易所的负责人和其他从业人员在执行与证券交易有关的职务时，与其本人或者其亲属有利害关系的，应当回避。

第一百二十条 按照依法制定的交易规则进行的交易，不得改变其交易结果。对交易中违规交易者应负的民事责任不得免除；在违规交易中所获利益，依照有关规定处理。

第一百二十一条 在证券交易所内从事证券交易的人员，违反证券交易所有关交易规则的，由证券交易所给予纪律处分；对情节严重的，撤销其资格，禁止其入场进行证券交易。

第六章 证券公司

第一百二十二条 设立证券公司，必须经国务院证券监督管理机构审查批准。未经国务院证券监督管理机构批准，任何单位和个人不得经营证券业务。

第一百二十三条 本法所称证券公司是指依照《中华人民共和国公司法》和本法规定设立的经营证券业务的有限责任公司或者股份有限公司。

第一百二十四条 设立证券公司，应当具备下列条件：

（一）有符合法律、行政法规规定的公司章程；

（二）主要股东具有持续盈利能力，信誉良好，最近三年无重大违法违规记录，净资产不低于人民币二亿元；

（三）有符合本法规定的注册资本；

（四）董事、监事、高级管理人员具备任职资格，从业人员具有证券从业资格；

（五）有完善的风险管理与内部控制制度；

（六）有合格的经营场所和业务设施；

（七）法律、行政法规规定的和经国务院批准的国务院证券监督管理机构规定的其他条件。

第一百二十五条 经国务院证券监督管理机构批准，证券公司可以经营下列部分或者全部业务：

（一）证券经纪；

（二）证券投资咨询；

（三）与证券交易、证券投资活动有关的财务顾问；

（四）证券承销与保荐；

（五）证券自营；

（六）证券资产管理；

（七）其他证券业务。

第一百二十六条 证券公司必须在其名称中标明证券有限责任公司或者证券股份有限公司字样。

第一百二十七条 证券公司经营本法第一百二十五条第（一）项至第（三）项业务的，注册资本最低限额为人民币五千万元；经营第（四）项至第（七）项业务之一的，注册资本最低限额为人民币一亿元；经营第（四）项至第（七）项业务中两项以上的，注册资本最低限额为人民币五亿元。证券

公司的注册资本应当是实缴资本。

国务院证券监督管理机构根据审慎监管原则和各项业务的风险程度，可以调整注册资本最低限额，但不得少于前款规定的限额。

第一百二十八条 国务院证券监督管理机构应当自受理证券公司设立申请之日起六个月内，依照法定条件和法定程序并根据审慎监管原则进行审查，作出批准或者不予批准的决定，并通知申请人；不予批准的，应当说明理由。

证券公司设立申请获得批准的，申请人应当在规定的期限内向公司登记机关申请设立登记，领取营业执照。

证券公司应当自领取营业执照之日起十五日内，向国务院证券监督管理机构申请经营证券业务许可证。未取得经营证券业务许可证，证券公司不得经营证券业务。

第一百二十九条 证券公司设立、收购或者撤销分支机构，变更业务范围或者注册资本，变更持有百分之五以上股权的股东、实际控制人，变更公司章程中的重要条款，合并、分立、变更公司形式、停业、解散、破产，必须经国务院证券监督管理机构批准。

证券公司在境外设立、收购或者参股证券经营机构，必须经国务院证券监督管理机构批准。

第一百三十条 国务院证券监督管理机构应当对证券公司的净资本，净资本与负债的比例，净资本与净资产的比例，净资本与自营、承销、资产管理等业务规模的比例，负债与净资产的比例，以及流动资产与流动负债的比例等风险控制指标作出规定。

证券公司不得为其股东或者股东的关联人提供融资或者担保。

第一百三十一条 证券公司的董事、监事、高级管理人员，应当正直诚实，品行良好，熟悉证券法律、行政法规，具有履行职责所需的经营管理能力，并在任职前取得国务院证券监督管理机构核准的任职资格。

有《中华人民共和国公司法》第一百四十七条规定的情形或者下列情形之一的，不得担任证券公司的董事、监事、高级管理人员：

（一）因违法行为或者违纪行为被解除职务的证券交易所、证券登记结算机构的负责人或者证券公司的董事、监事、高级管理人员，自被解除职务之日起未逾五年；

（二）因违法行为或者违纪行为被撤销资格的律师、注册会计师或者投资咨询机构、财务顾问机构、资信评级机构、资产评估机构、验证机构的专业人员，自被撤销资格之日起未逾五年。

第一百三十二条 因违法行为或者违纪行为被开除的证券交易所、证券登记结算机构、证券服务机构、证券公司的从业人员和被开除的国家机关工作人员，不得招聘为证券公司的从业人员。

第一百三十三条 国家机关工作人员和法律、行政法规规定的禁止在公司中兼职的其他人员，不得在证券公司中兼任职务。

第一百三十四条 国家设立证券投资者保护基金。证券投资者保护基金由证券公司缴纳的资金及其他依法筹集的资金组成，其筹集、管理和使用的具体办法由国务院规定。

第一百三十五条 证券公司从每年的税后利润中提取交易风险准备金，用于弥补证券交易的损失，其提取的具体比例由国务院证券监督管理机构规定。

第一百三十六条 证券公司应当建立健全内部控制制度，采取有效隔离措施，防范公司与客户之间、不同客户之间的利益冲突。

证券公司必须将其证券经纪业务、证券承销业务、证券自营业务和证券资产管理业务分开办理，不得混合操作。

第一百三十七条 证券公司的自营业务必须以自己的名义进行，不得假借他人名义或者以个人名义进行。

证券公司的自营业务必须使用自有资金和依法筹集的资金。

证券公司不得将其自营账户借给他人使用。

第一百三十八条 证券公司依法享有自主经营的权利，其合法经营不受干涉。

第一百三十九条 证券公司客户的交易结算资金应当存放在商业银行，以每个客户的名义单独立户管理。具体办法和实施步骤由国务院规定。

证券公司不得将客户的交易结算资金和证券归入其自有财产。禁止任何单位或者个人以任何形式挪用客户的交易结算资金和证券。证券公司破产或者清算时，客户的交易结算资金和证券不属于其破产财产或者清算财产。非因客户本身的债务或者法律规定的其他情形，不得查封、冻结、扣划或者强制执行客户的交易结算资金和证券。

第一百四十条 证券公司办理经纪业务，应当置备统一制定的证券买卖委托书，供委托人使用。采取其他委托方式的，必须作出委托记录。

客户的证券买卖委托，不论是否成交，其委托记录应当按照规定的期限，保存于证券公司。

第一百四十一条 证券公司接受证券买卖的委托，应当根据委托书载明的证券名称、买卖数量、出价方式、价格幅度等，按照交易规则代理买卖证券，如实进行交易记录；买卖成交后，应当按照规定制作买卖成交报告单交付客户。

证券交易中确认交易行为及其交易结果的对账单必须真实，并由交易经办人员以外的审核人员逐笔审核，保证账面证券余额与实际持有的证券相一致。

第一百四十二条 证券公司为客户买卖证券提供融资融券服务，应当按照国务院的规定并经国务院证券监督管理机构批准。

第一百四十三条 证券公司办理经纪业务，不得接受客户的全权委托而决定证券买卖、选择证券种类、决定买卖数量或者买卖价格。

第一百四十四条 证券公司不得以任何方式对客户证券买卖的收益或者赔偿证券买卖的损失作出承诺。

第一百四十五条 证券公司及其从业人员不得未经过其依法设立的营业场所私下接受客户委托买卖证券。

第一百四十六条 证券公司的从业人员在证券交易活动中，执行所属的证券公司的指令或者利用职务违反交易规则的，由所属的证券公司承担全部责任。

第一百四十七条 证券公司应当妥善保存客户开户资料、委托记录、交易记录和与内部管理、业务经营有关的各项资料，任何人不得隐匿、伪造、篡改或者毁损。上述资料的保存期限不得少于二十年。

第一百四十八条 证券公司应当按照规定向国务院证券监督管理机构报送业务、财务等经营管理信息和资料。国务院证券监督管理机构有权要求证券公司及其股东、实际控制人在指定的期限内提供有关信息、资料。

证券公司及其股东、实际控制人向国务院证券监督管理机构报送或者提供的信息、资料，必须真

实、准确、完整。

第一百四十九条 国务院证券监督管理机构认为有必要时，可以委托会计师事务所、资产评估机构对证券公司的财务状况、内部控制状况、资产价值进行审计或者评估。具体办法由国务院证券监督管理机构会同有关主管部门制定。

第一百五十条 证券公司的净资本或者其他风险控制指标不符合规定的，国务院证券监督管理机构应当责令其限期改正；逾期未改正，或者其行为严重危及该证券公司的稳健运行、损害客户合法权益的，国务院证券监督管理机构可以区别情形，对其采取下列措施：

（一）限制业务活动，责令暂停部分业务，停止批准新业务；

（二）停止批准增设、收购营业性分支机构；

（三）限制分配红利，限制向董事、监事、高级管理人员支付报酬、提供福利；

（四）限制转让财产或者在财产上设定其他权利；

（五）责令更换董事、监事、高级管理人员或者限制其权利；

（六）责令控股股东转让股权或者限制有关股东行使股东权利；

（七）撤销有关业务许可。

证券公司整改后，应当向国务院证券监督管理机构提交报告。国务院证券监督管理机构经验收，符合有关风险控制指标的，应当自验收完毕之日起三日内解除对其采取的前款规定的有关措施。

第一百五十一条 证券公司的股东有虚假出资、抽逃出资行为的，国务院证券监督管理机构应当责令其限期改正，并可责令其转让所持证券公司的股权。

在前款规定的股东按照要求改正违法行为、转让所持证券公司的股权前，国务院证券监督管理机构可以限制其股东权利。

第一百五十二条 证券公司的董事、监事、高级管理人员未能勤勉尽责，致使证券公司存在重大违法违规行为或者重大风险的，国务院证券监督管理机构可以撤销其任职资格，并责令公司予以更换。

第一百五十三条 证券公司违法经营或者出现重大风险，严重危害证券市场秩序、损害投资者利益的，国务院证券监督管理机构可以对该证券公司采取责令停业整顿、指定其他机构托管、接管或者撤销等监管措施。

第一百五十四条　在证券公司被责令停业整顿、被依法指定托管、接管或者清算期间，或者出现重大风险时，经国务院证券监督管理机构批准，可以对该证券公司直接负责的董事、监事、高级管理人员和其他直接责任人员采取以下措施：

（一）通知出境管理机关依法阻止其出境；

（二）申请司法机关禁止其转移、转让或者以其他方式处分财产，或者在财产上设定其他权利。

第七章　证券登记结算机构

第一百五十五条　证券登记结算机构是为证券交易提供集中登记、存管与结算服务，不以营利为目的的法人。

设立证券登记结算机构必须经国务院证券监督管理机构批准。

第一百五十六条　设立证券登记结算机构，应当具备下列条件：

（一）自有资金不少于人民币二亿元；

（二）具有证券登记、存管和结算服务所必须的场所和设施；

（三）主要管理人员和从业人员必须具有证券从业资格；

（四）国务院证券监督管理机构规定的其他条件。

证券登记结算机构的名称中应当标明证券登记结算字样。

第一百五十七条　证券登记结算机构履行下列职能：

（一）证券账户、结算账户的设立；

（二）证券的存管和过户；

（三）证券持有人名册登记；

（四）证券交易所上市证券交易的清算和交收；

（五）受发行人的委托派发证券权益；

（六）办理与上述业务有关的查询；

（七）国务院证券监督管理机构批准的其他业务。

第一百五十八条　证券登记结算采取全国集中统一的运营方式。

证券登记结算机构章程、业务规则应当依法制定，并经国务院证券监督管理机构批准。

第一百五十九条　证券持有人持有的证券，在上市交易时，应当全部存管在证券登记结算机构。

证券登记结算机构不得挪用客户的证券。

第一百六十条　证券登记结算机构应当向证券发行人提供证券持有人名册及其有关资料。

证券登记结算机构应当根据证券登记结算的结果，确认证券持有人持有证券的事实，提供证券持有人登记资料。

证券登记结算机构应当保证证券持有人名册和登记过户记录真实、准确、完整，不得隐匿、伪造、篡改或者毁损。

第一百六十一条　证券登记结算机构应当采取下列措施保证业务的正常进行：

（一）具有必备的服务设备和完善的数据安全保护措施；

（二）建立完善的业务、财务和安全防范等管理制度；

（三）建立完善的风险管理系统。

第一百六十二条　证券登记结算机构应当妥善保存登记、存管和结算的原始凭证及有关文件和资料。其保存期限不得少于二十年。

第一百六十三条　证券登记结算机构应当设立证券结算风险基金，用于垫付或者弥补因违约交收、技术故障、操作失误、不可抗力造成的证券登记结算机构的损失。

证券结算风险基金从证券登记结算机构的业务收入和收益中提取，并可以由结算参与人按照证券交易业务量的一定比例缴纳。

证券结算风险基金的筹集、管理办法，由国务院证券监督管理机构会同国务院财政部门规定。

第一百六十四条　证券结算风险基金应当存入指定银行的专门账户，实行专项管理。

证券登记结算机构以证券结算风险基金赔偿后，应当向有关责任人追偿。

第一百六十五条　证券登记结算机构申请解散，应当经国务院证券监督管理机构批准。

第一百六十六条　投资者委托证券公司进行证券交易，应当申请开立证券账户。证券登记结算机构应当按照规定以投资者本人的名义为投资者开立证券账户。

投资者申请开立账户，必须持有证明中国公民身份或者中国法人资格的合法证件。国家另有规定

的除外。

第一百六十七条 证券登记结算机构为证券交易提供净额结算服务时，应当要求结算参与人按照货银对付的原则，足额交付证券和资金，并提供交收担保。

在交收完成之前，任何人不得动用用于交收的证券、资金和担保物。

结算参与人未按时履行交收义务的，证券登记结算机构有权按照业务规则处理前款所述财产。

第一百六十八条 证券登记结算机构按照业务规则收取的各类结算资金和证券，必须存放于专门的清算交收账户，只能按业务规则用于已成交的证券交易的清算交收，不得被强制执行。

第八章 证券服务机构

第一百六十九条 投资咨询机构、财务顾问机构、资信评级机构、资产评估机构、会计师事务所从事证券服务业务，必须经国务院证券监督管理机构和有关主管部门批准。

投资咨询机构、财务顾问机构、资信评级机构、资产评估机构、会计师事务所从事证券服务业务的审批管理办法，由国务院证券监督管理机构和有关主管部门制定。

第一百七十条 投资咨询机构、财务顾问机构、资信评级机构从事证券服务业务的人员，必须具备证券专业知识和从事证券业务或者证券服务业务二年以上经验。认定其证券从业资格的标准和管理办法，由国务院证券监督管理机构制定。

第一百七十一条 投资咨询机构及其从业人员从事证券服务业务不得有下列行为：

（一）代理委托人从事证券投资；

（二）与委托人约定分享证券投资收益或者分担证券投资损失；

（三）买卖本咨询机构提供服务的上市公司股票；

（四）利用传播媒介或者通过其他方式提供、传播虚假或者误导投资者的信息；

（五）法律、行政法规禁止的其他行为。

有前款所列行为之一，给投资者造成损失的，依法承担赔偿责任。

第一百七十二条 从事证券服务业务的投资咨询机构和资信评级机构，应当按照国务院有关主管部门规定的标准或者收费办法收取服务费用。

第一百七十三条 证券服务机构为证券的发行、上市、交易等证券业务活动制作、出具审计报告、资产评估报告、财务顾问报告、资信评级报告或者法律意见书等文件，应当勤勉尽责，对所依据的文件资料内容的真实性、准确性、完整性进行核查和验证。其制作、出具的文件有虚假记载、误导性陈述或者重大遗漏，给他人造成损失的，应当与发行人、上市公司承担连带赔偿责任，但是能够证明自己没有过错的除外。

第九章 证券业协会

第一百七十四条 证券业协会是证券业的自律性组织，是社会团体法人。

证券公司应当加入证券业协会。

证券业协会的权力机构为全体会员组成的会员大会。

第一百七十五条 证券业协会章程由会员大会制定，并报国务院证券监督管理机构备案。

第一百七十六条 证券业协会履行下列职责：

（一）教育和组织会员遵守证券法律、行政法规；

（二）依法维护会员的合法权益，向证券监督管理机构反映会员的建议和要求；

（三）收集整理证券信息，为会员提供服务；

（四）制定会员应遵守的规则，组织会员单位的从业人员的业务培训，开展会员间的业务交流；

（五）对会员之间、会员与客户之间发生的证券业务纠纷进行调解；

（六）组织会员就证券业的发展、运作及有关内容进行研究；

（七）监督、检查会员行为，对违反法律、行政法规或者协会章程的，按照规定给予纪律处分；

（八）证券业协会章程规定的其他职责。

第一百七十七条 证券业协会设理事会。理事会成员依章程的规定由选举产生。

第十章 证券监督管理机构

第一百七十八条 国务院证券监督管理机构依法对证券市场实行监督管理，维护证券市场秩序，保障其合法运行。

第一百七十九条 国务院证券监督管理机构在对证券市场实施监督管理中履行下列职责：

（一）依法制定有关证券市场监督管理的规章、规则，并依法行使审批或者核准权；

（二）依法对证券的发行、上市、交易、登记、存管、结算，进行监督管理；

（三）依法对证券发行人、上市公司、证券公司、证券投资基金管理公司、证券服务机构、证券交易所、证券登记结算机构的证券业务活动，进行监督管理；

（四）依法制定从事证券业务人员的资格标准和行为准则，并监督实施；

（五）依法监督检查证券发行、上市和交易的信息公开情况；

（六）依法对证券业协会的活动进行指导和监督；

（七）依法对违反证券市场监督管理法律、行政法规的行为进行查处；

（八）法律、行政法规规定的其他职责。

国务院证券监督管理机构可以和其他国家或者地区的证券监督管理机构建立监督管理合作机制，实施跨境监督管理。

第一百八十条 国务院证券监督管理机构依法履行职责，有权采取下列措施：

（一）对证券发行人、上市公司、证券公司、证券投资基金管理公司、证券服务机构、证券交易所、证券登记结算机构进行现场检查；

（二）进入涉嫌违法行为发生场所调查取证；

（三）询问当事人和与被调查事件有关的单位和个人，要求其对与被调查事件有关的事项作出说明；

（四）查阅、复制与被调查事件有关的财产权登记、通讯记录等资料；

（五）查阅、复制当事人和与被调查事件有关的单位和个人的证券交易记录、登记过户记录、财务会计资料及其他相关文件和资料；对可能被转移、隐匿或者毁损的文件和资料，可以予以封存；

（六）查询当事人和与被调查事件有关的单位和个人的资金账户、证券账户和银行账户；对有证据证明已经或者可能转移或者隐匿违法资金、证券等涉案财产或者隐匿、伪造、毁损重要证据的，经国务院证券监督管理机构主要负责人批准，可以冻结或者查封；

（七）在调查操纵证券市场、内幕交易等重大证券违法行为时，经国务院证券监督管理机构主要

负责人批准，可以限制被调查事件当事人的证券买卖，但限制的期限不得超过十五个交易日；案情复杂的，可以延长十五个交易日。

第一百八十一条 国务院证券监督管理机构依法履行职责，进行监督检查或者调查，其监督检查、调查的人员不得少于二人，并应当出示合法证件和监督检查、调查通知书。监督检查、调查的人员少于二人或者未出示合法证件和监督检查、调查通知书的，被检查、调查的单位有权拒绝。

第一百八十二条 国务院证券监督管理机构工作人员必须忠于职守，依法办事，公正廉洁，不得利用职务便利牟取不正当利益，不得泄露所知悉的有关单位和个人的商业秘密。

第一百八十三条 国务院证券监督管理机构依法履行职责，被检查、调查的单位和个人应当配合，如实提供有关文件和资料，不得拒绝、阻碍和隐瞒。

第一百八十四条 国务院证券监督管理机构依法制定的规章、规则和监督管理工作制度应当公开。

国务院证券监督管理机构依据调查结果，对证券违法行为作出的处罚决定，应当公开。

第一百八十五条 国务院证券监督管理机构应当与国务院其他金融监督管理机构建立监督管理信息共享机制。

国务院证券监督管理机构依法履行职责，进行监督检查或者调查时，有关部门应当予以配合。

第一百八十六条 国务院证券监督管理机构依法履行职责，发现证券违法行为涉嫌犯罪的，应当将案件移送司法机关处理。

第一百八十七条 国务院证券监督管理机构的人员不得在被监管的机构中任职。

第十一章 法律责任

第一百八十八条 未经法定机关核准，擅自公开或者变相公开发行证券的，责令停止发行，退还所募资金并加算银行同期存款利息，处以非法所募资金金额百分之一以上百分之五以下的罚款；对擅自公开或者变相公开发行证券设立的公司，由依法履行监督管理职责的机构或者部门会同县级以上地方人民政府予以取缔，对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上三十万元以下的罚款。

第一百八十九条 发行人不符合发行条件，以欺骗手段骗取发行核准，尚未发行证券的，处以三十万元以上六十万元以下的罚款；已经发行证券的，处以非法所募资金金额百分之一以上百分之五以下的罚款。对直接负责的主管人员和其他直接责任人员处以三万元以上三十万元以下的罚款。

发行人的控股股东、实际控制人指使从事前款违法行为的，依照前款的规定处罚。

第一百九十条 证券公司承销或者代理买卖未经核准擅自公开发行的证券的，责令停止承销或者代理买卖，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足三十万元的，处以三十万元以上六十万元以下的罚款。给投资者造成损失的，应当与发行人承担连带赔偿责任。对直接负责的主管人员和其他直接责任人员给予警告，撤销任职资格或者证券从业资格，并处以三万元以上三十万元以下的罚款。

第一百九十一条 证券公司承销证券，有下列行为之一的，责令改正，给予警告，没收违法所得，可以并处三十万元以上六十万元以下的罚款；情节严重的，暂停或者撤销相关业务许可。给其他证券承销机构或者投资者造成损失的，依法承担赔偿责任。对直接负责的主管人员和其他直接责任人员给予警告，可以并处三万元以上三十万元以下的罚款；情节严重的，撤销任职资格或者证券从业资格：

（一）进行虚假的或者误导投资者的广告或者其他宣传推介活动；

（二）以不正当竞争手段招揽承销业务；

（三）其他违反证券承销业务规定的行为。

第一百九十二条 保荐人出具有虚假记载、误导性陈述或者重大遗漏的保荐书，或者不履行其他法定职责的，责令改正，给予警告，没收业务收入，并处以业务收入一倍以上五倍以下的罚款；情节严重的，暂停或者撤销相关业务许可。对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上三十万元以下的罚款；情节严重的，撤销任职资格或者证券从业资格。

第一百九十三条 发行人、上市公司或者其他信息披露义务人未按照规定披露信息，或者所披露的信息有虚假记载、误导性陈述或者重大遗漏的，责令改正，给予警告，并处以三十万元以上六十万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上三十万元以下的罚款。

发行人、上市公司或者其他信息披露义务人未按照规定报送有关报告，或者报送的报告有虚假记

载、误导性陈述或者重大遗漏的，责令改正，给予警告，并处以三十万元以上六十万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上三十万元以下的罚款。

发行人、上市公司或者其他信息披露义务人的控股股东、实际控制人指使从事前两款违法行为的，依照前两款的规定处罚。

第一百九十四条 发行人、上市公司擅自改变公开发行证券所募集资金的用途的，责令改正，对直接负责的主管人员和其他直接责任人员给予警告，并处以二万元以上二十万元以下的罚款。

发行人、上市公司的控股股东、实际控制人指使从事前款违法行为的，给予警告，并处以三十万元以上六十万元以下的罚款。对直接负责的主管人员和其他直接责任人员依照前款的规定处罚。

第一百九十五条 上市公司的董事、监事、高级管理人员、持有上市公司股份百分之五以上的股东，违反本法第四十七条的规定买卖本公司股票的，给予警告，可以并处二万元以上十万元以下的罚款。

第一百九十六条 非法开设证券交易场所的，由县级以上人民政府予以取缔，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足十万元的，处以十万元以上五十万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以二万元以上二十万元以下的罚款。

第一百九十七条 未经批准，擅自设立证券公司或者非法经营证券业务的，由证券监督管理机构予以取缔，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足三十万元的，处以三十万元以上六十万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以二万元以上三十万元以下的罚款。

第一百九十八条 违反本法规定，聘任不具有任职资格、证券从业资格的人员的，由证券监督管理机构责令改正，给予警告，可以并处十万元以上三十万元以下的罚款；对直接负责的主管人员给予警告，可以并处三万元以上十万元以下的罚款。

第一百九十九条 法律、行政法规规定禁止参与股票交易的人员，直接或者以化名、借他人名义持有、买卖股票的，责令依法处理非法持有的股票，没收违法所得，并处以买卖股票等值以下的罚款；属于国家工作人员的，还应当依法给予行政处分。

（一）公司股本总额、股权分布等发生变化不再具备上市条件；

（二）公司不按照规定公开其财务状况，或者对财务会计报告作虚假记载，可能误导投资者；

（三）公司有重大违法行为；

（四）公司最近三年连续亏损；

（五）证券交易所上市规则规定的其他情形。

第五十六条 上市公司有下列情形之一的，由证券交易所决定终止其股票上市交易：

（一）公司股本总额、股权分布等发生变化不再具备上市条件，在证券交易所规定的期限内仍不能达到上市条件；

（二）公司不按照规定公开其财务状况，或者对财务会计报告作虚假记载，且拒绝纠正；

（三）公司最近三年连续亏损，在其后一个年度内未能恢复盈利；

（四）公司解散或者被宣告破产；

（五）证券交易所上市规则规定的其他情形。

第五十七条 公司申请公司债券上市交易，应当符合下列条件：

（一）公司债券的期限为一年以上；

（二）公司债券实际发行额不少于人民币五千万元；

（三）公司申请债券上市时仍符合法定的公司债券发行条件。

第五十八条 申请公司债券上市交易，应当向证券交易所报送下列文件：

（一）上市报告书；

（二）申请公司债券上市的董事会决议；

（三）公司章程；

（四）公司营业执照；

（五）公司债券募集办法；

（六）公司债券的实际发行数额；

（七）证券交易所上市规则规定的其他文件。

申请可转换为股票的公司债券上市交易，还应当报送保荐人出具的上市保荐书。

（三）发起人姓名或者名称，发起人认购的股份数、出资种类及验资证明；

（四）招股说明书；

（五）代收股款银行的名称及地址；

（六）承销机构名称及有关的协议。

依照本法规定聘请保荐人的，还应当报送保荐人出具的发行保荐书。

法律、行政法规规定设立公司必须报经批准的，还应当提交相应的批准文件。

第十三条 公司公开发行新股，应当符合下列条件：

（一）具备健全且运行良好的组织机构；

（二）具有持续盈利能力，财务状况良好；

（三）最近三年财务会计文件无虚假记载，无其他重大违法行为；

（四）经国务院批准的国务院证券监督管理机构规定的其他条件。

上市公司非公开发行新股，应当符合经国务院批准的国务院证券监督管理机构规定的条件，并报国务院证券监督管理机构核准。

第十四条 公司公开发行新股，应当向国务院证券监督管理机构报送募股申请和下列文件：

（一）公司营业执照；

（二）公司章程；

（三）股东大会决议；

（四）招股说明书；

（五）财务会计报告；

（六）代收股款银行的名称及地址；

（七）承销机构名称及有关的协议。

依照本法规定聘请保荐人的，还应当报送保荐人出具的发行保荐书。

第十五条 公司对公开发行股票所募集资金，必须按照招股说明书所列资金用途使用。改变招股说明书所列资金用途，必须经股东大会作出决议。擅自改变用途而未作纠正的，或者未经股东大会认可的，不得公开发行新股。

第十六条 公开发行公司债券，应当符合下列条件：

（一）股份有限公司的净资产不低于人民币三千万元，有限责任公司的净资产不低于人民币六千万元；

（二）累计债券余额不超过公司净资产的百分之四十；

（三）最近三年平均可分配利润足以支付公司债券一年的利息；

（四）筹集的资金投向符合国家产业政策；

（五）债券的利率不超过国务院限定的利率水平；

（六）国务院规定的其他条件。

公开发行公司债券筹集的资金，必须用于核准的用途，不得用于弥补亏损和非生产性支出。

上市公司发行可转换为股票的公司债券，除应当符合第一款规定的条件外，还应当符合本法关于公开发行股票的条件，并报国务院证券监督管理机构核准。

第十七条 申请公开发行公司债券，应当向国务院授权的部门或者国务院证券监督管理机构报送下列文件：

（一）公司营业执照；

（二）公司章程；

（三）公司债券募集办法；

（四）资产评估报告和验资报告；

（五）国务院授权的部门或者国务院证券监督管理机构规定的其他文件。

依照本法规定聘请保荐人的，还应当报送保荐人出具的发行保荐书。

第十八条 有下列情形之一的，不得再次公开发行公司债券：

（一）前一次公开发行的公司债券尚未募足；

（二）对已公开发行的公司债券或者其他债务有违约或者延迟支付本息的事实，仍处于继续状态；

（三）违反本法规定，改变公开发行公司债券所募资金的用途。

第十九条 发行人依法申请核准发行证券所报送的申请文件的格式、报送方式，由依法负责核准的机构或者部门规定。

第二十条 发行人向国务院证券监督管理机构或者国务院授权的部门报送的证券发行申请文件，必须真实、准确、完整。

为证券发行出具有关文件的证券服务机构和人员，必须严格履行法定职责，保证其所出具文件的真实性、准确性和完整性。

第二十一条 发行人申请首次公开发行股票的，在提交申请文件后，应当按照国务院证券监督管理机构的规定预先披露有关申请文件。

第二十二条 国务院证券监督管理机构设发行审核委员会，依法审核股票发行申请。

发行审核委员会由国务院证券监督管理机构的专业人员和所聘请的该机构外的有关专家组成，以投票方式对股票发行申请进行表决，提出审核意见。

发行审核委员会的具体组成办法、组成人员任期、工作程序，由国务院证券监督管理机构规定。

第二十三条 国务院证券监督管理机构依照法定条件负责核准股票发行申请。核准程序应当公开，依法接受监督。

参与审核和核准股票发行申请的人员，不得与发行申请人有利害关系，不得直接或者间接接受发行申请人的馈赠，不得持有所核准的发行申请的股票，不得私下与发行申请人进行接触。

国务院授权的部门对公司债券发行申请的核准，参照前两款的规定执行。

第二十四条 国务院证券监督管理机构或者国务院授权的部门应当自受理证券发行申请文件之日起三个月内，依照法定条件和法定程序作出予以核准或者不予核准的决定，发行人根据要求补充、修改发行申请文件的时间不计算在内；不予核准的，应当说明理由。

第二十五条 证券发行申请经核准，发行人应当依照法律、行政法规的规定，在证券公开发行前，公告公开发行募集文件，并将该文件置备于指定场所供公众查阅。

发行证券的信息依法公开前，任何知情人不得公开或者泄露该信息。

发行人不得在公告公开发行募集文件前发行证券。

第二十六条 国务院证券监督管理机构或者国务院授权的部门对已作出的核准证券发行的决定，发现不符合法定条件或者法定程序，尚未发行证券的，应当予以撤销，停止发行。已经发行尚未上市的，撤销发行核准决定，发行人应当按照发行价并加算银行同期存款利息返还证券持有人；保荐人应

当与发行人承担连带责任，但是能够证明自己没有过错的除外；发行人的控股股东、实际控制人有过错的，应当与发行人承担连带责任。

第二十七条 股票依法发行后，发行人经营与收益的变化，由发行人自行负责；由此变化引致的投资风险，由投资者自行负责。

第二十八条 发行人向不特定对象发行的证券，法律、行政法规规定应当由证券公司承销的，发行人应当同证券公司签订承销协议。证券承销业务采取代销或者包销方式。

证券代销是指证券公司代发行人发售证券，在承销期结束时，将未售出的证券全部退还给发行人的承销方式。

证券包销是指证券公司将发行人的证券按照协议全部购入或者在承销期结束时将售后剩余证券全部自行购入的承销方式。

第二十九条 公开发行证券的发行人有权依法自主选择承销的证券公司。证券公司不得以不正当竞争手段招揽证券承销业务。

第三十条 证券公司承销证券，应当同发行人签订代销或者包销协议，载明下列事项：

（一）当事人的名称、住所及法定代表人姓名；

（二）代销、包销证券的种类、数量、金额及发行价格；

（三）代销、包销的期限及起止日期；

（四）代销、包销的付款方式及日期；

（五）代销、包销的费用和结算办法；

（六）违约责任；

（七）国务院证券监督管理机构规定的其他事项。

第三十一条 证券公司承销证券，应当对公开发行募集文件的真实性、准确性、完整性进行核查；发现有虚假记载、误导性陈述或者重大遗漏的，不得进行销售活动；已经销售的，必须立即停止销售活动，并采取纠正措施。

第三十二条 向不特定对象发行的证券票面总值超过人民币五千万元的，应当由承销团承销。承销团应当由主承销和参与承销的证券公司组成。

第三十三条 证券的代销、包销期限最长不得超过九十日。

证券公司在代销、包销期内，对所代销、包销的证券应当保证先行出售给认购人，证券公司不得为本公司预留所代销的证券和预先购入并留存所包销的证券。

第三十四条 股票发行采取溢价发行的，其发行价格由发行人与承销的证券公司协商确定。

第三十五条 股票发行采用代销方式，代销期限届满，向投资者出售的股票数量未达到拟公开发行股票数量百分之七十的，为发行失败。发行人应当按照发行价并加算银行同期存款利息返还股票认购人。

第三十六条 公开发行股票，代销、包销期限届满，发行人应当在规定的期限内将股票发行情况报国务院证券监督管理机构备案。

第三章 证券交易

第一节 一般规定

第三十七条 证券交易当事人依法买卖的证券，必须是依法发行并交付的证券。

非依法发行的证券，不得买卖。

第三十八条 依法发行的股票、公司债券及其他证券，法律对其转让期限有限制性规定的，在限定的期限内不得买卖。

第三十九条 依法公开发行的股票、公司债券及其他证券，应当在依法设立的证券交易所上市交易或者在国务院批准的其他证券交易场所转让。

第四十条 证券在证券交易所上市交易，应当采用公开的集中交易方式或者国务院证券监督管理机构批准的其他方式。

第四十一条 证券交易当事人买卖的证券可以采用纸面形式或者国务院证券监督管理机构规定的其他形式。

第四十二条 证券交易以现货和国务院规定的其他方式进行交易。

第四十三条 证券交易所、证券公司和证券登记结算机构的从业人员、证券监督管理机构的工作

人员以及法律、行政法规禁止参与股票交易的其他人员，在任期或者法定限期内，不得直接或者以化名、借他人名义持有、买卖股票，也不得收受他人赠送的股票。

任何人在成为前款所列人员时，其原已持有的股票，必须依法转让。

第四十四条 证券交易所、证券公司、证券登记结算机构必须依法为客户开立的账户保密。

第四十五条 为股票发行出具审计报告、资产评估报告或者法律意见书等文件的证券服务机构和人员，在该股票承销期内和期满后六个月内，不得买卖该种股票。

除前款规定外，为上市公司出具审计报告、资产评估报告或者法律意见书等文件的证券服务机构和人员，自接受上市公司委托之日起至上述文件公开后五日内，不得买卖该种股票。

第四十六条 证券交易的收费必须合理，并公开收费项目、收费标准和收费办法。

证券交易的收费项目、收费标准和管理办法由国务院有关主管部门统一规定。

第四十七条 上市公司董事、监事、高级管理人员、持有上市公司股份百分之五以上的股东，将其持有的该公司的股票在买入后六个月内卖出，或者在卖出后六个月内又买入，由此所得收益归该公司所有，公司董事会应当收回其所得收益。但是，证券公司因包销购入售后剩余股票而持有百分之五以上股份的，卖出该股票不受六个月时间限制。

公司董事会不按照前款规定执行的，股东有权要求董事会在三十日内执行。公司董事会未在上述期限内执行的，股东有权为了公司的利益以自己的名义直接向人民法院提起诉讼。

公司董事会不按照第一款的规定执行的，负有责任的董事依法承担连带责任。

第二节 证券上市

第四十八条 申请证券上市交易，应当向证券交易所提出申请，由证券交易所依法审核同意，并由双方签订上市协议。

证券交易所根据国务院授权的部门的决定安排政府债券上市交易。

第四十九条 申请股票、可转换为股票的公司债券或者法律、行政法规规定实行保荐制度的其他证券上市交易，应当聘请具有保荐资格的机构担任保荐人。

本法第十一条第二款、第三款的规定适用于上市保荐人。

第五十条 股份有限公司申请股票上市，应当符合下列条件：

（一）股票经国务院证券监督管理机构核准已公开发行；

（二）公司股本总额不少于人民币三千万元；

（三）公开发行的股份达到公司股份总数的百分之二十五以上；公司股本总额超过人民币四亿元的，公开发行股份的比例为百分之十以上；

（四）公司最近三年无重大违法行为，财务会计报告无虚假记载。

证券交易所可以规定高于前款规定的上市条件，并报国务院证券监督管理机构批准。

第五十一条 国家鼓励符合产业政策并符合上市条件的公司股票上市交易。

第五十二条 申请股票上市交易，应当向证券交易所报送下列文件：

（一）上市报告书；

（二）申请股票上市的股东大会决议；

（三）公司章程；

（四）公司营业执照；

（五）依法经会计师事务所审计的公司最近三年的财务会计报告；

（六）法律意见书和上市保荐书；

（七）最近一次的招股说明书；

（八）证券交易所上市规则规定的其他文件。

第五十三条 股票上市交易申请经证券交易所审核同意后，签订上市协议的公司应当在规定的期限内公告股票上市的有关文件，并将该文件置备于指定场所供公众查阅。

第五十四条 签订上市协议的公司除公告前条规定的文件外，还应当公告下列事项：

（一）股票获准在证券交易所交易的日期；

（二）持有公司股份最多的前十名股东的名单和持股数额；

（三）公司的实际控制人；

（四）董事、监事、高级管理人员的姓名及其持有本公司股票和债券的情况。

第五十五条 上市公司有下列情形之一的，由证券交易所决定暂停其股票上市交易：

第七条 国务院证券监督管理机构依法对全国证券市场实行集中统一监督管理。

国务院证券监督管理机构根据需要可以设立派出机构，按照授权履行监督管理职责。

第八条 在国家对证券发行、交易活动实行集中统一监督管理的前提下，依法设立证券业协会，实行自律性管理。

第九条 国家审计机关依法对证券交易所、证券公司、证券登记结算机构、证券监督管理机构进行审计监督。

第二章 证券发行

第十条 公开发行证券，必须符合法律、行政法规规定的条件，并依法报经国务院证券监督管理机构或者国务院授权的部门核准；未经依法核准，任何单位和个人不得公开发行证券。

有下列情形之一的，为公开发行：

（一）向不特定对象发行证券的；

（二）向特定对象发行证券累计超过二百人的；

（三）法律、行政法规规定的其他发行行为。

非公开发行证券，不得采用广告、公开劝诱和变相公开方式。

第十一条 发行人申请公开发行股票、可转换为股票的公司债券，依法采取承销方式的，或者公开发行法律、行政法规规定实行保荐制度的其他证券的，应当聘请具有保荐资格的机构担任保荐人。

保荐人应当遵守业务规则和行业规范，诚实守信，勤勉尽责，对发行人的申请文件和信息披露资料进行审慎核查，督导发行人规范运作。

保荐人的资格及其管理办法由国务院证券监督管理机构规定。

第十二条 设立股份有限公司公开发行股票，应当符合《中华人民共和国公司法》规定的条件和经国务院批准的国务院证券监督管理机构规定的其他条件，向国务院证券监督管理机构报送募股申请和下列文件：

（一）公司章程；

（二）发起人协议；

第二百条 证券交易所、证券公司、证券登记结算机构、证券服务机构的从业人员或者证券业协会的工作人员，故意提供虚假资料，隐匿、伪造、篡改或者毁损交易记录，诱骗投资者买卖证券的，撤销证券从业资格，并处以三万元以上十万元以下的罚款；属于国家工作人员的，还应当依法给予行政处分。

第二百零一条 为股票的发行、上市、交易出具审计报告、资产评估报告或者法律意见书等文件的证券服务机构和人员，违反本法第四十五条的规定买卖股票的，责令依法处理非法持有的股票，没收违法所得，并处以买卖股票等值以下的罚款。

第二百零二条 证券交易内幕信息的知情人或者非法获取内幕信息的人，在涉及证券的发行、交易或者其他对证券的价格有重大影响的信息公开前，买卖该证券，或者泄露该信息，或者建议他人买卖该证券的，责令依法处理非法持有的证券，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足二万元的，处以二万元以上六十万元以下的罚款。单位从事内幕交易的，还应当对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上三十万元以下的罚款。证券监督管理机构工作人员进行内幕交易的，从重处罚。

第二百零三条 违反本法规定，操纵证券市场的，责令依法处理非法持有的证券，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足二十万元的，处以三十万元以上三百万元以下的罚款。单位操纵证券市场的，还应当对直接负责的主管人员和其他直接责任人员给予警告，并处以十万元以上六十万元以下的罚款。

第二百零四条 违反法律规定，在限制转让期限内买卖证券的，责令改正，给予警告，并处以买卖证券等值以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上三十万元以下的罚款。

第二百零五条 证券公司违反本法规定，为客户买卖证券提供融资融券的，没收违法所得，暂停或者撤销相关业务许可，并处以非法融资融券等值以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，撤销任职资格或者证券从业资格，并处以三万元以上三十万元以下的罚款。

第二百零六条 违反本法第七十八条第一款、第三款的规定，扰乱证券市场的，由证券监督管理机构责令改正，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所

得不足三万元的，处以三万元以上二十万元以下的罚款。

第二百零七条 违反本法第七十八条第二款的规定，在证券交易活动中作出虚假陈述或者信息误导的，责令改正，处以三万元以上二十万元以下的罚款；属于国家工作人员的，还应当依法给予行政处分。

第二百零八条 违反本法规定，法人以他人名义设立账户或者利用他人账户买卖证券的，责令改正，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足三万元的，处以三万元以上三十万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上十万元以下的罚款。

证券公司为前款规定的违法行为提供自己或者他人的证券交易账户的，除依照前款的规定处罚外，还应当撤销直接负责的主管人员和其他直接责任人员的任职资格或者证券从业资格。

第二百零九条 证券公司违反本法规定，假借他人名义或者以个人名义从事证券自营业务的，责令改正，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足三十万元的，处以三十万元以上六十万元以下的罚款；情节严重的，暂停或者撤销证券自营业务许可。对直接负责的主管人员和其他直接责任人员给予警告，撤销任职资格或者证券从业资格，并处以三万元以上十万元以下的罚款。

第二百一十条 证券公司违背客户的委托买卖证券、办理交易事项，或者违背客户真实意思表示，办理交易以外的其他事项的，责令改正，处以一万元以上十万元以下的罚款。给客户造成损失的，依法承担赔偿责任。

第二百一十一条 证券公司、证券登记结算机构挪用客户的资金或者证券，或者未经客户的委托，擅自为客户买卖证券的，责令改正，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足十万元的，处以十万元以上六十万元以下的罚款；情节严重的，责令关闭或者撤销相关业务许可。对直接负责的主管人员和其他直接责任人员给予警告，撤销任职资格或者证券从业资格，并处以三万元以上三十万元以下的罚款。

第二百一十二条 证券公司办理经纪业务，接受客户的全权委托买卖证券的，或者证券公司对客户买卖证券的收益或者赔偿证券买卖的损失作出承诺的，责令改正，没收违法所得，并处以五万元以

上二十万元以下的罚款，可以暂停或者撤销相关业务许可。对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上十万元以下的罚款，可以撤销任职资格或者证券从业资格。

第二百一十三条 收购人未按照本法规定履行上市公司收购的公告、发出收购要约、报送上市公司收购报告书等义务或者擅自变更收购要约的，责令改正，给予警告，并处以十万元以上三十万元以下的罚款；在改正前，收购人对其收购或者通过协议、其他安排与他人共同收购的股份不得行使表决权。对直接负责的主管人员和其他直接责任人员给予警告，并处以二万元以上三十万元以下的罚款。

第二百一十四条 收购人或者收购人的控股股东，利用上市公司收购，损害被收购公司及其股东的合法权益的，责令改正，给予警告；情节严重的，并处以十万元以上六十万元以下的罚款。给被收购公司及其股东造成损失的，依法承担赔偿责任。对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上十万元以下的罚款。

第二百一十五条 证券公司及其从业人员违反本法规定，私下接受客户委托买卖证券的，责令改正，给予警告，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足十万元的，处以十万元以上二十万元以下的罚款。

第二百一十六条 证券公司违反规定，未经批准经营非上市证券的交易的，责令改正，没收违法所得，并处以违法所得一倍以上五倍以下的罚款。

第二百一十七条 证券公司成立后，无正当理由超过三个月未开始营业的，或者开业后自行停业连续三个月以上的，由公司登记机关吊销其公司营业执照。

第二百一十八条 证券公司违反本法第一百二十九条的规定，擅自设立、收购、撤销分支机构，或者合并、分立、停业、解散、破产，或者在境外设立、收购、参股证券经营机构的，责令改正，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足十万元的，处以十万元以上六十万元以下的罚款。对直接负责的主管人员给予警告，并处以三万元以上十万元以下的罚款。

证券公司违反本法第一百二十九条的规定，擅自变更有关事项的，责令改正，并处以十万元以上三十万元以下的罚款。对直接负责的主管人员给予警告，并处以五万元以下的罚款。

第二百一十九条 证券公司违反本法规定，超出业务许可范围经营证券业务的，责令改正，没收

违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足三十万元的，处以三十万元以上六十万元以下罚款；情节严重的，责令关闭。对直接负责的主管人员和其他直接责任人员给予警告，撤销任职资格或者证券从业资格，并处以三万元以上十万元以下的罚款。

第二百二十条　证券公司对其证券经纪业务、证券承销业务、证券自营业务、证券资产管理业务，不依法分开办理，混合操作的，责令改正，没收违法所得，并处以三十万元以上六十万元以下的罚款；情节严重的，撤销相关业务许可。对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上十万元以下的罚款；情节严重的，撤销任职资格或者证券从业资格。

第二百二十一条　提交虚假证明文件或者采取其他欺诈手段隐瞒重要事实骗取证券业务许可的，或者证券公司在证券交易中有严重违法行为，不再具备经营资格的，由证券监督管理机构撤销证券业务许可。

第二百二十二条　证券公司或者其股东、实际控制人违反规定，拒不向证券监督管理机构报送或者提供经营管理信息和资料，或者报送、提供的经营管理信息和资料有虚假记载、误导性陈述或者重大遗漏的，责令改正，给予警告，并处以三万元以上三十万元以下的罚款，可以暂停或者撤销证券公司相关业务许可。对直接负责的主管人员和其他直接责任人员，给予警告，并处以三万元以下的罚款，可以撤销任职资格或者证券从业资格。

证券公司为其股东或者股东的关联人提供融资或者担保的，责令改正，给予警告，并处以十万元以上三十万元以下的罚款。对直接负责的主管人员和其他直接责任人员，处以三万元以上十万元以下的罚款。股东有过错的，在按照要求改正前，国务院证券监督管理机构可以限制其股东权利；拒不改正的，可以责令其转让所持证券公司股权。

第二百二十三条　证券服务机构未勤勉尽责，所制作、出具的文件有虚假记载、误导性陈述或者重大遗漏的，责令改正，没收业务收入，暂停或者撤销证券服务业务许可，并处以业务收入一倍以上五倍以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，撤销证券从业资格，并处以三万元以上十万元以下的罚款。

第二百二十四条　违反本法规定，发行、承销公司债券的，由国务院授权的部门依照本法有关规定予以处罚。

第二百二十五条 上市公司、证券公司、证券交易所、证券登记结算机构、证券服务机构，未按照有关规定保存有关文件和资料的，责令改正，给予警告，并处以三万元以上三十万元以下的罚款；隐匿、伪造、篡改或者毁损有关文件和资料的，给予警告，并处以三十万元以上六十万元以下的罚款。

第二百二十六条 未经国务院证券监督管理机构批准，擅自设立证券登记结算机构的，由证券监督管理机构予以取缔，没收违法所得，并处以违法所得一倍以上五倍以下的罚款。

投资咨询机构、财务顾问机构、资信评级机构、资产评估机构、会计师事务所未经批准，擅自从事证券服务业务的，责令改正，没收违法所得，并处以违法所得一倍以上五倍以下的罚款。

证券登记结算机构、证券服务机构违反本法规定或者依法制定的业务规则的，由证券监督管理机构责令改正，没收违法所得，并处以违法所得一倍以上五倍以下的罚款；没有违法所得或者违法所得不足十万元的，处以十万元以上三十万元以下的罚款；情节严重的，责令关闭或者撤销证券服务业务许可。

第二百二十七条 国务院证券监督管理机构或者国务院授权的部门有下列情形之一的，对直接负责的主管人员和其他直接责任人员，依法给予行政处分：

（一）对不符合本法规定的发行证券、设立证券公司等申请予以核准、批准的；

（二）违反规定采取本法第一百八十条规定的现场检查、调查取证、查询、冻结或者查封等措施的；

（三）违反规定对有关机构和人员实施行政处罚的；

（四）其他不依法履行职责的行为。

第二百二十八条 证券监督管理机构的工作人员和发行审核委员会的组成人员，不履行本法规定的职责，滥用职权、玩忽职守，利用职务便利牟取不正当利益，或者泄露所知悉的有关单位和个人的商业秘密的，依法追究法律责任。

第二百二十九条 证券交易所对不符合本法规定条件的证券上市申请予以审核同意的，给予警告，没收业务收入，并处以业务收入一倍以上五倍以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以三万元以上三十万元以下的罚款。

第二百三十条 拒绝、阻碍证券监督管理机构及其工作人员依法行使监督检查、调查职权未使用

暴力、威胁方法的，依法给予治安管理处罚。

第二百三十一条 违反本法规定，构成犯罪的，依法追究刑事责任。

第二百三十二条 违反本法规定，应当承担民事赔偿责任和缴纳罚款、罚金，其财产不足以同时支付时，先承担民事赔偿责任。

第二百三十三条 违反法律、行政法规或者国务院证券监督管理机构的有关规定，情节严重的，国务院证券监督管理机构可以对有关责任人员采取证券市场禁入的措施。

前款所称证券市场禁入，是指在一定期限内直至终身不得从事证券业务或者不得担任上市公司董事、监事、高级管理人员的制度。

第二百三十四条 依照本法收缴的罚款和没收的违法所得，全部上缴国库。

第二百三十五条 当事人对证券监督管理机构或者国务院授权的部门的处罚决定不服的，可以依法申请行政复议，或者依法直接向人民法院提起诉讼。

第十二章 附 则

第二百三十六条 本法施行前依照行政法规已批准在证券交易所上市交易的证券继续依法进行交易。

本法施行前依照行政法规和国务院金融行政管理部门的规定经批准设立的证券经营机构，不完全符合本法规定的，应当在规定的限期内达到本法规定的要求。具体实施办法，由国务院另行规定。

第二百三十七条 发行人申请核准公开发行股票、公司债券，应当按照规定缴纳审核费用。

第二百三十八条 境内企业直接或者间接到境外发行证券或者将其证券在境外上市交易，必须经国务院证券监督管理机构依照国务院的规定批准。

第二百三十九条 境内公司股票以外币认购和交易的，具体办法由国务院另行规定。

第二百四十条 本法自2006年1月1日起施行。

ATTACHMENT 60

Public
File 200

Regulations of the People's Republic of China on the Administration of Company Registration (Revised 2005)

(Promulgated by Order No. 156 of the State Council of the People's Republic of China on June 24, 1994 and revised according to the Decision of the State Council on Revising the Regulations of the People's Republic of China on the Administration of Company Registration on December 18, 2005)

Chapter I General Provisions

Article 1 To validate the status of enterprise legal person of companies and standardize the conduct of company registration, these Regulations have been formulated in accordance with the Company Law of the People's Republic of China (hereinafter referred to as "company law").

Article 2 A limited liability company or a joint stock limited company (hereinafter referred to as "company") shall conduct company registration of its formation, modification and termination.

To apply for company registration, an applicant shall be responsible for the authenticity of the application documents and materials.

Article 3 A company may acquire the status of enterprise legal person only after having been legally registered by the company registration organ and collected a Business License of Enterprise Legal Person.

A company formed after these Regulations becoming effective shall not engage in any business activity in the name of a company without registration with the company registration organ.

Article 4 The administration for industry and commerce shall be the company registration organ.

A company registration organ at a lower level shall carry out company registration under the leadership of a company registration organ at a higher level.

A company registration organ shall perform its functions according to law, free from any unlawful interference.

Article 5 The State Administration for Industry and Commerce shall be in charge of the work of company registration across the country.

Chapter II Jurisdiction over Registration

Article 6 The State Administration for Industry and Commerce shall take charge of the registration of the following companies:

(1) a company where the state-owned asset supervision and administration institution of the State Council performs the functions of a contributor, and a company which is formed by the aforesaid company as an investor holding more than 50% of the shares therein;

(2) a foreign-funded company;

(3) a company which shall be registered by the State Administration for Industry and Commerce in accordance with a relevant law, administrative regulation or decision of the State Council; and

(4) any other company which shall be registered by the State Administration for Industry and Commerce in accordance with the provisions of the State Administration for Industry and Commerce.

Article 7 The administration for industry and commerce of a province, autonomous region or municipality directly under the Central Government shall take charge of the registration of the following companies within its administrative division:

(1) a company where the state-owned asset supervision and administration institution of the people's government of a province, autonomous region or municipality directly under the Central Government performs the functions of a contributor, and a company which is formed by the aforesaid company as an investor holding more than 50% of the shares therein;

(2) a company formed by a natural person as an investor which shall be registered by the administration for industry and commerce of a province, autonomous region or municipality directly under the Central Government in accordance with the provisions of the administration for industry and commerce of the province, autonomous region or municipality directly under the Central Government;

(3) a company which shall be registered by the administration for industry and commerce of a province, autonomous region or municipality directly under the Central Government in accordance with a relevant law, administrative regulation or decision of the State Council; and

(4) any other company which shall be registered as empowered by the State Administration for Industry and Commerce.

Article 8 The administration for industry and commerce of a districted city (region) or county, the sub-administration for industry and commerce of a municipality directly under the Central Government, or the district sub-administration of the administration for industry and commerce of a districted city shall take charge of the registration of the following companies within its administrative division:

(1) a company other than a company as set out in Articles 6 and 7 of these Regulations; and

(2) a company which shall registered as empowered by the State Administration for Industry and Commerce or the administration for industry and commerce of a province, autonomous region or municipality directly under the Central Government.

The specific jurisdiction over registration as set out in the preceding paragraph shall be formulated by the administration for industry and commerce of a province, autonomous region or municipality directly under the Central Government. However, the administration

for industry and commerce of a districted city (region) shall take charge of the registration of joint stock limited companies.

Chapter III Items for Registration

Article 9 The items for company registration shall include:

(1) name;

(2) residence;

(3) name of the legal representative;

(4) registered capital;

(5) paid-up capital;

(6) type of company;

(7) business scope;

(8) duration of business operation; and

(9) names of the shareholders of a limited liability company or names of promoters of a joint stock limited company, and amounts, time and forms of contributions as subscribed to and paid up.

Article 10 The items for company registration shall conform to the provisions of laws and administrative regulations. A company registration organ shall not register an item for registration which does not conform to the provisions of a law or administrative regulation.

Article 11 The name of a company shall conform to the relevant provisions of the state. A company may use one name only. The name of a company, which has been approved and registered by the company registration organ, shall be protected by law.

Article 12 The residence of a company shall be the seat of the principal office of the company. There may be only one residence registered with the company registration organ. The residence of a company shall be within the territorial jurisdiction of the company registration organ.

Article 13 The registered capital of a company shall be denominated in Renminbi, except as otherwise provided for by a law or administrative regulation.

Article 14 The form of contribution by a shareholder shall conform to the provisions of Article 27 of the Company Law. Where a shareholder contributes any property other than currency, property in kind, intellectual property or land use right, the measures for registration thereof shall be formulated by the State Administration for Industry and Commerce in conjunction with the relevant departments of the State Council.

No shareholder shall contribute, through evaluation, labor, credit, name of a natural person, goodwill, franchise or any property over which a security has been posted.

Article 15 The business scope of a company shall be prescribed in the bylaws of the company and registered according to law.

For the description of the business scope of a company, the standards for industrial categories of the national economy shall be referred to.

Article 16 The types of companies shall include limited liability company and joint stock limited company.

For a one-person limited liability company, the sole investor of a natural person or a legal person shall be stated in the registration of the company, and shall be also stated in the business license of the company.

Chapter IV Registration of Formation

Article 17 To form a company, an application shall be filed for the pre-approval of the company name.

For a company whose formation must be reported for approval according to a law, administrative regulation or decision of the State Council, or whose business scope includes an item which must be reported for approval before registration according to a law, administrative regulation or decision of the State Council, an application shall be filed for the pre-approval of the company name before report for approval in the company name as pre-approved by the company registration organ.

Article 18 To form a limited liability company, a representative designated or an agent jointly authorized by all the shareholders shall apply for the pre-approval of the company name to the company registration organ; to form a joint stock limited company, a representative designated or an agent jointly authorized by all the promoters shall apply for the pre-approval of the company name to the company registration organ.

In the application for the pre-approval of company name, the following documents shall be submitted:

(1) a written application for pre-approval of company name, which is signed by all the shareholders of a limited liability company or by all the promoters of a joint stock limited company;

(2) a certificate of designation of a representative or joint authorization of an agent by all the shareholders or promoters; and

(3) any other document as required by the State Administration for Industry and Commerce.

Article 19 A pre-approved company name shall be reserved for six months, and within such a period, the pre-approved name shall not be used for any business operation or transferred.

Article 20 To form a limited liability company, a representative designated or an agent jointly authorized by all the shareholders shall apply for registration of formation to the company registration organ. To form a company wholly owned by the state, the

state-owned asset supervision and administration institution of the State Council or the local people's government as empowered by the local people's government shall act as an applicant to apply for registration of formation. For a limited liability company whose formation must be reported for approval according to a law, administrative regulation or decision of the State Council, an application shall be filed for registration of formation within 90 days from the date of approval; for an overdue application for registration for formation, the applicant shall report to the examination and approval organ for confirmation of validity of the original approval document or for a separate approval.

To apply for forming a limited liability company, an applicant shall submit the following documents to the company registration organ:

(1) a written application for registration of formation, which is signed by the legal representative of the company;

(2) a certificate of designation of a representative or joint authorization of an agent by all the shareholders;

(3) bylaws of the company;

(4) a certificate of capital verification produced by a legally formed capital verification institution, except as otherwise provided for by a law or administrative regulation;

(5) a certificate of transfer of title, which shall be submitted at the time of registration of formation, where the initial contribution made by a shareholder is non-monetary property;

(6) a certificate of capacity of each shareholder which is an entity or certificate of identification of each shareholder which is a natural person;

(7) documents stating the names and residences of the directors, supervisors and managers and certificates of the relevant appointment, election or employment;

(8) an appointment document and a certificate of identification of the legal representative of the company;

(9) a notice of pre-approval of enterprise name;

(10) a certificate of residence of the company; and

(11) any other document as required by the State Administration for Industry and Commerce.

The amount of initial contribution made by a shareholder of a foreign-funded limited liability company shall conform to laws and administrative regulations, and the rest of contribution shall be paid up within two years from the date of formation of the company. In particular, for an investment company, the rest of contribution may be paid up within five years.

For a limited liability company whose formation must be reported for approval according to a law, administrative regulation or decision of the State Council, the relevant approval document shall be also submitted.

Article 21 To form a joint stock limited company, the board of directors of the company shall apply for registration of formation to the company registration organ. For a joint stock limited company which is formed by stock floatation, the board of directors of the company shall apply for registration of formation to the company registration organ within 30 days after the end of the meeting of foundation.

To apply for forming a joint stock limited company, an applicant shall submit the following documents to the company registration organ:

(1) a written application for registration of formation, which is signed by the legal representative of the company;

(2) a certificate of designation of a representative or joint authorization of an agent by the board of directors;

(3) bylaws of the company;

(4) a certificate of capital verification produced by a legally formed capital verification institution;

(5) a certificate of transfer of title, which shall be submitted at the time of registration of formation, where the initial contribution made by a shareholder is non-monetary property;

(6) a certificate of capacity of each promoter which is an entity or certificate of identification of each promoter which is a natural person;

(7) documents stating the names and residences of the directors, supervisors and managers and certificates of the relevant appointment, election or employment;

(8) an appointment document and a certificate of identification of the legal representative of the company;

(9) a notice of pre-approval of enterprise;

(10) a certificate of residence of the company; and

(11) any other document as required by the State Administration for Industry and Commerce.

For a joint stock limited company which is formed by stock floatation, the minutes of the meeting of foundation shall be also submitted; for a joint stock limited company which is formed by stock floatation and issues stocks publicly, the relevant approval document of the state-owned asset supervision and administration institution of the State Council shall be also submitted.

For a joint stock limited company whose formation must be reported for approval according to a law, administrative regulation or decision of the State Council, the relevant approval document shall be also submitted.

Article 22 Where the business scope in the application for company registration includes any item which must be reported for approval before registration according to a law, administrative regulation or decision of the State Council, the item shall be reported to the

relevant department of the state for approval before the application for registration, and the relevant approval document shall be submitted to the company registration organ.

Article 23 Where any provision of the bylaws of a company violates a law or administrative regulation, a company registration organ shall have the authority to require the company to amend it correspondingly.

Article 24 The certificate of residence of a company refers to a document that may certify that the company enjoys the right to use the residence.

Article 25 A company registration organ shall issue a Business License of Enterprise Legal Person to a legally formed company. The date of issuance of the business license of the company shall be the date of formation of the company. The company shall have its corporate seal made, open a bank account and apply for the registration of tax payment on the strength of the Business License of Enterprise Legal Person issued by the company registration organ.

Chapter V Registration of Modification

Article 26 To modify any registered item, a company shall apply for registration of modification to the original company registration organ.

Without registration of modification, no company shall modify any registered item.

Article 27 To apply for registration of modification, a company shall submit the following documents to the company registration organ:

(1) a written application for registration of modification, which is signed by the legal representative of the company;

(2) a resolution or decision on modification made according to the Company Law; and

(3) any other document as required by the State Administration for Industry and Commerce.

Where any registered item to be modified by a company involves the amendment of the bylaws of the company, the amended bylaws of the company or an amendment to the bylaws of the company signed by the legal representative of the company shall be submitted.

For a registered item to be modified which must be reported for approval before registration according to a law, administrative regulation or decision of the State Council, the relevant approval document shall be also submitted to the company registration organ.

Article 28 To modify the company name, a company shall apply for registration of modification within 30 days from the date when a resolution or decision on the modification is made.

Article 29 To modify the company residence, a company shall apply for registration of modification before it moves into the new residence, and submit a certificate of use of the new residence.

Where the modification of residence crosses the territorial jurisdictions of the company registration organs, a company shall apply for registration of modification to the company registration organ at the place of its new residence before moving into its new residence; where the company registration organ at the place of new residence of the company accepts the application, the original company registration organ shall transfer the company registration files of the company to the company registration organ at the place of new residence of the company.

Article 30 To modify the legal representative, a company shall apply for registration of modification within 30 days from the date when a resolution or decision on the modification is made.

Article 31 To modify the registered capital, a company shall submit a certificate of capital verification produced by a legally formed capital verification institution.

Where a company increases its registered capital, the contributions of the shareholders of a limited liability company for the increased capital and the subscriptions to new stocks by the shareholders of a joint stock limited company shall be respectively subject to the relevant provisions of the Company Law on the payment of contribution for the formation of a limited liability company and the payment for stock subscription for the formation of a joint stock company. Where a joint stock limited company increases its registered capital by publicly issuing new stocks or where a listed company increases its registered capital by privately issuing new stocks, the relevant approval document of the securities regulatory organ of the State Council shall be also submitted.

Where the statutory common reserve of a company is converted into its registered capital, the certificate of capital verification shall show that the retained statutory common reserve of the company is not be lower than 25% of the registered capital of the company before the conversion.

To reduce the registered capital, a company shall apply for registration of modification within 45 days from the date of announcement, and submit the relevant proof that the company has published an announcement on reduction of registered capital in a newspaper and a statement on debt repayment or debt guarantee by the company.

The registered capital of a company after reduction shall not be lower than the minimum statutory amount.

Article 32 To modify the paid-up capital, a company shall submit a certificate of capital verification produced by a legally formed capital verification institution, and the capital contributions shall be made according to the time and form of contribution as prescribed in the bylaws of the company. A company shall apply for registration of modification within 30 days from the date when the capital contributions or stock payments are paid up.

Article 33 To modify the business scope, a company shall apply for registration of modification within 30 days from the date when a resolution or decision on the modification is made; where the modification of the business scope of a company involves any item which must be reported for approval before registration according to a law,

administrative regulation or decision of the State Council, the company shall apply for registration of modification within 30 days from the date of approval by the relevant state department.

Where a license or any other approval document for an item in the business scope of a company which must be reported for approval according to a law, administrative regulation or decision of the State Council is suspended or revoked, or the term of validity of the license or any other approval document expires, the company shall, within 30 days from the date of suspension or revocation of the license or any other approval document or from the date of expiration of the license or any other approval document, apply for registration of modification or conduct the formalities for deregistration according to the provisions of Chapter VI of these Regulations.

Article 34 To modify the type of company, a company shall apply for registration of modification to a company registration organ within the prescribed time limit according to the formation requirements for the type of company after modification, and submit the relevant documents.

Article 35 Where a shareholder of a limited liability company transfers any shares in the company, the company shall apply for registration of modification within 30 days from the date of transfer of shares, and submit the certificate of capacity of the new shareholder which is an entity or certificate of identification of the new shareholder which is a natural person.

Where the legal inheritor of a deceased natural person shareholder of a limited liability company succeeds to the status of shareholder, the company shall apply for registration of modification according to the preceding paragraph.

Where a shareholder of a limited liability company or a promoter of a joint stock limited company changes its name, the company shall apply for registration of modification within 30 days from the date of change of name.

Article 36 Where the modification of any registered item of a company involves the modification of any registered item of its branch, the company shall apply for registration of modification of its branch within 30 days from the date of registration of modification of the company.

Article 37 Where the amendment of the bylaws of a company does not involve any registered item, the company shall submit the amended bylaws or an amendment to the bylaws to the original company registration organ for the record.

Article 38 Where any director, supervisor or manager of a company changes, the company shall file the change with the original company registration organ for the record.

Article 39 Where any registered item of a surviving company changes after a merger or separation, the company shall apply for registration of modification; a company which is dissolved after a merger or separation shall apply for deregistration; a company newly formed after a merger or separation shall apply for registration of formation.

For a merger or separation of a company, the company shall apply for registration within 45 days from the date of announcement, and submit the merger agreement, the resolution or decision on merger or separation, the relevant proof that the company has published an announcement on merger or separation in a newspaper and a statement on debt repayment or debt guarantee by the company. For a merger or separation of a company, which must be reported for approval according to a law, administrative regulation or decision of the State Council, the relevant approval document shall be also submitted.

Article 40 Where the modification of a registered item involves any item stated in the Business License of Enterprise Legal Person, a company registration organ shall reissue a business license to replace the original one.

Article 41 To apply for revocation of registration of modification to the company registration organ according to the provision of Article 22 of the Company Law, a company shall submit the following documents:

(1) a written application, which is signed by the legal representative of the company; and

(2) a judgment of the people's court.

Chapter VI Deregistration

Article 42 Where a company is dissolved and shall be liquidated according to law, a liquidation group shall, within 10 days from the date of its formation, submit a list of the members and person in charge of the liquidation group to the company registration organ for the record.

Article 43 Under any of the following circumstances, the liquidation group of a company shall apply for deregistration to the original company registration organ within 30 days from the date of conclusion of liquidation of the company:

(1) the company is declared bankrupt according to law;

(2) the duration of business operation prescribed in the bylaws of the company expires or any other situation for dissolution prescribed in the bylaws of the company occurs, unless the company continues to exist by virtue of an amendment to the bylaws of the company;

(3) the company is dissolved by a resolution of the shareholders' meeting or shareholder's assembly or is dissolved by the shareholder of a one-person limited liability company or a resolution of the board of directors of a foreign-funded company;

(4) the business license of the company is revoked or the company is ordered to be closed down or dissolved according to law;

(5) the company is dissolved by the people's court according to law; or

(6) any other circumstance of dissolution set out by a law or administrative regulation.

Article 44 To apply for deregistration, a company shall submit the following documents:

(1) a written application for deregistration, which is signed by the person in charge of the liquidation group of the company;

(2) a bankruptcy ruling or dissolution judgment of the people's court, a resolution or decision made by the company according to the Company Law or a document of the administration organ on ordered closedown or dissolution of the company;

(3) a liquidation report archived and affirmed by the shareholders' meeting or shareholder's assembly, the shareholder of a one-person limited liability company, the board of directors of a foreign-funded company, the people's court or the organ approving the company;

(4) the Business License of Enterprise Legal Person; and

(5) any other document as required by a law or administrative regulation.

To apply for deregistration, a wholly state-owned company shall also submit a decision of the state-owned asset supervision and administration institution. In particular, a key wholly state-owned company as determined by the State Council shall also submit the approval document of the people's government at the same level.

To apply for deregistration, a company which has a branch shall also submit the certificate of deregistration of its branch.

Article 45 A company shall be terminated upon the deregistration by the company registration organ.

Chapter VII Registration of a Branch of a Company

Article 46 A branch of a company refers to an organization formed by a company to engage in business operation at a place other than the residence of the company. A branch shall not have the status of enterprise legal person.

Article 47 The items for registration of a branch of a company shall include: name, business premises, person in charge and business scope of the branch.

The name of a branch of a company shall conform to the relevant provisions of the state.

The business scope of a branch of a company shall not be outside the business scope of the company.

Article 48 To form a branch, a company shall apply for registration to the company registration organ at the place of residence of the branch within 30 days from the date when a decision is made; where the formation of a branch must be reported to the relevant department for approval according to a law, administrative regulation or decision of the State Council, a company shall apply for registration to the company registration organ within 30 days from the date of approval.

To form a branch, a company shall submit the following documents to the company registration organ:

(1) a written application for registration of formation of a branch, which is signed by the legal representative of the company;

Article 51 To apply for registration of a company or a branch of a company, an applicant may come to the company registration organ to file an application, or file an application by such means as letter, telegraph, telex, fax, electronic data exchange or e-mail.

Where an application is filed by such means as telegraph, telex, fax, electronic data exchange or e-mail, the contact method and mailing address of the applicant shall be provided.

Article 52 The company registration organ shall decide whether or not to accept an application according to the following circumstances respectively:

(1) Where the application documents and materials are complete and consistent with the statutory formats, or an applicant has submitted all the additional or corrected application documents and materials as required by the company registration organ, the company registration organ shall decide to accept the application.

(2) Where the application documents and materials are complete and consistent with the statutory formats but the company registration organ deems that the application documents and materials need verification, the company registration organ shall decide to accept the application, and, at the same time, notify in writing the applicant of the items to be verified and reasons and time limit for verification.

(3) Where an application document or material has any error which may be corrected on the spot, the applicant shall be allowed to correct the error on the spot, affix its signature or seal on the place of correction and note the date of correction; after confirming that the application documents and materials are complete and consistent with the statutory formats, the company registration organ shall decide to accept the application.

(4) Where the application documents and materials are incomplete or inconsistent with the statutory formats, the company registration organ shall, on the spot or within 5 days, inform the applicant of all additions and corrections needed at one time; for notification on the spot, the company registration organ shall return the application documents and materials to the applicant; for notification within 5 days, the company registration organ shall receive the application documents and materials and issue a receipt of the application documents and materials, and where the company registration organ does not notify the applicant within the time limit, it shall be deemed that the company registration organ has accepted the application from the date of receipt of the application documents and materials.

(5) Where an item does not fall within the scope of company registration or does not fall within the scope of its registration jurisdiction, the company registration organ shall immediately decide not to accept the application, and notify the applicant to apply to a relevant administrative organ.

A company registration organ shall, within 5 days from the date of receipt of the application documents and materials, decide whether or not to accept an application which is filed by such means as letter, telegraph, telex, fax, electronic data exchange or e-mail.

(2) bylaws of the company, and a photocopy of the Business License of Enterprise Legal Person on which the corporate seal is affixed;

(3) a certificate of use of business premises;

(4) an appointment document and a certificate of identification of the person in charge of the branch; and

(5) any other document as required by the State Administration for Industry and Commerce.

Where the formation of a branch must be reported for approval according to a law, administrative regulation or decision of the State Council, or the business scope of a branch includes any item which must be reported for approval before registration according to a law, administrative regulation or decision of the State Council, the relevant approval document shall be also submitted.

The company registration organ of a branch shall issue a Business License to a branch whose registration is approved. A company shall, within 30 days from the date of registration of its branch, file a record with the company registration organ on the strength of the Business License of its branch.

Article 49 To modify a registered item, a branch of a company shall apply for registration of modification to the company registration organ.

To apply for registration of modification, a branch shall submit a written application for registration of modification which is signed by the legal representative of the company. To modify the name or business scope, a branch shall submit a photocopy of the Business License of Enterprise Legal Person on which the corporate seal of the company is affixed, and where the business scope of a branch includes any item which must be reported for approval before registration according to a laws, administrative regulation or decision of the State Council, the relevant approval document shall be also submitted. To modify the business premises, a branch shall submit a certificate of use of the new business premises. To modify the person in charge, a branch shall submit the appointment and removal documents and certificates of identification.

Upon approving the registration of modification, the company registration organ shall reissue a Business License to replace the original one.

Article 50 Where a branch of a company is dissolved by the company or ordered to be closed down according to law, or the business license of a branch of a company is revoked, the company shall apply for deregistration to the company registration organ of the branch within 30 days from the date when a decision is taken. To apply for deregistration, the company shall submit a written application for deregistration which is signed by the legal representative of the company and the Business License of the branch. Upon approving the deregistration, the company registration organ shall recover the Business License of the branch.

Chapter VIII Procedures for Registration

Article 53 Unless a decision on approval of registration is made according to paragraph 1(1) of Article 54 of these Regulations, a company registration organ shall issue a Notice of Acceptance after deciding to accept an application; or after deciding to disapprove an application, shall issue a Notice of Disapproval, explaining the reasons for disapproval and notifying the applicant of its right to apply for an administrative reconsideration or file an administrative lawsuit according to law.

Article 54 After deciding to accept an application for registration, a company registration organ shall decide whether or not to approve the registration within the prescribed time limit according to the different circumstances:

(1) Where an application filed by an applicant coming to the company registration organ is accepted, the company registration organ shall decide whether or not to approve the registration on the spot.

(2) Where an application filed by an applicant by letter is accepted, the company registration organ shall decide whether or not to approve the registration within 15 days from the date of acceptance.

(3) Where an application filed by an applicant by such means as telegraph, telex, fax, electronic data exchange or e-mail, the applicant shall, within 15 days from the date of receipt of the Notice of Acceptance, submit the original application documents and materials which are consistent with the contents of the telegraph, telex, fax, electronic data exchange or e-mail and the statutory formats; where the applicant comes to the company registration organ to submit the original application documents and materials, the company registration organ shall decide whether or not to approve the registration on the spot; where the applicant submits the original application documents and materials by letter, the company registration organ shall decide whether or not to approve the registration within 15 days from the date of acceptance.

(4) Where a company registration organ does not receive the original application documents and materials within 60 days from the date of issuance of the Notice of Acceptance, or the original application documents and materials are inconsistent with the application documents and materials accepted by the company registration organ, the company registration organ shall decide to disapprove the registration.

Where a company registration organ needs to verify the application documents and materials, it shall decide whether or not to approve the registration within 15 days from the date of acceptance.

Article 55 Where a company registration organ decides to grant the pre-approval of a company name, it shall issue a Notice of Pre-approval of Enterprise Name; where the organ decides to approve the registration of formation of a company, it shall issue a Notice of Approval of Formation Registration, and notify the applicant to collect a business license within 10 days from the date of decision; where the organ decides to approve the registration of modification of a company, it shall issue a Notice of Approval of Modification Registration, and notify the applicant to replace its business license within 10 days from

the date of decision; where the organ decides to approve the deregistration of a company, it shall issue a Notice of Approval of Deregistration, and recover the business license.

Where a company registration organ decides not to grant the pre-approval of a company name or decides to disapprove a registration, it shall issue a Notice of Rejection of Enterprise Name or a Notice of Rejection of Registration, explaining the reasons for its not granting the pre-approval or for its disapproval of registration and notifying the applicant of its right to apply for an administrative reconsideration or file an administrative lawsuit according to law.

Article 56 To conduct the registration of formation or registration of modification, a company shall pay a registration fee to the company registration organ according to legal provisions.

To collect a Business License of Enterprise Legal Person, the fee for registration of formation shall be charged at 0.8‰ of the total amount of the registered capital; where the registered capital exceeds 10 million yuan, for the excess, such a fee shall be charged at 0.4‰; where the registered capital exceeds 100 million yuan, for the excess, no such a fee shall be charged.

To collect a Business License, the fee for registration of formation shall be 300 yuan.

To modify any registered item, the fee for registration of modification shall be 100 yuan.

Article 57 A company registration organ shall enter a company registration item which is approved to be registered into the company register book for the public to consult and copy.

Article 58 An announcement of revocation of the Business License of Enterprise Legal Person or Business License shall be published by a company registration organ.

Chapter IX Annual Inspection

Article 59 From March 1 to June 30 each year, a company registration organ shall conduct the annual inspection of companies.

Article 60 A company shall accept the annual inspection within the prescribed period of time according to the requirements of the company registration organ, and submit an annual inspection report, an annual balance sheet and profit and loss statement, and a duplicate of the Business License of Enterprise Legal Person.

A company which has a branch shall clearly reflect the relevant information on the branch in the submitted annual inspection materials, and submit a photocopy of the Business License.

Article 61 A company registration organ shall examine the information on the company registration items, on the basis of the annual inspection materials submitted by the company.

Article 62 A company shall pay an annual inspection fee to a company registration organ. The annual inspection fee shall be 50 yuan.

Chapter X Management of Licenses and Archives

Article 63 The Business License of Enterprise Legal Person or Business License shall be divided into original and duplicates, and the original and duplicates shall have equal legal effect.

The original of the Business License of Enterprise Legal Person or the original of the Business License should be placed on a conspicuous position at the residence of a company or business premises of a branch of a company.

A company may, according to the business needs, apply for issuance of several duplicates of the business license to the company registration organ.

Article 64 No entity or individual shall forge, alter, lease, lend or transfer a business license.

Where a business license is lost or damaged, a company shall declare its invalidity in a newspaper or periodical designated by a company registration organ, and apply for the reissue of the business license.

Where a company registration organ decides to approve a registration of modification, a deregistration or a revocation of registration of modification, and a company refuses to or cannot hand in its business license, the company registration organ shall announce the invalidity of the business license.

Article 65 A company registration organ may temporarily withhold a business license which needs authentication, but the withholding period shall not exceed 10 days.

Article 66 The borrowing, excerpting, carrying or duplicating of the company registration archives shall be carried out according to the prescribed powers and procedures.

No entity or individual shall modify, alter, mark or damage the company registration archives.

Article 67 The patterns of the original and duplicates of a business license and the major formats of documents or forms concerning the company registration shall be uniformly formulated by the State Administration for Industry and Commerce.

Chapter XI Legal Liability

Article 68 Where a company registration is acquired by falsification of the registered capital, a company registration organ shall order correction, and impose a fine of not less than 5% but not more than 15% of the falsified registered capital; if the case is serious, shall revoke the company registration or revoke the business license.

Article 69 Where a company registration is acquired by false submissions or other fraudulent means, a company registration organ shall order correction, and impose a fine of not less than 50,000 yuan but not more than 500,000 yuan; if the case is serious, shall revoke the company registration or revoke the business license.

Article 70 Where a promoter or shareholder of a company makes any false capital contribution, failing to deliver or failing to deliver as scheduled the monetary or non-monetary property as the contribution, a company registration organ shall order correction, and impose a fine of not less than 5% but not more than 10% of the amount of the false capital contribution.

Article 71 Where a promoter or shareholder illegally withdraws its capital contribution after the company is formed, the company registration organ shall order correction, and impose a fine of not less than 5% but not more than 15% of the amount of illegally withdrawn capital.

Article 72 Where a company fails to open business more than six months after its formation without good reasons, or ceases business operation for more than six months consecutively after opening business, a company registration organ may revoke its business license.

Article 73 Where a company fails to conduct the relevant registration of modification according to these Regulations for any modification of the company registration items, a company registration organ shall order the company to conduct the registration within a prescribed time limit; and, if the company fails to do so within the prescribed time limit, shall impose a fine of not less than10,000 yuan but not more than100,000 yuan. In particular, where the business scope of a company to be modified includes any item which must be reported for approval according to a law, administrative regulation or decision of the State Council and such an approval is not acquired, if the company engages in the relevant business operation without the approval and the case is serious, the company registration organ shall revoke its business license.

Where a company fails to conduct the relevant record-filing formality according to these Regulations, the company registration organ shall order the company to conduct it within a prescribed time limit; and, if the company fails to do so within the prescribed time limit, shall impose a fine of not more than 30, 000 yuan.

Article 74 Where a company fails to notify its creditors by a notice or by an announcement of a merger, separation, reduction of registered capital or liquidation, a company registration organ shall order correction, and impose a fine of not less than 10, 000 yuan but not more than 100, 000 yuan.

Where, in liquidation, a company conceals any property, makes any false record in its balance sheet or property checklist, or distributes the company property before repayment of debts, a company registration organ shall order correction, and impose a fine of not less than 5% but not more than 10% of the amount of concealed property or distributed property before repayment of debts on the company; and shall impose a fine of not less than 10, 000 yuan but not more than100, 000 yuan on the directly responsible person in charge and other directly liable persons.

Where, during the period of liquidation, a company engages in any business operation irrelevant to the liquidation, the company registration organ shall impose a warning, and confiscate the illegal proceeds.

Article 75 Where a liquidation group fails to submit a liquidation report to the company registration organ according to legal provisions, or the submitted liquidation report conceals any major fact or has any major omission, a company registration organ shall order correction.

Where any member of a liquidation group takes advantage of his power to practice favoritism, seeks any illegal proceeds or encroaches on any company asset, the company registration organ shall order return of the company asset and confiscate the illegal proceeds, and may impose a fine of not less than the amount but not more than 5 times the amount of illegal proceeds.

Article 76 Where a company fails to accept the annual inspection according to legal provisions, a company registration organ shall impose a fine of not less than 10,000 yuan but not more than 100,000 yuan, and order it to accept the annual inspection within a prescribed time limit; and, if the company still fails to accept the annual inspection within the prescribed time limit, shall revoke its business license. Where a company conceals the truth or make falsification in the annual inspection, a company registration organ shall impose a fine of not less than 10,000 yuan but not more than 50,000 yuan, and order correction within a prescribed time limit; and, if the case is serious, shall revoke its business license.

Article 77 Where a company forges, alters, leases, lends or transfers its business license, a company registration organ shall impose a fine of not less than 10,000 yuan but not more than 100,000 yuan; and, if the case is serious, shall revoke its business license.

Article 78 Where a business license is not placed on a conspicuous position at the residence of a company or business premises of a branch of a company, a company registration organ shall order correction; and if the ordered correction is refused, shall impose a fine of not less than 1,000 yuan but not more than 5,000 yuan.

Article 79 Where an institution which undertakes the asset appraisal, capital verification or verification of certificates provides any false materials, a company registration organ shall confiscate the illegal proceeds and impose a fine of not less than the amount but not more than 5 times the amount of the illegal proceeds, and the relevant competent department may also order the institution to suspend business operation, revoke the qualification certificates of the directly liable persons, and revoke its business license.

Where an institution which undertakes the asset appraisal, capital verification or verification of certificates negligently submits a report containing any major omission, a company registration organ shall order correction; and if the case is relatively serious, shall impose a fine of not less than the amount but not more than 5 times the amount of its proceeds, and the relevant competent department may order the institution to suspend business operation, revoke the qualification certificates of the directly liable persons and revoke its business license.

Article 80 Where any entity fails to register itself as a limited liability company or a joint stock limited company according to law but acts in the name of a limited liability company or a joint stock limited company, or fails to register itself as a branch of a limited liability

company or a joint stock limited company according to law but acts in the name of a branch of a limited liability company or a joint stock limited company, a company registration organ shall order correction or impose a ban, and may impose a fine of not more than 100,000 yuan.

Article 81 Where a company registration organ approves an application for company registration which does not meet the prescribed conditions, or disapproves an application for company registration which meets the prescribed conditions, the administrative sanctions shall be imposed on the directly responsible person in charge and other directly liable persons according to law.

Article 82 Where a superior department of a company registration organ orders the company registration organ to approve an application for company registration which does not meet the prescribed conditions or disapprove an application for company registration which meets the prescribed conditions, or covers up any illegal registration, the administrative sanctions shall be imposed on the directly responsible person in charge and other directly liable persons according to law.

Article 83 Where a foreign company forms any branch within the territory of China without approval in violation of the Company Law, the company registration organ shall order correction or closedown, and may impose a fine of not less than 50, 000 yuan but not more than 200, 000 yuan.

Article 84 Where a company engages in serious illegal activities in the name of the company, which compromises the national security or public interest, its business license shall be revoked.

Article 85 Where a branch of a company commits any illegal act as prescribed in this Chapter, the provisions of this Chapter shall apply.

Article 86 Where a violation of these Regulations constitutes a crime, the criminal liability shall be investigated according to law.

Chapter XII Supplementary Provisions

Article 87 The registration of a foreign-funded company shall be subject to these Regulations. Where a law on foreign-funded enterprise provides otherwise for the registration of a foreign-funded enterprise, such a law shall apply.

Article 88 Where the formation of a company must be reported for approval according to a law, administrative regulation or decision of the State Council, or the business scope of a company includes any item which must be reported for approval before registration according to a law, administrative regulation or decision of the State Council, the State Administration for Industry and Commerce shall compile and publish a Catalogue of Administrative Licensing before Enterprise Registration according to the relevant laws, administrative regulations and decisions of the State Council.

Article 89 These Regulations shall come into force on July 1, 1994.

中华人民共和国公司登记管理条例

（1994年6月24日中华人民共和国国务院令第156号发布，根据2005年12月18日《国务院关于修改〈中华人民共和国公司登记管理条例〉的决定》修订）

第一章 总则

第一条 为了确认公司的企业法人资格，规范公司登记行为，依据《中华人民共和国公司法》（以下简称《公司法》），制定本条例。

第二条 有限责任公司和股份有限公司（以下统称公司）设立、变更、终止，应当依照本条例办理公司登记。

申请办理公司登记，申请人应当对申请文件、材料的真实性负责。

第三条 公司经公司登记机关依法登记，领取《企业法人营业执照》，方取得企业法人资格。

自本条例施行之日起设立公司，未经公司登记机关登记的，不得以公司名义从事经营活动。

第四条 工商行政管理机关是公司登记机关。

下级公司登记机关在上级公司登记机关的领导下开展公司登记工作。

公司登记机关依法履行职责，不受非法干预。

第五条 国家工商行政管理总局主管全国的公司登记工作。

第二章 登记管辖

第六条 国家工商行政管理总局负责下列公司的登记：

（一）国务院国有资产监督管理机构履行出资人职责的公司以及该公司投资设立并持有50%以上股份的公司；

（二）外商投资的公司；

（三）依照法律、行政法规或者国务院决定的规定，应当由国家工商行政管理总局登记的公司；

（四）国家工商行政管理总局规定应当由其登记的其他公司。

第七条 省、自治区、直辖市工商行政管理局负责本辖区内下列公司的登记：

（一）省、自治区、直辖市人民政府国有资产监督管理机构履行出资人职责的公司以及该公司投资设立并持有50%以上股份的公司；

（二）省、自治区、直辖市工商行政管理局规定由其登记的自然人投资设立的公司；

（三）依照法律、行政法规或者国务院决定的规定，应当由省、自治区、直辖市工商行政管理局登记的公司；

（四）国家工商行政管理总局授权登记的其他公司。

第八条　设区的市（地区）工商行政管理局、县工商行政管理局，以及直辖市的工商行政管理分局、设区的市工商行政管理局的区分局，负责本辖区内下列公司的登记：

（一）本条例第六条和第七条所列公司以外的其他公司；

（二）国家工商行政管理总局和省、自治区、直辖市工商行政管理局授权登记的公司。

前款规定的具体登记管辖由省、自治区、直辖市工商行政管理局规定。但是，其中的股份有限公司由设区的市（地区）工商行政管理局负责登记。

第三章　登记事项

第九条　公司的登记事项包括：

（一）名称；

（二）住所；

（三）法定代表人姓名；

（四）注册资本；

（五）实收资本；

（六）公司类型；

（七）经营范围；

（八）营业期限；

（九）有限责任公司股东或者股份有限公司发起人的姓名或者名称，以及认缴和实缴的出资额、出资时间、出资方式。

第十条　公司的登记事项应当符合法律、行政法规的规定。不符合法律、行政法规规定的，公司登记机关不予登记。

第十一条　公司名称应当符合国家有关规定。公司只能使用一个名称。经公司登记机关核准登记的公司名称受法律保护。

第十二条　公司的住所是公司主要办事机构所在地。经公司登记机关登记的公司的住所只能有一个。公司的住所应当在其公司登记机关辖区内。

第十三条　公司的注册资本和实收资本应当以人民币表示，法律、行政法规另有规定的除外。

第十四条　股东的出资方式应当符合《公司法》第二十七条的规定。股东以货币、实物、知识产权、土地使用权以外的其他财产出资的，其登记办法由国家工商行政管理总局会同国务院有关部门规定。

股东不得以劳务、信用、自然人姓名、商誉、特许经营权或者设定担保的财产等作价出资。

第十五条　公司的经营范围由公司章程规定，并依法登记。

公司的经营范围用语应当参照国民经济行业分类标准。

第十六条　公司类型包括有限责任公司和股份有限公司。

一人有限责任公司应当在公司登记中注明自然人独资或者法人独资，并在公司营业执照中载明。

第四章　设立登记

第十七条　设立公司应当申请名称预先核准。

法律、行政法规或者国务院决定规定设立公司必须报经批准，或者公司经营范围中属于法律、行政法规或者国务院决定规定在登记前须经批准的项目的，应当在报送批准前办理公司名称预先核准，并以公司登记机关核准的公司名称报送批准。

第十八条　设立有限责任公司，应当由全体股东指定的代表或者共同委托的代理人向公司登记机关申请名称预先核准；设立股份有限公司，应当由全体发起人指定的代表或者共同委托的代理人向公司登记机关申请名称预先核准。

申请名称预先核准，应当提交下列文件：

（一）有限责任公司的全体股东或者股份有限公司的全体发起人签署的公司名称预先核准申请书；

（二）全体股东或者发起人指定代表或者共同委托代理人的证明；

（三）国家工商行政管理总局规定要求提交的其他文件。

第十九条　预先核准的公司名称保留期为6个月。预先核准的公司名称在保留期内，不得用于从事经营活动，不得转让。

第二十条　设立有限责任公司，应当由全体股东指定的代表或者共同委托的代理人向公司登记机关申请设立登记。设立国有独资公司，应当由国务院或者地方人民政府授权的本级人民政府国有资产监督管理机构作为申请人，申请设立登记。法律、行政法规或者国务院决定规定设立有限责任公司必须报经批准的，应当自批准之日起90日内向公司登记机关申请设立登记；逾期申请设立登记的，申请人应当报批准机关确认原批准文件的效力或者另行报批。

申请设立有限责任公司，应当向公司登记机关提交下列文件：

（一）公司法定代表人签署的设立登记申请书；

（二）全体股东指定代表或者共同委托代理人的证明；

（三）公司章程；

（四）依法设立的验资机构出具的验资证明，法律、行政法规另有规定的除外；

（五）股东首次出资是非货币财产的，应当在公司设立登记时提交已办理其财产权转移手续的证明文件；

（六）股东的主体资格证明或者自然人身份证明；

（七）载明公司董事、监事、经理的姓名、住所的文件以及有关委派、选举或者聘用的证明；

（八）公司法定代表人任职文件和身份证明；

（九）企业名称预先核准通知书；

（十）公司住所证明；

（十一）国家工商行政管理总局规定要求提交的其他文件。

外商投资的有限责任公司的股东首次出资额应当符合法律、行政法规的规定，其余部分应当自公司成立之日起2年内缴足，其中，投资公司可以在5年内缴足。

法律、行政法规或者国务院决定规定设立有限责任公司必须报经批准的，还应当提交有关批准文件。

第二十一条　设立股份有限公司，应当由董事会向公司登记机关申请设立登记。以募集方式设立股份有限公司的，应当于创立大会结束后30日内向公司登记机关申请设立登记。

申请设立股份有限公司，应当向公司登记机关提交下列文件：

（一）公司法定代表人签署的设立登记申请书；

（二）董事会指定代表或者共同委托代理人的证明；

（三）公司章程；

（四）依法设立的验资机构出具的验资证明；

（五）发起人首次出资是非货币财产的，应当在公司设立登记时提交已办理其财产权转移手续的证明文件；

（六）发起人的主体资格证明或者自然人身份证明；

（七）载明公司董事、监事、经理姓名、住所的文件以及有关委派、选举或者聘用的证明；

（八）公司法定代表人任职文件和身份证明；

（九）企业名称预先核准通知书；

（十）公司住所证明；

（十一）国家工商行政管理总局规定要求提交的其他文件。

以募集方式设立股份有限公司的，还应当提交创立大会的会议记录；以募集方式设立股份有限公司公开发行股票的，还应当提交国务院证券监督管理机构的核准文件。

法律、行政法规或者国务院决定规定设立股份有限公司必须报经批准的，还应当提交有关批准文件。

第二十二条　公司申请登记的经营范围中属于法律、行政法规或者国务院决定规定在登记前须经批准的项目的，应当在申请登记前报经国家有关部门批准，并向公司登记机关提交有关批准文件。

第二十三条　公司章程有违反法律、行政法规的内容的，公司登记机关有权要求公司作相应修改。

第二十四条　公司住所证明是指能够证明公司对其住所享有使用权的文件。

第二十五条　依法设立的公司，由公司登记机关发给《企业法人营业执照》。公司营业执照签发日期为公司成立日期。公司凭公司登记机关核发的《企业法人营业执照》刻制印章，开立银行账户，申请纳税登记。

第五章　变更登记

第二十六条　公司变更登记事项，应当向原公司登记机关申请变更登记。

未经变更登记，公司不得擅自改变登记事项。

第二十七条　公司申请变更登记，应当向公司登记机关提交下列文件：

（一）公司法定代表人签署的变更登记申请书；

（二）依照《公司法》作出的变更决议或者决定；

（三）国家工商行政管理总局规定要求提交的其他文件。

公司变更登记事项涉及修改公司章程的，应当提交由公司法定代表人签署的修改后的公司章程或者公司章程修正案。

变更登记事项依照法律、行政法规或者国务院决定规定在登记前须经批准的，还应当向公司登记机关提交有关批准文件。

第二十八条　公司变更名称的，应当自变更决议或者决定作出之日起30日内申请变更登记。

第二十九条　公司变更住所的，应当在迁入新住所前申请变更登记，并提交新住所使用证明。

公司变更住所跨公司登记机关辖区的，应当在迁入新住所前向迁入地公司登记机关申请变更登记；迁入地公司登记机关受理的，由原公司登记机关将公司登记档案移送迁入地公司登记机关。

第三十条　公司变更法定代表人的，应当自变更决议或者决定作出之日起30日内申请变更登记。

第三十一条　公司变更注册资本的，应当提交依法设立的验资机构出具的验资证明。

公司增加注册资本的，有限责任公司股东认缴新增资本的出资和股份有限公司的股东认购新股，应当分别依照《公司法》设立有限责任公司缴纳出资和设立股份有限公司缴纳股款的有关规定执行。股份有限公司以公开发行新股方式或者上市公司以非公开发行新股方式增加注册资本的，还应当提交国务院证券监督管理机构的核准文件。

公司法定公积金转增为注册资本的，验资证明应当载明留存的该项公积金不少于转增前公司注册资本的25%。

公司减少注册资本的，应当自公告之日起45日后申请变更登记，并应当提交公司在报纸上登载公司减少注册资本公告的有关证明和公司债务清偿或者债务担保情况的说明。

公司减资后的注册资本不得低于法定的最低限额。

第三十二条　公司变更实收资本的，应当提交依法设立的验资机构出具的验资证明，并应当按照公司章程载明的出资时间、出资方式缴纳出资。公司应当自足额缴纳出资或者股款之日起30日内申请变更登记。

第三十三条　公司变更经营范围的，应当自变更决议或者决定作出之日起30日内申请变更登记；变更经营范围涉及法律、行政法规或者国务院决定规定在登记前须经批准的项目的，应当自国家有关部门批准之日起30日内申请变更登记。

公司的经营范围中属于法律、行政法规或者国务院决定规定须经批准的项目被吊销、撤销许可证或者其他批准文件，或者许可证、其他批准文件有效期届满的，应当自吊销、撤销许可证、其他批准文件或者许可证、其他批准文件有效期届满之日起30日内申请变更登记或者依照本条例第六章的规定办理注销登记。

第三十四条　公司变更类型的，应当按照拟变更的公司类型的设立条件，在规定的期限内向公司登记机关申请变更登记，并提交有关文件。

第三十五条　有限责任公司股东转让股权的，应当自转让股权之日起30日内申请变更登记，并应当提交新股东的主体资格证明或者自然人身份证明。

有限责任公司的自然人股东死亡后，其合法继承人继承股东资格的，公司应当依照前款规定申请变更登记。

有限责任公司的股东或者股份有限公司的发起人改变姓名或者名称的，应当自改变姓名或者名称之日起30日内申请变更登记。

第三十六条　公司登记事项变更涉及分公司登记事项变更的，应当自公司变更登记之日起30日内申请分公司变更登记。

第三十七条　公司章程修改未涉及登记事项的，公司应当将修改后的公司章程或者公司章程修正案送原公司登记机关备案。

第三十八条　公司董事、监事、经理发生变动的，应当向原公司登记机关备案。

第三十九条　因合并、分立而存续的公司，其登记事项发生变化的，应当申请变更登记；因合并、分立而解散的公司，应当申请注销登记；因合并、分立而新设立的公司，应当申请设立登记。

公司合并、分立的，应当自公告之日起45日后申请登记，提交合并协议和合并、分立决议或者决定以及公司在报纸上登载公司合并、分立公告的有关证明和债务清偿或者债务担保情况的说明。法律、行政法规或者国务院决定规定公司合并、分立必须报经批准的，还应当提交有关批准文件。

第四十条　变更登记事项涉及《企业法人营业执照》载明事项的，公司登记机关应当换发营业执照。

第四十一条　公司依照《公司法》第二十二条规定向公司登记机关申请撤销变更登记的，应当提交下列文件：

（一）公司法定代表人签署的申请书；

（二）人民法院的裁判文书。

第六章　注销登记

第四十二条　公司解散，依法应当清算的，清算组应当自成立之日起10日内将清算组成员、清算组负责人名单向公司登记机关备案。

第四十三条　有下列情形之一的，公司清算组应当自公司清算结束之日起30日内向原公司登记机关申请注销登记：

（一）公司被依法宣告破产；

（二）公司章程规定的营业期限届满或者公司章程规定的其他解散事由出现，但公司通过修改公司章程而存续的除外；

（三）股东会、股东大会决议解散或者一人有限责任公司的股东、外商投资的公司董事会决议解散；

（四）依法被吊销营业执照、责令关闭或者被撤销；

（五）人民法院依法予以解散；

（六）法律、行政法规规定的其他解散情形。

第四十四条　公司申请注销登记，应当提交下列文件：

（一）公司清算组负责人签署的注销登记申请书；

（二）人民法院的破产裁定、解散裁判文书，公司依照《公司法》作出的决议或者决定，行政机关责令关闭或者公司被撤销的文件；

（三）股东会、股东大会、一人有限责任公司的股东、外商投资的公司董事会或者人民法院、公司批准机关备案、确认的清算报告；

（四）《企业法人营业执照》；

（五）法律、行政法规规定应当提交的其他文件。

国有独资公司申请注销登记，还应当提交国有资产监督管理机构的决定，其中，国务院确定的重要的国有独资公司，还应当提交本级人民政府的批准文件。

有分公司的公司申请注销登记，还应当提交分公司的注销登记证明。

第四十五条　经公司登记机关注销登记，公司终止。

第七章　分公司的登记

第四十六条　分公司是指公司在其住所以外设立的从事经营活动的机构。分公司不具有企业法人资格。

第四十七条　分公司的登记事项包括：名称、营业场所、负责人、经营范围。

分公司的名称应当符合国家有关规定。

分公司的经营范围不得超出公司的经营范围。

第四十八条　公司设立分公司的，应当自决定作出之日起30日内向分公司所在地的公司登记机关申请登记；法律、行政法规或者国务院决定规定必须报经有关部门批准的，应当自批准之日起30日内向公司登记机关申请登记。

设立分公司，应当向公司登记机关提交下列文件：

（一）公司法定代表人签署的设立分公司的登记申请书；

（二）公司章程以及加盖公司印章的《企业法人营业执照》复印件；

（三）营业场所使用证明；

（四）分公司负责人任职文件和身份证明；

（五）国家工商行政管理总局规定要求提交的其他文件。

法律、行政法规或者国务院决定规定设立分公司必须报经批准，或者分公司经营范围中属于法律、行政法规或者国务院决定规定在登记前须经批准的项目的，还应当提交有关批准文件。

分公司的公司登记机关准予登记的，发给《营业执照》。公司应当自分公司登记之日起30日内，持分公司的《营业执照》到公司登记机关办理备案。

第四十九条　分公司变更登记事项的，应当向公司登记机关申请变更登记。

申请变更登记，应当提交公司法定代表人签署的变更登记申请书。变更名称、经营范围的，应当提交加盖公司印章的《企业法人营业执照》复印件；分公司经营范围中属于法律、行政法规或者国务院决定规定在登记前须经批准的项目的，还应当提交有关批准文件。变更营业场所的，应当提交新的营业场所使用证明。变更负责人的，应当提交公司的任免文件以及其身份证明。

公司登记机关准予变更登记的，换发《营业执照》。

第五十条　分公司被公司撤销、依法责令关闭、吊销营业执照的，公司应当自决定作出之日起30日内向该分公司的公司登记机关申请注销登记。申请注销登记应当提交公司法定代表人签署的注销登记申请书和分公司的《营业执照》。公司登记机关准予注销登记后，应当收缴分公司的《营业执照》。

第八章　登记程序

第五十一条　申请公司、分公司登记，申请人可以到公司登记机关提交申请，也可以通过信函、电报、电传、传真、电子数据交换和电子邮件等方式提出申请。

通过电报、电传、传真、电子数据交换和电子邮件等方式提出申请的，应当提供申请人的联系方式以及通讯地址。

第五十二条　公司登记机关应当根据下列情况分别作出是否受理的决定：

（一）申请文件、材料齐全，符合法定形式的，或者申请人按照公司登记机关的要求提交全部补正申请文件、材料的，应当决定予以受理。

（二）申请文件、材料齐全，符合法定形式，但公司登记机关认为申请文件、材料需要核实的，应当决定予以受理，同时书面告知申请人需要核实的事项、理由以及时间。

（三）申请文件、材料存在可以当场更正的错误的，应当允许申请人当场予以更正，由申请人在更正处签名或者盖章，注明更正日期；经确认申请文件、材料齐全，符合法定形式的，应当决定予以受理。

（四）申请文件、材料不齐全或者不符合法定形式的，应当当场或者在5日内一次告知申请人需要补正的全部内容；当场告知时，应当将申请文件、材料退回申请人；属于5日内告知的，应当收取申请文件、材料并出具收到申请文件、材料的凭据，逾期不告知的，自收到申请文件、材料之日起即为受理。

（五）不属于公司登记范畴或者不属于本机关登记管辖范围的事项，应当即时决定不予受理，并告知申请人向有关行政机关申请。

公司登记机关对通过信函、电报、电传、传真、电子数据交换和电子邮件等方式提出申请的，应当自收到申请文件、材料之日起5日内作出是否受理的决定。

第五十三条　除依照本条例第五十四条第一款第（一）项作出准予登记决定的外，公司登记机关决定予以受理的，应当出具《受理通知书》；决定不予受理的，应当出具《不予受理通知书》，说明不予受理的理由，并告知申请人享有依法申请行政复议或者提起行政诉讼的权利。

第五十四条　公司登记机关对决定予以受理的登记申请，应当分别情况在规定的期限内作出是否准予登记的决定：

（一）对申请人到公司登记机关提出的申请予以受理的，应当当场作出准予登记的决定。

（二）对申请人通过信函方式提交的申请予以受理的，应当自受理之日起15日内作出准予登记的决定。

（三）通过电报、电传、传真、电子数据交换和电子邮件等方式提交申请的，申请人应当自收到《受理通知书》之日起15日内，提交与电报、电传、传真、电子数据交换和电子邮件等内容一致并符合法定形式的申请文件、材料原件；申请人到公司登记机关提交申请文件、材料原件的，应当当场作出准予登记的决定；申请人通过信函方式提交申请文件、材料原件的，应当自受理之日起15日内作出准予登记的决定。

（四）公司登记机关自发出《受理通知书》之日起60日内，未收到申请文件、材料原件，或者申请文件、材料原件与公司登记机关所受理的申请文件、材料不一致的，应当作出不予登记的决定。

公司登记机关需要对申请文件、材料核实的，应当自受理之日起15日内作出是否准予登记的决定。

第五十五条　公司登记机关作出准予公司名称预先核准决定的，应当出具《企业名称预先核准通知书》；作出准予公司设立登记决定的，应当出具《准予设立登记通知书》，告知申请人自决定之日起10日内，领取营业执照；作出准予公司变更登记决定的，应当出具《准予变更登记通知书》，告知申请人自决定之日起10日内，换发营业执照；作出准予公司注销登记决定的，应当出具《准予注销登记通知书》，收缴营业执照。

公司登记机关作出不予名称预先核准、不予登记决定的，应当出具《企业名称驳回通知书》、《登记驳回通知书》，说明不予核准、登记的理由，并告知申请人享有依法申请行政复议或者提起行政诉讼的权利。

第五十六条　公司办理设立登记、变更登记，应当按照规定向公司登记机关缴纳登记费。

领取《企业法人营业执照》的，设立登记费按注册资本总额的0.8‰缴纳；注册资本超过1000万元的，超过部分按0.4‰缴纳；注册资本超过1亿元的，超过部分不再缴纳。

领取《营业执照》的，设立登记费为300元。

变更登记事项的，变更登记费为100元。

第五十七条　公司登记机关应当将登记的公司登记事项记载于公司登记簿上，供社会公众查阅、复制。

第五十八条　吊销《企业法人营业执照》和《营业执照》的公告由公司登记机关发布。

第九章　年度检验

第五十九条　每年3月1日至6月30日，公司登记机关对公司进行年度检验。

第六十条　公司应当按照公司登记机关的要求，在规定的时间内接受年度检验，并提交年度检验报告书、年度资产负债表和损益表、《企业法人营业执照》副本。

设立分公司的公司在其提交的年度检验材料中，应当明确反映分公司的有关情况，并提交《营业执照》的复印件。

第六十一条　公司登记机关应当根据公司提交的年度检验材料，对与公司登记事项有关的情况进行审查。

第六十二条　公司应当向公司登记机关缴纳年度检验费。年度检验费为50元。

第十章　证照和档案管理

第六十三条　《企业法人营业执照》、《营业执照》分为正本和副本，正本和副本具有同等法律效力。

《企业法人营业执照》正本或者《营业执照》正本应当置于公司住所或者分公司营业场所的醒目位置。

公司可以根据业务需要向公司登记机关申请核发营业执照若干副本。

第六十四条　任何单位和个人不得伪造、涂改、出租、出借、转让营业执照。

营业执照遗失或者毁坏的，公司应当在公司登记机关指定的报刊上声明作废，申请补领。

公司登记机关依法作出变更登记、注销登记、撤销变更登记决定，公司拒不缴回或者无法缴回营业执照的，由公司登记机关公告营业执照作废。

第六十五条　公司登记机关对需要认定的营业执照，可以临时扣留，扣留期限不得超过10天。

第六十六条　借阅、抄录、携带、复制公司登记档案资料的，应当按照规定的权限和程序办理。

任何单位和个人不得修改、涂抹、标注、损毁公司登记档案资料。

第六十七条　营业执照正本、副本样式以及公司登记的有关重要文书格式或者表式，由国家工商行政管理总局统一制定。

第十一章　法律责任

第六十八条　虚报注册资本，取得公司登记的，由公司登记机关责令改正，处以虚报注册资本金额5%以上15%以下的罚款；情节严重的，撤销公司登记或者吊销营业执照。

第六十九条　提交虚假材料或者采取其他欺诈手段隐瞒重要事实，取得公司登记的，由公司登记机关责令改正，处以5万元以上50万元以下的罚款；情节严重的，撤销公司登记或者吊销营业执照。

第七十条　公司的发起人、股东虚假出资，未交付或者未按期交付作为出资的货币或者非货币财产的，由公司登记机关责令改正，处以虚假出资金额5%以上15%以下的罚款。

第七十一条　公司的发起人、股东在公司成立后，抽逃出资的，由公司登记机关责令改正，处以所抽逃出资金额5%以上15%以下的罚款。

第七十二条　公司成立后无正当理由超过6个月未开业的，或者开业后自行停业连续6个月以上的，可以由公司登记机关吊销营业执照。

第七十三条　公司登记事项发生变更时，未依照本条例规定办理有关变更登记的，由公司登记机关责令限期登记；逾期不登记的，处以1万元以上10万元以下的罚款。其中，变更经营范围涉及法律、行政法规或者国务院决定规定须经批准的项目而未取得批准，擅自从事相关经营活动，情节严重的，吊销营业执照。

公司未依照本条例规定办理有关备案的，由公司登记机关责令限期办理；逾期未办理的，处以3万元以下的罚款。

第七十四条　公司在合并、分立、减少注册资本或者进行清算时，不按照规定通知或者公告债权人的，由公司登记机关责令改正，处以1万元以上10万元以下的罚款。

公司在进行清算时，隐匿财产，对资产负债表或者财产清单作虚假记载或者在未清偿债务前分配公司财产的，由公司登记机关责令改正，对公司处以隐匿财产或者未清偿债务前分配公司财产金额5%以上10%以下的罚款；对直接负责的主管人员和其他直接责任人员处以1万元以上10万元以下的罚款。

公司在清算期间开展与清算无关的经营活动的，由公司登记机关予以警告，没收违法所得。

第七十五条　清算组不按照规定向公司登记机关报送清算报告，或者报送清算报告隐瞒重要事实或者有重大遗漏的，由公司登记机关责令改正。

清算组成员利用职权徇私舞弊、谋取非法收入或者侵占公司财产的，由公司登记机关责令退还公司财产，没收违法所得，并可以处以违法所得1倍以上5倍以下的罚款。

第七十六条　公司不按照规定接受年度检验的，由公司登记机关处以1万元以上10万元以下的罚款，并限期接受年度检验；逾期仍不接受年度检验的，吊销营业执照。年度检验中隐瞒真实情况、弄虚作假的，由公司登记机关处以1万元以上5万元以下的罚款，并限期改正；情节严重的，吊销营业执照。

第七十七条　伪造、涂改、出租、出借、转让营业执照的，由公司登记机关处以1万元以上10万元以下的罚款；情节严重的，吊销营业执照。

第七十八条　未将营业执照置于住所或者营业场所醒目位置的，由公司登记机关责令改正；拒不改正的，处以1000元以上5000元以下的罚款。

第七十九条　承担资产评估、验资或者验证的机构提供虚假材料的，由公司登记机关没收违法所得，处以违法所得1倍以上5倍以下的罚款，并可以由有关主管部门依法责令该机构停业、吊销直接责任人员的资格证书，吊销营业执照。

承担资产评估、验资或者验证的机构因过失提供有重大遗漏的报告的，由公司登记机关责令改正，情节较重的，处以所得收入1倍以上5倍以下的罚款，并可以由有关主管部门依法责令该机构停业、吊销直接责任人员的资格证书，吊销营业执照。

第八十条　未依法登记为有限责任公司或者股份有限公司，而冒用有限责任公司或者股份有限公司名义的，或者未依法登记为有限责任公司或者股份有限公司的分公司，而冒用有限责任公司或者股份有限公司的分公司名义的，由公司登记机关责令改正或者予以取缔，可以并处10万元以下的罚款。

第八十一条　公司登记机关对不符合规定条件的公司登记申请予以登记，或者对符合规定条件的登记申请不予登记的，对直接负责的主管人员和其他直接责任人员，依法给予行政处分。

第八十二条　公司登记机关的上级部门强令公司登记机关对不符合规定条件的登记申请予以登记，或者对符合规定条件的登记申请不予登记的，或者对违法登记进行包庇的，对直接负责的主管人员和其他直接责任人员依法给予行政处分。

第八十三条　外国公司违反《公司法》规定，擅自在中国境内设立分支机构的，由公司登记机关责令改正或者关闭，可以并处5万元以上20万元以下的罚款。

第八十四条　利用公司名义从事危害国家安全、社会公共利益的严重违法行为的，吊销营业执照。

第八十五条　分公司有本章规定的违法行为的，适用本章规定。

第八十六条　违反本条例规定，构成犯罪的，依法追究刑事责任。

第十二章　附则

第八十七条　外商投资的公司的登记适用本条例。有关外商投资企业的法律对其登记另有规定的，适用其规定。

第八十八条　法律、行政法规或者国务院决定规定设立公司必须报经批准，或者公司经营范围中属于法律、行政法规或者国务院决定规定在登记前须经批准的项目的，由国家工商行政管理总局依照法律、行政法规或者国务院决定规定编制企业登记前置行政许可目录并公布。

第八十九条　本条例自 1994 年 7 月 1 日起施行。

ATTACHMENT 58

Public
File 168

Order of the State Council

(No. 489)

The Regulation on the Administration of Futures Trading, which was adopted at the 168th executive meeting<!--168th utive meeting--> of the State Council on February 7, 2007, is hereby promulgated and shall come into force as of April 15, 2007.

Premier Wen Jiabao

March 6, 2007

Regulation on the Administration of Futures Trading

Chapter I General Provisions

Article 1 This Regulation is formulated for the purposes of regulating futures trading, intensifying the supervision and administration over futures trading, maintaining the futures market order, preventing risks, protecting the legitimate rights and interests of all parties to futures trading as well as the public interests, and promoting the vigorous but stable development of the futures market.

Article 2 All entities and individuals engaging in futures trading, including the trading based on commodities contracts, financial futures and options contracts, and other relevant activities, shall abide by this Regulation.

Article 3 The principle of openness, fairness, impartiality and good faith shall be observed in the futures trading activities. It is prohibited to conduct violations such as fraud, inside transactions and manipulated futures trading prices.

Article 4 The futures trading shall be carried out in the futures exchanges established in accordance with the law or in other trading places as approved by the futures regulatory institution of the State Council.

It is prohibited to carry out futures trading in any place other than those as approved by the futures regulatory institution of the State Council and it is prohibited to carry out futures trading in any disguised form.

Article 5 The futures regulatory institution of the State Council shall supervise and administer the futures markets in a centralized manner.

The offices dispatched by the futures regulatory institution of the State Council shall perform their supervisory functions according to the relevant provisions of this Regulation and under the authorization of the futures regulatory institution of the State Council.

Chapter II Futures Exchange

Article 6 The establishment of a futures exchange shall be subject to the examination and approval of the futures regulatory institution of the State Council.

Without approval of the futures regulatory institution of the State Council, no entity or individual may set up any futures exchange or organize any futures trading and other relevant activities in any form.

Article 7 A futures exchange shall not take profit-making as its purpose. It shall conduct self-disciplinary management according to its Articles of association. It shall bear civil liabilities to the extent of all of its properties. Its person-in-charge shall be appointed and dismissed by the futures regulatory institution of the State Council.

The administrative measures for futures exchanges shall be formulated by the futures regulatory institution of the State Council.

Article 8 The members of a futures exchange shall be enterprises with legal person status or other economic organizations established and registered within the territory of the People's Republic of China.

A futures exchange may adopt a graded member clearing system. The members under the graded member clearing system comprise of clearing members and non-clearing members.

The clearing business qualifications of a clearing member shall be subject to the approval of the futures regulatory institution of the State Council. The futures regulatory institution of the State Council shall make a decision of approval or disapproval within 3 months after it accepts an application for the clearing business qualifications.

Article 9 Anyone who is under any of the circumstances as described in Article 147 of the Company Law of the People's Republic of China or under any of the following circumstances shall not assume the post of the person-in-charge or accountant of the futures exchange:

(1)Five years have not lapsed from the day when the person-in-charge of a futures exchange, stock exchange or securities register & clearing institution, or the director, supervisor or senior manager of a futures company or securities company, or any other person as prescribed by the futures regulatory institution, is removed from his post because of his violation of disciplines; or

(2) Five years have not lapsed from the day when a lawyer, certified public accountant, or professional of an investment consultation institution, financial consultancy institution, credit rating institution, asset appraisal institution or verification institution, is removed from post because of his violation of disciplines.

Article 10 A futures exchange shall, in pursuance of this Regulation and the provisions of the futures regulatory institution of the State Council, formulate and improve various rules and strengthen the control of risks of trading activities as well as the supervision and administration over its members and staff. It shall perform the following duties:

(1)To provide a trading place and relevant facilities and services;

(2)To design contracts and arrange the listing of contracts;

(3)To organize and supervise the transactions, clearing and delivery;

(4)To ensure the fulfillment of contracts;

(5)To supervise and administer its members according to its Articles of association and trading rules; and

(6)Other duties as prescribed by the futures regulatory institution of the State Council.

No futures exchange may directly or indirectly participate in futures transactions. No futures exchange may, without passing the examination of the futures regulatory institution of the State Council and being approved by the State Council, make trust investments, stock investments, investments in non-self-use real property or engage in any other business irrelevant to its duties.

Article 11 A futures exchange shall, under the relevant provisions of the State, establish sound systems for the management of risks:

(1)The margin system;

(2)The mark-to-market system;

(3)The system of price limits;

(4)The system of position limits as well as reports of big position holders;

(5)The rules on the reserve for risks;

(6)Other risk management systems as prescribed by the futures regulatory institution of the State Council.

A futures exchange which adopts the graded member clearing system shall establish a sound system of security.

Article 12 At the occurrence of any abnormal circumstance in the futures market, the futures exchange shall, according to the power and procedures as prescribed in its Articles of association, decide to take the following urgent measures and shall immediately report it to the futures regulatory institution of the State Council:

(1)To uplift the margin;

(2)To adjust the price limits;

(3)To limit the maximum amount of futures held by its members or clients;

(4)To suspend the transactions;

(5)To take other urgent measures.

The term "abnormal circumstance" as mentioned in the preceding paragraph

refers to the acts of manipulating the futures trading prices or the occurrence of emergencies due for any force majeure and other circumstances as prescribed by the futures regulatory institution of the State Council.

After the disappearance of an abnormal circumstance, the futures exchange shall timely cancel the urgent measures.

Article 13 To handle the following affairs, a futures exchange shall be subject to the approval of the futures regulatory institution of the State Council:

(1)The formulation of or modification to its Articles of association or trading rules;

(2)The listing, suspension, cancellation or resumption of any type of transaction;

(3)The listing, modification or termination of any contract;

(4)The change of its domicile or business place;

(5)The merger, split-up or dissolution;

(6)Other affairs as prescribed by the futures regulatory institution of the State Council.

To approve the listing of new transaction type in a futures exchange, the futures regulatory institution of the State Council shall consult the opinions of the relevant department of the State Council

Article 14 The revenues of a futures exchange shall be managed and used in accordance with the relevant provisions of the state, but shall first be utilized to ensure the operation and improvement of the futures exchange and the facilities thereof.

Chapter III Futures Companies

Article 15 A futures company refers to a financial institution which is established according to the Company Law of the People's Republic of China and this Regulation and which engages in the business of futures. The establishment of a futures company shall be subject to the approval of the futures regulatory institution of the State Council and shall be registered in the company registration organ.

Without approval of the futures regulatory institution of the State Council, no entity or individual may establish any futures company to engage in the business of futures, or do so in any disguised form.

Article 16 To apply for establishing a futures company, the applicant shall satisfy the requirements in the Company Law of the People's Republic of China and the following conditions:

(1)Its minimum registered capital shall be 30 million yuan;

(2)Its directors, supervisors and senior managers have obtained the qualifications

for assuming their posts and its employees have obtained the futures practicing qualifications;

(3)It has its Articles of association which conform to the laws and administrative regulations;

(4)Its main shareholders and actual controllers have a sustainable profit-making capacity and a good reputation, and none of them has any record of serious violation during the recent 3 years;

(5)It has a qualified business place and operation facilities;

(6)It has sound risk management and internal control systems;

(7)Other conditions as prescribed by the futures regulatory institution of the State Council.

The futures regulatory institution of the State Council may, according to the principle of prudent supervision and the degree of risks of various businesses, increase the minimum amount of the registered capital. The registered capital shall be actually paid-in capital. The shareholders shall make capital contributions in cash or in kind essential to the business operations of a futures company and the capital contributions in cash shall not be less than 85% of the total.

The futures regulatory institution of the State Council shall, within 6 months after it accepts an application for the establishment of a futures company, examine it according to the principle of prudent supervision, and make a decision of approval or disapproval.

Without approval of the futures regulatory institution of the State Council, no entity or individual may entrust any other person or accept any other person's entrustment to hold or manage the stock rights of any futures company.

Article 17 A futures company shall be subject to the licensing system. The futures regulatory institution of the State Council shall grant it a permit according to the business type such as commodity futures and financial futures. Besides the domestic futures brokerage, a futures company may apply for engaging in overseas futures brokerage, futures investment consultation and other futures businesses as prescribed by the futures regulatory institution of the State Council.

No futures company may engage in any activity which has nothing to do with the business of futures, unless it is otherwise provided for by any law, administrative regulation, or by the futures regulatory institution of the State Council.

No futures company may engage in any self-operation business of futures or do so in any disguised form.

No futures company may provide financing service to its shareholders, actual controllers or other affiliated parties, or provide guaranty to outsiders.

Article 18 For a futures company engaging in brokerage business, if it accepts the

entrustment of any client and conducts, in its own name, any futures transaction for its client, the transaction results shall belong to the client.

Article 19 Where a futures company intends to handle the following affairs, it shall be subject to the approval of the futures regulatory institution of the State Council:

(1)The merger, split-up, suspension of business, dissolution or bankruptcy;

(2)The change of its company form;

(3)The change of its business scope;

(4)The change of its registered capital;

(5)The change of 5% or more of its stock rights;

(6)The establishment, acquisition, taking shares, or termination of any overseas futures institution; or

(7) Other affairs as prescribed by the futures regulatory institution of the State Council.

The affairs as mentioned in Items (4) and (7) of the preceding paragraph, the futures regulatory institution of the State Council shall, within 20 days after it accepts an application, make a decision of approval or disapproval. For other affairs as described in the preceding paragraph, the futures regulatory institution of the State Council shall, within 2 months after it accepts an application, make a decision of approval or disapproval.

Article 20 Where a futures company intends to handle any of the following affairs, it shall be subject to the approval of the office dispatched by the futures regulatory institution of the State Council:

(1)To change its legal representative;

(2)To change its domicile or business place;

(3)To establish or terminates branch within China;

(4)To change the business place, person-in-charge or business scope of any branch within China; or

(5)Other affairs as prescribed by the futures regulatory institution of the State Council.

The affairs as mentioned in Items (1), (2), (4) and (5) of the preceding paragraph, the office dispatched by the futures regulatory institution of the State Council shall, within 20 days after it accepts an application, make a decision of approval or disapproval. For the affairs as described Item (3) in the preceding paragraph, the office dispatched by the futures regulatory institution of the State Council shall, within 2 months after it accepts an application, make a decision of approval or disapproval.

Article 21 Where a futures company or any of its branches is under any of the circumstances as described in Article 70 of the Administrative License Law of the People's Republic of China or under any of the following circumstances, the futures regulatory institution of the State Council shall cancel its futures business permit:

(1)Its business license is cancelled by the company registration organ;

(2)Without any justifiable reason, it fails to start business operations after the lapse of 3 months as of its establishment or suspends its business operations for 3 consecutive months or longer;

(3)Its files a cancellation application on its own initiative; and

(4)Other circumstances as prescribed by the futures regulatory institution of the State Council.

Before a futures company cancels its futures business permit, it shall settle the relevant futures businesses and return the margin and other assets to its clients in pursuance of the law. Any branch of the futures company shall, prior to the cancellation of the business permit, terminate its business activities and shall properly settle the clients' assets.

Article 22 A futures company shall formulate sound business management rules and risk management rules and strictly implement them. It shall abide by the information disclosure rules, ensure the safe custody of the clients' margin, and under the provisions of the futures exchange, report to the futures exchange the name list of its big clients and the relevant transactions.

Article 23 Other futures institutions engaging in futures investment consultation services and providing intermediary services for futures companies shall obtain the practicing qualifications as approved by the futures regulatory institution of the State Council. The concrete administrative measures shall be formulated by the futures regulatory institution of the State Council.

Chapter IV Basic Rules on Futures Trading

Article 24 The parties conducting futures trading in a futures exchange shall be members of the futures exchange.

Article 25 A futures company which accepts a client's entrustment to trade futures on his account shall provide the client in advance with a risk disclosure statement, and after the client has confirmed this with his signature, it shall sign a written contract with the client. No futures company may conduct futures trading without client's entrustment or without following the client's entrustment.

No futures company may make any promise of profits to its clients or agree on sharing profits or risks with its clients.

Article 26 The following entities and individuals shall not engage in futures trading.

No futures company may accept their entrustment to trade futures on their account:

(1)The state organs and public institutions;

(2)The futures regulatory institution of the State Council, the futures exchanges, the institution monitoring the safe custody of futures margin, as well as the personnel of the associations of the futures industry;

(3) The persons prohibited to enter into the futures market;

(4)The entities and individuals offer documents certifying that they have opened an account; and

(5)Other entities and individuals not allowed to trade futures as prescribed by futures regulatory institution of the State Council.

Article 27 A client may give trading instructions to the futures company in writing, by telephone, through the internet or other methods as prescribed by the futures regulatory institution of the State Council. The client's trading instructions shall be clear and complete.

No futures company may induce any client to give trading instructions by concealing any important event or by any other improper means.

Article 28 A futures exchange shall timely announce the details concerning the futures contracts of the marketed varieties, including the trading volume, trading price, volume of positions held, the highest and lowest prices, opening and closing prices, and other real time market information which should be announced, and ensure that the information announced is truthful and accurate. No futures exchange may release any information on price forecasts.

Without permission of the futures exchange, no entity or individual may release the real time market information about futures trading.

Article 29 The margin system shall be strictly observed in the futures trading. The margin, which a futures company collects from its clients, shall not be lower than the rates as prescribed by the futures regulatory institution of the State Council, or by the stock exchange, and shall be separated from the futures company's own money and be deposited in a special account.

The margin, which a futures company collects from its clients, belongs to the clients. Such margin shall be strictly prohibited from being used for any other purpose except for the settlement among its members.

The margin, which a futures company collects from its clients, belongs to the clients. Such margin shall be strictly prohibited from being used for any other purpose except for the following transferable circumstances:

(1)To pay the money available at the request of the clients;

(2)To deposit the margin or pay commissions or taxes on the clients' account; and

(3)Other circumstances as prescribed by the futures regulatory institution of the State Council.

Article 30 A futures company shall open a separate account and set up a separate trading code for each of its clients and may not mix up the codes in its futures trading.

Article 31 For a futures company engaging in the futures brokerage business and other futures businesses, it shall strictly follow the principle of separation of business and separation of funds, and shall not mix them up.

Article 32 The members and clients of a futures exchange may offer standard warehouse receipts, government bonds and other negotiable securities with stable value and high liquidity as their margin for the futures trading. The types, methods for calculation, and the proportion of negotiable securities to serve as margin shall be prescribed by the futures regulatory institution of the State Council

Article 33 The qualifications of a banking financial institution engaging in the custody of futures margin and in the settlement of futures shall, upon examination and approval of the banking regulatory institution of the State Council, be reported to the futures regulatory institution of the State Council for approval.

Article 34 The clearing members of a futures exchange, futures company or non-futures company shall, in accordance with the provisions of the futures regulatory institution of the State Council and of the finance department, prepare, manage and use the risk reserve, shall not misappropriate it.

Article 35 The items of, rates and administrative measures for service fees shall be uniformly formulated and announced by the relevant administrative department of the State Council.

Article 36 The futures trading shall be in an open and centralized manner or in any other form as approved by the future regulatory institution of the State Council.

Article 37 The settlement of futures trading shall be uniformly organized by the futures exchange.

The futures exchange shall adopt the mark-to-market system. It shall timely inform its members of the trading results on the current day.

A futures company shall settle its transactions according to the settlement result of the futures exchange and shall timely inform the client of the settlement result in a form as agreed to between it and the client. The client shall timely consult and properly deal with his trading positions.

Article 38 If the margin of a member of a futures exchange is not sufficient, such member shall timely replenish the margin or close his positions on his own initiative. If the said member fails to do so within the time limit as prescribed by the futures

exchange, the futures exchange shall forcibly close his futures contract, and the relevant expenses or losses so incurred shall be borne by the member.

If the margin of a client of a futures exchange is not sufficient, such client shall timely replenish the margin or close his positions on his own initiative. If the said member fails to do so within the time limit as prescribed by the futures exchange, the futures exchange shall forcibly close his futures contract, and the relevant expenses or losses so incurred shall be borne by the client.

Article 39 The delivery in futures trading shall be uniformly organized by the futures exchange.

The delivery warehouse shall be designated by a futures exchange. The futures exchange shall sign an agreement with the delivery warehouse to specify their respective rights and obligations. The delivery warehouse shall not:

(1)issue any false warehouse receipt;

(2)violate the business rules of the futures exchange by imposing restrictions on the goods to enter or leave the delivery warehouse;

(3)divulge any business secret relating to the futures trading;

(4) violate the relevant provisions of the state by participating in the futures trading; or

(5)conduct any other acts as prescribed by the futures regulatory institution of the State Council.

Article 40 Where any member breaches the contract in futures trading, the futures exchange shall first use the member's margin to bear the liability for breach contract. If the margin is not enough, the futures exchange shall use its risk reserve and its own funds to bear the liabilities on that member's account, and be entitled to claim repayment afterwards against the member in question.

Where a client breaches a contract in futures trading, the futures exchange shall first use the client's margin to bear the liability for breach of contract. If the margin is not enough, the futures exchange shall use its risk reserve and its own funds to bear the liabilities on that client's account, and be entitled to claim repayment afterwards against the client in question.

Article 41 A futures exchange which adopts a graded member clearing system shall collect a sum of security from each of its clearing members. It merely makes settlement with the clearing members, collect security money and supplemental security money, and bear the liabilities for breach of contract on the clearing members' account with the clearing security money, risk reserve and its own fund, and take other relevant measures. The clearing members shall make settlement with the non-clearing members, collect security money and supplemental security money, and bear the liabilities for breach of contract on the non-clearing members' account with the clearing security money, risk reserve and their own

fund, and take other relevant measures.

Article 42 The clearing members of a futures exchange or future company or non-futures company shall ensure the completeness and safety of the futures trading, settlement and delivery materials.

Article 43 No entity or individual may make up or spread any false information about futures trading, or manipulate the futures trading prices by malicious collusion, joint trading or by other means.

Article 44 No entity or individual may use any credit fund or treasury fund to conduct futures trading.

The qualifications of a banking financial institution to engage in the financing or guaranty business relating to futures trading shall be subject to the approval of the banking regulatory institution of the State Council.

Article 45 To conduct futures trading at home and abroad, the state-owned or state controlled enterprises shall follow the hedging principle and strictly abide by the relevant provisions of the state-owned asset supervision and administration institution of the State Council and other relevant departments on enterprises' entering the futures market with state-owned assets.

Article 46 The commerce administrative department of the State Council shall examine and verify the varieties of overseas commodity futures which may be traded by the domestic entities or individuals.

The purchase, settlement, incomes and expenses of foreign exchange under the overseas futures shall conform to the relevant provisions of the state on the administration of foreign exchange.

The measures for domestic entities or individuals to conduct overseas futures trading shall be formulated by futures regulatory institution of the State Council jointly with the commerce administrative department, state-owned asset supervision and administration institution, banking regulatory institution, foreign exchange administrative department and other relevant departments of the State Council, and shall be implemented upon approval of the State Council.

Chapter V Associations of the Futures Industry

Article 47 An association of the futures industry shall be a self-disciplinary organization of the futures industry. It is a social organization with the legal person status.

The futures companies and other institutions specially engaging in futures business operations shall join an association of the futures industry and pay the membership fee.

Article 48 The organ of power of an association of the futures industry shall be the general assembly of its members.

The Articles of association of the association of the futures industry shall be worked out by the general assembly of members and shall be submitted to the futures regulatory institution of the State Council for archival purposes.

The association of futures industry shall set up a council. The members of the council shall be elected under the Articles of association.

Article 49 The association of the futures industry shall perform the following duties:

(1)To organize the members and educate them to abide by the laws, regulations and policies on futures;

(2)To work out industrial self-disciplinary rules which shall be followed by the members, to supervise and inspect the members' acts, and give a disciplinary sanction to any member who violates the Articles of association or self-disciplinary rules of the association;

(3)To be responsible for the recognition, management and revocation of the qualifications of the practitioners;

(4)To accept the clients' complaints relating to the futures business, and to mediate the disputes between the members and between the members and clients;

(5)To protect the legitimate rights and interests of the members, and to report to the futures regulatory institution of the State Council the suggestions and demands of the members;

(6)To organize the vocational training for the practitioners and carrying out vocational exchanges between its members;

(7)To organize its members to do research on the development and operation of the futures industry; and

(8)Other duties as prescribed in the Articles of association of the futures industry.

The activities of the association of the futures industry shall be subject to the guidance and supervision of the futures regulatory institution of the State Council.

Chapter VI Supervision and Administration

Article 50 The futures regulatory institution of the State Council shall exercise supervision and administration on the futures market. It shall perform the following duties:

(1)To formulate rules and regulations on the supervision and administration of the futures market and to exercise the power of examination and approval;

(2)To supervise and administer the listing of the varieties of futures, the trading, settlement, delivery and other relevant activities relating to the futures trading;

(3)To supervise and administer the futures business activities conducted by the

futures exchanges, futures companies and other futures institutions, clearing members of non-futures companies, institution monitoring the safe custody of futures margin, custodian bank of the futures margin, delivery warehouses and other market participants;

(4)To formulate the qualification standards and administrative measures for the futures practitioners, and to exercise supervision;

(5)To supervise the publicity of information about supervision and inspection on futures trading;

(6)To guide and supervise the activities of associations of the futures industry;

(7)To punish any violation of law or administrative regarding the supervision and administration of futures market;

(8)To carry out international communication and cooperation activities relating to the supervision and administration of the futures market; and

(9)Other duties as prescribed by the laws and administrative regulations.

Article 51 The futures regulatory institution of the State Council may take the following measures when performing its duties:

(1)To conduct on-the-spot inspections on the futures exchanges, futures companies and other futures institutions, clearing members of non-futures companies, institution monitoring the safe custody of futures margin, custodian bank of the futures margin and delivery warehouses;

(2)To make investigation and collect evidence in a place where a suspected violation has occurred;

(3)To question the parties concerned or any entity or individual relating to a case under investigation and requiring the relevant entity or person to give explanations on the matters relating to a case under investigation;

(4)To consult and copy such materials as the register of property right relating to the case under investigation;

(5)To consult and copy the futures trading records, financial materials and other relevant documents and materials of the parties concerned and other entities and individuals relating to the case under investigation, and to seal up the documents and material that may be transferred, concealed or damaged;

(6)To consult the margin account and bank account of the relevant entities relating to the case under investigation;

(7) When investigating into any serious violation such as manipulation of the futures trading price or insider trading, it may, upon the approval of the person-in-charge of the futures trading regulatory institution of the State Council, restrict the futures trading of the parties concerned in a case under investigation,

whereby the restriction term shall not exceed 15 trading days. Under any complicated circumstance, the term of restriction may be extended for another 30 trading days; and

(8)Other measures as prescribed by the laws and administrative regulations.

Article 52 The futures exchanges, futures companies, other futures institutions, as well as institution monitoring the safe custody of futures margin shall submit to the futures regulatory institution of the State Council their financial statements, operation materials and other relevant materials.

With regard to the annual reports submitted by the futures companies and by other futures institutions, the futures regulatory institution of the State Council shall designate special persons to examine them and work out examination reports. The examiners shall affix their signatures to the examination reports. Where any problem is found in the examination, the futures regulatory institution of the State Council shall take corresponding measures.

Where necessary, the futures regulatory institution of the State Council may require the clearing members of non-futures companies, delivery warehouses, as well as the shareholders, actual controllers or other affiliated parties of futures companies to submit relevant materials.

Article 53 The futures regulatory institution of the State Council performs its duties such as carrying out supervision and inspection or making an investigation, the entities and individuals under inspection or investigation shall cooperate with it, faithfully provide relevant documents and materials, shall not refuse to do so, hamper the inspection or investigation or conceal any relevant information. Other relevant departments and entities shall support and cooperate with it.

Article 54 The state shall set up a futures investor guarantee fund geared to the development of the futures market.

The concrete measures for the raising, management and use of the futures investment fund shall be formulated by the futures regulatory institution of the State Council jointly with the finance department of the State Council.

Article 55 The futures regulatory institution of the State Council shall establish a sound system for the monitoring of the safe custody of margins and set up an institution to monitor the safe custody of margins.

The clients and the futures exchange, futures companies and other futures institutions, clearing members of non-futures companies as well as the custodian banks of futures margins shall observe the provisions of the futures regulatory institution of the State Council on the monitoring of the safe custody of margins.

Article 56 The institution monitoring the safe custody of futures margins shall, in accordance with the relevant provisions, monitor the safety of the margins, check it everyday and immediately report to the futures regulatory institution of the State

Council the problems it finds, if any. The futures regulatory institution of the State Council shall, in light of different circumstances, timely tackle such problems under the relevant provisions of this Regulation.

Article 57 The futures regulatory institution of the State Council shall adopt a qualification administration system for the directors, supervisors, senior managers and other futures practitioners of futures exchanges, futures companies, other futures institutions, as well as of institutions monitoring the safe custody of futures margin.

Article 58 A futures regulatory institution of the State Council shall formulate rules on the sustainable business operation of futures companies, which shall contain such risk supervision indicators as the ratio between the net capital and the net assets, the ratio between the net capital and the business scale of domestic and overseas futures brokerage businesses, as well as the ratio between the current assets and the current liabilities of a futures company, and specify the requirements for the business operation conditions, risk management, internal control, custody of margins, and affiliated transactions of the futures company and its branches.

Article 59 Where a futures company or any of its branches does not conform to the sustainable business operation rules or where any business operation risk occurs in a futures company or in any of its branches, the futures regulatory institution of the State Council may take such supervisory measures as arranging for an interview with or giving a warning to or keeping a credit record of the futures company and its directors, supervisors and senior managers, or order the futures company to make a correction within a time limit and check the rectification result.

If the futures company fails to make a correction and if its act severely endangers the stable and sound operation of the futures company and impairs the legitimate rights and interests of its clients, or if it is under investigation of the futures regulatory institution of the State Council because it is suspected of committing any serious violation, the futures regulatory institution of the State Council may, in light of different circumstances, take the following measures:

(1)To limit or suspend some of its futures businesses;

(2)To stop the approval of any new business or new branch;

(3)To restrict the distribution of bonuses, to restrict the payment of remunerations or provision of welfares to the directors, supervisors and senior managers;

(4)To limit the transfer of properties or setting any other right to his properties;

(5)To order the futures company to change its directors, supervisors, senior managers or the persons-in-charge of the relevant business departments or to limit their rights;

(6)To restrict the allocation, transfer and utilization of the futures company's own fund or risk reserve; and

(7)To order the controlling shareholders to transfer their stock rights or to impose restrictions on the relevant shareholders' exercise of the shareholders' rights.

After the rectification, if the futures company conforms to the relevant laws, administrative regulations, as well as the requirements of the sustainable business operation rules, the futures regulatory institution of the State Council shall, within 3 days after the completion of a check, lift the relevant measures taken against the futures company.

If, after the rectification, the futures company still fails to satisfy the requirements of the sustainable business operation rules and if its normal business operation is severely affected, the futures regulatory institution of the State Council shall have the power to revoke the permit for some or all of its futures businesses, or close down its branches.

Article 60 If the illegal business operation or serious risk of any futures company grossly disturbs the order of the futures market or impairs the clients' interests, the futures regulatory institution of the State Council may take such supervisory measures as ordering it to stop its business for rectification or designating any other institution to manage or take it over. Upon approval of the futures regulatory institution of the State Council, the following measures may be taken against the directly liable directors, supervisors and senior managers, as well as other directly liable persons:

(1)To notify the exit administrative organ to prevent them from leaving China; and

(2)To request the judicial organ to prohibit him from moving, transferring his properties or disposing of his properties by any other means, or setting any other right to his properties.

Article 61 Where a shareholder of a futures company makes any fake capital contribution or spirits away the registered capital, the futures regulatory institution of the State Council shall order it to make a correction within a time limit and may order him to transfer the stock rights of the futures company it holds.

Before the shareholder as prescribed in the preceding paragraph herein corrects its violation and transfers the stock right of the futures company it holds according to the relevant requirements, the futures regulatory authority of the State Council may restrict the shareholders' rights thereof.

Article 62 At the occurrence of any abnormity in the futures market, the futures regulatory institution of the State Council may take necessary risk measures.

Article 63 The trading software and clearing software of a futures company shall satisfy the requirements for the prudent business operation and risk management of the futures company as well as the relevant requirements of the futures

regulatory institution of the State Council for the monitoring of safe custody of margins. If the trading software or clearing software does not meet the relevant requirements, the futures regulatory institution of the State Council shall have the power to require the futures company to improve it or replace it with another one.

The future regulatory institution of the State Council may require the supplier of the trading software or clearing software of the futures company to offer materials relevant to the software, the supplier shall be cooperative. The futures regulatory institution of the State Council has the obligation to keep confidential the pertinent materials provided by the supplier.

Article 64 Where a future company is involved in a major lawsuit or arbitration, or where the stock rights of a futures company are frozen or used as a collateral, or where any other major event occurs, the futures company and its relevant shareholders and actual controllers shall, within 5 days after the occurrence of the event, submit a written report to the futures regulatory institution of the State Council.

Article 65 When an accounting firm, law firm, asset appraisal institution or any other intermediary service institution provides relevant services to futures companies and other market participants, it shall abide by the laws, administrative regulations and other relevant provisions of the state on futures and shall provide pertinent materials as required by the futures regulatory institution of the State Council.

Article 66 The futures regulatory institution of the State Council shall, jointly with other relevant departments, establish a mechanism of information sharing, coordination and cooperation in terms of supervision and administration.

The futures regulatory institution of the State Council may, jointly with the futures regulatory authorities of other countries or regions, establish a regulatory cooperative mechanism to exercise transnational supervision and administration.

Article 67 Any of the personnel of the futures regulatory institution of the State Council, or of a futures exchange, institution monitoring the safe custody of futures margin or custodian bank of futures margins shall be duteous, impartial and clean, and handle matters according to law, and shall not take advantage of his post to seek improper benefits or divulge any commercial secret of the party concerned he has access to during his performance of duties.

Chapter VII Legal Liabilities

Article 68 Where a futures exchange or a clearing member of a non-futures company commits any of the following acts, it shall be ordered to make a correction, be given a warning, and its illegal gains shall be confiscated:

(1)Admitting any member in violation the relevant provisions;

(2) Charging commissions in violation of the relevant provisions;

(3) Using or distributing its proceeds in violation of relevant provisions;

(4) Failing to publish the real-time information as stipulated, or releasing any information of price forecast;

(5) Failing to fulfill its obligation to report to the futures regulatory institution of the State Council as required;

(6)Failing to submit relevant documents or materials to the futures regulatory institution of the State Council as required;

(7)Failing to establish a sound system of margin;

(8)Failing to prepare, manage or use risk reserves as required;

(9)Violating the provisions of the futures regulatory institution of the State Council on the monitoring of safe custody of margin;

(10)Imposing restrictions on the total volume of goods to be delivered by its members;

(11)Employing persons unqualified for the futures business; or

(12) Other acts in violation of the provisions of the futures regulatory institution of the State Council.

Where a futures exchange commits any of the acts as specified in the preceding paragraph, the directly liable person-in-charge and other directly liable persons shall be given a disciplinary sanction and shall be fined not less than 10, 000 yuan but not more than 100, 000 yuan.

Any futures exchange which commits the act described in Item (2) of the first paragraph in this Article shall be ordered to refund the overcharged commissions.

Where an institution monitoring the safe custody of futures margin commits any of the acts as described in Items (5), (6), (9), (11) and (12) of the second paragraph of this Article, it shall be punished and given a sanction in accordance with the provisions in the first and second paragraphs. If a custodian bank of futures margin commits any of the acts as mentioned in Item (9) and (12) of the first paragraph of this Article, it shall be punished and given a sanction in accordance with the provisions of the first and second paragraphs.

Article 69 Where a futures exchange or any clearing member of a non-futures company commits any of the following acts, it shall be ordered to make a correction, be given a warning, have its illegal gains confiscated, and be fined not less than one time but not more than five times the illegal gains. If there are no illegal gains or the amount of the illegal gains is less than 100, 000 yuan, it shall be fined not less than 100, 000 yuan but not more than 500, 000 yuan. If the circumstance is serious, it shall ordered to suspend its business for rectification:

(1) Handling any of the matters as described in Article 13 of this Regulation without

approval;

(2)Allowing any member to conduct futures trading when its margin is not sufficient;;

(3)Directly or indirectly participating in future trading, or engaging in any business which has nothing to do with its duties;

(4)Collecting margins or diverting the margins to other purposes in violation of relevant provisions;

(5)Falsifying or altering futures trading, settlement and clearing materials, or failing to preserve such materials as required;

(6)Failing to establish or implement systems of mark-to-market system, price limits, position limits as well as reports of big position holders;

(7) Rejecting or obstructing supervision or inspection by the future regulatory institution of the State Council; or

(8)Other acts in violation of the provisions of the futures regulatory institution of the State Council.

Where a fixtures exchange or any clearing member of a non-futures company commits any of the acts specified in the preceding paragraph, the directly liable person-in-charge and other directly liable person shall be given a disciplinary sanction and fined not less than 10,000 yuan but not more than 100,000 yuan.

Where an institution monitoring the safe custody of futures margin commits any of the acts as mentioned in items (3), (7) and (8) of the first paragraph of this Article, it shall be punished or given a sanction in accordance with the first and second paragraphs.

Article 70 Where a futures company commits any of the following acts, it shall be ordered to make a correction, be given a warning, have its illegal gains confiscated, and shall be fined not less than one time but not more than three times the illegal gains. If there are no illegal gains or if the amount of illegal gains is less than 100, 000 yuan, it shall be fined not less than 100, 000 yuan but not more than 300, 000 yuan. If the circumstance is serious, it shall be ordered to stop business for rectification or have its futures business permit revoked:

(1)Accepting the entrustment of any entity or individual who does meet the relevant conditions;

(2)Allowing any client to conduct futures trading when its margin is insufficient;

(3)Handling the matters as listed in Articles 19 and 20 of this Regulation without approval;

(4)Carrying out any activities which have nothing to do with the futures business;

(5)Engaging in self-operation business of futures or doing so in any disguised form;

(6)Providing financing service to its shareholders, actual controllers or other affiliated parties, or providing guaranties to outsiders;

(7)Violating the provisions of the futures regulatory institution of the State Council on the monitoring of the safe custody of margins;

(8)Failing to perform the obligation to report to or submit the relevant documents and materials to the futures regulatory institution of the State Council under the relevant provisions;

(9)Using any trading software or clearing software which does not satisfy the requirements for the prudent business operation and risk management of the futures company or the relevant requirements of the futures regulatory institution of the State Council for the monitoring of safe custody of margins;

(10)Failing to prepare, manage or use risk reserves as required;

(11) Falsifying or altering futures trading, settlement and clearing materials, or failing to preserve such materials in accordance with the relevant provisions;

(12)Employing persons unqualified for the futures business;

(13)Counterfeiting, altering, renting, lending, buying or selling any futures business permit or business license;

(14)Conducting any dealings by mixing up the codes;

(15)Rejecting or obstructing the supervision or inspection by the futures regulatory institution of the State Council; or

(16)Other acts in violation of the provisions of the futures regulatory institution of the State Council.

Where a fixtures company commits any of the acts as specified in the preceding paragraph, the directly liable person-in-charge and other directly liable persons shall be given a disciplinary sanction and be fined not less than 10, 000 yuan but not more than 50, 000 yuan. If the circumstance is serious, the qualifications for assuming the relevant posts and the futuros practitioners' qualifications shall be suspended or revoked.

Where a futures institution other than a futures company commits any of the acts as described in items (8), (12), (13), (15) and (16) of the first paragraph, it shall be punished in accordance with the first and second paragraphs of this Article.

Where a shareholder, actual controller or any other affiliate of a futures company, without approval, entrusts others or accepts others' entrustment to hold or manage the stock rights of the futures company, or refuses to be cooperative during the inspection of the futures regulatory institution of the State Council, or refuses to perform the obligation to report or submit the relevant information and materials as required, or submits or provides any information or materials with any false record or misleading statement or serious omission, it shall be punished in

accordance with the first and second paragraphs of this Article.

Article 71 Where a futures company commits any of the following acts cheating the clients, it shall be ordered to make a correction, be given a warning, have its illegal gains confiscated and be fined not less than one time but not more than 5 times the illegal gains. If there are no illegal gains or the amount of illegal gains is less than 100, 000 yuan, it shall be fined not less than 100, 000 yuan but not more than 500, 000 yuan. If the circumstance is serious, it shall be ordered to make a rectification or have its futures business permit revoked:

(1) Making a promise of profits to its clients or failing to provide the clients in advance with a risk disclosure statement as required;

(2)Agreeing to share profits or risks with its clients in the business of brokerage;

(3)Failing to accept the entrustment of any client or failing to conduct futures trading according to the entrustment of any client;

(4)Inducing any client to give trading instructions by concealing any important event or by other improper means;

(5)Providing any client with false return on dealings;

(6)Failing to transmit any client's trading instruction to the futures exchange;

(7)Diverting the clients' margin to other purposes;

(8)Failing to open a margin account in the custodian bank of futures margin or illegally transferring the clients' margin; or

(9)Other acts cheating the clients as prescribed by the futures regulatory institution of the State Council.

Where a futures company commits any of the acts as mentioned in the preceding paragraph, the directly liable person-in-charge and other directly liable persons shall be given a warning and fined not less than 10, 00 yuan but not more than 100, 000 yuan. If the circumstance is serious, the qualifications for assuming the relevant posts and the futures practitioners' qualifications shall be suspended or revoked.

Where an entity or individual who makes up or spread false information about futures trading, if it (he) disturbs the futures trading market, it (he) shall be punished in accordance with the first and second paragraphs of this Article.

Article 72 Where a futures company, or any other futures institution, or clearing member of a non-futures company, or custodian bank of the futures margin obtains a futures business permit by providing false application documents or by concealing any important fact by other means of cheating, its futures business permit shall be revoked and its illegal gains shall be confiscated.

Article 73 For an insider of the inside information about futures trading or person

who illegally obtains the inside information about futures trading, prior to the publicity of the information which may considerably affect the futures trading price, if he conducts futures trading by taking advantage of the inside information, or if he divulges the inside information to any other person so that such person conducts futures trading by taking advantage of the inside information, the illegal gains shall be confiscated and he shall be concurrently fined not less than one time but not more than 5 times the illegal gains. If there are no illegal gains or if the amount of illegal gains is less than 100, 000 yuan, he shall be fined not less than 100, 000 yuan but not more than 500, 000 yuan. Where an entity conducts any inside transaction, the directly liable person-in-charge and other directly liable persons shall be given a warning and fined not less than 30, 000 yuan but not more than 300, 000 yuan.

Where any of the personnel of the futures regulatory institution of the State Council, or of a futures exchange, or of an institution monitoring the safe custody of futures margin conducts any inside transaction, he shall be given a heavier punishment.

Article 74 Where any entity or individual commits any of the following acts manipulating the futures trading prices, it shall be ordered to make a correction, have its (his) illegal gains confiscated, and be concurrently fined not less than one time but not more than five times the illegal gains. If there are no illegal gains or if the amount of the illegal gains is less than 200, 000 yuan, it (he) shall be fined not less than 200, 000 yuan but not more than 1 million yuan:

(1)Manipulating fixtures trading prices individually or in collusion by buying and selling futures contracts by jointly or successively taking advantage of funds or positions it holds or by taking its advantage in information;

(2)Deliberately colluding with another party to conduct futures transactions with each other at a time, at a price and in a method agreed upon in advance so as to influence the futures trading prices or the fixtures trading volume;

(3)Using oneself as the trading party, acting as the buyer and seller simultaneously so as to influence the futures trading prices or the futures trading volume;

(4)Hoarding goods in order to influence futures market prices; or

(5)Committing other acts manipulating fixtures trading prices as prescribed by the futures regulatory institution of the State Council.

Where an entity or individual commits any of the acts as specified in the preceding paragraph, the directly liable person-in-charge and other directly liable persons shall be given a disciplinary sanction and fined not less than 10,000 yuan but not more than 100,000 yuan.

Article 75 Any delivery warehouse that commits any of the acts stipulated in Paragraph 2, Article 39 of this Regulation shall be ordered to make a correction, be given a warning, have its illegal gains confiscated, and shall be fined

concurrently not less than one time but not more than five times the illegal gains. If there are no illegal gains or the amount of the illegal gains is less than 100, 000 yuan, it shall be fined not less than 100,000 yuan but not more than 500,000 yuan. If the circumstance is serious, the futures exchange shall be ordered to suspend or cancel the qualification of the delivery warehouse. The directly liable person-in-charge and other directly liable persons shall be given a warning and fined not less than 10, 000 yuan but not more than 100, 000 yuan.

Article 76 Where a state-owned enterprise or state controlled enterprise conduct futures trading in violation of this Regulation or in violation of the relevant provisions of the futures regulatory institution of the State Council and other relevant departments regarding the enterprises' entering the futures market with the state-owned assets, or where an entity or individual conducts futures trading by illegally using any credit fund, treasury fund, it (he) shall be given a warning with its (his) illegal gains being confiscated, and it shall be fined concurrently not less than one time but not more than 5 times the illegal gains. If there are no illegal gains or the amount of the illegal gains is less than 100, 000 yuan, it (he) shall be fined not less than 100,000 yuan but not more than 500,000 yuan. The directly liable person-in-charge and other directly liable persons shall be given a disciplinary sanction such as demotion or even removal.

Article 77 Where a domestic entity or individual conducts overseas futures trading in violation of the relevant provisions, it (he) shall be ordered to make a correction, be given a warning, have its (his) illegal gains confiscated, and shall be concurrently fined not less than one time but not more than 5 times the illegal gains. If there are no illegal gains or if the amount of illegal gains is less than 200, 000 yuan, it (he) shall be fined not less than 200, 000 yuan but not more than 1 million yuan. If the circumstance is serious, it (he) shall suspend the overseas futures trading. The directly liable person-in-charge and other directly liable persons shall be given a warning and concurrently fined not less than 10, 000 yuan but not more than 100, 000 yuan.

Article 78 Where an entity or individual illegally sets up a futures exchange, futures company or any other futures institution or does so in a disguised form, or illegally engages in futures business, illegally organizes futures trading activities in any disguised form, it (he) shall be banned from doing so, have its (his) illegal gains confiscated, and shall be concurrently fined not less than one time but not more than five times the illegal gains. If there are no illegal gains or if the amount of the illegal gains is less than 200, 000 yuan, it (he) shall be fined not less than 200, 000 yuan but not more than 1 million yuan. The directly liable person-in-charge and other directly liable persons shall be given a warning and fined not less than 10, 000 yuan but not more than 100, 000 yuan.

Article 79 Where a futures company's supplier of trading software or clearing software refuses to cooperate with the futures regulatory institution of the State Council in an investigation, or fails to provide the futures regulatory institution of

the State Council with the relevant software materials as required, or provides the futures regulatory institution of the State Council with software materials with false information or serious omission, it shall be ordered to make a correction and fined not less than 30, 000 yuan but not more than 100, 000 yuan. The directly liable person-in-charge and other directly liable persons shall be given a warning and concurrently fined not less than 10, 000 yuan but not more than 50, 000 yuan.

Article 80 Where an accounting firm, law firm, asset appraisal institution or any other intermediary service institution fails to be duteous, or issues documents with any false record, misleading statement or serious omission, it shall be ordered to make a correction, have its business income confiscated, have its relevant business license suspended or revoked, and be concurrently fined not less than one time but not more than 5 times the business income. The directly liable person-in-charge and other directly liable persons shall be given a warning and be concurrently fined not less than 30, 000 yuan but not more than 100, 000 yuan.

Article 81 Where an entity or individual violates this Regulation, if the circumstance is serious, the futures regulatory institution of the State Council shall announce that this individual, this entity or the directly liable persons of this entity are prohibited to enter the futures market.

Article 82 Where any of the personnel of the futures regulatory institution of the State Council, or of a futures exchange, or of an institution monitoring the safe custody of futures margin, or of a custodian bank of futures margin divulges any state secret or any client' business secret he has access to, or seeks private benefits, neglects his duties, abuses his power or accepts any bribe, he shall be given an administrative or disciplinary sanction.

Article 83 Anyone who violates this Regulation and constitutes any crime shall be subject to the criminal liabilities.

Article 84 The administrative punishments meted out to violations of this Regulation shall be decided by the futures regulatory institution of the State Council. If the statutory functions of other relevant departments are involved, the futures regulatory institution of the State Council shall, jointly with other relevant departments, punish such violations. If a violation falls under the statutory functions of any other relevant department, the futures regulatory institution of the State Council shall transfer it to this department for punishment.

Chapter VIII Supplementary Provisions

Article 85 Definitions of the following terms:

(1) The term "futures contract" refers to the standard contract uniformly made by a futures exchange, which is used to deliver a certain quantity of subject matter at a prearranged time and place in the future. On the basis of difference in subject matter, futures contracts are classified into commodity futures contracts and financial futures contracts. The subject matters of commodity futures

contracts include agricultural products, industrial products, energy and other commodities as well as the relevant index products thereof. The subject matters of financial futures contracts include negotiable instruments, interest rates, foreign exchange rates and other financial products as well as the relevant index products thereof.

(2)The term "option contracts" refers to the standard contracts (including the futures contracts) uniformly made by a futures exchange, in which it is stipulated that the buyer has the right to buy or sell a particular subject matter at a prearranged price and at a certain time in the future.

(3)The term "margin" refers to the funds paid by a futures trader, in accordance with the prescribed standards, used for settlement and as security for the performance of contracts.

(4) The term "settlement" means the settlement of financial accounts to show the profit and loss status of both parties to a trade based on the settlement price announced by the futures exchange.

(5)The term "delivery" means the procedure by which, on the maturity of a futures contract, both trading parties settle the contract having not yet closed out on the maturity by transferring the ownership of goods stipulated in the futures contract in accordance with the rules and procedures of the futures exchange, or settle the difference in cash at a settlement price as prescribed.

(6)The term "closing position" means the activity by which a futures trader purchases or sells a futures contract containing the same variety, quantity and month of delivery as those of the fixtures contract he has held, but is opposite in the direction of trading, in order to close out futures trading.

(7)The term "volume of positions held" refers to the volume of open contracts held by a futures trader.

(8)The term "position limit" means the maximum volume of positions held by a futures trader as prescribed by the futures exchange.

(9)The term "warehouse receipt" means a standardized delivery certificate issued by a delivery warehouse and recognized by a futures exchange.

(10)The term "price limits" means that the trading price of a futures contract may not be higher or lower than the stipulated range on a certain trading day, and a quoted price which outgoes that range shall be regarded as invalid and the transaction cannot be completed.

(11)The term "inside information" refers to the information which has not been made public and might produce a major influence on futures trading prices, including the policies formulated by the futures regulatory institution of the State Council and other related departments which might produce a major influence on futures trading prices, decisions made by a futures exchange which might

generate a major influence on fixtures trading prices, details of the financial status and trading trends of members and clients of a futures exchange, and other important information which the futures regulator institution of the State Council deems to have a conspicuous impact on futures trading prices.

(12)The term "insiders who have access to inside information" refers to persons who, by virtue of their management position, supervisory role or profession, or who, through their duties as an employee or professional consultant, have access to or obtain inside information, including the senior managing personnel of a futures exchange, other employees who, by virtue of their posts, can obtain inside information, personnel of the futures regulatory institution of the State Council, personnel of other related departments, and other persons as prescribed by the futures regulatory institution of the State Council.

Article 86 The futures regulatory institution of the State Council may approve the establishment of a special settlement institution, which is specially responsible for the settlement of futures exchanges, performs other relevant duties and bears the corresponding legal liabilities.

Article 87 The administrative measures for overseas institutions' establishment, merger or taking shares of futures institutions within China, as well as for overseas futures institutions' establishment of branches (representative offices) within China shall be formulated by the futures regulatory institution of the State Council jointly with the commerce administrative department, foreign exchange administrative department and other relevant departments of the State Council and shall be implemented upon approval of the State Council.

Article 88 The futures trading conducted in a trading place approved by the futures regulatory institution of the State Council other than in a futures exchange shall be governed by this Regulation.

Article 89 Without approval of the futures regulatory institution of the State Council, any institution or market which conducts centralized trading on the basis of standard contracts and simultaneously adopt the following trading mechanism or bears the feature of either of the following trading mechanism shall be deemed as conducting futures trading in a disguised form:

(1)Providing all buyers and sellers who participate in the centralized trading with a guaranty to perform the contracts; or

(2)Adopting the mark-to-market system and margin system, and simultaneously collecting a sum of margin which accounts for less than 20% of the amount of the subject matter of each contract.

Any institution or market which adopts the trading mechanisms as mentioned in the preceding paragraph or bears the features of either of the trading mechanisms as mentioned in the preceding paragraph prior to the implementation of this Regulation shall make a rectification within the time limit as

prescribed by the commerce administrative department of the State Council.

Article 90 Other trading activities of commodities or financial products which do not fall into the category of futures trading shall be subject to the supervision and administration of the relevant competent departments of the state and are not governed by this Regulation.

Article 91 This Regulation shall come into forces as of April 15, 2007. The Interim Regulation on the Administration of Futures Trading as promulgated by the State Council on June 2, 1999, shall be repealed simultaneously.

期货交易管理条例

国务院令第489号

2007年2月7日国务院第168次常务会议通过，现予公布，自2007年4月15日起施行。

国务院

二00七年三月六日

第一章 总则

第一条 为了规范期货交易行为，加强对期货交易的监督管理，维护期货市场秩序，防范风险，保护期货交易各方的合法权益和社会公共利益，促进期货市场积极稳妥发展，制定本条例。

第二条 任何单位和个人从事期货交易，包括商品和金融期货合约、期权合约交易及其相关活动，应当遵守本条例。

第三条 从事期货交易活动，应当遵循公开、公平、公正和诚实信用的原则。禁止欺诈、内幕交易和操纵期货交易价格等违法行为。

第四条 期货交易应当在依法设立的期货交易所或者国务院期货监督管理机构批准的其他交易场所进行。

禁止在国务院期货监督管理机构批准的期货交易场所之外进行期货交易，禁止变相期货交易。

第五条 国务院期货监督管理机构对期货市场实行集中统一的监督管理。

国务院期货监督管理机构派出机构依照本条例的有关规定和国务院期货监督管理机构

的授权，履行监督管理职责。

第二章　期货交易所

第六条　设立期货交易所，由国务院期货监督管理机构审批。

未经国务院期货监督管理机构批准，任何单位或者个人不得设立期货交易所或者以任何形式组织期货交易及其相关活动。

第七条　期货交易所不以营利为目的，按照其章程的规定实行自律管理。期货交易所以其全部财产承担民事责任。期货交易所的负责人由国务院期货监督管理机构任免。

期货交易所的管理办法由国务院期货监督管理机构制定。

第八条　期货交易所会员应当是在中华人民共和国境内登记注册的企业法人或者其他经济组织。

期货交易所可以实行会员分级结算制度。实行会员分级结算制度的期货交易所会员由结算会员和非结算会员组成。

结算会员的结算业务资格由国务院期货监督管理机构批准。国务院期货监督管理机构应当在受理结算业务资格申请之日起3个月内做出批准或者不批准的决定。

第九条　有《中华人民共和国公司法》第一百四十七条规定的情形或者下列情形之一的，不得担任期货交易所的负责人、财务会计人员：

（一）因违法行为或者违纪行为被解除职务的期货交易所、证券交易所、证券登记结算机构的负责人，或者期货公司、证券公司的董事、监事、高级管理人员，以及国务院期货监督管理机构规定的其他人员，自被解除职务之日起未逾5年；

（二）因违法行为或者违纪行为被撤销资格的律师、注册会计师或者投资咨询机构、财务顾问机构、资信评级机构、资产评估机构、验证机构的专业人员，自被撤销资格之日起未逾5年。

第十条　期货交易所应当依照本条例和国务院期货监督管理机构的规定，建立、健全各项规章制度，加强对交易活动的风险控制和对会员以及交易所工作人员的监督管理。期货交易所履行下列职责：

（一）提供交易的场所、设施和服务；

（二）设计合约，安排合约上市；

（三）组织并监督交易、结算和交割；

（四）保证合约的履行；

（五）按照章程和交易规则对会员进行监督管理；

（六）国务院期货监督管理机构规定的其他职责。

期货交易所不得直接或者间接参与期货交易。未经国务院期货监督管理机构审核并报国务院批准，期货交易所不得从事信托投资、股票投资、非自用不动产投资等与其职责无关的业务。

第十一条　期货交易所应当按照国家有关规定建立、健全下列风险管理制度：

（一）保证金制度；

（二）当日无负债结算制度；

（三）涨跌停板制度；

（四）持仓限额和大户持仓报告制度；

（五）风险准备金制度；

（六）国务院期货监督管理机构规定的其他风险管理制度。

实行会员分级结算制度的期货交易所，还应当建立、健全结算担保金制度。

第十二条　当期货市场出现异常情况时，期货交易所可以按照其章程规定的权限和程序，决定采取下列紧急措施，并应当立即报告国务院期货监督管理机构：

（一）提高保证金；

（二）调整涨跌停板幅度；

（三）限制会员或者客户的最大持仓量；

（四）暂时停止交易；

（五）采取其他紧急措施。

前款所称异常情况，是指在交易中发生操纵期货交易价格的行为或者发生不可抗拒的突发事件以及国务院期货监督管理机构规定的其他情形。

异常情况消失后，期货交易所应当及时取消紧急措施。

第十三条　期货交易所办理下列事项，应当经国务院期货监督管理机构批准：

（一）制定或者修改章程、交易规则；

（二）上市、中止、取消或者恢复交易品种；

（三）上市、修改或者终止合约；

（四）变更住所或者营业场所；

（五）合并、分立或者解散；

（六）国务院期货监督管理机构规定的其他事项。

国务院期货监督管理机构批准期货交易所上市新的交易品种，应当征求国务院有关部门的意见。

第十四条　期货交易所的所得收益按照国家有关规定管理和使用，但应当首先用于保证期货交易场所、设施的运行和改善。

第三章　期货公司

第十五条　期货公司是依照《中华人民共和国公司法》和本条例规定设立的经营期货业务的金融机构。设立期货公司，应当经国务院期货监督管理机构批准，并在公司登记机

关登记注册。

未经国务院期货监督管理机构批准，任何单位或者个人不得设立或者变相设立期货公司，经营期货业务。

第十六条　申请设立期货公司，应当符合《中华人民共和国公司法》的规定，并具备下列条件：

（一）注册资本最低限额为人民币 3000 万元；

（二）董事、监事、高级管理人员具备任职资格，从业人员具有期货从业资格；

（三）有符合法律、行政法规规定的公司章程；

（四）主要股东以及实际控制人具有持续盈利能力，信誉良好，最近 3 年无重大违法违规记录；

（五）有合格的经营场所和业务设施；

（六）有健全的风险管理和内部控制制度；

（七）国务院期货监督管理机构规定的其他条件。

国务院期货监督管理机构根据审慎监管原则和各项业务的风险程度，可以提高注册资本最低限额。注册资本应当是实缴资本。股东应当以货币或者期货公司经营必需的非货币财产出资，货币出资比例不得低于 85%。

国务院期货监督管理机构应当在受理期货公司设立申请之日起 6 个月内，根据审慎监管原则进行审查，做出批准或者不批准的决定。

未经国务院期货监督管理机构批准，任何单位和个人不得委托或者接受他人委托持有或者管理期货公司的股权。

第十七条　期货公司业务实行许可制度，由国务院期货监督管理机构按照其商品期货、金融期货业务种类颁发许可证。期货公司除申请经营境内期货经纪业务外，还可以申请经

营境外期货经纪、期货投资咨询以及国务院期货监督管理机构规定的其他期货业务。

期货公司不得从事与期货业务无关的活动，法律、行政法规或者国务院期货监督管理机构另有规定的除外。

期货公司不得从事或者变相从事期货自营业务。

期货公司不得为其股东、实际控制人或者其他关联人提供融资，不得对外担保。

第十八条　期货公司从事经纪业务，接受客户委托，以自己的名义为客户进行期货交易，交易结果由客户承担。

第十九条　期货公司办理下列事项，应当经国务院期货监督管理机构批准：

（一）合并、分立、停业、解散或者破产；

（二）变更公司形式；

（三）变更业务范围；

（四）变更注册资本；

（五）变更 5%以上的股权；

（六）设立、收购、参股或者终止境外期货类经营机构；

（七）国务院期货监督管理机构规定的其他事项。

前款第（四）项、第（七）项所列事项，国务院期货监督管理机构应当自受理申请之日起 20 日内做出批准或者不批准的决定；前款所列其他事项，国务院期货监督管理机构应当自受理申请之日起 2 个月内做出批准或者不批准的决定。

第二十条　期货公司办理下列事项，应当经国务院期货监督管理机构派出机构批准：

（一）变更法定代表人；

（二）变更住所或者营业场所；

（三）设立或者终止境内分支机构；

（四）变更境内分支机构的营业场所、负责人或者经营范围；

（五）国务院期货监督管理机构规定的其他事项。

前款第（一）项、第（二）项、第（四）项、第（五）项所列事项，国务院期货监督管理机构派出机构应当自受理申请之日起20日内做出批准或者不批准的决定；前款第（三）项所列事项，国务院期货监督管理机构派出机构应当自受理申请之日起2个月内做出批准或者不批准的决定。

第二十一条　期货公司或者其分支机构有《中华人民共和国行政许可法》第七十条规定的情形或者下列情形之一的，国务院期货监督管理机构应当依法办理期货业务许可证注销手续：

（一）营业执照被公司登记机关依法注销；

（二）成立后无正当理由超过3个月未开始营业，或者开业后无正当理由停业连续3个月以上；

（三）主动提出注销申请；

（四）国务院期货监督管理机构规定的其他情形。

期货公司在注销期货业务许可证前，应当结清相关期货业务，并依法返还客户的保证金和其他资产。期货公司分支机构在注销经营许可证前，应当终止经营活动，妥善处理客户资产。

第二十二条　期货公司应当建立、健全并严格执行业务管理规则、风险管理制度，遵守信息披露制度，保障客户保证金的存管安全，按照期货交易所的规定，向期货交易所报告大户名单、交易情况。

第二十三条　从事期货投资咨询以及为期货公司提供中间介绍等业务的其他期货经营机构，应当取得国务院期货监督管理机构批准的业务资格，具体管理办法由国务院期货监

督管理机构制定。

第四章　期货交易基本规则

第二十四条　在期货交易所进行期货交易的，应当是期货交易所会员。

第二十五条　期货公司接受客户委托为其进行期货交易，应当事先向客户出示风险说明书，经客户签字确认后，与客户签订书面合同。期货公司不得未经客户委托或者不按照客户委托内容，擅自进行期货交易。

期货公司不得向客户做获利保证；不得在经纪业务中与客户约定分享利益或者共担风险。

第二十六条　下列单位和个人不得从事期货交易，期货公司不得接受其委托为其进行期货交易：

（一）国家机关和事业单位；

（二）国务院期货监督管理机构、期货交易所、期货保证金安全存管监控机构和期货业协会的工作人员；

（三）证券、期货市场禁止进入者；

（四）未能提供开户证明材料的单位和个人；

（五）国务院期货监督管理机构规定不得从事期货交易的其他单位和个人。

第二十七条　客户可以通过书面、电话、互联网或者国务院期货监督管理机构规定的其他方式，向期货公司下达交易指令。客户的交易指令应当明确、全面。

期货公司不得隐瞒重要事项或者使用其他不正当手段诱骗客户发出交易指令。

第二十八条　期货交易所应当及时公布上市品种合约的成交量、成交价、持仓量、最高价与最低价、开盘价与收盘价和其他应当公布的即时行情，并保证即时行情的真实、准确。期货交易所不得发布价格预测信息。

未经期货交易所许可，任何单位和个人不得发布期货交易即时行情。

第二十九条　期货交易应当严格执行保证金制度。期货交易所向会员、期货公司向客户收取的保证金，不得低于国务院期货监督管理机构、期货交易所规定的标准，并应当与自有资金分开，专户存放。

期货交易所向会员收取的保证金，属于会员所有，除用于会员的交易结算外，严禁挪作他用。

期货公司向客户收取的保证金，属于客户所有，除下列可划转的情形外，严禁挪作他用：

（一）依据客户的要求支付可用资金；

（二）为客户交存保证金，支付手续费、税款；

（三）国务院期货监督管理机构规定的其他情形。

第三十条　期货公司应当为每一个客户单独开立专门账户、设置交易编码，不得混码交易。

第三十一条　期货公司经营期货经纪业务又同时经营其他期货业务的，应当严格执行业务分离和资金分离制度，不得混合操作。

第三十二条　期货交易所会员、客户可以使用标准仓单、国债等价值稳定、流动性强的有价证券充抵保证金进行期货交易。有价证券的种类、价值的计算方法和充抵保证金的比例等，由国务院期货监督管理机构规定。

第三十三条　银行业金融机构从事期货保证金存管、期货结算业务的资格，经国务院银行业监督管理机构审核同意后，由国务院期货监督管理机构批准。

第三十四条　期货交易所、期货公司、非期货公司结算会员应当按照国务院期货监督管理机构、财政部门的规定提取、管理和使用风险准备金，不得挪用。

第三十五条　期货交易的收费项目、收费标准和管理办法由国务院有关主管部门统一制定并公布。

第三十六条　期货交易应当采用公开的集中交易方式或者国务院期货监督管理机构批准的其他方式。

第三十七条　期货交易的结算，由期货交易所统一组织进行。

期货交易所实行当日无负债结算制度。期货交易所应当在当日及时将结算结果通知会员。

期货公司根据期货交易所的结算结果对客户进行结算，并应当将结算结果按照与客户约定的方式及时通知客户。客户应当及时查询并妥善处理自己的交易持仓。

第三十八条　期货交易所会员的保证金不足时，应当及时追加保证金或者自行平仓。会员未在期货交易所规定的时间内追加保证金或者自行平仓的，期货交易所应当将该会员的合约强行平仓，强行平仓的有关费用和发生的损失由该会员承担。

客户保证金不足时，应当及时追加保证金或者自行平仓。客户未在期货公司规定的时间内及时追加保证金或者自行平仓的，期货公司应当将该客户的合约强行平仓，强行平仓的有关费用和发生的损失由该客户承担。

第三十九条　期货交易的交割，由期货交易所统一组织进行。

交割仓库由期货交易所指定。期货交易所不得限制实物交割总量，并应当与交割仓库签订协议，明确双方的权利和义务。交割仓库不得有下列行为：

（一）出具虚假仓单；

（二）违反期货交易所业务规则，限制交割商品的入库、出库；

（三）泄露与期货交易有关的商业秘密；

（四）违反国家有关规定参与期货交易；

（五）国务院期货监督管理机构规定的其他行为。

第四十条　会员在期货交易中违约的，期货交易所先以该会员的保证金承担违约责任；保证金不足的，期货交易所应当以风险准备金和自有资金代为承担违约责任，并由此取得对该会员的相应追偿权。

客户在期货交易中违约的，期货公司先以该客户的保证金承担违约责任；保证金不足的，期货公司应当以风险准备金和自有资金代为承担违约责任，并由此取得对该客户的相应追偿权。

第四十一条　实行会员分级结算制度的期货交易所，应当向结算会员收取结算担保金。期货交易所只对结算会员结算，收取和追收保证金，以结算担保金、风险准备金、自有资金代为承担违约责任，以及采取其他相关措施；对非结算会员的结算、收取和追收保证金、代为承担违约责任，以及采取其他相关措施，由结算会员执行。

第四十二条　期货交易所、期货公司和非期货公司结算会员应当保证期货交易、结算、交割资料的完整和安全。

第四十三条　任何单位或者个人不得编造、传播有关期货交易的虚假信息，不得恶意串通、联手买卖或者以其他方式操纵期货交易价格。

第四十四条　任何单位或者个人不得违规使用信贷资金、财政资金进行期货交易。

银行业金融机构从事期货交易融资或者担保业务的资格，由国务院银行业监督管理机构批准。

第四十五条　国有以及国有控股企业进行境内外期货交易，应当遵循套期保值的原则，严格遵守国务院国有资产监督管理机构以及其他有关部门关于企业以国有资产进入期货市场的有关规定。

第四十六条　国务院商务主管部门对境内单位或者个人从事境外商品期货交易的品种

进行核准。

境外期货项下购汇、结汇以及外汇收支，应当符合国家外汇管理有关规定。

境内单位或者个人从事境外期货交易的办法，由国务院期货监督管理机构会同国务院商务主管部门、国有资产监督管理机构、银行业监督管理机构、外汇管理部门等有关部门制订，报国务院批准后施行。

第五章　期货业协会

第四十七条　期货业协会是期货业的自律性组织，是社会团体法人。

期货公司以及其他专门从事期货经营的机构应当加入期货业协会，并缴纳会员费。

第四十八条　期货业协会的权力机构为全体会员组成的会员大会。

期货业协会的章程由会员大会制定，并报国务院期货监督管理机构备案。

期货业协会设理事会。理事会成员按照章程的规定选举产生。

第四十九条　期货业协会履行下列职责：

（一）教育和组织会员遵守期货法律法规和政策；

（二）制定会员应当遵守的行业自律性规则，监督、检查会员行为，对违反协会章程和自律性规则的，按照规定给予纪律处分；

（三）负责期货从业人员资格的认定、管理以及撤销工作；

（四）受理客户与期货业务有关的投诉，对会员之间、会员与客户之间发生的纠纷进行调解；

（五）依法维护会员的合法权益，向国务院期货监督管理机构反映会员的建议和要求；

（六）组织期货从业人员的业务培训，开展会员间的业务交流；

（七）组织会员就期货业的发展、运作以及有关内容进行研究；

（八）期货业协会章程规定的其他职责。

期货业协会的业务活动应当接受国务院期货监督管理机构的指导和监督。

第六章 监督管理

第五十条 国务院期货监督管理机构对期货市场实施监督管理，依法履行下列职责：

（一）制定有关期货市场监督管理的规章、规则，并依法行使审批权；

（二）对品种的上市、交易、结算、交割等期货交易及其相关活动，进行监督管理；

（三）对期货交易所、期货公司及其他期货经营机构、非期货公司结算会员、期货保证金安全存管监控机构、期货保证金存管银行、交割仓库等市场相关参与者的期货业务活动，进行监督管理；

（四）制定期货从业人员的资格标准和管理办法，并监督实施；

（五）监督检查期货交易的信息公开情况；

（六）对期货业协会的活动进行指导和监督；

（七）对违反期货市场监督管理法律、行政法规的行为进行查处；

（八）开展与期货市场监督管理有关的国际交流、合作活动；

（九）法律、行政法规规定的其他职责。

第五十一条 国务院期货监督管理机构依法履行职责，可以采取下列措施：

（一）对期货交易所、期货公司及其他期货经营机构、非期货公司结算会员、期货保证金安全存管监控机构和交割仓库进行现场检查；

（二）进入涉嫌违法行为发生场所调查取证；

（三）询问当事人和与被调查事件有关的单位和个人，要求其对与被调查事件有关的事项做出说明；

（四）查阅、复制与被调查事件有关的财产权登记等资料；

（五）查阅、复制当事人和与被调查事件有关的单位和个人的期货交易记录、财务会

计资料以及其他相关文件和资料；对可能被转移、隐匿或者毁损的文件和资料，可以予以封存；

（六）查询与被调查事件有关的单位的保证金账户和银行账户；

（七）在调查操纵期货交易价格、内幕交易等重大期货违法行为时，经国务院期货监督管理机构主要负责人批准，可以限制被调查事件当事人的期货交易，但限制的时间不得超过15个交易日；案情复杂的，可以延长至30个交易日；

（八）法律、行政法规规定的其他措施。

第五十二条　期货交易所、期货公司及其他期货经营机构、期货保证金安全存管监控机构，应当向国务院期货监督管理机构报送财务会计报告、业务资料和其他有关资料。

对期货公司及其他期货经营机构报送的年度报告，国务院期货监督管理机构应当指定专人进行审核，并制作审核报告。审核人员应当在审核报告上签字。审核中发现问题的，国务院期货监督管理机构应当及时采取相应措施。

必要时，国务院期货监督管理机构可以要求非期货公司结算会员、交割仓库，以及期货公司股东、实际控制人或者其他关联人报送相关资料。

第五十三条　国务院期货监督管理机构依法履行职责，进行监督检查或者调查时，被检查、调查的单位和个人应当配合，如实提供有关文件和资料，不得拒绝、阻碍和隐瞒；其他有关部门和单位应当给予支持和配合。

第五十四条　国家根据期货市场发展的需要，设立期货投资者保障基金。

期货投资者保障基金的筹集、管理和使用的具体办法，由国务院期货监督管理机构会同国务院财政部门制定。

第五十五条　国务院期货监督管理机构应当建立、健全保证金安全存管监控制度，设立期货保证金安全存管监控机构。

客户和期货交易所、期货公司及其他期货经营机构、非期货公司结算会员以及期货保证金存管银行，应当遵守国务院期货监督管理机构有关保证金安全存管监控的规定。

第五十六条　期货保证金安全存管监控机构依照有关规定对保证金安全实施监控，进行每日稽核，发现问题应当立即报告国务院期货监督管理机构。国务院期货监督管理机构应当根据不同情况，依照本条例有关规定及时处理。

第五十七条　国务院期货监督管理机构对期货交易所、期货公司及其他期货经营机构和期货保证金安全存管监控机构的董事、监事、高级管理人员以及其他期货从业人员，实行资格管理制度。

第五十八条　国务院期货监督管理机构应当制定期货公司持续性经营规则，对期货公司的净资本与净资产的比例，净资本与境内期货经纪、境外期货经纪等业务规模的比例，流动资产与流动负债的比例等风险监管指标做出规定；对期货公司及其分支机构的经营条件、风险管理、内部控制、保证金存管、关联交易等方面提出要求。

第五十九条　期货公司及其分支机构不符合持续性经营规则或者出现经营风险的，国务院期货监督管理机构可以对期货公司及其董事、监事和高级管理人员采取谈话、提示、记入信用记录等监管措施或者责令期货公司限期整改，并对其整改情况进行检查验收。

期货公司逾期未改正，其行为严重危及期货公司的稳健运行、损害客户合法权益，或者涉嫌严重违法违规正在被国务院期货监督管理机构调查的，国务院期货监督管理机构可以区别情形，对其采取下列措施：

（一）限制或者暂停部分期货业务；

（二）停止批准新增业务或者分支机构；

（三）限制分配红利，限制向董事、监事、高级管理人员支付报酬、提供福利；

（四）限制转让财产或者在财产上设定其他权利；

（五）责令更换董事、监事、高级管理人员或者有关业务部门、分支机构的负责人员，或者限制其权利；

（六）限制期货公司自有资金或者风险准备金的调拨和使用；

（七）责令控股股东转让股权或者限制有关股东行使股东权利。

对经过整改符合有关法律、行政法规规定以及持续性经营规则要求的期货公司，国务院期货监督管理机构应当自验收完毕之日起3日内解除对其采取的有关措施。

对经过整改仍未达到持续性经营规则要求，严重影响正常经营的期货公司，国务院期货监督管理机构有权撤销其部分或者全部期货业务许可、关闭其分支机构。

第六十条　期货公司违法经营或者出现重大风险，严重危害期货市场秩序、损害客户利益的，国务院期货监督管理机构可以对该期货公司采取责令停业整顿、指定其他机构托管或者接管等监管措施。经国务院期货监督管理机构批准，可以对该期货公司直接负责的董事、监事、高级管理人员和其他直接责任人员采取以下措施：

（一）通知出境管理机关依法阻止其出境；

（二）申请司法机关禁止其转移、转让或者以其他方式处分财产，或者在财产上设定其他权利。

第六十一条　期货公司的股东有虚假出资或者抽逃出资行为的，国务院期货监督管理机构应当责令其限期改正，并可责令其转让所持期货公司的股权。

在股东按照前款要求改正违法行为、转让所持期货公司的股权前，国务院期货监督管理机构可以限制其股东权利。

第六十二条　当期货市场出现异常情况时，国务院期货监督管理机构可以采取必要的风险处置措施。

第六十三条　期货公司的交易软件、结算软件，应当满足期货公司审慎经营和风险管

理以及国务院期货监督管理机构有关保证金安全存管监控规定的要求。期货公司的交易软件、结算软件不符合要求的，国务院期货监督管理机构有权要求期货公司予以改进或者更换。

国务院期货监督管理机构可以要求期货公司的交易软件、结算软件的供应商提供该软件的相关资料，供应商应当予以配合。国务院期货监督管理机构对供应商提供的相关资料负有保密义务。

第六十四条　期货公司涉及重大诉讼、仲裁，或者股权被冻结或者用于担保，以及发生其他重大事件时，期货公司及其相关股东、实际控制人应当自该事件发生之日起5日内向国务院期货监督管理机构提交书面报告。

第六十五条　会计师事务所、律师事务所、资产评估机构等中介服务机构向期货交易所和期货公司等市场相关参与者提供相关服务时，应当遵守期货法律、行政法规以及国家有关规定，并按照国务院期货监督管理机构的要求提供相关资料。

第六十六条　国务院期货监督管理机构应当与有关部门建立监督管理的信息共享和协调配合机制。

国务院期货监督管理机构可以和其他国家或者地区的期货监督管理机构建立监督管理合作机制，实施跨境监督管理。

第六十七条　国务院期货监督管理机构、期货交易所、期货保证金安全存管监控机构和期货保证金存管银行等相关单位的工作人员，应当忠于职守，依法办事，公正廉洁，保守国家秘密和有关当事人的商业秘密，不得利用职务便利牟取不正当的利益。

第七章　法律责任

第六十八条　期货交易所、非期货公司结算会员有下列行为之一的，责令改正，给予警告，没收违法所得：

（一）违反规定接纳会员的；

（二）违反规定收取手续费的；

（三）违反规定使用、分配收益的；

（四）不按照规定公布即时行情的，或者发布价格预测信息的；

（五）不按照规定向国务院期货监督管理机构履行报告义务的；

（六）不按照规定向国务院期货监督管理机构报送有关文件、资料的；

（七）不按照规定建立、健全结算担保金制度的；

（八）不按照规定提取、管理和使用风险准备金的；

（九）违反国务院期货监督管理机构有关保证金安全存管监控规定的；

（十）限制会员实物交割总量的；

（十一）任用不具备资格的期货从业人员的；

（十二）违反国务院期货监督管理机构规定的其他行为。

有前款所列行为之一的，对直接负责的主管人员和其他直接责任人员给予纪律处分，处1万元以上10万元以下的罚款。

有本条第一款第（二）项所列行为的，应当责令退还多收取的手续费。

期货保证金安全存管监控机构有本条第一款第（五）项、第（六）项、第（九）项、第（十一）项、第（十二）项所列行为的，依照本条第一款、第二款的规定处罚、处分。期货保证金存管银行有本条第一款第（九）项、第（十二）项所列行为的，依照本条第一款、第二款的规定处罚、处分。

第六十九条　期货交易所、非期货公司结算会员有下列行为之一的，责令改正，给予警告，没收违法所得，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不满10万元的，并处10万元以上50万元以下的罚款；情节严重的，责令停业整顿：

（一）未经批准，擅自办理本条例第十三条所列事项的；

（二）允许会员在保证金不足的情况下进行期货交易的；

（三）直接或者间接参与期货交易，或者违反规定从事与其职责无关的业务的；

（四）违反规定收取保证金，或者挪用保证金的；

（五）伪造、涂改或者不按照规定保存期货交易、结算、交割资料的；

（六）未建立或者未执行当日无负债结算、涨跌停板、持仓限额和大户持仓报告制度的；

（七）拒绝或者妨碍国务院期货监督管理机构监督检查的；

（八）违反国务院期货监督管理机构规定的其他行为。

有前款所列行为之一的，对直接负责的主管人员和其他直接责任人员给予纪律处分，处1万元以上10万元以下的罚款。

期货保证金安全存管监控机构有本条第一款第（三）项、第（七）项、第（八）项所列行为的，依照本条第一款、第二款的规定处罚、处分。

第七十条　期货公司有下列行为之一的，责令改正，给予警告，没收违法所得，并处违法所得1倍以上3倍以下的罚款；没有违法所得或者违法所得不满10万元的，并处10万元以上30万元以下的罚款；情节严重的，责令停业整顿或者吊销期货业务许可证：

（一）接受不符合规定条件的单位或者个人委托的；

（二）允许客户在保证金不足的情况下进行期货交易的；

（三）未经批准，擅自办理本条例第十九条、第二十条所列事项的；

（四）违反规定从事与期货业务无关的活动的；

（五）从事或者变相从事期货自营业务的；

（六）为其股东、实际控制人或者其他关联人提供融资，或者对外担保的；

（七）违反国务院期货监督管理机构有关保证金安全存管监控规定的；

（八）不按照规定向国务院期货监督管理机构履行报告义务或者报送有关文件、资料的；

（九）交易软件、结算软件不符合期货公司审慎经营和风险管理以及国务院期货监督管理机构有关保证金安全存管监控规定的要求的；

（十）不按照规定提取、管理和使用风险准备金的；

（十一）伪造、涂改或者不按照规定保存期货交易、结算、交割资料的；

（十二）任用不具备资格的期货从业人员的；

（十三）伪造、变造、出租、出借、买卖期货业务许可证或者经营许可证的；

（十四）进行混码交易的；

（十五）拒绝或者妨碍国务院期货监督管理机构监督检查的；

（十六）违反国务院期货监督管理机构规定的其他行为。

期货公司有前款所列行为之一的，对直接负责的主管人员和其他直接责任人员给予警告，并处1万元以上5万元以下的罚款；情节严重的，暂停或者撤销任职资格、期货从业人员资格。

期货公司之外的其他期货经营机构有本条第一款第（八）项、第（十二）项、第（十三）项、第（十五）项、第（十六）项所列行为的，依照本条第一款、第二款的规定处罚。

期货公司的股东、实际控制人或者其他关联人未经批准擅自委托他人或者接受他人委托持有或者管理期货公司股权的，拒不配合国务院期货监督管理机构的检查，拒不按照规定履行报告义务、提供有关信息和资料，或者报送、提供的信息和资料有虚假记载、误导性陈述或者重大遗漏的，依照本条第一款、第二款的规定处罚。

第七十一条　期货公司有下列欺诈客户行为之一的，责令改正，给予警告，没收违法

所得，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不满10万元的，并处10万元以上50万元以下的罚款；情节严重的，责令停业整顿或者吊销期货业务许可证：

（一）向客户做获利保证或者不按照规定向客户出示风险说明书的；

（二）在经纪业务中与客户约定分享利益、共担风险的；

（三）不按照规定接受客户委托或者不按照客户委托内容擅自进行期货交易的；

（四）隐瞒重要事项或者使用其他不正当手段，诱骗客户发出交易指令的；

（五）向客户提供虚假成交回报的；

（六）未将客户交易指令下达到期货交易所的；

（七）挪用客户保证金的；

（八）不按照规定在期货保证金存管银行开立保证金账户，或者违规划转客户保证金的；

（九）国务院期货监督管理机构规定的其他欺诈客户的行为。

期货公司有前款所列行为之一的，对直接负责的主管人员和其他直接责任人员给予警告，并处1万元以上10万元以下的罚款；情节严重的，暂停或者撤销任职资格、期货从业人员资格。

任何单位或者个人编造并且传播有关期货交易的虚假信息，扰乱期货交易市场的，依照本条第一款、第二款的规定处罚。

第七十二条　期货公司及其他期货经营机构、非期货公司结算会员、期货保证金存管银行提供虚假申请文件或者采取其他欺诈手段隐瞒重要事实骗取期货业务许可的，撤销其期货业务许可，没收违法所得。

第七十三条　期货交易内幕信息的知情人或者非法获取期货交易内幕信息的人，在对

期货交易价格有重大影响的信息尚未公开前，利用内幕信息从事期货交易，或者向他人泄露内幕信息，使他人利用内幕信息进行期货交易的，没收违法所得，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不满10万元的，处10万元以上50万元以下的罚款。单位从事内幕交易的，还应当对直接负责的主管人员和其他直接责任人员给予警告，并处3万元以上30万元以下的罚款。

国务院期货监督管理机构、期货交易所和期货保证金安全存管监控机构的工作人员进行内幕交易的，从重处罚。

第七十四条　任何单位或者个人有下列行为之一，操纵期货交易价格的，责令改正，没收违法所得，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不满20万元的，处20万元以上100万元以下的罚款：

（一）单独或者合谋，集中资金优势、持仓优势或者利用信息优势联合或者连续买卖合约，操纵期货交易价格的；

（二）蓄意串通，按事先约定的时间、价格和方式相互进行期货交易，影响期货交易价格或者期货交易量的；

（三）以自己为交易对象，自买自卖，影响期货交易价格或者期货交易量的；

（四）为影响期货市场行情囤积现货的；

（五）国务院期货监督管理机构规定的其他操纵期货交易价格的行为。

单位有前款所列行为之一的，对直接负责的主管人员和其他直接责任人员给予警告，并处1万元以上10万元以下的罚款。

第七十五条　交割仓库有本条例第三十九条第二款所列行为之一的，责令改正，给予警告，没收违法所得，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不满10万元的，并处10万元以上50万元以下的罚款；情节严重的，责令期货交易所

暂停或者取消其交割仓库资格。对直接负责的主管人员和其他直接责任人员给予警告，并处1万元以上10万元以下的罚款。

第七十六条　国有以及国有控股企业违反本条例和国务院国有资产监督管理机构以及其他有关部门关于企业以国有资产进入期货市场的有关规定进行期货交易，或者单位、个人违规使用借贷资金、财政资金进行期货交易的，给予警告，没收违法所得，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不满10万元的，并处10万元以上50万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予降级直至开除的纪律处分。

第七十七条　境内单位或者个人违反规定从事境外期货交易的，责令改正，给予警告，没收违法所得，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不满20万元的，并处20万元以上100万元以下的罚款；情节严重的，暂停其境外期货交易。对直接负责的主管人员和其他直接责任人员给予警告，并处1万元以上10万元以下的罚款。

第七十八条　任何单位或者个人非法设立或者变相设立期货交易所、期货公司及其他期货经营机构，或者擅自从事期货业务，或者组织变相期货交易活动的，予以取缔，没收违法所得，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不满20万元的，处20万元以上100万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处1万元以上10万元以下的罚款。

第七十九条　期货公司的交易软件、结算软件供应商拒不配合国务院期货监督管理机构调查，或者未按照规定向国务院期货监督管理机构提供相关软件资料，或者提供的软件资料有虚假、重大遗漏的，责令改正，处3万元以上10万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处1万元以上5万元以下的罚款。

第八十条　会计师事务所、律师事务所、资产评估机构等中介服务机构未勤勉尽责，所出具的文件有虚假记载、误导性陈述或者重大遗漏的，责令改正，没收业务收入，暂停或者撤销相关业务许可，并处业务收入1倍以上5倍以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处3万元以上10万元以下的罚款。

第八十一条　任何单位或者个人违反本条例规定，情节严重的，由国务院期货监督管理机构宣布该个人、该单位或者该单位的直接责任人员为期货市场禁止进入者。

第八十二条　国务院期货监督管理机构、期货交易所、期货保证金安全存管监控机构和期货保证金存管银行等相关单位的工作人员，泄露知悉的国家秘密或者会员、客户商业秘密，或者徇私舞弊、玩忽职守、滥用职权、收受贿赂的，依法给予行政处分或者纪律处分。

第八十三条　违反本条例规定，构成犯罪的，依法追究刑事责任。

第八十四条　对本条例规定的违法行为的行政处罚，由国务院期货监督管理机构决定；涉及其他有关部门法定职权的，国务院期货监督管理机构应当会同其他有关部门处理；属于其他有关部门法定职权的，国务院期货监督管理机构应当移交其他有关部门处理。

第八章　附则

第八十五条　本条例下列用语的含义：

（一）期货合约，是指由期货交易所统一制定的、规定在将来某一特定的时间和地点交割一定数量标的物的标准化合约。根据合约标的物的不同，期货合约分为商品期货合约和金融期货合约。商品期货合约的标的物包括农产品、工业品、能源和其他商品及其相关指数产品；金融期货合约的标的物包括有价证券、利率、汇率等金融产品及其相关指数产品。

（二）期权合约，是指由期货交易所统一制定的、规定买方有权在将来某一时间以特

定价格买入或者卖出约定标的物（包括期货合约）的标准化合约。

（三）保证金，是指期货交易者按照规定标准交纳的资金，用于结算和保证履约。

（四）结算，是指根据期货交易所公布的结算价格对交易双方的交易盈亏状况进行的资金清算和划转。

（五）交割，是指合约到期时，按照期货交易所的规则和程序，交易双方通过该合约所载标的物所有权的转移，或者按照规定结算价格进行现金差价结算，了结到期未平仓合约的过程。

（六）平仓，是指期货交易者买入或者卖出与其所持合约的品种、数量和交割月份相同但交易方向相反的合约，了结期货交易的行为。

（七）持仓量，是指期货交易者所持有的未平仓合约的数量。

（八）持仓限额，是指期货交易所对期货交易者的持仓量规定的最高数额。

（九）仓单，是指交割仓库开具并经期货交易所认定的标准化提货凭证。

（十）涨跌停板，是指合约在1个交易日中的交易价格不得高于或者低于规定的涨跌幅度，超出该涨跌幅度的报价将被视为无效，不能成交。

（十一）内幕信息，是指可能对期货交易价格产生重大影响的尚未公开的信息，包括：国务院期货监督管理机构以及其他相关部门制定的对期货交易价格可能发生重大影响的政策，期货交易所做出的可能对期货交易价格发生重大影响的决定，期货交易所会员、客户的资金和交易动向以及国务院期货监督管理机构认定的对期货交易价格有显著影响的其他重要信息。

（十二）内幕信息的知情人员，是指由于其管理地位、监督地位或者职业地位，或者作为雇员、专业顾问履行职务，能够接触或者获得内幕信息的人员，包括：期货交易所的管理人员以及其他由于任职可获取内幕信息的从业人员，国务院期货监督管理机构和其他

有关部门的工作人员以及国务院期货监督管理机构规定的其他人员。

第八十六条　国务院期货监督管理机构可以批准设立期货专门结算机构，专门履行期货交易所的结算以及相关职责，并承担相应法律责任。

第八十七条　境外机构在境内设立、收购或者参股期货经营机构，以及境外期货经营机构在境内设立分支机构（含代表处）的管理办法，由国务院期货监督管理机构会同国务院商务主管部门、外汇管理部门等有关部门制订，报国务院批准后施行。

第八十八条　在期货交易所之外的国务院期货监督管理机构批准的交易场所进行的期货交易，依照本条例的有关规定执行。

第八十九条　任何机构或者市场，未经国务院期货监督管理机构批准，采用集中交易方式进行标准化合约交易，同时采用以下交易机制或者具备以下交易机制特征之一的，为变相期货交易：

（一）为参与集中交易的所有买方和卖方提供履约担保的；

（二）实行当日无负债结算制度和保证金制度，同时保证金收取比例低于合约（或者合同）标的额20%的。

本条例施行前采用前款规定的交易机制或者具备前款规定的交易机制特征之一的机构或者市场，应当在国务院商务主管部门规定的期限内进行整改。

第九十条　不属于期货交易的商品或者金融产品的其他交易活动，由国家有关部门监督管理，不适用本条例。

第九十一条　本条例自2007年4月15日起施行。1999年6月2日国务院发布的《期货交易管理暂行条例》同时废止。

ATTACHMENT 59

Public
File **115**

Contract Law of the People's Republic of China

Order [1999] No.15 of the President of the People's Republic of China

Contract Law of the People's Republic of China has been adopted at the Second Session of the Ninth National People's Congress on March 15, 1999, and is hereby promulgated, it will come into force as of October 1, 1999.

President of the People's Republic of China: Jiang Zemin

March 15, 1999

Contract Law of the People's Republic of China

General Provisions

Chapter 1 General Provisions

Article 1 This Law is enacted in order to protect the lawful rights and interests of the contracting parties, to maintain social and economic order, and to promote the process of socialist modernization.

Article 2 A contract in this Law refers to an agreement among natural persons, legal persons or other organizations as equal parties for the establishment, modification of a relationship involving the civil rights and obligations of such entities.

Agreements concerning personal relationships such as marriage,adoption, guardianship, etc.shall be governed by the provisions in other laws.

Article 3 Contracting parties shall have equal legal status, and no party may impose its will on the other party.

Article 4 The parties have the right to lawfully enter into a contract of their own free will in accordance with the law, and no unit or individual may illegally interfere therewith.

Article 5 The parties shall adhere to the principle of fairness in deciding their respective rights and obligations.

Article 6 The parties shall observe the principle of honesty and good faith in exercising their rights and performing their obligations.

Article 7 In concluding and performing a contract, the parties shall comply with the laws and administrative regulations, respect social ethics, and shall not disrupt the social and economic order or impair the public interests.

Article 8 A lawfully established contract shall be legally binding on the parties thereto, each of whom shall perform its own obligations in accordance with the terms of the contract, and no party shall unilaterally modify or terminate the contract.

The contract established according to law is protected by law.

Chapter 2 Conclusion of Contracts

Article 9 In entering into a contract, the parties shall have appropriate capacities for civil rights and civil acts.

A party may appoint an agent to enter into a contract on its behalf in accordance with the law.

Article 10 The parties may use written, oral or other forms in entering into a contract.

A contract shall be in written form if the laws or administrative regulations so provide. A contract shall be concluded in written form if the parties so agree.

Article 11 "Written form" refers to a form such as a written contractual agreement, letter, electronic data text(including a telegram, telex, fax, electronic data exchange and e-mail)that can tangibly express the contents contained therein.

Article 12 The contents of a contract shall be agreed upon by the parties, and shall generally contain the following clauses:

(1) titles or names and domiciles of the parties;

(2) subject matter;

(3) quantity;

(4) quality;

(5) price or remuneration;

(6) time limit, place and method of performance;

(7) liability for breach of contract; and

(8) method to settle disputes.

The parties may conclude a contract by reference to a model text of each kind of contract.

Article 13 The parties shall conclude a contract in the form of an offer and an acceptance.

Article 14 An offer is an expression of an intent to enter into a contract with another person. Such expression of intent shall comply with the following:

(1) its contents shall be specific and definite;

(2) it indicates that the offeror will be bound by the expression of intent in case of acceptance by the offeree.

Article 15 An invitation for offer is an expression of an intent to invite other parties to make offers thereto. Mailed price lists, public notices of auction and tender, prospectuses and commercial advertisements, etc. are invitations for offer.

Where the contents of a commercial advertisement meet the requirements for an offer, it shall be regarded as an offer.

Article 16 An offer becomes effective when it reaches the offeree.

If a contract is concluded through data-telex, and a recipient designates a specific system to receive the date-telex, the time when the data-telex enters such specific system shall be the time of arrival; if no specific system is appointed, the time when the data-telex first enters any of the recipient's systems shall be regarded as the time of arrival.

Article 17 An offer may be withdrawn. The withdrawal notice shall reach the offeree before or at the same time when the offer arrives.

Article 18 An offer may be revoked. The revocation notice shall reach the offeree before it has dispatched a notice of acceptance.

Article 19 An offer may not be revoked, if

(1) the offeror indicates a fixed time for acceptance or otherwise explicitly states that the offer is irrevocable; or

(2) the offeree has reasons to rely on the offer as being irrevocable and has made preparation for performing the contact.

Article 20 An offer shall lose efficacy under any of the following circumstances:

(1) the notice of rejection reaches the offeror;

(2) the offeror revokes the offer in accordance with the law;

(3) the offeree fails to dispatch an acceptance before the expiration of the time limit for acceptance;

(4) the offeree makes substantial changes to the contents of the offer.

Article 21 An acceptance is the expression of an intention to by the offeree to assent to the offer.

Article 22 The acceptance shall be made in the form of a notice, except where acceptance may be made by an act on the basis of customary business practice or as expressed in the offer.

Article 23 An acceptance shall reach the offeror within the time limit prescribed in the offer.

Where no time limit is prescribed in the offer, the acceptance shall reach the offeror in accordance with the following provisions:

(1) if the offer is made in dialogues, the acceptance shall be made immediately unless otherwise agreed upon by the parties;

(2) If the offer is made in forms other than a dialogue, the acceptance shall reach the offeror within a reasonable period of time.

Article 24 Where an offer is made by letter or telegram, the time limit for acceptance shall accrue from the date shown in the letter or from the date on which the telegram is handed in for dispatch. If no such date is shown in the letter, it shall accrue from the postmark date on the envelope.

Where an offer is made by means of instantaneous communication, such as telephone or facsimile,etc. the time limit for acceptance shall accrue from the moment that the offer reaches the offeree.

Article 25 A contract is established when the acceptance becomes effective.

Article 26 An acceptance becomes effective when its notice reaches the offeror. If notice of acceptance is not required, the acceptance shall become effective when an act of acceptance is performed in accordance with transaction practices or as required in the offer.

Where a contract is concluded in the form of date-telex, the time of arrival of an acceptance shall be governed by the provisions of Paragraph 2, Article 16 of this Law.

Article 27 An acceptance may be withdrawn, but a notice of withdrawal shall reach the offeror before or at the same time when the notice of acceptance reaches the offeror.

Article 28 Where an offeree makes an acceptance beyond the time limit for acceptance, the acceptance shall be a new offer except that the offeror promptly informs the offeree of the effectiveness of the said acceptance.

Article 29 If the offeree dispatched the acceptance within the time limit specified for acceptance, and under normal circumstances the acceptance would have reached the offeror in due time, but due to other reasons the acceptance reaches the offeror after the time limit for acceptance has expired,such acceptance shall be effective, unless the offeror notifies the offeree in a timely manner that it does not accept the acceptance due to the failure of the acceptance to arrive within the time limit.

Article 30 The contents of an acceptance shall comply with those of the offer. If the offeree substantially modifies the contents of the offer, it shall constitute a new offer. The modification relating to the subject matter, quality, quantity, price or remuneration, time or place or method of performance, liabilities for breach of contract and method of dispute resolution, etc. shall constitute the substantial modification of an offer.

Article 31 If the acceptance does not substantially modifies the contents of the offer, it shall be effective, and the contents of the contract shall be subject to those of the

acceptance, except as rejected promptly by the offeror or indicated in the offer that an acceptance may not modify the offer at all.

Article 32 Where the parties conclude a contract in written form, the contract is established when it is signed or sealed by the parties.

Article 33 Where the parties conclude the contract in the form of letters or data-telex, etc., one party may request to sign a letter of confirmation before the conclusion of the contract. The contract shall be established at the time when the letter of confirmation is signed.

Article 34 The place of effectiveness of an acceptance shall be the place of the establishment of the contract.

If the contract is concluded in the form of data-telex, the main business place of the recipient shall be the place of establishment. If the recipient does not have a main business place, its habitual residence shall be considered to be the place of establishment. Where the parties agree otherwise, such agreement shall apply.

Article 35 Where the parties conclude a contract in written form, the place where both parties sign or affix their seals on the contract shall be the place of establishment.

Article 36 Where a contract is to be concluded in written form as required by relevant laws and administrative regulations or as agreed by the parties, and the parties failed to conclude the contract in written form, but one party has performed the principal obligation and the other party has accepted it, the contract is established.

Article 37 Where a contract is to be concluded in written form, if one party has performed its principal obligation and the other party has accepted it before signing or sealing of the contract, the contract is established.

Article 38 Where the State has issued a mandatory plan or a State purchasing order based on necessity,the relevant legal persons and the other organizations shall conclude a contract between them in accordance with the rights and obligations as stipulated by the relevant laws and administrative regulations.

Article 39 Where standard terms are adopted in concluding a contract, the party supplying the standard terms shall define the rights and obligations between the parties abiding by the principle of fairness, and shall inform the other party to note the exclusion or restriction of its liabilities in a reasonable way, and shall explain the standard terms upon request by the other

party.

Standard terms are clauses that are prepared in advance for general and repeated use by one party, and which are not negotiated with the other party when the contract is concluded.

Article 40 When standard terms are under the circumstances stipulated in Articles 52 and 53 of this Law,or the party which supplies the standard terms exempts itself from its liabilities, increases the liabilities of the other party, and deprives the material rights of the other party, the terms shall be invalid.

Article 41 If a dispute over the understanding of the standard terms occurs, it shall be interpreted in accordance with common understanding. Where there are two or more kinds of interpretation, an interpretation unfavorable to the party supplying the standard terms shall prevail. Where the standard terms are inconsistent with non-standard terms, the latter shall prevail.

Article 42 The party shall be liable for damage if it is under one of the following circumstances in concluding a contract and thus causing losses to the other party:

(1) pretending to conclude a contract, and negotiating in bad faith;

(2) deliberately concealing important facts relating to the conclusion of the contract or providing false information;

(3) performing other acts which violate the principle of good faith.

Article 43 A trade secret the parties learn in concluding a contract shall not be disclosed or improperly used, no matter the contract is established or not. If the party discloses or

improperly uses such trade secret and thus causing loss to the other party, it shall be liable for damages.

Chapter 3 Validity of Contracts

Article 44The contract established according to law becomes effective upon its establishment.

With regard to contracts that are subject to approval or registration as stipulated by relevant laws or administrative regulations, the provisions thereof shall be followed.

Article 45 The parties may agree on that the effectiveness of a contract be subject to certain conditions. A contract whose effectiveness is subject to certain conditions shall become effective when such conditions are accomplished. The contract with dissolving conditions shall become invalid when such conditions are satisfied.

If a party improperly prevent the satisfaction of a condition for its own interests, the condition shall be regarded as having been accomplished. If a party improperly facilitates the satisfaction of a condition, such condition shall be regarded as not to have been satisfied.

Article 46 The parties may agree on a conditional time period as to the effectiveness of the contract. A contract subject to an effective time period shall come into force when the period expires. A contract with termination time period shall become invalid when the period expires.

Article 47 A contract concluded by a person with limited civil capacity of conduct shall be effective after being ratified afterwards by the person's statutory agent, but a pure profit-making contract or a contract concluded which is appropriate to the person's age, intelligence or mental health conditions need not be ratified by the person's statutory agent.

The counterpart may urge the statutory agent to ratify the contract within one month. It shall be regarded as a refusal of ratification that the statutory agent does not make any expression. A bona fide counterpart has the right to withdraw it before the contract is ratified.The withdrawal shall be made by means of notice.

Article 48 A contract concluded by an actor who as no power of agency, who oversteps the power of agency, or whose power of agency has expired and yet concludes it on behalf of the principal,shall have no legally binding force on the principal without ratification by the principal, and the actor shall be held liable.

The counterpart may urge the principal to ratify it within one month. It shall be regarded as a refusal of ratification that the principal does not make any expression. A bona fide counterpart has the right to withdraw it before the contract is ratified. The withdrawal shall be made by means of notice.

Article 49 If an actor has no power of agency, oversteps the power of agency, or the power of agency has expired and yet concludes a contract in the principal's name, and the counterpart has reasons to trust that the actor has the power of agency, the act of agency shall be effective.

Article 50 Where a statutory representative or a responsible person of a legal person or other organization oversteps his/her power and concludes a contract, the representative act shall be effective except that the counterpart knows or ought to know that he/she is overstepping his/her powers.

Article 51 Where a person having no right to disposal of property disposes of other persons' properties,and the principal ratifies the act afterwards or the person without power of disposal has obtained the power after concluding a contract,,the contract shall be valid.

Article 52 A contract shall be null and void under any of the following circumstances:

(1) a contract is concluded through the use of fraud or coercion by one party to damage the interests of the State;

(2) malicious collusion is conducted to damage the interests of the State, a collective or a third party;

(3) an illegitimate purpose is concealed under the guise of legitimate acts;

(4) damaging the public interests;

(5) violating the compulsory provisions of laws and administrative regulations.

Article 53 The following exception clauses in a contract shall be null and void:

(1) those that cause personal injury to the other party;

(2) those that cause property damages to the other party as result of deliberate intent or gross negligence.

Article 54 A party shall have the right to request the people's court or an arbitration institution to modify or revoke the following contracts:

(1) those concluded as a result of significant misconception;

(2) those that are obviously unfair at the time when concluding the contract.

If a contract is concluded by one party against the other party's true intentions through the use of fraud, coercion, or exploitation of the other party's unfavorable position, the injured party shall have the right to request the people's court or an arbitration institution to modify or revoke it.

Where a party requests for modification, the people's court or the arbitration institution may not revoke the contract.

Article 55 The right to revoke a contract shall extinguish under any of the following circumstances:

(1) a party having the right to revoke the contract fails to exercise the right within one year from the day that it knows or ought to know the revoking causes;

(2) a party having the right to revoke the contract explicitly expresses or conducts an act to waive the right after it knows the revoking causes.

Article 56 A contract that is null and void or revoked shall have no legally binding force ever from the very beginning. If part of a contract is null and void without affecting the validity of the other parts, the other parts shall still be valid.

Article 57 If a contract is null and void, revoked or terminated, it shall not affect the validity of the dispute settlement clause which is independently existing in the contract.

Article 58 The property acquired as a result of a contract shall be returned after the contract is confirmed to be null and void or has been revoked; where the property can not be returned or the return is unnecessary, it shall be reimbursed at its estimated price. The party at fault shall compensate the other party for losses incurred as a result therefrom. If both parties are fault,each party shall respectively be liable.

Article 59 If the parties have maliciously conducted collusion to damage the interests of the State, a collective or a third party, the property thus acquired shall be turned over to the State or returned to the collective or the third party.

Chapter 4 Performance of Contracts

Article 60 Each party shall fully perform its own obligations as agreed upon.

The parties shall abide by the principle of good faith, and perform obligations of notification, assistance, and confidentiality, etc. in accordance with the nature and purpose of the contract and the transaction practice.

Article 61 Where, after the contract becomes effective, there is no agreement in the contract between the parties on such contents as quality, price or remuneration, or place of performance etc., or such agreement is ambiguous, the parties may agree upon supplementary terms through consultation;if a supplementary agreement cannot be reached, such terms shall be determined in accordance with the relevant provisions of the contract or the transaction practices.

Article 62 Where certain contents agreed upon by the parties in the contract are ambiguous and cannot be determined in accordance with the provisions in Article 61 of this Law, the following provisions shall be applied:

(1) if quality requirement is not clear, performance shall be in accordance with the state standard or industry standard; absent any state or industry standard, performance shall be in accordance with the customary standard or any particular standard consistent with the purpose of the contract;

(2) if price or remuneration is not clear, performance shall be in accordance with the prevailing market price at the place of performance at the time the contract was concluded, and if adoption of a price commissioned by the government or based on government issued pricing guidelines is required by law, such requirement applies;

(3) where the place of performance is not clear, if the obligation is payment of money,performance shall be at the place where the payee is located; if the obligation is delivery of immovable property, performance shall be at the place where the immovable property is located;for any other subject matter, performance shall be effected at the place of location of the party fulfilling the obligations.

(4) if the time of performance is not clear, the obligor may perform, and the obligee may require performance, at any time, provided that the other party shall be given the time required for preparation;

(5) if the method of performance is not clear, performance shall be rendered in a manner which is conducive to realizing the purpose of the contract;

(6) if the responsibility for the expenses of performance is not clear, the party fulfilling the obligations shall bear the expenses.

Article 63 Where the government-fixed price or government-directed price is followed in a contract, if the said price is readjusted within the time limit for delivery as stipulated in the contract,the payment shall be calculated according to the price at the time of delivery. Where a party delays in delivering the subject matter, the original price shall be adopted if the price rises;and the new price shall be adopted if the price falls. Where a party delays in taking delivery of the subject matter or making payment, the new price shall be adopted if the price rises, and the original price shall be adopted if the price falls.

Article 64 Where the parties agree that the obligor shall perform the obligations to a third party, and the obligor fails to perform its obligations to such third party or its performance of the obligations is not in conformity with the agreement, the obligor shall be liable to the obligee for breach of contract.

Article 65 Where the parties agree that a third party performs the obligations to the obligee, and the third party fails to perform the obligations or the performance is not in conformity with the agreement, the obligor shall be liable to the obligee for breach of contract.

Article 66 Where both parties have obligations toward one another and there is no order of priority in respect of the performance of obligations, the parties shall perform the obligations simultaneously. Each party has the right to reject any demand by the other party for performance prior to the performance by the other party. If the performance of the obligations of the party who is to perform first is not in conformity with the agreement, the party who is perform later has the right to reject the other party's demand for corresponding performance.

Article 67 Where both parties have obligations toward each other and there is an order of priority in respect of the performance, and the party who is to perform first fails to perform, the party who is to perform later has the right to reject the other party's demand for performance. If the performance of the obligations of the party who is to perform first is not in conformity with the

agreement, the party who is to perform later has the right to reject the other party's demand for corresponding performance.

Article 68 The party required to perform first may suspend its performance if it has conclusive evidence showing that the other party is under any of the following circumstances:

(1) its business has seriously deteriorated;

(2) it has engaged in transfer of assets or withdrawal of funds for the purpose of evading debts;

(3) it has lost its business creditworthiness;

(4) it is in any other circumstance which will or may cause it to lose its ability to perform.

Where a party suspends performance without conclusive evidence, it shall be liable for breach of contract.

Article 69 If a party suspends its performance in accordance with the provisions of Article 68 of this Law, it shall timely notify the other party. If the other party provides appropriate assurance for its performance, the party shall resume performance. After performance was suspended, if the

other party fails to regain its ability to perform and fails to provide appropriate assurance within a reasonable time, the suspending party may terminate the contract.

Article 70 Where the obligee fails to notify the obligor of its separation, merger, or change of the domicile, thereby making it difficult for the obligor to perform its obligations, the obligor may suspend its performance or escrow the subject matter.

Article 71 The obligee may reject the obligor's advance performance of its obligations, except that the advance performance does not harm the obligee's interests.

Any additional expense incurred by the obligee due to the obligor ' s advance performance of its obligations shall be borne by the obligor.

Article 72 An obligee may reject the obligor's partial performance, except that the partial performance of its obligations does not harm the obligee's interests.

Any additional expense incurred by the obligee due to the obligor ' s partial performance of its obligations shall be borne by the obligor.

Article 73 Where the obligor is remiss in exercising its due creditor's right, thereby harming the obligee's interests, the obligee may petition the People's Court for subrogation in its own name,except that the creditor's right exclusively belongs to the obligor.

The extent to which the subrogation rights can be exercised is limited to the obligee' s rights. The expenses necessary for the obligee to exercise such subrogation rights shall be borne by the obligor.

Article 74 Where the obligor waives its creditor's right against a third party that is due or assigns its property without reward, thereby harming the obligee's interests, the obligee may petition the People's Court for cancellation of the obligor's act. Where the obligor assigns its property

at a low price which is manifestly unreasonable, thereby harming the obligee's interests, and the assignee is aware of the situation, the obligee may also petition the People's Court for cancellation of the obligor's act.

The extent to which the right to cancel can be exercised is limited to the rights of the obligee. The expenses necessary for the obligee to exercise the right to cancel shall be borne by the obligor.

Article 75 The right to cancel shall be exercised within one year form the date the obligee knows or should have known of the matter for cancellation. Such right to cancel shall lapse if the obligee fails to exercise such rights within five years from the date of the occurrence of such act.

Article 76 Once a contract becomes effective, a party may not refuse to perform its obligations thereunder due to a change in its name, or its legal representative, the person in charge, or the person handling the contract.

Chapter 5 Modification and Assignment of Contracts

Article 77 A contract may be modified if the parties reach a consensus through consultation.

If the laws or administrative regulations so provide, approval and registration procedures for such modification shall be gone through in accordance with such provisions.

Article 78 Where an agreement by the parties on the contents of a modification is ambiguous, the contract shall be presumed as not having been modified.

Article 79 The obligee may assign its rights under a contract, in whole or in part, to a third party,except under the following circumstances:

(1) such rights may not be assigned in light of the nature of the contract;

(2) such rights may not be assigned according to the agreement between the parties;

(3) such rights may not be assigned according to the provisions of the laws.

Article 80 Where the obligee assigns its rights, it shall notify the obligor. Such assignment will have no effect on the obligor without notice thereof.

A notice by the obligee to assign its rights shall not be revoked, unless such revocation is consented to by the assignee.

Article 81 Where the obligee assigns its right, the assignee shall acquire the collateral rights related to the principal rights, except that the collateral rights exclusively belong to the obligee.

Article 82 Upon receipt of the notice of assignment of rights, the obligor may assert against the assignee any defenses it has against the assignor.

Article 83 Upon receipt by the obligor of the notice of assignment of rights, the obligor shall have vested rights against the assignor, and if the rights of the obligor vest prior to or at the same time as the assigned rights, the obligor may claim an offset against the assignee.

Article 84 Where the obligor delegates its obligations under a contract in whole or in part to a third party, such delegation shall be subject to the consent of the obligee.

Article 85 Where the obligor delegates its obligation, the new obligor may exercise any defense that the original obligor had against the obligee.

Article 86 Where the obligor delegates its obligation, the new obligor shall assume the incidental obligations related to the main obligations, except that the obligations exclusively belong to the original obligor.

Article 87 Where the laws or administrative regulations stipulate that the assignment of rights or transfer of obligations shall undergo approval or registration procedures, such provisions shall be followed.

Article 88 Upon the consent of the other party, one party may transfer its rights together with its obligations under contract to a third party.

Article 89 Where the rights and obligations are transferred together, the provisions in Articles 79,Articles 81 to 83, and Articles 85 to 87 of this Law shall be applied.

Article 90 Where a party is merged after the contract has been concluded, the legal person or other organization established after the merger shall exercise the rights and obligations thereunder.Unless otherwise agreed upon by the obligor and obligee, the legal persons or other organizations that exist after the division shall jointly enjoy the rights and jointly assume the obligations

under the contract.

Chapter 6 Termination of Contractual Rights and Obligations

Article 91 The rights and obligations under a contract shall be terminated under any of the following circumstances:

(1) the obligations have been performed as agreed upon;

(2) the contract has been rescinded;

(3) the obligations have been offset against each other;

(4) the obligor has escrowed the subject matter accordance with the law;

(5) the obligee has released the obligor of its obligation;

(6) the rights and obligations have vested in one party;

(7) any other circumstances for termination as stipulated by the laws or agreed upon by the parties.

Article 92 After the termination of the rights and obligations under the contract, the parties shall observe the principal of honesty and good faith and perform the obligations of notification,assistance and confidentiality, etc. in accordance with relevant transaction practices.

Article 93 The parties may terminate a contract if they reach a consensus through consultation.

The parties may agree upon conditions under which either party may terminate the contract.Upon satisfaction of the conditions, the party who has the right to terminate may terminate the contract.

Article 94 The parties to a contract may terminate the contract under any of the following circumstances:

(1) it is rendered impossible to achieve the purpose of contract due to an event of force majeure;

(2) prior to the expiration of the period of performance, the other party expressly states, or indicates through its conduct, that it will not perform its main obligation;

(3) the other party delayed performance of its main obligation after such performance has been demand, and fails to perform within a reasonable period;

(4) the other party delays performance of its obligations, or breaches the contract in some other manner, rendering it impossible to achieve the purpose of the contract;

(5) other circumstance as provided by law.

Article 95 Where the laws stipulates or the parties agreed upon the time limit to exercise the right to terminate the contract, and no party exercises it when the time limit expires, the said right shall be extinguished.

Where neither the law stipulates nor the parties make an agreement upon the time limit to exercise the right to terminate the contract, and no party exercise it within a reasonable time period after being urged, the said right shall be extinguished.

Article 96 A party demanding termination of a contract in accordance with the provisions of Paragraph 2 of Article 93 and Article 94 of this Law shall notify the other party. The contract shall be terminated upon the receipt of the notice by the other party. If the other party objects to such termination, it may petition the People's Court or an arbitration institution to adjudicate the

validity of the termination of the contract.

Where the laws and administrative regulations so provide, the approval and registration procedures for the termination of the contract shall be gone through in accordance with such laws and regulations.

Article 97 After the termination of a contract, performance shall cease if the contract has not been performed; if the contract has been performed, a party may, in accordance with the circumstances of performance or the nature of the contract, demand the other party to restore such party to its original state or adopt other remedial measures, and such party shall have the right to demand compensation for damages.

Article 98 The termination of rights and obligations under a contact shall not affect the validity of clauses that related to the final settlement of accounts and winding-up.

Article 99 Where the parties are liable to one another for obligations that are due, and if the type and nature of the subject matter of such obligations are the same, any party may offset its own obligation against the obligation of the other party, except unless such offset is not allowed according to the laws and regulations or cannot be made given the nature of the contract.

. The party who claims such offset shall notify the other party. The notice shall become effective when it reaches the other party. The offset shall not be subject to any condition or time limit.

Article 100 Where the parties have obligations towards one another, and the type and nature of such obligations are different, the obligations may also be offset upon consensus between the parties after consultation.

Article 101 The obligor may escrow the subject matter under any of the following circumstances which render performance of the obligations difficult:,

(1) the obligee refuses to accept them without justified reasons;

(2) the whereabouts of the obligee are unknown;

(3) the obligee is deceased and the successor has not been determined, or the obligee has lost civil capacity and a guardian has not been appointed;

(4) other circumstance as provided for in the laws.

Where the subject matter is not fit for escrow, or the cost of escrow is excessively high,the obligor may auction or sell the subject matter according to law, and escrow the proceeds therefrom.

Article 102 Unless the whereabouts of the obligee are unknown, the obligee shall notify the obligee, or the successor or guardian of the obligor immediately after the subject matter has been placed in escrow.

Article 103 Once the subject matter has been placed in escrow, the risk of damage to, destruction or loss of the subject matter shall be borne by the obligee. The obligee shall be

entitled to any fruits of the subject matter during the escrow period. Escrow expenses shall be borne by the obligee.

Article 104 The obligee may claim the subject matter in escrow at any time, except that if the obligee has any due obligations toward the obligor, prior to the obligee's performance of its obligations or the obligee's provision of security for its performance, the escrow institution shall, at the request of the obligor, refuse the obligee's claim of the escrowed subject matter.

The right of the obligee to reclaim the subject matter in escrow shall lapse if it is not exercised within five years form the date the subject matter is placed in escrow, and the escrowed subject matter shall revert to the national treasury after the deduction of the escrow costs.

Article 105 Where an obligee releases the obligor of its own obligations, in whole or in part, the rights and obligations under the contract shall terminate in whole or in part.

Article 106 If the rights and obligations under a contract vest in one party, such rights and obligations thereunder shall terminate, unless they involve the interests of a third party.

Chapter 7 Liabilities for Breach of Contracts

Article 107 If a party fails to perform its obligations under a contract, or its performance fails to satisfy the terms of the contract, it shall bear the liabilities for breach of contract such as to continue to perform its obligations, to take remedial measures, or to compensate for losses.

Article 108 Where one party express explicitly or indicates by its conduct that it will not perform its obligations under a contract, the other party may demand it to bear the liability for the breach of contract before the expiry of the performance period.

Article 109 If a party fails to pay the price or remuneration, the other party may request it to make the payment.

Article 110 Where a party fails to perform the non-monetary obligations or its performance of non-monetary obligations fails to satisfy the terms of the contract, the other party may request it to perform it except under any of the following circumstances:

(1) it is unable to be performed in law or in fact;

(2) the subject matter of the obligation is unfit for compulsory performance or the performance expenses are excessively high;

(3) the obligee does not require performance within a reasonable time.

Article 111 Where the quality fails to satisfy the agreement, the breach of contract damages shall be borne in the manner as agreed upon by the parties. Where there is no agreement in the contract on the liability for breach of contract or such agreement is unclear, nor can it be determined in accordance with the provisions of Article 61of this Law, the damaged party may, in light of the nature of the subject matter and the degree of loss, reasonably choose to request the other party to bear the liabilities for the breach of contract such as repairing, substituting, reworking,returning the goods, or reducing the price or remuneration.

Article 112 Where a party fails to perform its obligations under the contract or its performance fails to conform to the agreement, and the other party still suffers from other damages after the performance of the obligations or adoption of remedial measures, such party shall compensate the other party for such damages.

Article 113 Where a party fails to perform its obligations under the contract or its performance fails to conform to the agreement and cause losses to the other party, the amount of compensation for losses shall be equal to the losses caused by the breach of contract, including the interests receivable after the performance of the contract, provided not exceeding the probable losses

caused by the breach of contract which has been foreseen or ought to be foreseen when the party in breach concludes the contract.

The business operator who commits default activities in providing to the consumer any goods or services shall be liable for paying compensation for damages in accordance

with the Law of the People' s Republic of China on Protection of Consumer Rights and Interests.

Article 114 The parties may agree that if one party breaches the contract, it shall pay a certain sum of liquidated damages to the other party in light of the circumstances of the breach, and may also agree on a method for the calculation of the amount of compensation for the damages incurred as a result of the breach.

Where the amount of liquidated damages agreed upon is lower than the damages incurred, a party may petition the People' s Court or an arbitration institution to make an increase; where the amount of liquidated damages agreed upon are significantly higher than the damages incurred,a party may petition the People's Court or an arbitration institution to make an appropriate reduction.

Where the parties agree upon breach of contract damages in respect to the delay in performance, the party in breach shall perform the obligations after paying the breach of contract damages.

Article 115 The parties may agree that a party pay a deposit to the other party as a guaranty for the obligation in accordance with the Security Law of the People's Republic of China. Upon the obligor has performed its obligation, the deposit shall be offset against the price or refunded to the obligor. If the party paying the deposit fails to perform its obligations under the contract, such party has no right to demand for the return of the deposit; where the party accepting the deposit fails to perform its obligations under the contract, such party shall refund twice the value of the deposit.

Article 116 If the parties agree on both liquidated damages and a deposit, and one party is in breach,the other party may choose to apply either the provisions for liquidated damages or that for the deposit.

Article 117 A party who is unable to perform a contract due to force majeure is exempted from liability in part or in whole in light of the impact of the event of force majeure, except otherwise provided by law. Where an event of force majeure occurs after the party's delay in performance,it is not exempted from such liability.

For purposes of this Law, force majeure means any objective circumstances which are unforeseeable, unavoidable and insurmountable.

Article 118 If a party is unable to perform a contract due to an event of force majeure, it shall timely notify the other party so as to mitigate the losses that may be caused to the other party, and shall provide evidence of such event of force majeure within a reasonable period.

Article 119 Where a party breached the contract, the other party shall take the appropriate measures to prevent the losses from increasing; where the other party's failure to take appropriate measures results in additional losses, it cannot demand compensation for the additional losses.

Any reasonable expense incurred by the other party in preventing additional losses shall be borne by the party in breach.

Article 120 If both parties breach a contract, each party shall bear its own respective liabilities.

Article 121 Where a party's breach is attributable to a third party, it shall nevertheless be liable to the other party for breach. Any dispute between the party and such third party shall be resolved in accordance with the law or the agreement between the parties.

Article 122 Where the breach of contract by one party infringes upon the other party's personal or property rights, the aggrieved party is entitled to choose to claim the assumption by the violating and infringing party of liabilities for breach of contract according to this Law, or to claim the assumption by the violating and infringing party of liabilities for infringement

according to other laws.

Chapter 8 Other Provisions

Article 123 Where other laws provide otherwise in respect of a contract, such provisions shall prevail.

Article 124 Where there are no explicitly provisions in the Specific Provisions of this Law or in any other law concerning a certain contract, the provisions in the General Provisions of this Law shall be applied, and reference may be made to the provisions in the Specific Provisions of this Law or in any other law that most closely relate to such contract.

Article 125 If any disputes arise between the parties over the understanding of any clause of the contract, the true meaning thereof shall be determined according to the words and sentences used in the contract, the relevant provisions in the contract, the purpose of the contract, the transaction practices and the principle of good faith.

Where a contract is concluded in two or more languages and it is agreed that all versions are equally authentic, the words and sentences in each version are construed to have the same meaning. In case of any discrepancy in the words or sentences used in the different language versions, they shall be interpreted in light of the purpose of the contract.

Article 126 Parties to a foreign-related contract may select the applicable law for resolution of a contractual dispute, except as otherwise provided by law. Where parties to the foreign-related contract fails to select the applicable law, the contract shall be governed by the law of the country with the closest connection thereto.

For a Chinese-foreign equity joint venture contract, Chinese-foreign contractual joint venture contract, or a contract for Chinese-foreign joint exploration and development of natural resources which is performed within the territory of the People's Republic of China, the law of the People's Republic of China shall be applied.

Article 127 Within the scope of their respective duties, the administrative department of industry and commerce and other relevant departments shall, in accordance with the relevant laws and administrative regulations, be responsible for monitoring and dealing with any illegal acts which, by taking advantage of contracts, harm the interests of the State or the interests of the public and society; where such an act constitutes a crime, criminal liability shall be investigated in accordance with the law.

Article 128 The parties may resolve a contractual dispute through settlement or mediation.

Where the parties do not wish to, or are unable to, resolve such dispute through settlement or mediation, the dispute may be submitted to the relevant arbitration institution for arbitration in accordance with the arbitration agreement between the parties. Parties to a foreign-related contract may apply to a Chinese arbitration institution or another arbitration institution for arbitration. Where the parties did not conclude an arbitration agreement, or the

arbitration agreement is invalid, either party may bring a suit to the People's Court. The parties shall perform the judgments, arbitration awards or mediation agreements which have taken legal effect; if a party refuses to perform, the other party may request the People's Court for enforcement.

Article 129 For a dispute arising from a contract for the international sale of goods or a technology import or export contract, the time limit for bringing a suit or applying for arbitration is four years, calculating from the date on which the party knows or ought to know the infringement on its rights. For a dispute arising from any other type of contract, the time limit for bringing a

suit or applying for arbitration shall be governed by the relevant law.

Specific Provisions

Chapter 9 Sales Contracts

Article 130 A sales contract is a contract whereby the seller transfers the ownership of a subject matter to the buyer, and the buyer pays the price for it.

Article 131 In addition to the terms set forth in Article 12 of this Law, a sales contract may also

contain such clauses as package manner, inspection standards and method, method of settlement and clearance, language adopted in the contract and its authenticity.

Article 132 The subject matter to be sold shall be owned by the seller or of that the seller shall have the right to dispose.

Where the transfer of a subject matter is prohibited or restricted by laws or administrative regulation, such provision shall be applied.

Article 133 The ownership of a subject matter shall be transferred upon the delivery of the object,except as otherwise stipulated by law or agreed upon by the parties.

Article 134 The parties to a sales contract may agree that the ownership shall belong to the seller if the buyer fails to pay the price or perform other obligations.

Article 135 The seller shall perform the obligations of delivering to the buyer the subject matter or handing over the documents for the buyer to take possession of the subject matter and of transferring the ownership thereto.

Article 136 In addition to the document for taking possession, the seller shall deliver to the buyer the relevant documents and materials in accordance with the agreement or transaction practices.

Article 137 In a sale of any subject matter which contains intellectual property such as computer software, etc., the intellectual property in the subject matter does not belong to the buyer,except as otherwise provided by law or agreed upon by the parties.

Article 138 The seller shall deliver the subject matter by the time limit agreed upon. Where a time period for delivery is agreed upon, the seller may deliver at any time within the said time period.

Article 139 Where the time limit for delivery of the subject matter is not agreed upon between the parties or the agreement is not clear, the provisions of Article 61 and Item 4 of Article 62 shall be applied.

Article 140 Where a subject matter has been possessed by the buyer prior to the conclusion of the contract, the delivery time shall be the time when the contract becomes effective.

Article 141 The seller shall deliver the subject matter at the agreed place.

Where there is no agreement between the parties as to the place to deliver the subject matter or such agreement is not clear, nor can it be determined according to the provisions of Article 61 of this Law, the following provisions shall be applied:

(1) if the subject matter needs carriage, the seller shall deliver the subject matter to the first carrier so as to hand it over to the buyer;

(2) if the subject matter does not need carriage, and the seller and buyer know the place of the subject matter when concluding the contract, the seller shall deliver the subject matter at such place; if the place is unknown, the subject matter shall be delivered at the business place of the seller when concluding the contract.

Article 142 The risk of damage to or loss of a subject matter shall be borne by the seller prior to the delivery of the subject matter and by the buyer after delivery, except as otherwise stipulated by law or agreed upon by the parties.

Article 143 Where a subject matter cannot be delivered at the agreed time limit due to any reasons attributable to the buyer, the buyer shall bear the risk of damage to or loss of the subject matter as of the date it breaches the agreement.

Article 144 Where the seller sells a subject matter delivered to a carrier for carriage and is in transit, unless otherwise agreed upon by the parties, the risk of damage to or missing of the subject matter shall be borne by the buyer as of the time of establishment of the contract.

Article 145 Where there is no agreement between the parties as to the place of delivery or such agreement is not clearly, and the subject matter needs carriage according to the provisions of Item 1 of Paragraph 2 of Article 141 of this Law, the risk of damage to or missing of the subject matter shall be borne by the buyer after the seller has delivered the subject matter to the first

carrier.

Article 146 Where the seller has placed the subject matter at the place of delivery in accordance with the agreement or in accordance with the provisions of Item 2 of Paragraph 2 of Article 141 of this Law, while the buyer fails to take delivery in breach of the agreement, the risk of damage to or missing of the subject matter shall be borne by the buyer as of the date of breach of the

agreement.

Article 147 The failure of the seller to deliver the documents and materials relating to the subject matter as agreed upon shall not affect the passing of the risk of damage to or missing of the subject matter.

Article 148 Where the quality of the subject matter does not conform to the quality requirements, making it impossible to achieve the purpose of the contract, the buyer may

refuse to accept the subject matter or may terminate the contract. If the buyer refuses to accept the subject matter or terminate the contract, the risk of damage to or missing of the subject matter shall be borne by the seller.

Article 149 Where the risk of damage to or missing of the subject matter is borne by the buyer, the buyer's right to demand the seller to bear liability for breach of contract because the seller's performance of its obligations is not in conformity with the agreement shall not be affected.

Article 150 Unless otherwise provided by law, the seller shall have the obligation to warrant that no third party shall exercise against the buyer any rights with respect to the delivered subject matter.

Article 151 Where the buyer knows or ought to know, at the time of conclusion of the contract, that a third party has rights on the subject matter to be sold, the seller does not assume the obligation prescribed in Article 150 of this Law.

Article 152 Where the buyer has conclusive evidence to demonstrate that a third party may claim rights on the subject matter, it may suspend to pay the corresponding price, except where the seller provides a appropriate guaranty.

Article 153 The seller shall deliver the subject matter in compliance with the agreed quality requirements. Where the seller gives the quality specifications for the subject matter, the subject matter delivered shall comply with the quality requirements set forth therein.

Article 154 Where the quality requirements for the subject matter is not agreed between parties or such agreement is not clear, nor can it be determined according to the provisions of Article 61 of this Law, the provisions of Item 1 of Article 62 of this Law shall be applied.

Article 155 If the subject matter delivered by the seller fails to comply with the quality requirements,the buyer may demand the seller to bear liability for breach of contract in accordance with Article 111 of this Law.

Article 156 The seller shall deliver the subject matter packed in the agreed manner. Where there is no agreement on package manner in the contract or the agreement is not clear,

nor can it be determined according to the provisions of Article 61 of this Law, the subject matter shall be packed in a general manner, and if no general manner, a package manner enough to protect the subject matter shall be adopted.

Article 157 Upon receipt of the subject matter, the buyer shall inspect it within the agreed inspection period. Where no inspection period is agreed, the buyer shall timely inspect the subject matter.

Article 158 Where the parties have agreed upon an inspection period, the buyer shall notify the seller of any non-compliance in quantity or quality of the subject matter within such inspection period.Where the buyer delayed in notifying the seller, the quantity or quality of the subject matter is deemed to comply with the contract.

Where no inspection period is agreed, the buyer shall notify the seller within a reasonable period, commencing on the date when the buyer discovered or should have discovered the quantity or quality non-compliance. If the buyer fails to notify within a reasonable period or fails to notify within 2 years, commencing on the date when it received the subject matter, the quantity or quality of the subject matter is deemed to comply with the contract, except that if there is a warranty period in respect of the subject matter, the warranty period applies and supersedes such two year period.

Where the seller knows or ought to know the non-compliance of the subject matter, the buyer is not subject to the time limits for notification prescribed in the preceding two paragraphs.

Article 159 The buyer shall pay the price in the agreed amount. Where the price is not agreed or the agreement is not clear, the provisions of Article 61 and Item 2 of Article 62 shall be applied.

Article 160 The buyer shall pay the price at the agreed place. Where the place of payment is not agreed or the agreement is not clear, nor can it be determined according to the provisions of Article 61 of this Law, the buyer shall make payment at the seller's place of business, provided that if the

parties agreed that payment shall be conditional upon delivery of the subject matter or the document for taking delivery thereof, payment shall be made at the place where the subject matter, or the document for taking delivery thereof, is delivered.

Article 161 The buyer shall pay the price at the agreed time. Where the time for payment is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law,the buyer shall make payment at the same time it receives the subject matter or the document for

taking delivery thereof.

Article 162 Where the seller delivers the subject matter in a quantity greater than that agreed in the contract, the buyer may accept or reject the excess quantity. Where the buyer accepts the excess quantity, it shall pay the price based on the contract rate; where the buyer rejects the excess quantity, it shall timely notify the seller.

Article 163 The fruits of the subject matter belong to the seller if accrued before delivery, and to the buyer if accrued after delivery.

Article 164 Where a contract is terminated due to non-compliance of any main component of the subject matter, the effect of termination extends to the ancillary components. Where the contract is terminated due to non-compliance of any ancillary component of the subject matter, the effect of termination does not extend to the main components.

Article 165 Where the subject matter comprises of a number of components, one of which does not comply with the contract, the buyer may terminate the portion of the contract in respect of such component, provided that if severance of such component with the other components will significantly diminish the value of the subject matter, the party may terminate the contract in respect of such number of components.

Article 166 Where the seller is to deliver the subject matter in installments, if the seller fails to deliver one installment of the subject matter or the delivery fails to satisfy the terms of the contract so that the said installment cannot realize the contract purpose, the buyer may terminate the portion of the contract in respect thereof.

If the seller fails to deliver one installment of the subject matter or the delivery fails to satisfy the terms of the contract so that the delivery of the subsequent installments of subject matter can not realize the contract purpose, the buyer may terminate the portion of the contract in respect of such installment as well as any subsequent installment.

If the buyer is to terminate the portion of the contract in respect of a particular installment which is interdependent with all other installments, it may terminate the contract in respect of all delivered and undelivered installments.

Article 167 In a sale by installment payment, where the buyer fails to make payments as they became due,if the delinquent amount has reached one fifth of the total price, the seller may require payment of the full price from the buyer or terminate the contract. If the seller terminates the contract, it may require the buyer to pay a fee for its use of the subject matter.

Article 168 In a sale by sample, the parties shall place the sample under seal, and may specify the quality of the sample. The subject matter delivered by the seller shall comply with the sample as well as the quality specifications.

Article 169 In a sale by sample, if the buyer is not aware of a latent defect in the sample, the subject matter delivered by the seller shall nevertheless comply with the normal quality standard for a like item, even though the subject matter delivered complies with the sample.

Article 170 In a sale by trial, the parties may agree the trial period. Where a trial period is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, it shall be determined by the seller.

Article 171 In a sale by trial, the buyer may either purchase or reject the subject matter during the trial period. At the end of the trial period, the buyer is deemed to have made the purchase if it fails to demonstrate its intent to purchase or reject the subject matter.

Article 172 In a sale by tender, matters such as the rights and obligations of the parties and the tendering procedure, etc. are governed by the relevant laws and administrative regulations.

Article 173 In a sale by auction, matters such as the rights and obligations of the parties and the auctioning procedure, etc. are governed by the relevant laws and administrative regulations.

Article 174 If there are provisions in the law for other non-gratuitous contracts, such provisions shall apply; in the absence of such provisions, reference shall be made to the relevant provision on sales contract.

Article 175 Where the parties agree on a barter transaction involving transfer of title to the subject matters, such transaction shall be governed by reference to the relevant provisions on sales contracts.

Chapter 10 Contracts for Supply of Power, Water, Gas, Or Heat

Article 176 A power supply contract is a contract whereby the power supplier supplies power to the power customer, and the power consumer pay an electricity fee.

Article 177 The contents of a power supply contract include terms such as the method, quality, and time of power supply, and the capacity, location and nature of power use, and the metering method,electricity rate, the method of settlement of electricity fees, and the responsibility for maintenance of the power supply and use facilities, etc..

Article 178 The place of performance of a power supply contract shall be the place agreed upon by the parties, and if there is no agreement or the agreement is not clear, the place of performance shall be the boundary where ownership of the power supply facilities is divided.

Article 179 The power supplier shall supply power in a safe manner in accordance with the standards for power supply stipulated by the State and with the terms of the contract. Where the power supplier fails to supply power in a safe manner in accordance with the standards for power supply stipulated by the State and with the terms of the contract, thereby causing losses to the power

customer, it shall be liable for damages.

Article 180 Where the power supplier needs to suspend the power supply due to reasons such as planned maintenance or provisional inspection and repair of the power supply facilities, legally restriction on power, or illegal use of power by the power customer, etc., it shall notify the power customer in advance in accordance with the relevant provisions of the State. Where the power supplier suspends power supply without notifying the power customer in advance, thereby

causing losses to the power customer, it shall be liable for damages.

Article 181 Where the power supply is suspended due to a natural disaster or other causes, the power supplier shall make prompt repairs in accordance with the relevant provisions of the State. Where the power supplier fails to make prompt repair, thereby causing loss to the power customer, it shall be liable for damages.

Article 182 The power customer shall timely pay the electricity fees in accordance with the relevant provisions of the State and with the terms of the contract. Where the power customer delays in paying the electricity fees, it shall pay breach of contract damages in accordance with the contract. Where the power customer fails to pay the electricity fees and breach of contract damages within a reasonable time limit after receiving demand for payment, the power supplier may shut off the power supply in accordance with the procedure prescribed by the state.

Article 183 The power customer shall use power in a safe manner in accordance with the relevant provisions of the State and with the terms of the contract. Where the power customer fails to use power in a safe manner in accordance with the relevant provisions of the State and with the terms of the contract, thereby causing losses to the power supplier, it shall be liable for damages.

Article 184 A contract for the supply of water, gas or heat shall be governed by reference to the relevant provisions on power supply contracts.

Chapter 11 Gift Contracts

Article 185 A gift contract is a contract whereby the donor conveys his property to the donee gratuitously and the donee expresses his acceptance of the gift.

Article 186 Prior to the transfer of rights to the gift property, the donor may revoke the gift.

The provisions of the preceding paragraph does not apply to any gift contract the nature of which serves the public interests or fulfills a moral obligation, such as disaster relief,poverty relief, etc., or any gift contract which has been notarized.

Article 187 Where conveyance of the gifted property is subject to such procedures as registration according to law, the relevant procedures shall be carried out.

Article 188 In the case of a gift contract the nature of which serves the public interests or fulfills a moral obligation, such as disaster relief, poverty relief, etc., or a gift contract which has been notarized, if the donor fails to deliver the gift property, the donee may require delivery.

Article 189 Where the gifted property is damaged or lost due to any intentional misconduct or gross negligence of the donor, he shall be liable for damages.

Article 190 A gift may be conditioned on an obligation.

Where the gift is conditioned on an obligation, the donee shall perform his obligations in accordance with the contract.

Article 191 The donor is not liable for any defect in the gifted property. Where the gift is conditioned on an obligation, and the gifted property is defective, the donor has the same warranty obligations as a seller to the extent of the prescribed obligations.

Where the donor intentionally omits to inform the donee of the defect or warranted the absence of any defect, thereby causing losses to the donee, he shall be liable for damages.

Article 192 Where the donee is in any of the following circumstances, the donor may revoke the gift:

(1) seriously harming the donor or any immediate family member thereof;

(2) failing to perform support obligations owed to the donor;

(3) failing to perform the obligations under the gift contract.

The donor shall exercise its revocation right within one year after he knows, or ought to know, the cause for revocation.

Article 193 Where the donor is deceased or incapacitated due to the donee's illegal act, his heir or legal agent may revoke the gift.

The heir or legal agent of the donor shall exercise the right of revocation within six months after he knows, or ought to know, the cause for revocation.

Article 194 Upon revocation of the gift, the person with the revocation right may claim restitution of the gifted property from the donee.

Article 195 If the donor's economic situation is deteriorated significantly, thereby seriously impacting on his business operation or family life, he may no longer perform the gift obligations.

Chapter 12 Contracts for Loan of Money

Article 196 A contract for loan of money is a contract whereby the borrower borrows a sum of money from the lender, and repays the borrowed money with interest thereon when it becomes due.

Article 197 A contract for loan of money shall be in writing, except where the loan is between natural persons who have agreed otherwise.

The contents of a contract for loan of money include the terms such as the loan' s type,currency, purpose, amount, interest rate, term and method of repayment, etc.

Article 198 In entering into a contract for loan of money, the lender may require the borrower to provide a guaranty. The guaranty shall conform to the provisions of the Security Law of the People's Republic of China.

Article 199 In entering into a contract for loan of money, the borrower shall provide true information concerning its business operation and financial condition in connection with the loan as required by the lender.

Article 200 No interest shall be deducted from the principal in advance. Where any interest amount is deducted from the principal in advance, the repayment of principal and calculation of interest shall be based on the actual amount borrowed.

Article 201 Where the lender fails to make the loan amount available on the agreed date and in the agreed amount, thereby causing losses to the borrower, it shall pay damages.

Where the borrower fails to draw down on the agreed date and in the agreed amount, it shall nevertheless pay the interest on the agreed date and in the agreed amount.

Article 202 The lender may examine and monitor the application of the proceeds in accordance with the contract. The borrower shall periodically provide the lender with materials such as related financial and accounting reports, etc. in accordance with the contract.

Article 203 Where the borrower fails to use the proceeds for the prescribed purpose, the lender may withhold funding, call the loan, or terminate the contract.

Article 204 The interest rate on the loan provided by a financial institution engaged in lending operation shall be determined between the minimum and maximum rates fixed by the People's Bank of China.

Article 205 The borrower shall pay the interest at the agreed time. Where the time of interest payment is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, if the loan term is less than one year, the interest shall be paid together with the principal at the time of repayment; if the loan term is one year or longer, the interest shall be paid at the end of each annual period, and where the remaining period is less than one year, the interest shall be paid together with the principal at the time of repayment.

Article 206 The borrower shall repay the principal at the agreed time. Where the time of repayment is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, the borrower may repay at any time; and the lender may demand repayment from the borrower within a reasonable time limit.

Article 207 Where the borrower fails to repay the loan at the agreed time, it shall pay delayed repayment interest in accordance with the contract or the relevant provisions of the State.

Article 208 Where the borrower prepays the loan, unless otherwise agreed by the parties, the interest shall be calculated based on the actual period of loan.

Article 209 The borrower may apply to the lender for extension of the loan term before its maturity. Upon consent by the lender, the loan term may be extended.

Article 210 A contract for loan of money between natural persons becomes effective at the time the lender makes the loan amount available.

Article 211 Under a contract for loan of money between natural persons, if payment of interest is not agreed or the agreement is not clear, the loan is deemed interest free.

Under a contract for loan of money between natural persons, the interest rate on the loan may not contravene the relevant provisions of the State concerning limit on loan interest rate.

Chapter 13 Leasing Contracts

Article 212 A leasing contract is a contract whereby the lessor delivers to the lessee the lease item for it to use or accrue benefit from, and the lessee pays the rent.

Article 213 The contents of a leasing contract include terms such as the name, quantity and purpose of the lease item, lease term, amount of rent, time and method of rent payment, as well as maintenance and repair of the lease item, etc.

Article 214 The lease term may not exceed twenty years. If the lease term exceeds twenty years, the portion of the lease term beyond the initial twenty year period is invalid.

At the end of the lease term, the parties may renew the lease, provided that the renewed term may not exceed twenty years commencing on the date of renewal.

Article 215 Where the lease term is six months or longer, the lease shall be in writing. If the parties fail to adopt a writing form, the lease is deemed a non-term lease.

Article 216 The lessor shall deliver the lease item to the lessee in accordance with the contract and shall, during the lease term, keep the lease item fit for the agreed purpose.

Article 217 The lessee shall use the lease item in the agreed manner. Where the manner of use of the lease item is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61of this Law, the lease item shall be used in a manner consistent with its nature.

Article 218 Where the lessee uses the lease item in the agreed manner or in a manner consistent with its nature, thereby causing wear and tear to the lease item, it is not liable for damages.

Article 219 Where the lessee fails to use the lease item in the agreed manner or in a manner consistent with its nature, thereby causing damage to it, the lessor may terminate the contract and claim damages.

Article 220 The lessor shall perform the obligations of maintenance and repair of the lease item, except otherwise agreed by the parties.

Article 221 Where the lease item needs maintenance or repair, the lessee may require the lessor to perform maintenance or repair within a reasonable time limit.

If the lessor fails to fulfill its obligations of maintenance or repair, the lessee may maintain or repair the lease item on its own at the lessor' s expense. Where the lessee' s use of the lease item is impaired due to maintenance or repair thereof, the rent shall be reduced or the lease term shall be extended accordingly.

Article 222 The lessee shall keep the lease item with due care and shall be liable for damages if the lease item is damaged or lost due to improper care.

Article 223 Subject to consent of the lessor, the lessee may make improvement on or addition to the lease item.

If the lessee makes improvement on or addition to the lease item without consent of the lessor, the lessor may require the lessee to restore the lease item to its original condition or claim compensation for the losses.

Article 224 Subject to consent of the lessor, the lessee may sublease the lease item to a third party.Where the lessee subleases the lease item, the leasing contract between the lessee and the lessor remains valid, and if the third party causes damage to the lease item, the lessee shall compensate for the losses.

Where the lessee subleases the lease item without the consent of the lessor, the lessor may terminate the contract.

Article 225 During the lease term, any benefit accrued from the possession or use of the lease item belongs to the lessee, except otherwise agreed by the parties.

Article 226 The lessee shall pay the rent at the agreed time. Where the time of payment is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law,the rent shall be paid at the end of the lease term if it is less than one year; if the lease term is one year or longer, the rent shall be paid at the end of each annual period, and where the remaining period is less than one year, the rent shall be paid at the end of the lease term.

Article 227 Where the lessee fails to pay or delays in paying the rent without any reason, the lessor may require the lessee to pay the rent within a reasonable time limit. If the lessee fails to pay the rent at the end of such time limit, the lessor may terminate the contract.

Article 228 If due to any claim by a third party, the lessee is unable to use or accrue benefit from the lease item, the lessee may require reduction in rent or refuse to pay rent.

In case of any claim by a third party, the lessee shall timely notify the lessor.

Article 229 Any change of ownership to the lease item does not affect the validity of the leasing contract.

Article 230 Where the lessor is to sell a dwelling unit under a lease, it shall give the lessee a notice within a reasonable time limit before the sale, and the lessee has the right of first refusal under the same conditions.

Article 231 Where the lease item is damaged or lost in part or in whole due to any reason not attributable to the lessee, the lessee may require reduction in rent or refuse to pay rent; where the purpose of the contract can not be achieved due to damage to or loss of the lease item in part or in whole, the lessee may terminate the contract.

Article 232 Where the term of a lease is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, such lease is deemed a non-term lease.Either party may terminate the contract at any time, provided that the lessor shall give the lessee a reasonable advance notice before it terminates the contract.

Article 233 Where the lease item endangers the safety or health of the lessee, the lessee may terminate the contract at any time even if the lessee knows the lease item does not meet the quality requirements when concluding the contract.

Article 234 Where the lessee is deceased during the term of a dwelling unit lease, the person jointly living in the unit with the lessee while the lessee is alive may continue leasing it on the terms of the original leasing contract.

Article 235 The lessee shall return the lease item at the end of the lease term. The returned lease item shall be in a condition resulting from its use in the agreed manner or in a manner consistent with its nature.

Article 236 Upon expiration of the lease term, if the lessee continues to use the lease item without objection by the lessor, the original leasing contract remains effective, provided that it becomes a non-term lease.

Chapter 14 Financial Leasing Contracts

Article 237 A financial leasing contract is a contract whereby the lessor, upon purchase of the lessee-selected lease item from a lessee-selected seller, provides the lease item to the lessee for its use, and the lessee pays the rent.

Article 238 The contents of a financial leasing contract include terms such as the name, quantity,specifications, technical performance, and method of inspection of the lease item, the lease term, the rental components and the time, method and currency of payment, as well as the ownership of the lease item at the end of the lease term, etc.

A financial leasing contract shall be concluded in writing.

Article 239 Under the sales contract concluded by the lessor according to the lessee's selection of the seller and the lease item, the seller shall deliver the subject matter to the lessee in accordance with the contract, and the lessee enjoys the rights of the buyer in respect of taking delivery of the subject matter.

Article 240 The lessor, the seller and the lessee may agree that any claim arising from the seller's failure in the performance of its obligations under the sales contract will be made by the lessee. Where the lessee makes such a claim, the lessor shall provide assistance.

Article 241 Without the consent of the lessee, the lessor may not amend any lessee-related term in the sales contract concluded by it according to the lessee's selection of the seller and the lease item.

Article 242 The lessor shall be entitled to the ownership of the lease item. In case the lessee goes bankruptcy, the lease item is not part of its bankruptcy assets.

Article 243 Unless otherwise agreed by the parties, the rent under a financial leasing contract shall be determined based on the major portion of or full costs of purchasing the lease item and the lessor's reasonable profit.

Article 244 Where the lease item does not comply with the contract or is not fit for the intended purpose, the lessor is not liable, except where the lessee relies on the skills of the lessor in selecting the lease item or the lessor interferes with the selection thereof.

Article 245 The lessor shall give warranty in respect of the lessee's possession and use of the lease item.

Article 246 If in the possession of the lessee, the lease item causes personal injury or property damage to a third party, the lessor is not liable.

Article 247 The lessee shall keep and use the lease item with due care. While in possession of the lease item, the lessee shall perform the obligations of maintenance and repair thereof.

Article 248 The lessee shall pay the rent in accordance with the contract. Where the lessee fails to pay the rent within a reasonable time limit after receiving the demand for payment from the lessor,the lessor may require payment of the full rent; or it may terminate the contract and take back the lease item.

Article 249 Where the parties agree that the lease item shall belong to the lessee at the expiry of the lease term, the lessee has paid the majority of the rent but is unable to pay the remaining rent,and the lessor terminates the contract for this reason and takes back the lease item, if the value of the lease item taken back exceeds the rent and other expenses which the lessee owes to the lessor, the lessee may request the lessor to return a certain part.

Article 250 The lessor and the lessee may agree on the ownership of the lease item at the expiry of the lease term. Where ownership of the lease item is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, the ownership of the lease item shall belong to the lessor.

Chapter 15 Contracts for Work

Article 251 A contract for work is a contract whereby the contractor shall, in light of the requirements of the ordering party, complete certain work and deliver the results therefrom, and the ordering party pays the remuneration therefor.

Work includes processing, ordering, repairing, duplicating, testing, inspecting, etc..

Article 252 The contents of a contract for work shall contain such clauses as the subject matter,quantity, quality, remuneration, method of the work, supply of materials, term of performance,standards and method of inspection.

Article 253 The contractor shall use its own equipment, skills and labor to complete the main part of the work, except as otherwise agreed upon by the parties.

Where the contractor assigns the contracted work to a third party for completion, the contractor shall be responsible to the ordering party in respect of the work results completed by the ordering party. Where the assignment is not approved by the ordering party, the ordering party may terminate the contract.

Article 254 The contractor may assign some ancillary work contracted to a third party for completion.

Where the contractor assigns some ancillary work to a third party for completion, the contractor hall be responsible to the ordering party for the work result completed by a third party.

Article 255 Where the contractor is to supply the materials, the contractor shall select the materials in accordance with the contract and shall make such materials available for inspection by the ordering party.

Article 256 Where the ordering party is to supply the materials, it shall supply the materials in accordance with the contract. The contractor shall timely inspect the materials supplied by the ordering party, and if it discovers that they do not conform to the agreement in the contract, it shall timely notify the ordering party to replace them or supply what is lacking or take other remedial measures.

The contractor may not replace the materials supplied by the ordering party without authorization, and may not replace any components which do not need to be repaired.

Article 257 Where the contractor discovers that the drawings or technical requirements provided by the ordering party are unreasonable, it shall timely notify the ordering party. Where any losses are caused to the contractor due to the indolent reply of the ordering party and other reasons, the ordering party shall be liable for making compensation.

Article 258 Where the ordering party changes its requirements for the contracted work while the work is under way, thereby causing losses to the contractor, the ordering party shall be liable for making compensation.

Article 259 Where the performance of the contracted work requires assistance of the ordering party, the ordering party shall have the obligation to provide assistance. Where the contracted work is unable to be completed due to the ordering party's failure in fulfilling its obligation of assistance, the contractor may urge the ordering party to perform its obligation within a

reasonable time limit and may extend the term of its performance; where the ordering party fails to perform such obligation within the time limit, the contractor may terminate the contract.

Article 260 In the period of working, the contractor shall accept the necessary supervision over and inspection of the work by the ordering party. The ordering party may not obstruct the normal work of the contractor with the supervision and inspection.

Article 261 Upon the completion of the contracted work, the contractor shall deliver the work results to the ordering party and shall submit necessary technical materials and the relevant quality certificate. The ordering party shall conduct acceptance inspection of the work results.

Article 262 Where the work results delivered by the contractor fail to meet the quality requirements, the ordering party may request the contractor to bear the liabilities for the breach of contract by way of repairing, remaking, reducing remuneration, or making compensation.

Article 263 The ordering party shall pay the remuneration at the agreed time limit. Where the time limit of payment is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, the ordering party shall pay it at the time when the contractor delivers the work results; where the work results are partially delivered, the ordering party

shall make payment accordingly.

Article 264 Where the ordering party fails to pay the remuneration or cost for the materials, etc. to the contractor, the contractor is entitled to lien upon the work results, except as otherwise agreed upon by the parties.

Article 265 The contractor shall keep the materials supplied by the ordering party and the completed work results with due care, and shall be liable for damages in case of any damage or losses due to improper care.

Article 266 The contractor shall keep the relevant information confidential as required by the ordering party, and may not retain any replica or technical material without permission of the ordering party.

Article 267 Joint contractors are jointly and severally liable to the ordering party, except as otherwise agreed upon by the parties.

Article 268 The ordering party may terminate the contract at any time, but it shall bear the liability for making compensation for losses, if the contractor suffers losses therefrom.

Chapter 16 Contracts for Construction Projects

Article 269 A contract for construction project is a contract whereby the contractor performs project construction, and the developer pays the price.

Contracts for construction projects include contracts for survey, design, and construction.

Article 270 A contract for construction project shall be in written form.

Article 271 Tendering for a construction project shall be conducted in an open, fair and impartial manner in accordance with the relevant laws.

Article 272 The developer may enter into a contract for construction project with a prime contractor, or enter into contracts for survey, design, and construction with the surveyor, designer, and constructor respectively.

The developer may not divide a construction project which should be completed by one contractor into several parts and contract them out to several contractors.

Subject to consent by the developer, the prime contractor or the contractor for survey,design, or construction may delegate part of the contracted work to a third party. The third party and the prime contractor or the contractor for survey, design, or construction shall be jointly and severally liable to the developer in respect of the work product completed by such third party. The contractor may not assign in whole to any third party the contracted construction project, or divide the whole contracted construction project into several parts and separately assign each part to a third party under the guise of sub-contracting.

The contractor is prohibited from sub-contracting any part of the project to an entity not appropriately qualified. A sub-contractor is prohibited from further sub-contracting its contracted work. The main structure of the construction project must be constructed by the contractor itself.

Article 273 A contract for a major state construction project shall be concluded in accordance with the procedure prescribed by the state and in compliance with the state-approved documents such as the investment plan and feasibility studies report, etc.

Article 274 A contract for survey or design includes terms such as the time limit for submission of the relevant basic information and documents (including budget estimate), the quality requirements,fees, and other conditions of cooperation, etc.

Article 275 A construction contract includes terms such as the scope of the project, the construction period, the time for commencement and completion of any work to be commissioned in the interim,the quality of the project, the cost of the project, the time for delivery of technical materials, the responsibilities for the supply of materials and equipment, the appropriation of

funds and settlement of account, inspection upon completion of the project, the scope and period of quality warranty, and cooperation between the parties, etc.

Article 276 Where the construction project is subject to supervision, the developer shall enter into an agency appointment contract for project supervision with a project supervisor in writing. The rights, obligations and associated legal liabilities of the developer and supervisor shall be prescribed in accordance with the provisions hereof concerning agency appointment contracts and the provisions of other relevant laws and administrative regulations.

Article 277 Provided that the developer does not interfere with the normal operation of the contractor,it may inspect the progress and quality of the work at any time.

Article 278 In the case of concealed work, the contractor shall give the developer notice for inspection prior to concealment. Where the developer fails to timely conduct inspection, the contractor may extend the relevant project milestones, and is entitled to claim damages for work stoppage or work slowdown, etc.

Article 279 Upon completion of the construction project, the developer shall conduct acceptance inspection according to the construction drawings and specifications, and in accordance with the rules of construction inspection and quality inspection standard prescribed by the state. Once the construction project has passed the acceptance inspection, the developer shall pay the

prescribed price and accept the construction project.

The completed construction project may be put into use only after it has passed the acceptance inspection; if the construction project has not been inspected or has failed the inspection, it may not be put into use.

Article 280 Where the developer sustains any loss from construction delay due to non-compliance of the survey or design or due to delayed delivery of the survey or design documents, the surveyor or the designer shall continue to improve the survey or design, reduce or forgo the survey fee or design fee, and pay damages.

Article 281 Where the construction project fails to meet the prescribed quality requirements due to any reason attributable to the constructor, the developer is entitled to require the constructor to repair, re-construct or make alteration free of charge within a reasonable time. Where delivery

of the project is delayed due to such repair, re-construction or alteration, the constructor shall be liable for breach of contract.

Article 282 Where the construction project caused personal injury and property damage during its reasonable usage period due to any reason attributable to the contractor, the contractor shall be liable for damages.

Article 283 Where the developer fails to provide raw materials, equipment, site, funds, or technical information at the prescribed time and in accordance with the contractual requirements, the contractor may extend the relevant project milestones, and is entitled to claim damages for work stoppage or slowdown, etc.

Article 284 If an ongoing project is stopped or delayed due to any reason attributable to the developer,the developer shall take the appropriate measures to make up or mitigate the loss, and shall indemnify the contractor for its loss and out-of-pocket expenses arising from resulting work stoppage, slowdown, reshipment, re-dispatch of mechanical equipment, and excess inventory of materials and assemblies, etc.

Article 285 Where in the course of survey or design, any repeating work, work stoppage or change of design occurs due to the developer's change of plan, the incorrect information provided by it, or its failure to provide the working conditions necessary for the survey or design at the prescribed time, the developer shall increase the fees in light of the actual amount of work done

by the surveyor or designer.

Article 286 If the developer failed to pay the price in accordance with the contract, the contractor may demand payment from the developer within a reasonable period. Where the developer fails to pay the price at the end of such period, the contractor may enter into an agreement with the developer to liquidate the project, and may also petition the People's Court to auction the

project in accordance with the law, unless such project is not fit for liquidation or auction in light of its nature.

The construction project price shall be paid in priority out of proceeds from the liquidation or auction of the project.

Article 287 A matter not provided for in this Chapter shall be governed by the relevant provision governing contracts of hired works.

Chapter 17 Transportation Contracts

Section One General Provisions

Article 288 A transportation contract is a contract whereby the carrier carries passengers or cargoes from the starting place of carriage to the agreed destination, and the passenger, consignor or consignee pays for the ticket-fare or freight.

Article 289 A carrier engaged in public transportation may not refuse the normal and reasonable carriage request of a passenger or consignor.

Article 290 The carrier shall safely carry the passengers or cargoes to the agreed destination within the agreed time or within a reasonable time.

Article 291 The carrier shall carry the passengers or cargoes to the agreed destination via the agreed route or the customary carriage route.

Article 292 A passenger, a consignor or a consignee shall pay the ticket-fare or freight. Where the carrier fails to carry the passengers or the cargoes via the agreed or customary carriage route,thereby increasing the ticket-fare or freight, the passenger, consignor or consignee may refuse to pay any increased portion thereof.

Section Two Passenger Transportation contracts

Article 293 A passenger transportation contract is established upon the carrier's delivery of the passenger ticket to the passenger, except as otherwise agreed upon by the parties or there are other transaction practices.

Article 294 The passenger shall board the means of transportation with a valid passenger ticket. If the passenger boards without a ticket, exceeds the distance paid for, takes a higher class or higher berth than booked, or boards with an invalid ticket, he shall make up the payment for an appropriate ticket, and the carrier may charge an additional payment in accordance with the relevant provisions. Where the passenger fails to pay the ticket-fare, the carrier may refuse to carry.

Article 295 Where the passenger is unable to board the means of transportation at the time stated on the passenger ticket due to any reason attributable to himself, he shall undergo the formalities for ticket cancellation and refund or for ticket modification within the agreed period. Where the passenger fails to do so within the time period, the carrier may refuse to refund the ticket-fare, and no longer bear the obligation of carriage.

Article 296 In the course of carriage, the passenger's carry-on luggage shall be within the agreed limit of quantity. Where the luggage exceeds the agreed limit of quantity, the additional luggage shall be checked in.

Article 297 The passenger may not bring with him or pack in the luggage such dangerous articles as are flammable, explosive, toxic, corrosive, or radioactive as well as those that might endanger the safety of life and property on board the means of transportation or other contraband articles.

Where the passenger violates the provisions of the preceding paragraph; the carrier may unload, destroy or turn over to the relevant authority the contraband articles. Where the passenger insists on carrying in person or placing in his luggage the contraband articles, the carrier shall refuse to carry.

Article 298 The carrier shall timely inform the passenger of any major causes hindering the normal carriage and the matters which shall be noted for purpose of safety carriage.

Article 299 The carrier shall carry the passenger according to the time and the carriage schedule stated on the passenger ticket. Where the carrier delays in carriage, it shall, upon request by the passenger, either arrange the passenger to take other flights or numbers or refund the ticket-fare.

Article 300 Where the carrier unilaterally changes the means of transportation, thereby lowering the standards of service, it shall, upon request by the passenger, refund the ticket-fare or lower the price of the ticket; where the service standards are enhanced, no additional ticket-fare

shall be charged.

Article 301 In the course of carriage, the carrier shall gives its best efforts to assist the passenger who is seriously ill, or who is giving birth to a child or whose life is at risk.

Article 302 The carrier shall be liable for damages in case of injury or death of the passenger in the course of carriage, except where such injury or death is attributable to the passenger's own health, or the carrier proves that such injury or death is caused by the passenger's intentional misconduct or gross negligence.

The provisions in the preceding paragraph apply to a passenger who is exempted from buying a ticket or holds a preferential ticket pursuant to the relevant provisions, or who is permitted by the carrier to be on board without a ticket.

Article 303 Where an article that the passenger takes with him on board is damaged or destroyed during the period of carriage, the carrier shall be liable for the damage if it has committed faults.

Where the passenger' s check-in luggage is damaged or lost, the relevant provisions on the carriage of cargoes shall be applied.

Section Three Cargo Transportation contracts

Article 304 In undergoing the formalities for cargoes, the consignor shall precisely indicate to carrier the name of the consignee or the consignee by order, the name, nature weight, amount and the place for taking delivery of the cargoes, and other information necessary for cargo carriage.

Where the carrier suffers from damage due to untrue declaration or omission of important information by the consignor, the consignor shall be liable for damages.

Article 305 Where carriage of the cargo is subject to such procedures as examination and approval or inspection, the consignor shall submit to the carrier the documents of fulfillment of the relevant procedure.

Article 306 The consignor shall pack the cargo in the agreed manner. Where the packing manner is not agreed or the agreement is not clear, the provisions of Article 156 of this Law shall be applied.

Where the consignor violates the provisions of the preceding paragraph, the carrier may refuse to carry.

Article 307 In consigning any dangerous articles which are inflammable, explosive, toxic, corrosive, or radioactive, the consignor shall, in accordance with the provisions of the

State on the carriage of dangerous articles, properly pack the dangerous articles and affix thereon signs and labels

for dangerous articles, and shall submit the written papers relating to the number and measures of precaution to the carrier

If the consignor violates the provisions of the preceding paragraph, the carrier may refuse to carry, and may also take corresponding measures to avoid losses, expenses thus caused shall be borne by the consignor .

Article 308 Prior to carrier's delivery of the cargoes to the consignee, the consignor may request the carrier to suspend the carriage, return the cargoes, change the destination or deliver the cargoes to another consignee, but it shall compensate the carrier for any losses thus caused.

Article 309 Upon arrival of the cargoes, if the carrier has the knowledge of the consignee, it shall timely notify the consignee and the consignee shall timely take delivery. Where the consignee takes delivery exceeding the time limit, it shall pay such expenses as storage of the goods, etc.

Article 310 Upon taking delivery of the cargoes, the consignee shall inspect the cargoes at the agreed time. Where the time for inspection is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, the consignee shall inspect the cargo within a reasonable time limit. The consignee's failure to raise any objection on the quantity of, or any damage to, the cargoes within the agreed time limit or within a reasonable time limit is deemed prima facie evidence of delivery by the carrier in compliance with the description in the transportation documents.

Article 311 The carrier is liable for damages in case of damage to or loss of the cargoes in the course of carriage, provided that it is not liable for damages if it proves that such damage to or loss of the cargoes is caused by force majeure, the intrinsic characteristics of the cargoes,reasonable depletion, or the fault of the consignor or consignee.

Article 312 Where the parties agree on the amount of damages in case of damage to or loss of the cargoes,the damages payable is the agreed amount; if the amount of damages is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, it shall be calculated on the basis of the prevailing market price at the destination when the cargoes are or ought to be delivered. Where a law or administrative regulation provides otherwise in respect of the measures for the calculation

of damages and of the ceiling of the amount of damages, these provisions shall be applied.

Article 313 Where two or more carriers jointly carry the cargoes using the same means of transportation,the carrier contracting with the consignor shall be responsible for the whole course of carriage.Where the losses occurred at a particular segment, the carrier contracting with the consignor and the carrier for such segment are jointly and severally liable.

Article 314 Where the cargoes are lost in the course of carriage due to force majeure, if the freight has not been collected, the carrier may not request the payment thereof; if the freight has been collected, the consignor may request the refund of the freight.

Article 315 Where the consignor or consignee fails to pay the freight, storage fees and other carriage expenses, the carrier is entitled to lien on the relevant carried cargoes, except as otherwise agreed upon by the parties.

Article 316 Where the consignee is not clear or refuses to take delivery of the cargoes without justified reasons, the carrier may place the cargo in escrow according to the provisions of Article 101 of this Law.

Section Four Multi-modal Transportation contract

Article 317 A multi-modal carriage operator is responsible for performing, or arranging for performance of, the multi-modal transportation contract, and it enjoys the rights and assumes the obligations of a carrier throughout the course of carriage.

Article 318 The multi-modal carriage operator and the segment carriers may enter into agreements on their respective duties concerning each segment, provided that the obligations of the multi-modal carriage operator with respect to the entire course of carriage are not affected by any such agreement.

Article 319 Upon receipt of the cargo delivered by the consignor, the multi-modal carriage operator shall issue thereto a multi-modal carriage document. The multi-modal carriage document may either be assignable or non-assignable as required by the consignor.

Article 320 Where the multi-modal carriage operator sustains any loss due to the fault of the consignor in the course of consigning the cargo, the consignor shall be liable for damages notwithstanding its subsequent assignment of the multi-modal carriage document.

Article 321 Where damage to or loss of the cargo occurred within a particular segment of the course of a multi-modal carriage, the multi-modal carriage operator's liability for damages and any limitation thereon are governed by the applicable transportation law of the jurisdiction which such segment is under. Where the segment in which the cargo is damaged or lost cannot be determined, the liability for damages shall be borne in accordance with the provisions of this Chapter.

Chapter 18 Technology Contracts

Section One General Provisions

Article 322 A technology contract is a contract the parties conclude for establishing their rights and obligations in respect of the development or transfer of technology, or in respect of technical consulting or service.

Article 323 The conclusion of a technology contract shall be conducive to the advancement of science and technology, and expedite the conversion, application and dissemination of scientific and technological achievements.

Article 324 The contents of a technology contract shall be agreed upon by the parties, and shall contain the following clauses in general:

(1) project name;

(2) contents, scope and requirement of the subject matter;

(3) the plan, schedule, period, place, territory and method of performance;

(4) confidentiality of technical information and materials;

(5) allocation of responsibilities for risks;

(6) ownership of the technology and allocation of benefits accrued therefrom;

(7) standard applicable to and method of acceptance test;

(8) price, remuneration or licensing fee and the method of payment;

(9) liquidated damages or method for calculation of damages;

(10) method of dispute resolution;

(11) definition of terms and phrases.

The parties may agree to include the following materials relating to the performance of the contract as an integral part thereof: technical background information, feasibility studies and technical evaluation report, project task matrix and project plan, technical standard, technical specifications, original design and technique documents, as well as other technical documentation.

Where the technology contract involves any patent, it shall set forth the name of the invention or innovation, the patent applicant and the patentee, the date of application, the application number, patent number and the term of the patent.

Article 325 The method for payment of the price, remuneration or licensing fee under a technology contract shall be agreed upon by the parties, who may agree upon lump-sum payment based on one-time calculation or installment payment based on one-time calculation, and may also agree upon royalty payment or royalty payment plus advance payment of initial fee.

Where a royalty payment method is agreed upon, the royalty may be calculated as a percentage of the product price, any increase in product value resulting from exploitation of the patent or use of the technical secret, profit, or product sales, and may also be calculated by any other method agreed upon by the parties. The royalty rate may be fixed or subject to annual increase or decrease.

Where a royalty payment is agreed, the parties shall agree in the contract a method for inspection of the relevant accounting books.

Article 326 Where the right to use and the right to transfer job-related technology belong to a legal person or an organization of any other nature, the legal person or organization may enter into a technology contract in respect of such job-related technology. The legal person or organization shall reward or remunerate the individual(s) who developed the technology with a percentage of

the benefits accrued from the use and transfer of the job-related technology. Where the legal person or organization is to enter into a technology contract for the transfer of the job-related technology, the individual who accomplished this technological achievement shall have the priority to be the transferee under the same conditions.

A job-related technology is a technology developed in the course of completing a task assigned by a legal person or an organization of any other nature, or developed by primarily utilizing the material and technical resources thereof.

Article 327 The right to use and the right to transfer non-job-related technology belong to the individual developer, who may enter into a technology contract in respect thereof.

Article 328 The individual who developed the technology is entitled to identify himself as the developer in the documentation related thereto, and to receive honor certificate and reward.

Article 329 A technology contract which illegally monopolizes technology, impairs technological advancement or infringes on the technology of a third party is invalid.

Section Two Technology Development Contract

Article 330 A technology development contract is a contract concluded in respect of the development of a new technology, product, technique or material and the associated system.

Technology development contracts include commissioned development contracts and cooperative development contracts.

A technology development contract shall be in written form.

A contract on the conversion of a scientific achievement with potential for industrial application is governed by reference to the provisions on technology development contracts.

Article 331 The commissioning party under a commissioned development contract shall, in accordance with the contract, provide development funds and pay remuneration; supply technical materials and original data; complete its tasks of cooperation; and accept the developed technology.

Article 332 The developer under a commissioned development contract shall, in accordance with the contract, prepare and implement the development plan; use development funds in a reasonable manner; timely complete the development and deliver the developed technology, as well as provide the relevant technical materials and necessary technical guidance so as to help the commissioning party master the technology developed.

Article 333 Where the commissioning party breaches the contract, thereby causing stoppage, delay or failure of the development, it shall be liable for the breach of contract.

Article 334 Where the developer breaches the contract, thereby causing stoppage, delay or failure of the development, it shall be liable for the breach of contract.

Article 335 Parties to a cooperative development contract shall, in accordance with the contract, make investment, including investment in the form of technology; participate in the development by performing their respective tasks; and cooperate with each other in the development.

Article 336 Where a party to a cooperative development contract breaches the contract, thereby causing stoppage, delay or failure of the development, it shall be liable for the breach of contract.

Article 337 Where the technology which is the subject matter of a technology development contract is made public by a third party, thereby making the performance of the technology development contract meaningless, the parties may terminate the contract.

Article 338 If, in the course of implementing a technology development contract, the development is failed in whole or in part due to any insurmountable technical difficulty, allocation of the responsibility for such risk shall be agreed upon by the parties. Where the

allocation of responsibility for such risk is not agreed upon or the agreement is not clear, nor can it be determined in accordance with Article 61of this Law, it shall be shared by the parties in a reasonable manner.

Where a party discovers any circumstance which may lead to the failure of the development in whole or in part as described in the preceding paragraph, it shall timely notify the other party and take the appropriate measures to mitigate loss; where the party fails to timely notify the other party and take the appropriate measures, thereby enlarging the losses, it shall be liable

for the enlarged losses.

Article 339 Unless otherwise agreed upon by the parties, the right to apply for patent on the invention or innovation resulting from a commissioned development belongs to the developer. Where the developer is granted a patent, the commissioning party may exploit such patent free of charge.

Where the developer is to assign the right to apply for patent on the Invention or innovation resulting from the commissioned development, the commissioning party shall have the right to priority in acquiring such right under the same conditions.

Article 340 Unless otherwise agreed upon by the parties, the right to apply for patent on the invention or innovation resulting from a cooperative development belongs to the parties therein jointly.Where a party is to assign its joint patent application right, the other parties shall have the right to priority in acquiring such right under the same conditions.

Where a party in the cooperative development s a waiver of its joint patent

application right, the other party may apply by itself, or the other parties may jointly apply,as the case may be. Where a patent is granted on the invention or innovation, the party waiving its patent application right may exploit such patent free of charge.

If a party in the cooperative development does not consent to the application for patent, the other party or parties may not apply for patent.

Article 341 The right to use and transfer the technical secret resulting from a commissioned or cooperative development, and the method for allocation of benefits accrued therefrom shall be agreed upon by the parties. Where such matters are not

agreed or the agreement is not clear, nor can they be determined in accordance Article 61 of this Law, all of the parties are entitled to use and transfer the technology, provided that the developer in a commissioned development may not transfer the technology to a third party before it delivers the technology to the commissioning party.

Section Three Technology Transfer Contracts

Article 342 Technology transfer contracts include contracts for the assignment of patent, assignment of patent application right, transfer of technical secrets, and patent licensing.

A technology transfer contract shall be in written form.

Article 343 A technology transfer contract may set forth the scope of exploitation of the patent or the use of the technical secret by the transferor and the transferee, provided that it may not restrict technological competition and technological development.

Article 344 A patent licensing contract is only valid during the term of the patent. Where the term of the patent expires or the patent is invalidated, the patentee may not enter into a patent licensing contract with any other person in respect thereof.

Article 345 The transferor under a patent licensing contract shall, in accordance with the contract,license the patent to the transferee, deliver the technical materials related to the exploitation of the patent, and provide the necessary technical guidance.

Article 346 The transferee under a patent licensing contract shall exploit the patent in accordance with the contract and may not license the patent to any third party except as provided for in the contract; and shall pay the licensing fee in accordance with the contract.

Article 347 The transferor under a contract for transfer of technical secret shall, in accordance with the contract, supply the technical materials, provide technical guidance, and warrant the practical applicability and reliability of the technology, and shall abide by its confidentiality obligations.

Article 348 The transferee under a contract for transfer of technical secret shall, in accordance with the contract, use the technology, pay the licensing fee and abide by its confidentiality obligations.

Article 349 The transferor under a technology transfer contract shall warrant that it is the lawful owner of the technology provided, and shall warrant that the technology provided is complete, free from error, effective, and capable of achieving the prescribed goals.

Article 350 The transferee under a technology transfer contract shall, in conformity with the scope and the time period as agreed upon in the contract, abide by its confidentiality obligations in respect of the non-public and secret portion of the technology provided by the transferor.

Article 351 Where the transferor fails to transfer technology in accordance with the contract, it shall refund the licensing fee in part or in whole, and shall be liable for the breach of contract;where the transferor exploits the patent or uses the technical secret beyond the agreed scope, or unilaterally allows the patent to be exploited or the technical secret to be used by a third

party in breach of the contract, it shall cease the breach and be liable for the breach of contract; where the transferor breaches any agreed confidentiality obligation, it shall be liable for the breach of contract.

Article 352 Where the transferee fails to pay the agreed licensing fee, it shall pay the overdue licensing fee and pay breach of contract damages in accordance with the contract; where it fails to pay the overdue licensing fee and breach of contract damages, it shall cease exploitation of the patent or use of the technical secret, return the technical materials, and be liable for the breach of contract; where the transferee exploits the patent or uses the technical secret beyond the agreed scope, or allows the patent to be exploited or the technical secret to be used by a third party without consent of the transferor in breach of the contract, it shall cease the breach and be liable for the breach of contract; where the transferee breaches any agreed confidentiality obligation, it shall be liable for the breach of contract.

Article 353 Where the exploitation of the patent or the use of the technical secret by the transferee in accordance with the contract infringes on the lawful interests of any other person, the liability shall be borne by the transferor, except as otherwise agreed upon by the parties.

Article 354 The parties may, on the basis of mutual benefit, provide in the technology transfer contract for the method of sharing any subsequent improvement resulting from

the exploitation of the patent or use of the technical secret. If such method is not agreed or the agreement is not

clear, nor can it be determined in accordance with Article 61 of this Law, neither party is entitled to share any subsequent improvement made by the other party.

Article 355 Where the relevant laws or administrative regulations provide otherwise in respect of technology import or export contracts or in respect of patent contracts or contracts for patent application, such provisions shall prevail.

Section Four Technical Consulting Contracts and Technical Service Contracts

Article 356 Technical consulting contracts include contracts for provision of feasibility studies,technical forecast, specialized technical investigation, and analysis and evaluation report, etc.in respect of a particular technical project.

A technical service contract means a contract whereby one party solves a particular technical problem for the other party by utilizing its technical knowledge, excluding a contract for construction project or a contract of hired work.

Article 357 The client under a technical consulting contract shall, in accordance with the contract,describe the problem on which consultancy is sought, provide the technical background information as well as related technical materials and data; and accept the work product from, and pay the

remuneration to, the consultant.

Article 358 The consultant under a technical consulting contract shall complete the consulting report or answer the question within the agreed period; the consulting report submitted shall comply with the requirements set forth in the contract.

Article 359 Where the client under a technical consulting contract fails to provide the necessary materials and data in accordance with the contract, thereby impairing the progress and quality of the work, or fails to accept or delays in accepting the work result, it may not claim refund of the remuneration paid, and shall pay any unpaid remuneration.

Where the consultant under the technical consulting contract fails to provide the consulting report within the agreed period or the consulting report submitted does not comply with the contract, it shall be liable for the breach of contract by way of reducing or foregoing the remuneration, etc.

The client under a technical consulting contract shall compensate the loss resulting from any decision made by it based on the complying consulting report and opinion provided by the consultant, except as otherwise agreed upon by the parties.

Article 360 The client under a technical service contract shall, in accordance with the contract, provide the working conditions and complete its tasks of cooperation; accept the work results and pay the remuneration.

Article 361 The service provider under a technical service contract shall, in accordance with the contract, complete the services, solve the technical problem, warrant the quality of its work,and communicate the knowledge for solving the technical problem.

Article 362 Where the client under a technical service contract fails to perform its contractual obligations, or the performance is not in conformity with the contract, thereby impairing the progress and quality of the work, or fails to accept or delays in accepting the work results, it may not claim refund of the remuneration paid, and shall pay any unpaid remuneration.

Where the service provider under a technical service contract fails to complete services in accordance with the contract, it shall be liable for the breach of contract by way of forgoing the remuneration, etc.

Article 363 In the course of performing a technical consulting contract or a technical service contract,any new technology developed by the consultant or service provider utilizing the technical materials and working conditions provided by the client belongs to the consultant or service provider. Any new technology developed by the client utilizing the work results provided by the

consultant or service provider belongs to the client. However, if the parties agree otherwise in the contract, such provisions shall prevail.

Article 364 Where a relevant law or administrative regulation provides otherwise in respect of technology intermediary service contracts or technical training contracts, such provisions shall prevail.

Chapter 19 Storage Contracts

Article 365 A storage contract is a contract whereby the depository keeps the deposit delivered by the depositor, and eventually returns it thereto.

Article 366 The depositor shall pay the storage fee to the depository in accordance with the contract.

Where the storage fee is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, the storage shall be for free.

Article 367 A storage contract is established upon delivery of the deposit, except as otherwise agreed upon by the parties.

Article 368 Upon the depositor's delivery of the deposit to the depository, the depository shall issue a deposit voucher thereto, except as otherwise practised in transaction.

Article 369 The depository shall keep the deposit with due care.

The parties may agree the place and manner of storage. The place and manner of storage may not be changed without authorization, except in an emergency situation or for the purpose of protecting the depositor' s interests.

Article 370 Where the deposit delivered by the depositor has defects or requires special storage measures in light of its nature, the depositor shall inform the depository of the relevant situation.Where the depositor fails to inform, thereby causing damage to the deposit, the depository is not liable for damages; where the depository sustains any loss as a result, the depositor shall be liable for damages, except where the depository is, or ought to be, aware of the situation and fails to take remedial measures.

Article 371 The depository may not delegate storage of the deposit to a third party, except as otherwise agreed upon by the parties.

Where the depository delegated storage of the deposit to a third party in violation of the provisions of the preceding paragraph, thereby causing damage to the deposit, the depository shall be liable for damages.

Article 372 The depository may not use, or allow the use of, the deposit, except as otherwise agreed upon by the parties.

Article 373 Where a third party makes a claim on the deposit, the depository shall perform its obligation of returning the deposit to the depositor, except where an order of preservation or enforcement is carried out in respect of the deposit in accordance with the law.

Where a third party brings a lawsuit against the depository or applies for attachment of the deposit, the depository shall timely notify the depositor.

Article 374 If the deposit is damaged or lost due to improper storage by the depository during the deposit period, the depository shall be liable for damages, provided that if the storage is provided for free, and the depository proves that it has no gross negligence, it shall be not liable for damages.

Article 375 Where the depositor is to deposit money, securities, or any other valuable item for storage,it shall make a declaration to the depository on such item, which shall be inspected or sealed by the depository. Where the depositor fails to make such declaration and the article is damaged,destroyed or lost afterwards, the depository may compensate for it as it is an ordinary article.

Article 376 The depositor may retrieve the deposit at any time.

Where a deposit period is not agreed or the agreement is not clear, the depository may require the depositor to retrieve the deposit at any time; where a deposit period is agreed,without special reason, the depository may not require the depositor to retrieve the deposit before the expiry of the deposit period.

Article 377 At the expiry of the deposit period, or if the depositor retrieves the deposit before the expiry of the deposit period, the depository shall return the original item together with any fruit thereof to the depositor.

Article 378 Where the depository keeps money deposit, it may return money of the same type and quantity.Where the depository keeps any other fungible item, it may return any item of the same type,quality and quantity in accordance with the contract.

Article 379 Under a storage contract for value, the depositor shall pay to the depository the storage fee at the agreed time.

Where the time of payment of the storage fee is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61 of this Law, the storage fee shall be paid at the same time the deposit is retrieved.

Article 380 Where the depositor fails to pay the storage fee and other expenses, the depository is entitled to lien on the deposit, unless as otherwise agreed upon by the parties.

Chapter 20 Warehousing Contracts

Article 381A warehousing contract is a contract whereby the safekeeping party stores the goods delivered by the depositor, and the depositor pays the warehousing fee.

Article 382 A warehousing contract becomes effective upon its formation.

Article 383 Where the depositor intends to store any dangerous article which is inflammable, explosive,toxic, corrosive, or radioactive, etc., or any material susceptible to deterioration, it shall indicate the nature of the goods and provide the relevant information.

Where the depositor violates the provisions of the preceding paragraph, the safekeeping party may reject the goods and may also take the appropriate measures to avoid losses, the cost consequently incurred shall be borne by the depositor.

Where the safekeeping party is to store any dangerous article that is inflammable, explosive,toxic, corrosive, or radioactive, etc., it shall be equipped with the appropriate safekeeping conditions.

Article 384 The safekeeping party shall, in accordance with the contract, conduct warehouse-in inspection of the goods. Where in the course of such inspection, the safekeeping party discovers that the goods are not in conformity with the terms of the contract, it shall timely notify the depositor.

After inspection and acceptance by the safekeeping party, if it is discovered that the category,quantity or quality of the warehousing goods are not in conformity with the terms of the contract, the safekeeping party shall be liable for damages.

Article 385 Upon the depositor's delivery of the goods, the safekeeping party shall issue a warehouse receipt.

Article 386 The safekeeping party shall sign or affix a seal on the warehouse receipt. The warehouse receipt shall contain the following items:

(1) name and domicile of the depositor;

(2) category, quantity, quality, and package, number of pieces and marks of the warehousing goods;

(3) standards of spoilage of the warehousing goods;

(4) place of storage;

(5) time period of storage;

(6) warehousing fee;

(7) if the goods have been insured, the insured amount, term of insurance and the name of the insurer;

(8) name of the person issuing the warehouse receipt, the place and the date of issuance.

Article 387 The warehouse receipt is the voucher for retrieving the goods. Where the depositor or holder of the warehouse receipt has endorsed the warehouse receipt and the safekeeping party has signed or sealed thereon, the right to retrieve the goods may be assigned.

Article 388 Upon request of the depositor or the holder of the warehouse receipt, the safekeeping party shall allow the person to inspect the goods or take samples therefrom.

Article 389 Where the safekeeping party discovers that the warehoused goods are deteriorating or are otherwise damaged, it shall timely notify the depositor or holder of the warehouse receipt.

Article 390 Where the safekeeping party discovers that the warehoused goods are deteriorating or are otherwise damaged, thereby endangering the safety and normal safekeeping of other warehoused goods, it shall demand disposal of the goods by the depositor or the holder of the warehouse receipt as necessary. In an emergency situation, the safekeeping party may dispose of the goods as necessary, but shall timely notify the depositor or holder of the warehouse receipt of the situation.

Article 391 Where the warehousing period is not agreed or the agreement is not clear, the depositor or holder of the warehouse receipt may retrieve the goods at any time, and the safekeeping party may require the depositor or holder of the warehouse receipt to retrieve the goods at any time,provided that the other party shall be given the time required for preparation.

Article 392 At the expiry of the warehousing period, the depositor or holder of the warehouse receipt shall retrieve the goods by presenting the warehouse receipt to the safekeeping party. Where the depositor or holder of the warehouse receipt fails to claim the goods, additional warehousing fee

shall be charged; where the goods are retrieved before the expiry the warehousing period, the warehousing fee shall not be reduced.

Article 393 At the expiry of the warehousing period, if the depositor or holder of the warehouse receipt fails to retrieve the goods, the safekeeping party may demand retrieval within a reasonable period, and if the goods are not retrieved at the expiry of such period, the safekeeping party may place the goods in escrow.

Article 394 Where the goods are damaged or lost during the warehousing period due to improper safekeeping by the safekeeping party, it shall be liable for damages. If the goods are deteriorated or damaged due to unconformity of the nature of the warehoused goods or of the packing with the terms of the contract, or the fact that the goods exceed the valid storage period, the

safekeeping party is not liable for damages.

Article 395 Matters not provided for in this Chapter shall be governed by the relevant provision on storage contracts.

Chapter 21 Commission Contracts

Article 396 A commission contract is a contract whereby the principal and the agent agree that the agent will handle the principal's affairs.

Article 397 The principal may specifically appoint the agent to handle one or more of its affairs, or generally appoint the agent to handle all of its affairs.

Article 398 The principal shall prepay the expenses for handling the commissioned affair. Any expense necessary for handling the commissioned affair advanced by the agent shall be repaid with interest by the principal.

Article 399 The agent shall handle the commissioned affair in accordance with the instruction of the principal. Any required deviation from the principal's instruction is subject to consent by the principal; in an emergency where the agent has difficulty in contacting the principal, the agent shall properly handle the commissioned affair, provided that thereafter the agent shall timely

notify the principal of the situation.

Article 400 The agent shall personally handle the commissioned affair. Subject to consent by the principal, the agent may delegate the agency to a third party. If the delegation is approved, the principal may issue instructions concerning the commissioned affair directly to the delegate, and

the agent is only responsible for its selection of the delegate or its own instruction thereto.Where the agency is delegated without consent, the agent shall be liable for any act of the delegate, except in an emergency where the agent needs to delegate the agency in order to safeguard the interests of the principal.

Article 401 Upon request by the principal, the agent shall report on the progress of the commissioned affair. Upon discharge of the commission contract, the agent shall render an account of the commissioned affair.

Article 402 Where the agent, acting within the scope of authority granted by the principal, enter into a contract in its own name with a third party who is aware of the agency relationship between the principal and agent, the contract is directly binding upon the principal and such third party,except where there is conclusive evidence establishing that the contract is only binding upon the

agent and such third party.

Article 403 Where the agent enter into a contract in its own name with a third party who is not aware of the agency relationship between the agent and the principal, if the agent fails to perform its obligation toward the principal due to any reason attributable to such third party, the agent

shall disclose the third party to the principal, allowing it to exercise the agent's rights against such third party, except where the third party will not enter into the contract with the agent if he knows the identity of the principal at the time of entering into the contract.

Where the agent fails to perform its obligation toward the third party due to any reason attributable to the principal, the agent shall disclose the principal to the third party,allowing the third party to select in alternative either the principal or the agent as the other contract party against whom to make a claim, provided that the third party may not subsequently change its selection of the contract party.

Where the principal exercises the rights of the agent against the third party, the third party may avail itself of any defense it has against the agent. Where the third party selects

the principal as the other party to the contract, the principal may avail itself of any defense it has against the agent as well as any defense the agent has against the third party.

Article 404 Any property acquired by the agent in the course of handling the commissioned affair shall be turned over to the principal.

Article 405 Upon completion of the commissioned affair by the agent, the principal shall pay the remuneration thereto. Where the agency appointment contract is terminated or the commissioned affair is not capable of being completed due to any reason not attributable to the agent, the principal shall pay to the agent an appropriate amount of remuneration. If the parties agrees

otherwise, such agreement shall prevail.

Article 406 Under a commission contract for value, if the principal sustains any loss due to the fault of the agent, the principal may claim damages. Under a gratuitous agency appointment contract, if the principal sustains any loss due to the agent's intentional misconduct or gross negligence,the principal may claim damages.

Where the agent acts beyond the scope of authorization, thereby causing loss to the principal, it shall pay damages.

Article 407 In the course of handling the commissioned affair, if the agent sustains any loss due to a reason not attributable to itself, the agent may seek indemnification from the principal.

Article 408 Subject to consent by the agent, the principal may, in addition to appointing the agent, also appoint a third party to handle the commissioned affair. If such appointment results in loss to the agent, it may seek indemnification from the principal.

Article 409 Where two or more agents jointly handle the commissioned affair, they are jointly and severally liable to the principal.

Article 410 Either the principal or the agent may terminate the agency appointment contract at any time.Where the other party sustains any loss due to termination of the contract, the terminating party shall indemnify the other party, unless such loss is due to a reason not attributable to the terminating party.

Article 411 A commission contract is discharged when either the principal or the agent is deceased or incapacitated or enters into bankruptcy, except where the parties agree otherwise, or where discharge is inappropriate in light of the nature of the commissioned affair.

Article 412 Where discharge of the commission contract due to the death, incapacitation or bankruptcy of the principal will harm the principal's interests, the agent shall continue to handle the commissioned affair before an heir, legal agent or liquidation team thereof takes over the commissioned affair.

Article 413 If the commission contract is discharged as a result of the death, incapacitation or bankruptcy of the agent, the heir, legal agent or liquidation team thereof shall timely notify the principal. Where discharge of the agency contract will harm the principal's interests, before the principal makes any care-taking arrangement, the heir, legal agent or liquidation team of the agent shall take the necessary measures.

Chapter 22 Contracts of Commission Agency

Article 414 A contract of commission agency is a contract whereby the commission agent conducts trading activities in its own name for the principal, and the principal pays the remuneration.

Article 415 The expenses incurred by the commission agent in the course of handling the commissioned affair shall be borne by the commission agent, except as otherwise agreed upon by the parties.

Article 416 Where the commission agent is in possession of the entrusted item, it shall keep the entrusted item with due care.

Article 417 If an entrusted item is defective, perishable or susceptible to deterioration at the time it was delivered to the commission agent, upon consent by the principal, the commission agent may dispose of the item; where the trustee-trader is unable to contact the principal in time, it may dispose of the entrusted item in a reasonable manner.

Article 418 Where the commission agent is to sell the entrusted item below, or buy the entrusted item above, the price designated by the principal, it shall obtain consent from

the principal. If such sale is effected without consent by the principal, and the commission agent makes up the deficiency on its own, it is binding on the principal.

Where the commission agent sells the entrusted item above, or purchases the entrusted item below, the price designated by the principal, the remuneration may be increased in accordance with the contract. Where such matter is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61of this Law, the benefit belongs to the principal.

Where the principal gives special pricing instruction, the commission agent may not make any sale or purchase in contravention thereof.

Article 419 Where the commission agent is to sell or purchase a commodity the price of which is fixed by the market, the commission agent may act as the purchaser or seller itself, unless the principal expresses otherwise.

Where the commission agent is under the situation prescribed in the preceding paragraph, it may still require payment of remuneration from the principal.

Article 420 Once the commission agent purchases the entrusted item in accordance with the contract, the principal shall timely take delivery. Where after receiving demand from the commission agent, the principal refuses to take delivery without cause, the commission agent may place the entrusted item in escrow in accordance with Article 101 of this Law.

Where the entrusted item fails to be sold or the principal withdraws it from sale, the commission agent may place the entrusted item in escrow in accordance with Article 101 of this Law if the principal fails to retrieve or dispose of it after receiving such demand from commission agent.

Article 421 Where the commission agent enters into a contract with a third party, it directly enjoys the rights and assumes the obligations thereunder.

Where the third party fails to perform its obligations, thereby causing damage to the principal, the commission agent shall be liable for damages, except as otherwise agreed upon by the commission agent and the principal.

Article 422 Where the commission agent has completed the entrusted matter or has partially completed the entrusted matter, the principal shall pay the appropriate remuneration thereto. Where the principal fails to pay the remuneration within the prescribed period, the commission agent is entitled to lien on the entrusted item, except as otherwise agreed upon by the parties.

Article 423 Matters not prescribed in this Chapter shall be governed by the relevant provision on commission contracts.

Chapter 23 Intermediation contracts

Article 424 A intermediation contract is a contract whereby the broker presents to the client an opportunity for entering into a contract or provides the client with intermediary services in connection with the conclusion thereof, and the client pays the remuneration.

Article 425 The broker shall provide true information concerning matters relevant to the conclusion of the proposed contract.

Where the broker intentionally conceals any material fact or provided false information in connection with the conclusion of the proposed contract, thereby harming the client' s interests,it may not require payment of any remuneration and shall be liable for damages.

Article 426 Once the broker facilitates the formation of the proposed contract, the client shall pay the remuneration in accordance with the intermediation contract. Where remuneration to the broker is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 61

of this Law, it shall be reasonably fixed in light of the amount of labor expended by the broker.Where the broker facilitates the formation of the proposed contract by providing intermediary services in connection therewith, the remuneration paid to the broker shall be equally borne by parties thereto.

Where the broker facilitates the formation of the proposed contract, the brokerage expenses shall be borne by itself.

Article 427 Where the broker fails to facilitate the formation of the proposed contract, it may not require payment of remuneration, provided that it may require the client to reimburse the necessary brokerage expenses incurred.

Supplementary Provisions

Article 428 This Law shall take effect as of October 1, 1999, and the Economic Contract Law of the People's Republic of China, the Foreign-related Economic Contract Law of the People's Republic of China, and the Technology Contract Law of the People's Republic of China shall be repealed simultaneously.

中华人民共和国主席令

（第十五号）

《中华人民共和国合同法》已由中华人民共和国第九届全国人民代表大会第二次会议于１９９９年３月１５日通过，现予公布，自１９９９年１０月１日起施行。

中华人民共和国主席　江泽民

１９９９年３月１５日

中华人民共和国合同法

（１９９９年３月１５日第九届全国人民代表大会第二次会议通过）

总则

第一章　一般规定

第一条　【立法目的】为了保护合同当事人的合法权益，维护社会经济秩序，促进社会主义现代化建设，制定本法。

第二条　【合同定义】本法所称合同是平等主体的自然人、法人、其他组织之间设立、变更、终止民事权利义务关系的协议。

婚姻、收养、监护等有关身份关系的协议，适用其他法律的规定。

第三条　【平等原则】合同当事人的法律地位平等，一方不得将自己的意志强加给另一方。

第四条　【合同自由原则】当事人依法享有自愿订立合同的权利，任何单位和个人不得非法干预。

第五条　【公平原则】当事人应当遵循公平原则确定各方的权利和义务。

第六条　【诚实信用原则】当事人行使权利、履行义务应当遵循诚实信用原则。

第七条　【遵纪守法原则】当事人订立、履行合同，应当遵守法律、行政法规，尊重社会公德，不得扰乱社会经济秩序，损害社会公共利益。

第八条　【依合同履行义务原则】依法成立的合同，对当事人具有法律约束力。当事人应当按照约定履行自己的义务，不得擅自变更或者解除合同。

依法成立的合同，受法律保护。

第二章　合同的订立

第九条　【订立合同的能力】当事人订立合同，应当具有相应的民事权利能力和民事行为能力。

当事人依法可以委托代理人订立合同。

第十条　【合同的形式】当事人订立合同，有书面形式、口头形式和其他形式。

法律、行政法规规定采用书面形式的，应当采用书面形式。当事人约定采用书面形式的，应当采用书面形式。

第十一条 【书面形式】书面形式是指合同书、信件和数据电文（包括电报、电传、传真、电子数据交换和电子邮件）等可以有形地表现所载内容的形式。

第十二条 【合同内容】合同的内容由当事人约定，一般包括以下条款：

（一）当事人的名称或者姓名和住所；

（二）标的；

（三）数量；

（四）质量；

（五）价款或者报酬；

（六）履行期限、地点和方式；

（七）违约责任；

（八）解决争议的方法。

当事人可以参照各类合同的示范文本订立合同。

第十三条 【订立合同方式】当事人订立合同，采取要约、承诺方式。

第十四条 【要约】要约是希望和他人订立合同的意思表示，该意思表示应当符合下列规定：

（一）内容具体确定；

（二）表明经受要约人承诺，要约人即受该意思表示约束。

第十五条 【要约邀请】要约邀请是希望他人向自己发出要约的意思表示。寄送的价目表、拍卖公告、招标公告、招股说明书、商业广告等为要约邀请。

商业广告的内容符合要约规定的，视为要约。

第十六条 【要约的生效】要约到达受要约人时生效。

采用数据电文形式订立合同，收件人指定特定系统接收数据电文的，该数据电文进入该特定系统的时间，视为到达时间；未指定特定系统的，该数据电文进入收件人的任何系统的首次时间，视为到达时间。

第十七条 【要约的撤回】要约可以撤回。撤回要约的通知应当在要约到达受要约人之前或者与要约同时到达受要约人。

第十八条 【要约的撤销】要约可以撤销。撤销要约的通知应当在受要约人发出承诺通知之前到达受要约人。

第十九条 【要约不得撤销的情形】有下列情形之一的，要约不得撤销：

（一）要约人确定了承诺期限或者以其他形式明示要约不可撤销；

（二）受要约人有理由认为要约是不可撤销的，并已经为履行合同作了准备工作。

第二十条 【要约的失效】有下列情形之一的，要约失效：

（一）拒绝要约的通知到达要约人；

（二）要约人依法撤销要约；

（三）承诺期限届满，受要约人未作出承诺；

（四）受要约人对要约的内容作出实质性变更。

第二十一条 【承诺的定义】承诺是受要约人同意要约的意思表示。

第二十二条 【承诺的方式】承诺应当以通知的方式作出，但根据交易习惯或者要约表明可以通过行为作出承诺的除外。

第二十三条 【承诺的期限】承诺应当在要约确定的期限内到达要约人。

要约没有确定承诺期限的，承诺应当依照下列规定到达：

（一）要约以对话方式作出的，应当即时作出承诺，但当事人另有约定的除外；

（二）要约以非对话方式作出的，承诺应当在合理期限内到达。

第二十四条 【承诺期限的起点】要约以信件或者电报作出的，承诺期限自信件载明的日期或者电报交发之日开始计算。信件未载明日期的，自投寄该信件的邮戳日期开始计算。要约以电话、传真等快速通讯方式作出的，承诺期限自要约到达受要约人时开始计算。

第二十五条 【合同成立时间】承诺生效时合同成立。

第二十六条 【承诺的生效】承诺通知到达要约人时生效。承诺不需要通知的，根据交易习惯或者要约的要求作出承诺的行为时生效。

采用数据电文形式订立合同的，承诺到达的时间适用本法第十六条第二款的规定。

第二十七条 【承诺的撤回】承诺可以撤回。撤回承诺的通知应当在承诺通知到达要约人之前或者与承诺通知同时到达要约人。

第二十八条 【新要约】受要约人超过承诺期限发出承诺的，除要约人及时通知受要约人该承诺有效的以外，为新要约。

第二十九条 【迟到的承诺】受要约人在承诺期限内发出承诺，按照通常情形能够及时到达要约人，但因其他原因承诺到达要约人时超过承诺期限的，除要约人及时通知受要约人因承诺超过期限不接受该承诺的以外，该承诺有效。

第三十条 【承诺的变更】承诺的内容应当与要约的内容一致。受要约人对要约的内容作出实质性变更的，为新要约。有关合同标的、数量、质量、价款或者报酬、履行期限、履行地点和方式、违约责任和解决争议方法等的变更，是对要约内容的实质性变更。

第三十一条 【承诺的内容】承诺对要约的内容作出非实质性变更的，除要约人及时表示反对或者要约表明承诺不得对要约的内容作出任何变更的以外，该承诺有效，合同的内容以承诺的内容为准。

第三十二条 【合同成立时间】当事人采用合同书形式订立合同的，自双方当事人签字或者盖章时合同成立。

第三十三条 【确认书与合同成立】当事人采用信件、数据电文等形式订立合同的，可以在合同成立之前要求签订确认书。签订确认书时合同成立。

第三十四条 【合同成立地点】承诺生效的地点为合同成立的地点。

采用数据电文形式订立合同的，收件人的主营业地为合同成立的地点；没有主营业地的，其经常居住地为合同成立的地点。当事人另有约定的，按照其约定。

第三十五条 【书面合同成立地点】当事人采用合同书形式订立合同的，双方当事人签字或者盖章的地点为合同成立的地点。

第三十六条 【书面合同与合同成立】法律、行政法规规定或者当事人约定采用书面形式订立合同，当事人未采用书面形式但一方已经履行主要义务，对方接受的，该合同成立。

第三十七条 【合同书与合同成立】采用合同书形式订立合同，在签字或者盖章之前，当事人一方已经履行主要义务，对方接受的，该合同成立。

第三十八条 【依国家计划订立合同】国家根据需要下达指令性任务或者国家订货任务的，有关法人、其他组织之间应当依照有关法律、行政法规规定的权利和义务订立合同。

第三十九条 【格式合同条款定义及使用人义务】采用格式条款订立合同的，提供格式条款的一方应当遵循公平原则确定当事人之间的权利和义务，并采取合理的方式提请对方注意免除或者限制其责任的条款，按照对方的要求，对该条款予以说明。

格式条款是当事人为了重复使用而预先拟定，并在订立合同时未与对方协商的条款。

第四十条 【格式合同条款的无效】格式条款具有本法第五十二条和第五十三条规定情形的，或者提供格式条款一方免除其责任、加重对方责任、排除对方主要权利的，该条款无效。

第四十一条 【格式合同的解释】对格式条款的理解发生争议的，应当按照通常理解予以解释。对格式条款有两种以上解释的，应当作出不利于提供格式条款一方的解释。格式条款和非格式条款不一致的，应当采用非格式条款。

第四十二条 【缔约过失】当事人在订立合同过程中有下列情形之一，给对方造成损失的，应当承担损害赔偿责任：

（一）假借订立合同，恶意进行磋商；

（二）故意隐瞒与订立合同有关的重要事实或者提供虚假情况；

（三）有其他违背诚实信用原则的行为。

第四十三条 【保密义务】当事人在订立合同过程中知悉的商业秘密，无论合同是否成立，不得泄露或者不正当地使用。泄露或者不正当地使用该商业秘密给对方造成损失的，应当承担损害赔偿责任。

第三章 合同的效力

第四十四条 【合同的生效】依法成立的合同，自成立时生效。

法律、行政法规规定应当办理批准、登记等手续生效的，依照其规定。

第四十五条 【附条件的合同】当事人对合同的效力可以约定附条件。附生效条件的合同，自条件成就时生效。附解除条件的合同，自条件成就时失效。

当事人为自己的利益不正当地阻止条件成就的，视为条件已成就；不正当地促成条件成就的，视为条件不成就。

第四十六条 【附期限的合同】当事人对合同的效力可以约定附期限。附生效期限的合同，自期限届至时生效。附终止期限的合同，自期限届满时失效。

第四十七条 【限制行为能力人订立的合同】限制民事行为能力人订立的合同，经法定代理人追认后，该合同有效，但纯获利益的合同或者与其年龄、智力、精神健康状况相适应而订立的合同，不必经法定代理人追认。

相对人可以催告法定代理人在一个月内予以追认。法定代理人未作表示的，视为拒绝追认。合同被追认之前，善意相对人有撤销的权利。撤销应当以通知的方式作出。

第四十八条 【无权代理人订立的合同】行为人没有代理权、超越代理权或者代理权终止后以被代理人名义订立的合同，未经被代理人追认，对被代理人不发生效力，由行为人承担责任。

相对人可以催告被代理人在一个月内予以追认。被代理人未作表示的，视为拒绝追认。合同被追认之前，善意相对人有撤销的权利。撤销应当以通知的方式作出。

第四十九条 【表见代理】行为人没有代理权、超越代理权或者代理权终止后以被代理人名义订立合同，相对人有理由相信行为人有代理权的，该代理行为有效。

第五十条 【法定代表人越权行为】法人或者其他组织的法定代表人、负责人超越权限订立的合同，除相对人知道或者应当知道其超越权限的以外，该代表行为有效。

第五十一条 【无处分权人订立的合同】无处分权的人处分他人财产，经权利人追认或者无处分权的人订立合同后取得处分权的，该合同有效。

第五十二条 【合同无效的法定情形】有下列情形之一的，合同无效：

（一）一方以欺诈、胁迫的手段订立合同，损害国家利益；

（二）恶意串通，损害国家、集体或者第三人利益；

（三）以合法形式掩盖非法目的；

（四）损害社会公共利益；

（五）违反法律、行政法规的强制性规定。

第五十三条 【合同免责条款的无效】合同中的下列免责条款无效：

（一）造成对方人身伤害的；

（二）因故意或者重大过失造成对方财产损失的。

第五十四条 【可撤销合同】下列合同，当事人一方有权请求人民法院或者仲裁机构变更或者撤销：

（一）因重大误解订立的；

（二）在订立合同时显失公平的。

一方以欺诈、胁迫的手段或者乘人之危，使对方在违背真实意思的情况下订立的合同，受损害方有权请求人民法院或者仲裁机构变更或者撤销。

当事人请求变更的，人民法院或者仲裁机构不得撤销。

第五十五条 【撤销权的消灭】有下列情形之一的，撤销权消灭：

（一）具有撤销权的当事人自知道或者应当知道撤销事由之日起一年内没有行使撤销权；

（二）具有撤销权的当事人知道撤销事由后明确表示或者以自己的行为放弃撤销权。

第五十六条 【合同自始无效与部分有效】无效的合同或者被撤销的合同自始没有法律约束力。合同部分无效，不影响其他部分效力的，其他部分仍然有效。

第五十七条 【合同解决争议条款的效力】合同无效、被撤销或者终止的，不影响合同中独立存在的有关解决争议方法的条款的效力。

第五十八条 【合同无效或被撤销的法律后果】合同无效或者被撤销后，因该合同取得的财产，应当予以返还；不能返还或者没有必要返还的，应当折价补偿。有过错的一方应当赔偿对方因此所受到的损失，双方都有过错的，应当各自承担相应的责任。

第五十九条 【恶意串通获取财产的返还】当事人恶意串通，损害国家、集体或者第三人利益的，因此取得的财产收归国家所有或者返还集体、第三人。

第四章 合同的履行

第六十条 【严格履行与诚实信用】当事人应当按照约定全面履行自己的义务。

当事人应当遵循诚实信用原则，根据合同的性质、目的和交易习惯履行通知、协助、保密等义务。

第六十一条 【合同约定不明的补救】合同生效后，当事人就质量、价款或者报酬、履行地点等内容没有约定或者约定不明确的，可以协议补充；不能达成补充协议的，按照合同有关条款或者交易习惯确定。

第六十二条 【合同约定不明时的履行】当事人就有关合同内容约定不明确，依照本法第六十一条的规定仍不能确定的，适用下列规定：

（一）质量要求不明确的，按照国家标准、行业标准履行；没有国家标准、行业标准的，按照通常标准或者符合合同目的的特定标准履行。

（二）价款或者报酬不明确的，按照订立合同时履行地的市场价格履行；依法应当执行政府定价或者政府指导价的，按照规定履行。

（三）履行地点不明确，给付货币的，在接受货币一方所在地履行；交付不动产的，在不动产所在地履行；其他标的，在履行义务一方所在地履行。

（四）履行期限不明确的，债务人可以随时履行，债权人也可以随时要求履行，但应当给对方必要的准备时间。

（五）履行方式不明确的，按照有利于实现合同目的的方式履行。

（六）履行费用的负担不明确的，由履行义务一方负担。

第六十三条 【交付期限与价格执行】执行政府定价或者政府指导价的，在合同约定的交付期限内政府价格调整时，按照交付时的价格计价。逾期交付标的物的，遇价格上涨时，按照原价格执行；价格下降时，按照新价格执行。逾期提取标的物或者逾期付款的，遇价格上涨时，按照新价格执行；价格下降时，按照原价格执行。

第六十四条 【向第三人履行合同】当事人约定由债务人向第三人履行债务的，债务人未向第三人履行债务或者履行债务不符合约定，应当向债权人承担违约责任。

第六十五条 【第三人不履行合同的责任承担】当事人约定由第三人向债权人履行债务，第三人不履行债务或者履行债务不符合约定，债务人应当向债权人承担违约责任。

第六十六条 【同时履行抗辩权】当事人互负债务，没有先后履行顺序的，应当同时履行。一方在对方履行之前有权拒绝其履行要求。一方在对方履行债务不符合约定时，有权拒绝其相应的履行要求。

第六十七条 【先履行义务】当事人互负债务，有先后履行顺序，先履行一方未履行的，后履行一方有权拒绝其履行要求。先履行一方履行债务不符合约定的，后履行一方有权拒绝其相应的履行要求。

第六十八条 【不安抗辩权】应当先履行债务的当事人，有确切证据证明对方有下列情形之一的，可以中止履行：

（一）经营状况严重恶化；

（二）转移财产、抽逃资金，以逃避债务；

（三）丧失商业信誉；

（四）有丧失或者可能丧失履行债务能力的其他情形。

当事人没有确切证据中止履行的，应当承担违约责任。

第六十九条 【不安抗辩权的行使】当事人依照本法第六十八条的规定中止履行的，应当及时通知对方。对方提供适当担保时，应当恢复履行。中止履行后，对方在合理期限内未恢复履行能力并且未提供适当担保的，中止履行的一方可以解除合同。

第七十条 【因债权人原因致债务履行困难的处理】债权人分立、合并或者变更住所没有通知债务人，致使履行债务发生困难的，债务人可以中止履行或者将标的物提存。

第七十一条 【债务的提前履行】债权人可以拒绝债务人提前履行债务，但提前履行不损害债权人利益的除外。

债务人提前履行债务给债权人增加的费用，由债务人负担。

第七十二条 【债务的部分履行】债权人可以拒绝债务人部分履行债务，但部分履行不损害债权人利益的除外。

债务人部分履行债务给债权人增加的费用，由债务人负担。

第七十三条 【债权人的代位权】因债务人怠于行使其到期债权，对债权人造成损害的，债权人可以向人民法院请求以自己的名义代位行使债务人的债权，但该债权专属于债务人自身的除外。

代位权的行使范围以债权人的债权为限。债权人行使代位权的必要费用，由债务人负担。

第七十四条 【债权人的撤销权】因债务人放弃其到期债权或者无偿转让财产，对债权人造成损害的，债权人可以请求人民法院撤销债务人的行为。债务人以明显不合理的低价转让财产，对债权人造成损害，并且受让人知道该情形的，债权人也可以请求人民法院撤销债务人的行为。

撤销权的行使范围以债权人的债权为限。债权人行使撤销权的必要费用，由债务人负担。

第七十五条 【撤销权的期间】撤销权自债权人知道或者应当知道撤销事由之日起一年内行使。自债务人的行为发生之日起五年内没有行使撤销权的，该撤销权消灭。

第七十六条 【当事人变化对合同履行的影响】合同生效后，当事人不得因姓名、名称的变更或者法定代表人、负责人、承办人的变动而不履行合同义务。

第五章 合同的变更和转让

第七十七条 【合同变更条件】当事人协商一致，可以变更合同。

法律、行政法规规定变更合同应当办理批准、登记等手续的，依照其规定。

第七十八条 【合同变更内容不明的处理】当事人对合同变更的内容约定不明确的，推定为未变更。

第七十九条 【债权的转让】债权人可以将合同的权利全部或者部分转让给第三人，但有下列情形之一的除外：

（一）根据合同性质不得转让；

（二）按照当事人约定不得转让；

（三）依照法律规定不得转让。

第八十条 【债权转让的通知义务】债权人转让权利的，应当通知债务人。未经通知，该转让对债务人不发生效力。

债权人转让权利的通知不得撤销，但经受让人同意的除外。

第八十一条 【从权利的转移】债权人转让权利的，受让人取得与债权有关的从权利，但该从权利专属于债权人自身的除外。

第八十二条 【债务人的抗辩权】债务人接到债权转让通知后，债务人对让与人的抗辩，可以向受让人主张。

第八十三条 【债务人的抵销权】债务人接到债权转让通知时，债务人对让与人享有债权，并且债务人的债权先于转让的债权到期或者同时到期的，债务人可以向受让人主张抵销。

第八十四条 【债权人同意】债务人将合同的义务全部或者部分转移给第三人的，应当经债权人同意。

第八十五条 【承担人的抗辩】债务人转移义务的，新债务人可以主张原债务人对债权人的抗辩。

第八十六条 【从债的转移】债务人转移义务的，新债务人应当承担与主债务有关的从债务，但该从债务专属于原债务人自身的除外。

第八十七条 【合同转让形式要件】法律、行政法规规定转让权利或者转移义务应当办理批准、登记等手续的，依照其规定。

第八十八条 【概括转让】当事人一方经对方同意，可以将自己在合同中的权利和义务一并转让给第三人。

第八十九条 【概括转让的效力】权利和义务一并转让的，适用本法第七十九条、第八十一条至第八十三条、第八十五条至第八十七条的规定。

第九十条 【新当事人的概括承受】当事人订立合同后合并的，由合并后的法人或者其他组织行使合同权利，履行合同义务。当事人订立合同后分立的，除债权人和债务人另有约定的以外，由分立的法人或者其他组织对合同的权利和义务享有连带债权，承担连带债务。

第六章 合同的权利义务终止

第九十一条 【合同消灭的原因】有下列情形之一的，合同的权利义务终止：

（一）债务已经按照约定履行；

（二）合同解除；

（三）债务相互抵销；

（四）债务人依法将标的物提存；

（五）债权人免除债务；

（六）债权债务同归于一人；

（七）法律规定或者当事人约定终止的其他情形。

第九十二条 【合同终止后的义务】合同的权利义务终止后，当事人应当遵循诚实信用原则，根据交易习惯履行通知、协助、保密等义务。

第九十三条 【合同约定解除】当事人协商一致，可以解除合同。

当事人可以约定一方解除合同的条件。解除合同的条件成就时，解除权人可以解除合同。

第九十四条 【合同的法定解除】有下列情形之一的，当事人可以解除合同：

（一）因不可抗力致使不能实现合同目的；

（二）在履行期限届满之前，当事人一方明确表示或者以自己的行为表明不履行主要债务；

（三）当事人一方迟延履行主要债务，经催告后在合理期限内仍未履行；

（四）当事人一方迟延履行债务或者有其他违约行为致使不能实现合同目的；

（五）法律规定的其他情形。

第九十五条 【解除权消灭】法律规定或者当事人约定解除权行使期限，期限届满当事人不行使的，该权利消灭。

法律没有规定或者当事人没有约定解除权行使期限，经对方催告后在合理期限内不行使的，该权利消灭。

第九十六条 【解除权的行使】当事人一方依照本法第九十三条第二款、第九十四条的规定主张解除合同的，应当通知对方。合同自通知到达对方时解除。对方有异议的，可以请求人民法院或者仲裁机构确认解除合同的效力。

法律、行政法规规定解除合同应当办理批准、登记等手续的，依照其规定。

第九十七条 【解除的效力】合同解除后，尚未履行的，终止履行；已经履行的，根据履行情况和合同性质，当事人可以要求恢复原状、采取其他补救措施、并有权要求赔偿损失。

第九十八条 【结算、清理条款效力】合同的权利义务终止，不影响合同中结算和清理条款的效力。

第九十九条 【债务的抵销及行使】当事人互负到期债务，该债务的标的物种类、品质相同的，任何一方可以将自己的债务与对方的债务抵销，但依照法律规定或者按照合同性质不得抵销的除外。

当事人主张抵销的，应当通知对方。通知自到达对方时生效。抵销不得附条件或者附期限。

第一百条 【债务的约定抵销】当事人互负债务，标的物种类、品质不相同的，经双方协商一致，也可以抵销。

第一百零一条 【提存的要件】有下列情形之一，难以履行债务的，债务人可以将标的物提存：

（一）债权人无正当理由拒绝受领；

（二）债权人下落不明；

（三）债权人死亡未确定继承人或者丧失民事行为能力未确定监护人；

（四）法律规定的其他情形。

标的物不适于提存或者提存费用过高的，债务人依法可以拍卖或者变卖标的物，提存所得的价款。

第一百零二条 【提存后的通知】标的物提存后，除债权人下落不明的以外，债务人应当及时通知债权人或者债权人的继承人、监护人。

第一百零三条 【提存的效力】标的物提存后，毁损、灭失的风险由债权人承担。提存期间，标的物的孳息归债权人所有。提存费用由债权人负担。

第一百零四条 【提存物的受领及受领权消灭】债权人可以随时领取提存物，但债权人对债务人负有到期债务的，在债权人未履行债务或者提供担保之前，提存部门根据债务人的要求应当拒绝其领取提存物。

债权人领取提存物的权利，自提存之日起五年内不行使而消灭，提存物扣除提存费用后归国家所有。

第一百零五条 【免除的效力】债权人免除债务人部分或者全部债务的，合同的权利义务部分或者全部终止。

第一百零六条 【混同的效力】债权和债务同归于一人的，合同的权利义务终止，但涉及第三人利益的除外。

第七章 违约责任

第一百零七条 【违约责任】当事人一方不履行合同义务或者履行合同义务不符合约定的，应当承担继续履行、采取补救措施或者赔偿损失等违约责任。

第一百零八条 【拒绝履行】当事人一方明确表示或者以自己的行为表明不履行合同义务的，对方可以在履行期限届满之前要求其承担违约责任。

第一百零九条 【金钱债务的违约责任】当事人一方未支付价款或者报酬的，对方可以要求其支付价款或者报酬。

第一百一十条 【非金钱债务的违约责任】当事人一方不履行非金钱债务或者履行非金钱债务不符合约定的，对方可以要求履行，但有下列情形之一的除外：

（一）法律上或者事实上不能履行；

（二）债务的标的不适于强制履行或者履行费用过高；

（三）债权人在合理期限内未要求履行。

第一百一十一条 【瑕疵履行】质量不符合约定的，应当按照当事人的约定承担违约责任。对违约责任没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，受损害方根据标的的性质以及损失的大小，可以合理选择要求对方承担修理、更换、重作、退货、减少价款或者报酬等违约责任。

第一百一十二条 【履行、补救措施后的损失赔偿】当事人一方不履行合同义务或者履行合同义务不符合约定的，在履行义务或者采取补救措施后，对方还有其他损失的，应当赔偿损失。

第一百一十三条 【损害赔偿的范围】当事人一方不履行合同义务或者履行合同义务不符合约定，给对方造成损失的，损失赔偿额应当相当于因违约所造成的损失，包括合同履行后可以获得的利益，但不得超过违反合同一方订立合同时预见到或者应当预见到的因违反合同可能造成的损失。

经营者对消费者提供商品或者服务有欺诈行为的，依照《中华人民共和国消费者权益保护法》的规定承担损害赔偿责任。

第一百一十四条 【违约金】当事人可以约定一方违约时应当根据违约情况向对方支付一定数额的违约金，也可以约定因违约产生的损失赔偿额的计算方法。

约定的违约金低于造成的损失的，当事人可以请求人民法院或者仲裁机构予以增加；约定的违约金过分高于造成的损失的，当事人可以请求人民法院或者仲裁机构予以适当减少。

当事人就迟延履行约定违约金的，违约方支付违约金后，还应当履行债务。

第一百一十五条 【定金】当事人可以依照《中华人民共和国担保法》约定一方向对方给付定金作为债权的担保。债务人履行债务后，定金应当抵作价款或者收回。给付定金的一方不履行约定的债务的，无权要求返还定金；收受定金的一方不履行约定的债务的，应当双倍返还定金。

第一百一十六条 【违约金与定金的选择】当事人既约定违约金，又约定定金的，一方违约时，对方可以选择适用违约金或者定金条款。

第一百一十七条 【不可抗力】因不可抗力不能履行合同的，根据不可抗力的影响，部分或者全部免除责任，但法律另有规定的除外。当事人迟延履行后发生不可抗力的，不能免除责任。

本法所称不可抗力，是指不能预见、不能避免并不能克服的客观情况。

第一百一十八条 【不可抗力的通知与证明】当事人一方因不可抗力不能履行合同的，应当及时通知对方，以减轻可能给对方造成的损失，并应当在合理期限内提供证明。

第一百一十九条 【减损规则】当事人一方违约后，对方应当采取适当措施防止损失的扩大；没有采取适当措施致使损失扩大的，不得就扩大的损失要求赔偿。

当事人因防止损失扩大而支出的合理费用，由违约方承担。

第一百二十条 【双方违约的责任】当事人双方都违反合同的，应当各自承担相应的责任。

第一百二十一条 【因第三人的过错造成的违约】当事人一方因第三人的原因造成违约的，应当向对方承担违约责任。当事人一方和第三人之间的纠纷，依照法律规定或者按照约定解决。

第一百二十二条 【责任竞合】因当事人一方的违约行为，侵害对方人身、财产权益的，受损害方有权选择依照本法要求其承担违约责任或者依照其他法律要求其承担侵权责任。

第八章 其他规定

第一百二十三条 【其他规定的适用】其他法律对合同另有规定的，依照其规定。

第一百二十四条 【无名合同】本法分则或者其他法律没有明文规定的合同，适用本法总则的规定，并可以参照本法分则或者其他法律最相类似的规定。

第一百二十五条 【合同解释】当事人对合同条款的理解有争议的，应当按照合同所使用的词句、合同的有关条款、合同的目的、交易习惯以及诚实信用原则，确定该条款的真实意思。

合同文本采用两种以上文字订立并约定具有同等效力的，对各文本使用的词句推定具有相同含义。各文本使用的词句不一致的，应当根据合同的目的予以解释。

第一百二十六条 【涉外合同】涉外合同的当事人可以选择处理合同争议所适用的法律，但法律另有规定的除外。涉外合同的当事人没有选择的，适用与合同有最密切联系的国家的法律。

在中华人民共和国境内履行的中外合资经营企业合同、中外合作经营企业合同、中外合作勘探开发自然资源合同，适用中华人民共和国法律。

第一百二十七条 【合同监督机关】工商行政管理部门和其他有关行政主管部门在各自的职权范围内，依照法律、行政法规的规定，对利用合同危害国家利益、社会公共利益的违法行为，负责监督处理；构成犯罪的，依法追究刑事责任。

第一百二十八条 【合同争议的解决】当事人可以通过和解或者调解解决合同争议。

当事人不愿和解、调解或者和解、调解不成的，可以根据仲裁协议向仲裁机构申请仲裁。涉外合同的当事人可以根据仲裁协议向中国仲裁机构或者其他仲裁机构申请仲裁。当事人没有订立仲裁协议或者仲裁协议无效的，可以向人民法院起诉。当事人应当履行发生法律效力的判决、仲裁裁决、调解书；拒不履行的，对方可以请求人民法院执行。

第一百二十九条 【特殊时效】因国际货物买卖合同和技术进出口合同争议提起诉讼或者申请仲裁的期限为四年，自当事人知道或者应当知道其权利受到侵害之日起计算。因其他合同争议提起诉讼或者申请仲裁的期限，依照有关法律的规定。

分则

第九章 买卖合同

第一百三十条 【定义】买卖合同是出卖人转移标的物的所有权于买受人，买受人支付价款的合同。

第一百三十一条 【买卖合同的内容】买卖合同的内容除依照本法第十二条的规定以外，还可以包括包装方式、检验标准和方法、结算方式、合同使用的文字及其效力等条款。

第一百三十二条 【标的物】出卖的标的物，应当属于出卖人所有或者出卖人有权处分。

法律、行政法规禁止或者限制转让的标的物，依照其规定。

第一百三十三条 【标的物所有权转移时间】标的物的所有权自标的物交付时起转移，但法律另有规定或者当事人另有约定的除外。

第一百三十四条 【标的物所有权转移的约定】当事人可以在买卖合同中约定买受人未履行支付价款或者其他义务的，标的物的所有权属于出卖人。

第一百三十五条 【出卖人的基本义务】出卖人应当履行向买受人交付标的物或者交付提取标的物的单证，并转移标的物所有权的义务。

第一百三十六条 【有关单证和资料的交付】出卖人应当按照约定或者交易习惯向买受人交付提取标的物单证以外的有关单证和资料。

第一百三十七条 【知识产权归属】出卖具有知识产权的计算机软件等标的物的，除法律另有规定或者当事人另有约定的以外，该标的物的知识产权不属于买受人。

第一百三十八条 【交付的时间】出卖人应当按照约定的期限交付标的物。约定交付期间的，出卖人可以在该交付期间内的任何时间交付。

第一百三十九条 【交付时间的推定】当事人没有约定标的物的交付期限或者约定不明确的，适用本法第六十一条、第六十二条第四项的规定。

第一百四十条 【占有标的物与交付时间】标的物在订立合同之前已为买受人占有的，合同生效的时间为交付时间。

第一百四十一条 【交付的地点】出卖人应当按照约定的地点交付标的物。

当事人没有约定交付地点或者约定不明确，依照本法第六十一条的规定仍不能确定的，适用下列规定：

（一）标的物需要运输的，出卖人应当将标的物交付给第一承运人以运交给买受人；

（二）标的物不需要运输，出卖人和买受人订立合同时知道标的物在某一地点的，出卖人应当在该地点交付标的物；不知道标的物在某一地点的，应当在出卖人订立合同时的营业地交付标的物。

第一百四十二条 【标的物的风险负担】标的物毁损、灭失的风险，在标的物交付之前由出卖人承担，交付之后由买受人承担，但法律另有规定或者当事人另有约定的除外。

第一百四十三条 【买受人违约交付的风险承担】因买受人的原因致使标的物不能按照约定的期限交付的，买受人应当自违反约定之日起承担标的物毁损、灭失的风险。

第一百四十四条 【在途标的物的风险承担】出卖人出卖交由承运人运输的在途标的物，除当事人另有约定的以外，毁损、灭失的风险自合同成立时起由买受人承担。

第一百四十五条 【标的物交付给第一承运人后的风险承担】当事人没有约定交付地点或者约定不明确，依照本法第一百四十一条第二款第一项的规定标的物需要运输的，出卖人将标的物交付给第一承运人后，标的物毁损、灭失的风险由买受人承担。

第一百四十六条 【买受人不履行接收标的物义务的风险承担】出卖人按照约定或者依照本法第一百四十一条第二款第二项的规定将标的物置于交付地点，买受人违反约定没有收取的，标的物毁损、灭失的风险自违反约定之日起由买受人承担。

第一百四十七条 【未交付单证、资料与风险承担】出卖人按照约定未交付有关标的物的单证和资料的，不影响标的物毁损、灭失风险的转移。

第一百四十八条 【标的物的瑕疵担保责任】因标的物质量不符合质量要求，致使不能实现合同目的的，买受人可以拒绝接受标的物或者解除合同。买受人拒绝接受标的物或者解除合同的，标的物毁损、灭失的风险由出卖人承担。

第一百四十九条 【风险承担不影响瑕疵担保】标的物毁损、灭失的风险由买受人承担的，不影响因出卖人履行债务不符合约定，买受人要求其承担违约责任的权利。

第一百五十条 【标的物权利瑕疵担保】出卖人就交付的标的物，负有保证第三人不得向买受人主张任何权利的义务，但法律另有规定的除外。

第一百五十一条 【权利瑕疵担保责任和免除】买受人订立合同时知道或者应当知道第三人对买卖的标的物享有权利的，出卖人不承担本法第一百五十条规定的义务。

第一百五十二条 【中止支付价款权】买受人有确切证据证明第三人可能就标的物主张权利的，可以中止支付相应的价款，但出卖人提供适当担保的除外。

第一百五十三条 【标的物的瑕疵担保】出卖人应当按照约定的质量要求交付标的物。出卖人提供有关标的物质量说明的，交付的标的物应当符合该说明的质量要求。

第一百五十四条 【法定质量担保】当事人对标的物的质量要求没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，适用本法第六十二条第一项的规定。

第一百五十五条 【承受人权利】出卖人交付的标的物不符合质量要求的，买受人可以依照本法第一百一十一条的规定要求承担违约责任。

第一百五十六条 【标的物包装方式】出卖人应当按照约定的包装方式交付标的物。对包装方式没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，应当按照通用的方式包装，没有通用方式的，应当采取足以保护标的物的包装方式。

第一百五十七条 【买受人的检验义务】买受人收到标的物时应当在约定的检验期间内检验。没有约定检验期间的，应当及时检验。

第一百五十八条 【买受人的通知义务及免除】当事人约定检验期间的，买受人应当在检验期间内将标的物的数量或者质量不符合约定的情形通知出卖人。买受人怠于通知的，视为标的物的数量或者质量符合约定。

当事人没有约定检验期间的，买受人应当在发现或者应当发现标的物的数量或者质量不符合约定的合理期间内通知出卖人。买受人在合理期间内未通知或者自标的物收到之日起两年内未通知出卖人的，视为标的物的数量或者质量符合约定，但对标的物有质量保证期的，适用质量保证期，不适用该两年的规定。

出卖人知道或者应当知道提供的标的物不符合约定的，买受人不受前两款规定的通知时间的限制。

第一百五十九条 【买受人的基本义务】买受人应当按照约定的数额支付价款。对价款没有约定或者约定不明确的，适用本法第六十一条、第六十二条第二项的规定。

第一百六十条 【支付价款的地点】买受人应当按照约定的地点支付价款。对支付地点没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，买受人应当在出卖人的营业地支付，但约定支付价款以交付标的物或者交付提取标的物单证为条件的，在交付标的物或者交付提取标的物单证的所在地支付。

第一百六十一条 【支付价款的时间】买受人应当按照约定的时间支付价款。对支付时间没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，买受人应当在收到标的物或者提取标的物单证的同时支付。

第一百六十二条 【多交标的物的处理】出卖人多交标的物的，买受人可以接收或者拒绝接收多交的部分。买受人接收多交部分的，按照合同的价格支付价款；买受人拒绝接收多交部分的，应当及时通知出卖人。

第一百六十三条 【标的物孳息的归属】标的物在交付之前产生的孳息，归出卖人所有，交付之后产生的孳息，归买受人所有。

第一百六十四条 【解除合同与主物的关系】因标的物的主物不符合约定而解除合同的，解除合同的效力及于从物。因标的物的从物不符合约定被解除的，解除的效力不及于主物。

第一百六十五条 【数物并存的合同解除】标的物为数物，其中一物不符合约定的，买受人可以就该物解除，但该物与他物分离使标的物的价值显受损害的，当事人可以就数物解除合同。

第一百六十六条 【分批交付标的物的合同解除】出卖人分批交付标的物的，出卖人对其中一批标的物不交付或者交付不符合约定，致使该批标的物不能实现合同目的的，买受人可以就该批标的物解除。

出卖人不交付其中一批标的物或者交付不符合约定，致使今后其他各批标的物的交付不能实现合同目的的，买受人可以就该批以及今后其他各批标的物解除。

买受人如果就其中一批标的物解除，该批标的物与其他各批标的物相互依存的，可以就已经交付和未交付的各批标的物解除。

第一百六十七条 【分期付款买卖中的合同解除】分期付款的买受人未支付到期价款的金额达到全部价款的五分之一的，出卖人可以要求买受人支付全部价款或者解除合同。

出卖人解除合同的，可以向买受人要求支付该标的物的使用费。

第一百六十八条 【样品买卖】凭样品买卖的当事人应当封存样品，并可以对样品质量予以说明。出卖人交付的标的物应当与样品及其说明的质量相同。

第一百六十九条 【样品买卖特殊责任】凭样品买卖的买受人不知道样品有隐蔽瑕疵的，即使交付的标的物与样品相同，出卖人交付的标的物的质量仍然应当符合同种物的通常标准。

第一百七十条 【试用买卖的试用期间】试用买卖的当事人可以约定标的物的试用期间。对试用期间没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，由出卖人确定。

第一百七十一条 【买受人对标的物的认可】试用买卖的买受人在试用期内可以购买标的物，也可以拒绝购买。试用期间届满，买受人对是否购买标的物未作表示的，视为购买。

第一百七十二条 【招标投标买卖】招标投标买卖的当事人的权利和义务以及招标投标程序等，依照有关法律、行政法规的规定。

第一百七十三条 【拍卖】拍卖的当事人的权利和义务以及拍卖程序等，依照有关法律、行政法规的规定。

第一百七十四条 【买卖合同准用于有偿合同】法律对其他有偿合同有规定的，依照其规定；没有规定的，参照买卖合同的有关规定。

第一百七十五条 【互易合同】当事人约定易货交易，转移标的物的所有权的，参照买卖合同的有关规定。

第十章 供用电、水、气、热力合同

第一百七十六条 【定义】供用电合同是供电人向用电人供电，用电人支付电费的合同。

第一百七十七条 【主要条款】供用电合同的内容包括供电的方式、质量、时间，用电容量、地址、性质，计量方式，电价、电费的结算方式，供用电设施的维护责任等条款。

第一百七十八条 【履行地】供用电合同的履行地点，按照当事人约定；当事人没有约定或者约定不明确的，供电设施的产权分界处为履行地点。

第一百七十九条 【安全供电义务及责任】供电人应当按照国家规定的供电质量标准和约定安全供电。供电人未按照国家规定的供电质量标准和约定安全供电，造成用电人损失的，应当承担损害赔偿责任。

第一百八十条 【中断供电的通知义务】供电人因供电设施计划检修、临时检修、依法限电或者用电人违法用电等原因，需要中断供电时，应当按照国家有关规定事先通知用电人。未事先通知用电人中断供电，造成用电人损失的，应当承担损害赔偿责任。

第一百八十一条 【不可抗力断电的抢修义务】因自然灾害等原因断电，供电人应当按照国家有关规定及时抢修。未及时抢修，造成用电人损失的，应当承担损害赔偿责任。

第一百八十二条 【用电人交付电费义务】用电人应当按照国家有关规定和当事人的约定及时交付电费。用电人逾期不交付电费的，应当按照约定支付违约金。经催告用电人在合理期限内仍不交付电费和违约金的，供电人可以按照国家规定的程序中止供电。

第一百八十三条 【安全用电义务】用电人应当按照国家有关规定和当事人的约定安全用电。用电人未按照国家有关规定和当事人的约定安全用电，造成供电人损失的，应当承担损害赔偿责任。

第一百八十四条 【供用水、气、热力合同】供用水、供用气、供用热力合同，参照供用电合同的有关规定。

第十一章 赠与合同

第一百八十五条 【定义】赠与合同是赠与人将自己的财产无偿给予受赠人，受赠人表示接受赠与的合同。

第一百八十六条 【赠与合同的任意撤销与限制】赠与人在赠与财产的权利转移之前可以撤销赠与。

具有救灾、扶贫等社会公益、道德义务性质的赠与合同或者经过公证的赠与合同，不适用前款规定。

第一百八十七条 【赠与的登记等手续】赠与的财产依法需要办理登记等手续的，应当办理有关手续。

第一百八十八条 【受赠人的交付请求权】具有救灾、扶贫等社会公益、道德义务性质的赠与合同或者经过公证的赠与合同，赠与人不交付赠与的财产的，受赠人可以要求交付。

第一百八十九条 【赠与人责任】因赠与人故意或者重大过失致使赠与的财产毁损、灭失的，赠与人应当承担损害赔偿责任。

第一百九十条 【附义务赠与】赠与可以附义务。

赠与附义务的，受赠人应当按照约定履行义务。

第一百九十一条 【赠与的瑕疵担保责任】赠与的财产有瑕疵的，赠与人不承担责任。附义务的赠与，赠与的财产有瑕疵的，赠与人在附义务的限度内承担与出卖人相同的责任。

赠与人故意不告知瑕疵或者保证无瑕疵，造成受赠人损失的，应当承担损害赔偿责任。

第一百九十二条 【赠与的法定撤销】受赠人有下列情形之一的，赠与人可以撤销赠与：

（一）严重侵害赠与人或者赠与人的近亲属；

（二）对赠与人有扶养义务而不履行；

（三）不履行赠与合同约定的义务。

赠与人的撤销权，自知道或者应当知道撤销原因之日起一年内行使。

第一百九十三条 【赠与人的继承人或法定代理人的撤销权】因受赠人的违法行为致使赠与人死亡或者丧失民事行为能力的，赠与人的继承人或者法定代理人可以撤销赠与。

赠与人的继承人或者法定代理人的撤销权，自知道或者应当知道撤销原因之日起六个月内行使。

第一百九十四条 【赠与财产的返还】撤销权人撤销赠与的，可以向受赠人要求返还赠与的财产。

第一百九十五条 【赠与义务的免除】赠与人的经济状况显著恶化，严重影响其生产经营或者家庭生活的，可以不再履行赠与义务。

第十二章 借款合同

第一百九十六条 【定义】借款合同是借款人向贷款人借款，到期返还借款并支付利息的合同。

第一百九十七条 【合同形式及主要条款】借款合同采用书面形式，但自然人之间借款另有约定的除外。

借款合同的内容包括借款种类、币种、用途、数额、利率、期限和还款方式等条款。

第一百九十八条 【合同的担保】订立借款合同，贷款人可以要求借款人提供担保。担保依照《中华人民共和国担保法》的规定。

第一百九十九条 【借款人提供其真实情况的义务】订立借款合同，借款人应当按照贷款人的要求提供与借款有关的业务活动和财务状况的真实情况。

第二百条 【利息的预先扣除】借款的利息不得预先在本金中扣除。利息预先在本金中扣除的，应当按照实际借款数额返还借款并计算利息。

第二百零一条 【贷款违约责任】贷款人未按照约定的日期、数额提供借款，造成借款人损失的，应当赔偿损失。

借款人未按照约定的日期、数额收取借款的，应当按照约定的日期、数额支付利息。

第二百零二条 【贷款人的检查、监督权】贷款人按照约定可以检查、监督借款的使用情况。借款人应当按照约定向贷款人定期提供有关财务会计报表等资料。

第二百零三条 【借款使用的限制】借款人未按照约定的借款用途使用借款的，贷款人可以停止发放借款、提前收回借款或者解除合同。

第二百零四条 【利率】办理贷款业务的金融机构贷款的利率，应当按照中国人民银行规定的贷款利率的上下限确定。

第二百零五条 【利息的支付】借款人应当按照约定的期限支付利息。对支付利息的期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定，借款期间不满一年的，应当在返还借款时一并支付；借款期间一年以上的，应当在每届满一年时支付，剩余期间不满一年的，应当在返还借款时一并支付。

第二百零六条 【借款的返还期限】借款人应当按照约定的期限返还借款。对借款期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，借款人可以随时返还；贷款人可以催告借款人在合理期限内返还。

第二百零七条 【逾期利息】借款人未按照约定的期限返还借款的，应当按照约定或者国家有关规定支付逾期利息。

第二百零八条 【提前偿还借款的利息计算】借款人提前偿还借款的，除当事人另有约定的以外，应当按照实际借款的期间计算利息。

第二百零九条 【借款展期】借款人可以在还款期限届满之前向贷款人申请展期。贷款人同意的，可以展期。

第二百一十条 【自然人间借款合同的生效时间】自然人之间的借款合同，自贷款人提供借款时生效。

第二百一十一条 【自然人间借款合同的利率】自然人之间的借款合同对支付利息没有约定或者约定不明确的，视为不支付利息。自然人之间的借款合同约定支付利息的，借款的利率不得违反国家有关限制借款利率的规定。

第十三章 租赁合同

第二百一十二条 【定义】租赁合同是出租人将租赁物交付承租人使用、收益，承租人支付租金的合同。

第二百一十三条 【合同的主要条款】租赁合同的内容包括租赁物的名称、数量、用途、租赁期限、租金及其支付期限和方式、租赁物维修等条款。

第二百一十四条 【租赁期限】租赁期限不得超过二十年。超过二十年的，超过部分无效。

租赁期间届满，当事人可以续订租赁合同，但约定的租赁期限自续订之日起不得超过二十年。

第二百一十五条 【租赁合同的形式】租赁期限六个月以上的，应当采用书面形式。当事人未采用书面形式的，视为不定期租赁。

第二百一十六条 【出租人基本义务】出租人应当按照约定将租赁物交付承租人，并在租赁期间保持租赁物符合约定的用途。

第二百一十七条 【承租人基本义务】承租人应当按照约定的方法使用租赁物。对租赁物的使用方法没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，应当按照租赁物的性质使用。

第二百一十八条 【正当使用租赁物的责任】承租人按照约定的方法或者租赁物的性质使用租赁物，致使租赁物受到损耗的，不承担损害赔偿责任。

第二百一十九条 【未正当使用租赁物的责任】承租人未按照约定的方法或者租赁物的性质使用租赁物，致使租赁物受到损失的，出租人可以解除合同并要求赔偿损失。

第二百二十条 【租赁物的维修】出租人应当履行租赁物的维修义务，但当事人另有约定的除外。

第二百二十一条 【出租人履行维修义务】承租人在租赁物需要维修时可以要求出租人在合理期限内维修。出租人未履行维修义务的，承租人可以自行维修，维修费用由出租人负担。因维修租赁物影响承租人使用的，应当相应减少租金或者延长租期。

第二百二十二条 【租凭物的保管】承租人应当妥善保管租赁物，因保管不善造成租赁物毁损、灭失的，应当承担损害赔偿责任。

第二百二十三条 【租赁物的改善】承租人经出租人同意，可以对租赁物进行改善或者增设他物。

承租人未经出租人同意，对租赁物进行改善或者增设他物的，出租人可以要求承租人恢复原状或者赔偿损失。

第二百二十四条 【转租】承租人经出租人同意，可以将租赁物转租给第三人。承租人转租的，承租人与出租人之间的租赁合同继续有效，第三人对租赁物造成损失的，承租人应当赔偿损失。

承租人未经出租人同意转租的，出租人可以解除合同。

第二百二十五条 【租赁物的收益】在租赁期间因占有、使用租赁物获得的收益，归承租人所有，但当事人另有约定的除外。

第二百二十六条 【支付租金的期限】承租人应当按照约定的期限支付租金。对支付期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定，租赁期间不满一年的，应当在租赁期间届满时支付；租赁期间一年以上的，应当在每届满一年时支付，剩余期间不满一年的，应当在租赁期间届满时支付。

第二百二十七条 【租金的未支付、迟延支付和逾期不支付】承租人无正当理由未支付或者迟延支付租金的，出租人可以要求承租人在合理期限内支付。承租人逾期不支付的，出租人可以解除合同。

第二百二十八条 【租赁物的权利瑕疵】因第三人主张权利，致使承租人不能对租赁物使用、收益的，承租人可以要求减少租金或者不支付租金。

第三人主张权利的，承租人应当及时通知出租人。

第二百二十九条 【所有权变动后的合同效力】租赁物在租赁期间发生所有权变动的，不影响租赁合同的效力。

第二百三十条 【优先购买权】出租人出卖租赁房屋的，应当在出卖之前的合理期限内通知承租人，承租人享有以同等条件优先购买的权利。

第二百三十一条 【租赁物的灭失】因不可归责于承租人的事由，致使租赁物部分或者全部毁损、灭失的，承租人可以要求减少租金或者不支付租金；因租赁物部分或者全部毁损、灭失，致使不能实现合同目的的，承租人可以解除合同。

第二百三十二条 【租期不明的处理】当事人对租赁期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，视为不定期租赁。当事人可以随时解除合同，但出租人解除合同应当在合理期限之前通知承租人。

第二百三十三条 【租赁物的瑕疵担保】租赁物危及承租人的安全或者健康的，即使承租人订立合同时明知该租赁物质量不合格，承租人仍然可以随时解除合同。

第二百三十四条 【共同居住人的居住权】承租人在房屋租赁期间死亡的，与其生前共同居住的人可以按照原租赁合同租赁该房屋。

第二百三十五条 【租赁物的返还】租赁期间届满，承租人应当返还租赁物。返还的租赁物应当符合按照约定或者租赁物的性质使用后的状态。

第二百三十六条 【续租】租赁期间届满，承租人继续使用租赁物，出租人没有提出异议的，原租赁合同继续有效，但租赁期限为不定期。

第十四章 融资租赁合同

第二百三十七条 【定义】融资租赁合同是出租人根据承租人对出卖人、租赁物的选择，向出卖人购买租赁物，提供给承租人使用，承租人支付租金的合同。

第二百三十八条 【合同的主要条款及形式】融资租赁合同的内容包括租赁物名称、数量、规格、技术性能、检验方法、租赁期限、租金构成及其支付期限和方式、币种、租赁期间届满租赁物的归属等条款。

融资租赁合同应当采用书面形式。

第二百三十九条 【租赁物的购买】出租人根据承租人对出卖人、租赁物的选择订立的买卖合同，出卖人应当按照约定向承租人交付标的物，承租人享有与受领标的物有关的买受人的权利。

第二百四十条 【索赔权】出租人、出卖人、承租人可以约定，出卖人不履行买卖合同义务的，由承租人行使索赔的权利。承租人行使索赔权利的，出租人应当协助。

第二百四十一条 【买卖合同的变更】出租人根据承租人对出卖人、租赁物的选择订立的买卖合同，未经承租人同意，出租人不得变更与承租人有关的合同内容。

第二百四十二条 【租赁物所有权】出租人享有租赁物的所有权。承租人破产的，租赁物不属于破产财产。

第二百四十三条 【租金的确定】融资租赁合同的租金，除当事人另有约定的以外，应当根据购买租赁物的大部分或者全部成本以及出租人的合理利润确定。

第二百四十四条 【租赁物的瑕疵担保责任】租赁物不符合约定或者不符合使用目的的，出租人不承担责任，但承租人依赖出租人的技能确定租赁物或者出租人干预选择租赁物的除外。

第二百四十五条 【租赁物的占有和使用】出租人应当保证承租人对租赁物的占有和使用。

第二百四十六条 【租赁物造成的损害责任】承租人占有租赁物期间，租赁物造成第三人的人身伤害或者财产损害的，出租人不承担责任。

第二百四十七条 【租赁物的保养、使用、维修】承租人应当妥善保管、使用租赁物。

承租人应当履行占有租赁物期间的维修义务。

第二百四十八条 【承租人担付租金责任】承租人应当按照约定支付租金。承租人经催告后在合理期限内仍不支付租金的，出租人可以要求支付全部租金；也可以解除合同，收回租赁物。

第二百四十九条 【租赁物价值的部分返还权】当事人约定租赁期间届满租赁物归承租人所有，承租人已经支付大部分租金，但无力支付剩余租金，出租人因此解除合同收回租赁物的，收回的租赁物的价值超过承租人欠付的租金以及其他费用的，承租人可以要求部分返还。

第二百五十条 【租赁期满租赁物归属】出租人和承租人可以约定租赁期间届满租赁物的归属。对租赁物的归属没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，租赁物的所有权归出租人。

第十五章 承揽合同

第二百五十一条 【定义】承揽合同是承揽人按照定作人的要求完成工作，交付工作成果，定作人给付报酬的合同。

承揽包括加工、定作、修理、复制、测试、检验等工作。

第二百五十二条 【合同的主要条款】承揽合同的内容包括承揽的标的、数量、质量、报酬、承揽方式、材料的提供、履行期限、验收标准和方法等条款。

第二百五十三条 【承揽工作的完成】承揽人应当以自己的设备、技术和劳力，完成主要工作，但当事人另有约定的除外。

承揽人将其承揽的主要工作交由第三人完成的，应当就该第三人完成的工作成果向定作人负责；未经定作人同意的，定作人也可以解除合同。

第二百五十四条 【承揽人对辅助性工作的责任】承揽人可以将其承揽的辅助工作交由第三人完成。承揽人将其承揽的辅助工作交由第三人完成的，应当就该第三人完成的工作成果向定作人负责。

第二百五十五条 【承揽人提供材料的义务】承揽人提供材料的，承揽人应当按照约定选用材料，并接受定作人检验。

第二百五十六条 【定作人提供材料及双方义务】定作人提供材料的，定作人应当按照约定提供材料。承揽人对定作人提供的材料，应当及时检验，发现不符合约定时，应当及时通知定作人更换、补齐或者采取其他补救措施。

承揽人不得擅自更换定作人提供的材料，不得更换不需要修理的零部件。

第二百五十七条 【承揽人的通知义务】承揽人发现定作人提供的图纸或者技术要求不合理的，应当及时通知定作人。因定作人怠于答复等原因造成承揽人损失的，应当赔偿损失。

第二百五十八条 【中途变更工作要求的责任】定作人中途变更承揽工作的要求，造成承揽人损失的，应当赔偿损失。

第二百五十九条 【定作人的协助义务】承揽工作需要定作人协助的，定作人有协助的义务。

定作人不履行协助义务致使承揽工作不能完成的，承揽人可以催告定作人在合理期限内履行义务，并可以顺延履行期限；定作人逾期不履行的，承揽人可以解除合同。

第二百六十条 【承揽人接受监督检查的义务】承揽人在工作期间，应当接受定作人必要的监督检验。定作人不得因监督检验妨碍承揽人的正常工作。

第二百六十一条 【验收质量保证】承揽人完成工作的，应当向定作人交付工作成果，并提交必要的技术资料和有关质量证明。定作人应当验收该工作成果。

第二百六十二条 【质量不合约定的责任】承揽人交付的工作成果不符合质量要求的，定作人可以要求承揽人承担修理、重作、减少报酬、赔偿损失等违约责任。

第二百六十三条 【支付报酬期限】定作人应当按照约定的期限支付报酬。对支付报酬的期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，定作人应当在承揽人交付工作成果时支付；工作成果部分交付的，定作人应当相应支付。

第二百六十四条 【承揽人的留置权】定作人未向承揽人支付报酬或者材料费等价款的，承揽人对完成的工作成果享有留置权，但当事人另有约定的除外。

第二百六十五条 【材料的保管】承揽人应当妥善保管定作人提供的材料以及完成的工作成果，因保管不善造成毁损、灭失的，应当承担损害赔偿责任。

第二百六十六条 【承揽人的保密义务】承揽人应当按照定作人的要求保守秘密，未经定作人许可，不得留存复制品或者技术资料。

第二百六十七条 【共同承揽】共同承揽人对定作人承担连带责任，但当事人另有约定的除外。

第二百六十八条 【定作人的解除权】定作人可以随时解除承揽合同，造成承揽人损失的，应当赔偿损失。

第十六章 建设工程合同

第二百六十九条 【定义】建设工程合同是承包人进行工程建设，发包人支付价款的合同。

建设工程合同包括工程勘察、设计、施工合同。

第二百七十条 【合同形式】建设工程合同应当采用书面形式。

第二百七十一条 【招标投标】建设工程的招标投标活动，应当依照有关法律的规定公开、公平、公正进行。

第二百七十二条 【总包与分包】发包人可以与总承包人订立建设工程合同，也可以分别与勘察人、设计人、施工人订立勘察、设计、施工承包合同。发包人不得将应当由一个承包人完成的建设工程肢解成若干部分发包给几个承包人。

总承包人或者勘察、设计、施工承包人经发包人同意，可以将自己承包的部分工作交由第三人完成。第三人就其完成的工作成果与总承包人或者勘察、设计、施工承包人向发包人承担连带责任。承包人不得将其承包的全部建设工程转包给第三人或者将其承包的全部建设工程肢解以后以分包的名义分别转包给第三人。

禁止承包人将工程分包给不具备相应资质条件的单位。禁止分包单位将其承包的工程再分包。建设工程主体结构的施工必须由承包人自行完成。

第二百七十三条 【重大建设工程合同的订立】国家重大建设工程合同，应当按照国家规定的程序和国家批准的投资计划、可行性研究报告等文件订立。

第二百七十四条 【勘察、设计合同主要内容】勘察、设计合同的内容包括提交有关基础资料和文件（包括概预算）的期限、质量要求、费用以及其他协作条件等条款。

第二百七十五条 【施工合同主要条款】施工合同的内容包括工程范围、建设工期、中间交工工程的开工和竣工时间、工程质量、工程造价、技术资料交付时间、材料和设备供应责任、拨款和结算、竣工验收、质量保修范围和质量保证期、双方相互协作等条款。

第二百七十六条 【建设工程监理】建设工程实行监理的，发包人应当与监理人采用书面形式订立委托监理合同。发包人与监理人的权利和义务以及法律责任，应当依照本法委托合同以及其他有关法律、行政法规的规定。

第二百七十七条 【发包人检查权】发包人在不妨碍承包人正常作业的情况下，可以随时对作业进度、质量进行检查。

第二百七十八条 【隐蔽工程的验收】隐蔽工程在隐蔽以前，承包人应当通知发包人检查。发包人没有及时检查的，承包人可以顺延工程日期，并有权要求赔偿停工、窝工等损失。

第二百七十九条 【竣工验收】建设工程竣工后，发包人应当根据施工图纸及说明书、国家颁发的施工验收规范和质量检验标准及时进行验收。验收合格的，发包人应当按照约定支付价款，并接收该建设工程。

建设工程竣工经验收合格后，方可交付使用；未经验收或者验收不合格的，不得交付使用。

第二百八十条 【勘察、设计人质量责任】勘察、设计的质量不符合要求或者未按照期限提交勘察、设计文件拖延工期，造成发包人损失的，勘察人、设计人应当继续完善勘察、设计，减收或者免收勘察、设计费并赔偿损失。

第二百八十一条 【施工人的质量责任】因施工人的原因致使建设工程质量不符合约定的，发包人有权要求施工人在合理期限内无偿修理或者返工、改建。经过修理或者返工、改建后，造成逾期交付的，施工人应当承担违约责任。

第二百八十二条 【质量保证责任】因承包人的原因致使建设工程在合理使用期限内造成人身和财产损害的，承包人应当承担损害赔偿责任。

第二百八十三条 【发包人违约责任】发包人未按照约定的时间和要求提供原材料、设备、场地、资金、技术资料的，承包人可以顺延工程日期，并有权要求赔偿停工、窝工等损失。

第二百八十四条 【发包人原因致工程停建、缓建的责任】因发包人的原因致使工程中途停建、缓建的，发包人应当采取措施弥补或者减少损失，赔偿承包人因此造成的停工、窝工、倒运、机械设备调迁、材料和构件积压等损失和实际费用。

第二百八十五条 【发包人的原因致勘察、设计、返工、停工或修改设计的责任】因发包人变更计划，提供的资料不准确，或者未按照期限提供必需的勘察、设计工作条件而造成勘察、设计的返工、停工或者修改设计，发包人应当按照勘察人、设计人实际消耗的工作量增付费用。

第二百八十六条 【工程价款的支付】发包人未按照约定支付价款的，承包人可以催告发包人在合理期限内支付价款。发包人逾期不支付的，除按照建设工程的性质不宜折价、拍卖的以外，承包人可以与发包人协议将该工程折价，也可以申请人民法院将该工程依法拍卖。建设工程的价款就该工程折价或者拍卖的价款优先受偿。

第二百八十七条 【适用承揽合同的规定】本章没有规定的，适用承揽合同的有关规定。

第十七章 运输合同

第一节 一般规定

第二百八十八条 【定义】运输合同是承运人将旅客或者货物从起运地点运输到约定地点，旅客、托运人或者收货人支付票款或者运输费用的合同。

第二百八十九条 【公共运输承运人】从事公共运输的承运人不得拒绝旅客、托运人通常、合理的运输要求。

第二百九十条 【按约定期间运输义务】承运人应当在约定期间或者合理期间内将旅客、货物安全运输到约定地点。

第二百九十一条 【按约定路线运输义务】承运人应当按照约定的或者通常的运输路线将旅客、货物运输到约定地点。

第二百九十二条 【旅客、托运人或收货人基本义务】旅客、托运人或者收货人应当支付票款或者运输费用。承运人未按照约定路线或者通常路线运输增加票款或者运输费用的，旅客、托运人或者收货人可以拒绝支付增加部分的票款或者运输费用。

第二节 客运合同

第二百九十三条 【合同的成立】客运合同自承运人向旅客交付客票时成立，但当事人另有约定或者另有交易习惯的除外。

第二百九十四条 【持有效客票乘运义务】旅客应当持有效客票乘运。旅客无票乘运、超程乘运、越级乘运或者持失效客票乘运的，应当补交票款，承运人可以按照规定加收票款。旅客不交付票款的，承运人可以拒绝运输。

第二百九十五条 【退票与变更】旅客因自己的原因不能按照客票记载的时间乘坐的，应当在约定的时间内办理退票或者变更手续。逾期办理的，承运人可以不退票款，并不再承担运输义务。

第二百九十六条 【按约定限量携带行李义务】旅客在运输中应当按照约定的限量携带行李。超过限量携带行李的，应当办理托运手续。

第二百九十七条 【违禁品或危险物品的携带禁止】旅客不得随身携带或者在行李中夹带易燃、易爆、有毒、有腐蚀性、有放射性以及有可能危及运输工具上人身和财产安全的危险物品或者其他违禁物品。

旅客违反前款规定的，承运人可以将违禁物品卸下、销毁或者送交有关部门。旅客坚持携带或者夹带违禁物品的，承运人应当拒绝运输。

第二百九十八条 【承运人告知重要事项义务】承运人应当向旅客及时告知有关不能正常运输的重要事由和安全运输应当注意的事项。

第二百九十九条 【承运人迟延运输】承运人应当按照客票载明的时间和班次运输旅客。承运人迟延运输的，应当根据旅客的要求安排改乘其他班次或者退票。

第三百条 【承运人变更运输工具】承运人擅自变更运输工具而降低服务标准的，应当根据旅客的要求退票或者减收票款；提高服务标准的，不应当加收票款。

第三百零一条 【对旅客的救助义务】承运人在运输过程中，应当尽力救助患有急病、分娩、遇险的旅客。

第三百零二条 【旅客伤亡的损害赔偿责任】承运人应当对运输过程中旅客的伤亡承担损害赔偿责任，但伤亡是旅客自身健康原因造成的或者承运人证明伤亡是旅客故意、重大过失造成的除外。

前款规定适用于按照规定免票、持优待票或者经承运人许可搭乘的无票旅客。

第三百零三条 【对行李的赔偿责任】在运输过程中旅客自带物品毁损、灭失，承运人有过错的，应当承担损害赔偿责任。

旅客托运的行李毁损、灭失的，适用货物运输的有关规定。

第三节 货运合同

第三百零四条 【托运人告知义务】托运人办理货物运输，应当向承运人准确表明收货人的名称或者姓名或者凭指示的收货人，货物的名称、性质、重量、数量，收货地点等有关货物运输的必要情况。

因托运人申报不实或者遗漏重要情况，造成承运人损失的，托运人应当承担损害赔偿责任。

第三百零五条 【托运人提交文件义务】货物运输需要办理审批、检验等手续的，托运人应当将办理完有关手续的文件提交承运人。

第三百零六条 【托运人的包装义务】托运人应当按照约定的方式包装货物。对包装方式没有约定或者约定不明确的，适用本法第一百五十六条的规定。

托运人违反前款规定的，承运人可以拒绝运输。

第三百零七条 【托运人运送危险货物的义务】托运人托运易燃、易爆、有毒、有腐蚀性、有放射性等危险物品的，应当按照国家有关危险物品运输的规定对危险物品妥善包装，作出危险物标志和标签，并将有关危险物品的名称、性质和防范措施的书面材料提交承运人。

托运人违反前款规定的，承运人可以拒绝运输，也可以采取相应措施以避免损失的发生，因此产生的费用由托运人承担。

第三百零八条 【托运人请求变更的权利】在承运人将货物交付收货人之前，托运人可以要求承运人中止运输、返还货物、变更到达地或者将货物交给其他收货人，但应当赔偿承运人因此受到的损失。

第三百零九条 【承运人的通知义务及收货人及时提货义务】货物运输到达后，承运人知道收货人的，应当及时通知收货人，收货人应当及时提货。收货人逾期提货的，应当向承运人支付保管费等费用。

第三百一十条 【收货人对货物的检验】收货人提货时应当按照约定的期限检验货物。对检验货物的期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，应当在合理期限内检验货物。收货人在约定的期限或者合理期限内对货物的数量、毁损等未提出异议的，视为承运人已经按照运输单证的记载交付的初步证据。

第三百一十一条 【承运人的赔偿责任】承运人对运输过程中货物的毁损、灭失承担损害赔偿责任，但承运人证明货物的毁损、灭失是因不可抗力、货物本身的自然性质或者合理损耗以及托运人、收货人的过错造成的，不承担损害赔偿责任。

第三百一十二条 【确定货损额的方法】货物的毁损、灭失的赔偿额，当事人有约定的，按照其约定；没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，按照交付或者应当交付时货物到达地的市场价格计算。法律、行政法规对赔偿额的计算方法和赔偿限额另有规定的，依照其规定。

第三百一十三条 【相继运输的责任承担】两个以上承运人以同一运输方式联运的，与托运人订立合同的承运人应当对全程运输承担责任。损失发生在某一运输区段的，与托运人订立合同的承运人和该区段的承运人承担连带责任。

第三百一十四条 【货物的灭失与运费的处理】货物在运输过程中因不可抗力灭失，未收取运费的，承运人不得要求支付运费；已收取运费的，托运人可以要求返还。

第三百一十五条 【运送物的留置】托运人或者收货人不支付运费、保管费以及其他运输费用的，承运人对相应的运输货物享有留置权，但当事人另有约定的除外。

第三百一十六条 【货物的提存】收货人不明或者收货人无正当理由拒绝受领货物的，依照本法第一百零一条的规定，承运人可以提存货物。

第四节 多式联运合同

第三百一十七条 【多式联运经营人的权利义务】多式联运经营人负责履行或者组织履行多式联运合同，对全程运输享有承运人的权利，承担承运人的义务。

第三百一十八条 【多式联运的责任制度】多式联运经营人可以与参加多式联运的各区段承运人就多式联运合同的各区段运输约定相互之间的责任，但该约定不影响多式联运经营人对全程运输承担的义务。

第三百一十九条 【联运单据的转让】多式联运经营人收到托运人交付的货物时，应当签发多式联运单据。按照托运人的要求，多式联运单据可以是可转让单据，也可以是不可转让单据。

第三百二十条 【托运人的损害赔偿责任】因托运人托运货物时的过错造成多式联运经营人损失的，即使托运人已经转让多式联运单据，托运人仍然应当承担损害赔偿责任。

第三百二十一条 【赔偿责任适用法律的规定】货物的毁损、灭失发生于多式联运的某一运输区段的，多式联运经营人的赔偿责任和责任限额，适用调整该区段运输方式的有关法律规定。货物毁损、灭失发生的运输区段不能确定的，依照本章规定承担损害赔偿责任。

第十八章 技术合同

第一节 一般规定

第三百二十二条 【定义】技术合同是当事人就技术开发、转让、咨询或者服务订立的确立相互之间权利和义务的合同。

第三百二十三条 【订立技术合同的原则】订立技术合同，应当有利于科学技术的进步，加速科学技术成果的转化、应用和推广。

第三百二十四条 【技术合同的主要条款】技术合同的内容由当事人约定，一般包括以下条款：

（一）项目名称；

（二）标的的内容、范围和要求；

（三）履行的计划、进度、期限、地点、地域和方式；

（四）技术情报和资料的保密；

（五）风险责任的承担；

（六）技术成果的归属和收益的分成办法；

（七）验收标准和方法；

（八）价款、报酬或者使用费及其支付方式；

（九）违约金或者损失赔偿的计算方法；

（十）解决争议的方法；

（十一）名词和术语的解释。

与履行合同有关的技术背景资料、可行性论证和技术评价报告、项目任务书和计划书、技术标准、技术规范、原始设计和工艺文件，以及其他技术文档，按照当事人的约定可以作为合同的组成部分。

技术合同涉及专利的，应当注明发明创造的名称、专利申请人和专利权人、申请日期、申请号、专利号以及专利权的有效期限。

第三百二十五条 【技术合同价款、报酬或使用费】技术合同价款、报酬或者使用费的支付方式由当事人约定，可以采取一次总算、一次总付或者一次总算、分期支付，也可以采取提成支付或者提成支付附加预付入门费的方式。

约定提成支付的，可以按照产品价格、实施专利和使用技术秘密后新增的产值、利润或者产品销售额的一定比例提成，也可以按照约定的其他方式计算。提成支付的比例可以采取固定比例、逐年递增比例或者逐年递减比例。

约定提成支付的，当事人应当在合同中约定查阅有关会计帐目的办法。

第三百二十六条 【职务技术成果的经济权属】职务技术成果的使用权、转让权属于法人或者其他组织的，法人或者其他组织可以就该项职务技术成果订立技术合同。法人或者其他组织应当从使用和转让该项职务技术成果所取得的收益中提取一定比例，对完成该项职务技术成果的个人给予奖励或者报酬。法人或者其他组织订立技术合同转让职务技术成果时，职务技术成果的完成人享有以同等条件优先受让的权利。

职务技术成果是执行法人或者其他组织的工作任务，或者主要是利用法人或者其他组织的物质技术条件所完成的技术成果。

第三百二十七条 【非职务技术成果的经济权属】非职务技术成果的使用权、转让权属于完成技术成果的个人，完成技术成果的个人可以就该项非职务技术成果订立技术合同。

第三百二十八条 【技术成果的精神权属】完成技术成果的个人有在有关技术成果文件上写明自己是技术成果完成者的权利和取得荣誉证书、奖励的权利。

第三百二十九条 【技术合同的无效】非法垄断技术、妨碍技术进步或者侵害他人技术成果的技术合同无效。

第二节 技术开发合同

第三百三十条 【定义及合同形式】技术开发合同是指当事人之间就新技术、新产品、新工艺或者新材料及其系统的研究开发所订立的合同。

技术开发合同包括委托开发合同和合作开发合同。

技术开发合同应当采用书面形式。

当事人之间就具有产业应用价值的科技成果实施转化订立的合同，参照技术开发合同的规定。

第三百三十一条 【委托人义务】委托开发合同的委托人应当按照约定支付研究开发经费和报酬；提供技术资料、原始数据；完成协作事项；接受研究开发成果。

第三百三十二条 【受托人义务】委托开发合同的研究开发人应当按照约定制定和实施研究开发计划；合理使用研究开发经费；按期完成研究开发工作，交付研究开发成果，提供有关的技术资料和必要的技术指导，帮助委托人掌握研究开发成果。

第三百三十三条 【委托人的违约责任】委托人违反约定造成研究开发工作停滞、延误或者失败的，应当承担违约责任。

第三百三十四条 【受托人的违约责任】研究开发人违反约定造成研究开发工作停滞、延误或者失败的，应当承担违约责任。

第三百三十五条 【合作开发各方的主要义务】合作开发合同的当事人应当按照约定进行投资，包括以技术进行投资；分工参与研究开发工作；协作配合研究开发工作。

第三百三十六条 【合作开发各方的违约责任】合作开发合同的当事人违反约定造成研究开发工作停滞、延误或者失败的，应当承担违约责任。

第三百三十七条 【合同的解除】因作为技术开发合同标的的技术已经由他人公开，致使技术开发合同的履行没有意义的，当事人可以解除合同。

第三百三十八条 【风险负担及通知义务】在技术开发合同履行过程中，因出现无法克服的技术困难，致使研究开发失败或者部分失败的，该风险责任由当事人约定。没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，风险责任由当事人合理分担。

当事人一方发现前款规定的可能致使研究开发失败或者部分失败的情形时，应当及时通知另一方并采取适当措施减少损失。没有及时通知并采取适当措施，致使损失扩大的，应当就扩大的损失承担责任。

第三百三十九条 【技术成果的归属】委托开发完成的发明创造，除当事人另有约定的以外，申请专利的权利属于研究开发人。研究开发人取得专利权的，委托人可以免费实施该专利。

研究开发人转让专利申请权的，委托人享有以同等条件优先受让的权利。

第三百四十条 【合作开发技术成果的归属】合作开发完成的发明创造，除当事人另有约定的以外，申请专利的权利属于合作开发的当事人共有。当事人一方转让其共有的专利申请权的，其他各方享有以同等条件优先受让的权利。

合作开发的当事人一方声明放弃其共有的专利申请权的，可以由另一方单独申请或者由其他各方共同申请。申请人取得专利权的，放弃专利申请权的一方可以免费实施该专利。

合作开发的当事人一方不同意申请专利的，另一方或者其他各方不得申请专利。

第三百四十一条 【技术秘密成果的归属与分享】委托开发或者合作开发完成的技术秘密成果的使用权、转让权以及利益的分配办法，由当事人约定。没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，当事人均有使用和转让的权利，但委托开发的研究开发人不得在向委托人交付研究开发成果之前，将研究开发成果转让给第三人。

第三节 技术转让合同

第三百四十二条 【内容及形式】技术转让合同包括专利权转让、专利申请权转让、技术秘密转让、专利实施许可合同。

技术转让合同应当采用书面形式。

第三百四十三条 【技术转让范围的约定】技术转让合同可以约定让与人和受让人实施专利或者使用技术秘密的范围，但不得限制技术竞争和技术发展。

第三百四十四条 【专利实施许可合同的限制】专利实施许可合同只在该专利权的存续期间内有效。专利权有效期限届满或者专利权被宣布无效的，专利权人不得就该专利与他人订立专利实施许可合同。

第三百四十五条 【专利实施许可合同让与人主要义务】专利实施许可合同的让与人应当按照约定许可受让人实施专利，交付实施专利有关的技术资料，提供必要的技术指导。

第三百四十六条 【专利实施许可合同受让人主要义务】专利实施许可合同的受让人应当按照约定实施专利，不得许可约定以外的第三人实施该专利；并按照约定支付使用费。

第三百四十七条 【技术秘密转让合同让与人的义务】技术秘密转让合同的让与人应当按照约定提供技术资料，进行技术指导，保证技术的实用性、可靠性，承担保密义务。

第三百四十八条 【技术秘密转让合同的受让人义务】技术秘密转让合同的受让人应当按照约定使用技术，支付使用费，承担保密义务。

第三百四十九条 【技术转让合同让与人基本义务】技术转让合同的让与人应当保证自己是所提供的技术的合法拥有者，并保证所提供的技术完整、无误、有效，能够达到约定的目标。

第三百五十条 【技术转让合同受让人技术保密义务】技术转让合同的受让人应当按照约定的范围和期限，对让与人提供的技术中尚未公开的秘密部分，承担保密义务。

第三百五十一条 【让与人违约责任】让与人未按照约定转让技术的，应当返还部分或者全部使用费，并应当承担违约责任；实施专利或者使用技术秘密超越约定的范围的，违反约定擅自许可第三人实施该项专利或者使用该项技术秘密的，应当停止违约行为，承担违约责任；违反约定的保密义务的，应当承担违约责任。

第三百五十二条 【受让人违约责任】受让人未按照约定支付使用费的，应当补交使用费并按照约定支付违约金；不补交使用费或者支付违约金的，应当停止实施专利或者使用技术秘密，交还技术资料，承担违约责任；实施专利或者使用技术秘密超越约定的范围的，未经让与人同意擅自许可第三人实施该专利或者使用该技术秘密的，应当停止违约行为，承担违约责任；违反约定的保密义务的，应当承担违约责任。

第三百五十三条 【技术合同让与人侵权责任】受让人按照约定实施专利、使用技术秘密侵害他人合法权益的，由让与人承担责任，但当事人另有约定的除外。

第三百五十四条 【后续技术成果的归属与分享】当事人可以按照互利的原则，在技术转让合同中约定实施专利、使用技术秘密后续改进的技术成果的分享办法。没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，一方后续改进的技术成果，其他各方无权分享。

第三百五十五条 【技术进出口合同的法律适用】法律、行政法规对技术进出口合同或者专利、专利申请合同另有规定的，依照其规定。

第四节 技术咨询合同和技术服务合同

第三百五十六条 【内容】技术咨询合同包括就特定技术项目提供可行性论证、技术预测、专题技术调查、分析评价报告等合同。

技术服务合同是指当事人一方以技术知识为另一方解决特定技术问题所订立的合同，不包括建设工程合同和承揽合同。

第三百五十七条 【技术咨询合同委托人主要义务】技术咨询合同的委托人应当按照约定阐明咨询的问题，提供技术背景材料及有关技术资料、数据；接受受托人的工作成果，支付报酬。

第三百五十八条 【技术咨询合同受托人主要义务】技术咨询合同的受托人应当按照约定的期限完成咨询报告或者解答问题；提出的咨询报告应当达到约定的要求。

第三百五十九条 【委托人与受托人的违约责任】技术咨询合同的委托人未按照约定提供必要的资料和数据，影响工作进度和质量，不接受或者逾期接受工作成果的，支付的报酬不得追回，未支付的报酬应当支付。

技术咨询合同的受托人未按期提出咨询报告或者提出的咨询报告不符合约定的，应当承担减收或者免收报酬等违约责任。

技术咨询合同的委托人按照受托人符合约定要求的咨询报告和意见作出决策所造成的损失，由委托人承担，但当事人另有约定的除外。

第三百六十条 【技术服务合同委托人义务】技术服务合同的委托人应当按照约定提供工作条件，完成配合事项；接受工作成果并支付报酬。

第三百六十一条 【技术服务合同受托人义务】技术服务合同的受托人应当按照约定完成服务项目，解决技术问题，保证工作质量，并传授解决技术问题的知识。

第三百六十二条 【技术服务合同双方当事人的违约责任】技术服务合同的委托人不履行合同义务或者履行合同义务不符合约定，影响工作进度和质量，不接受或者逾期接受工作成果的，支付的报酬不得追回，未支付的报酬应当支付。

技术服务合同的受托人未按照合同约定完成服务工作的，应当承担免收报酬等违约责任。

第三百六十三条 【新创技术成果的归属和分享】在技术咨询合同、技术服务合同履行过程中，受托人利用委托人提供的技术资料和工作条件完成的新的技术成果，属于受托人。委托人利用受托人的工作成果完成的新的技术成果，属于委托人。当事人另有约定的，按照其约定。

第三百六十四条 【技术培训合同、技术中介合同的法律适用】法律、行政法规对技术中介合同、技术培训合同另有规定的，依照其规定。

第十九章 保管合同

第三百六十五条 【定义】保管合同是保管人保管寄存人交付的保管物，并返还该物的合同。

第三百六十六条 【保管费的支付】寄存人应当按照约定向保管人支付保管费。

当事人对保管费没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，保管是无偿的。

第三百六十七条 【保管合同的成立】保管合同自保管物交付时成立，但当事人另有约定的除外。

第三百六十八条 【保管凭证】寄存人向保管人交付保管物的，保管人应当给付保管凭证，但另有交易习惯的除外。

第三百六十九条 【保管行为的要求】保管人应当妥善保管保管物。

当事人可以约定保管场所或者方法。除紧急情况或者为了维护寄存人利益的以外，不得擅自改变保管场所或者方法。

第三百七十条 【保管物有瑕疵或需特殊保管时寄存人的义务】寄存人交付的保管物有瑕疵或者按照保管物的性质需要采取特殊保管措施的，寄存人应当将有关情况告知保管人。寄存人未告知，致使保管物受损失的，保管人不承担损害赔偿责任；保管人因此受损失的，除保管人知道或者应当知道并且未采取补救措施的以外，寄存人应当承担损害赔偿

责任。

第三百七十一条 【第三人代为保管】保管人不得将保管物转交第三人保管，但当事人另有约定的除外。

保管人违反前款规定，将保管物转交第三人保管，对保管物造成损失的，应当承担损害赔偿责任。

第三百七十二条 【保管人不得使用保管物的义务】保管人不得使用或者许可第三人使用保管物，但当事人另有约定的除外。

第三百七十三条 【第三人主张权利的返还】第三人对保管物主张权利的，除依法对保管物采取保全或者执行的以外，保管人应当履行向寄存人返还保管物的义务。

第三人对保管人提起诉讼或者对保管物申请扣押的，保管人应当及时通知寄存人。

第三百七十四条 【保管物的毁损灭失与保管人责任】保管期间，因保管人保管不善造成保管物毁损、灭失的，保管人应当承担损害赔偿责任，但保管是无偿的，保管人证明自己没有重大过失的，不承担损害赔偿责任。

第三百七十五条 【寄存人的告示义务】寄存人寄存货币、有价证券或者其他贵重物品的，应当向保管人声明，由保管人验收或者封存。寄存人未声明的，该物品毁损、灭失后，保管人可以按照一般物品予以赔偿。

第三百七十六条 【保管物领取】寄存人可以随时领取保管物。

当事人对保管期间没有约定或者约定不明确的，保管人可以随时要求寄存人领取保管物；约定保管期间的，保管人无特别事由，不得要求寄存人提前领取保管物。

第三百七十七条 【保管物的返还】保管期间届满或者寄存人提前领取保管物的，保管人应当将原物及其孳息归还寄存人。

第三百七十八条 【货币等的返还】保管人保管货币的，可以返还相同种类、数量的货币。保管其他可替代物的，可以按照约定返还相同种类、品质、数量的物品。

第三百七十九条 【保管费支付期限】有偿的保管合同，寄存人应当按照约定的期限向保管人支付保管费。

当事人对支付期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，应当在领取保管物的同时支付。

第三百八十条 【保管人的留置权】寄存人未按照约定支付保管费以及其他费用的，保管人对保管物享有留置权，但当事人另有约定的除外。

第二十章 仓储合同

第三百八十一条 【定义】仓储合同是保管人储存存货人交付的仓储物，存货人支付仓储费的合同。

第三百八十二条 【仓储合同生效时间】仓储合同自成立时生效。

第三百八十三条 【危险物品的储存】储存易燃、易爆、有毒、有腐蚀性、有放射性等危险物品或者易变质物品，存货人应当说明该物品的性质，提供有关资料。

存货人违反前款规定的，保管人可以拒收仓储物，也可以采取相应措施以避免损失的发生，因此产生的费用由存货人承担。

保管人储存易燃、易爆、有毒、有腐蚀性、有放射性等危险物品的，应当具备相应的保管条件。

第三百八十四条 【仓储物的验收】保管人应当按照约定对入库仓储物进行验收。保管人验收时发现入库仓储物与约定不符合的，应当及时通知存货人。保管人验收后，发生仓储物的品种、数量、质量不符合约定的，保管人应当承担损害赔偿责任。

第三百八十五条 【仓单】存货人交付仓储物的，保管人应当给付仓单。

第三百八十六条 【仓单应载事项】保管人应当在仓单上签字或者盖章。仓单包括下列事项：

（一）存货人的名称或者姓名和住所；

（二）仓储物的品种、数量、质量、包装、件数和标记；

（三）仓储物的损耗标准；

（四）储存场所；

（五）储存期间；

（六）仓储费；

（七）仓储物已经办理保险的，其保险金额、期间以及保险人的名称；

（八）填发人、填发地和填发日期。

第三百八十七条 【仓单的背书及其效力】仓单是提取仓储物的凭证。存货人或者仓单持有人在仓单上背书并经保管人签字或者盖章的，可以转让提取仓储物的权利。

第三百八十八条 【检查权】保管人根据存货人或者仓单持有人的要求，应当同意其检查仓储物或者提取样品。

第三百八十九条 【保管人的通知义务】保管人对入库仓储物发现有变质或者其他损坏的，应当及时通知存货人或者仓单持有人。

第三百九十条 【保管人的催告义务】保管人对入库仓储物发现有变质或者其他损坏，危及其他仓储物的安全和正常保管的，应当催告存货人或者仓单持有人作出必要的处置。因情况紧急，保管人可以作出必要的处置，但事后应当将该情况及时通知存货人或者仓单持有人。

第三百九十一条 【仓储物提取时间】当事人对储存期间没有约定或者约定不明确的，存货人或者仓单持有人可以随时提取仓储物，保管人也可以随时要求存货人或者仓单持有人提取仓储物，但应当给予必要的准备时间。

第三百九十二条 【仓单持有人提取仓储物】储存期间届满，存货人或者仓单持有人应当凭仓单提取仓储物。存货人或者仓单持有人逾期提取的，应当加收仓储费；提前提取的，不减收仓储费。

第三百九十三条 【保管人的提存权】储存期间届满，存货人或者仓单持有人不提取仓储物的，保管人可以催告其在合理期限内提取，逾期不提取的，保管人可以提存仓储物。

第三百九十四条 【保管人违约责任】储存期间，因保管人保管不善造成仓储物毁损、灭失的，保管人应当承担损害赔偿责任。

因仓储物的性质、包装不符合约定或者超过有效储存期造成仓储物变质、损坏的，保管人不承担损害赔偿责任。

第三百九十五条 【仓储合同的法律适用】本章没有规定的，适用保管合同的有关规定。

第二十一章 委托合同

第三百九十六条 【定义】委托合同是委托人和受托人约定，由受托人处理委托人事务的合同。

第三百九十七条 【委托范围】委托人可以特别委托受托人处理一项或者数项事务，也可以概括委托受托人处理一切事务。

第三百九十八条 【委托费用】委托人应当预付处理委托事务的费用。受托人为处理委托事务垫付的必要费用，委托人应当偿还该费用及其利息。

第三百九十九条 【受托人服从指示的义务】受托人应当按照委托人的指示处理委托事务。需要变更委托人指示的，应当经委托人同意；因情况紧急，难以和委托人取得联系的，受托人应当妥善处理委托事务，但事后应当将该情况及时报告委托人。

第四百条 【亲自处理及转委托】受托人应当亲自处理委托事务。经委托人同意，受托人可以转委托。转委托经同意的，委托人可以就委托事务直接指示转委托的第三人，受托人仅就第三人的选任及其对第三人的指示承担责任。转委托未经同意的，受托人应当对转委托的第三人的行为承担责任，但在紧急情况下受托人为维护委托人的利益需要转委托的除外。

第四百零一条 【受托人的报告义务】受托人应当按照委托人的要求，报告委托事务的处理情况。委托合同终止时，受托人应当报告委托事务的结果。

第四百零二条 【委托人的介入权】受托人以自己的名义，在委托人的授权范围内与第三人订立的合同，第三人在订立合同时知道受托人与委托人之间的代理关系的，该合同直接约束委托人和第三人，但有确切证据证明该合同只约束受托人和第三人的除外。

第四百零三条 【委托人对第三人的权利及第三人选择相对人的权利】受托人以自己的名义与第三人订立合同时，第三人不知道受托人与委托人之间的代理关系的，受托人因第三人的原因对委托人不履行义务，受托人应当向委托人披露第三人，委托人因此可以行使受托人对第三人的权利，但第三人与受托人订立合同时如果知道该委托人就不会订立合同的除外。

受托人因委托人的原因对第三人不履行义务，受托人应当向第三人披露委托人，第三人因此可以选择受托人或者委托人作为相对人主张其权利，但第三人不得变更选定的相对人。

委托人行使受托人对第三人的权利的，第三人可以向委托人主张其对受托人的抗辩。第三人选定委托人作为其相对人的，委托人可以向第三人主张其对受托人的抗辩以及受托人对第三人的抗辩。

第四百零四条 【受托人交付财产义务】受托人处理委托事务取得的财产，应当转交给委托人。

第四百零五条 【委托人支付报酬的义务】受托人完成委托事务的，委托人应当向其支付报酬。因不可归责于受托人的事由，委托合同解除或者委托事务不能完成的，委托人应当向受托人支付相应的报酬。当事人另有约定的，按照其约定。

第四百零六条 【受托人的损害赔偿责任】有偿的委托合同，因受托人的过错给委托人造成损失的，委托人可以要求赔偿损失。无偿的委托合同，因受托人的故意或者重大过失给委托人造成损失的，委托人可以要求赔偿损失。

受托人超越权限给委托人造成损失的，应当赔偿损失。

第四百零七条 【委托人的赔偿责任】受托人处理委托事务时，因不可归责于自己的事由受到损失的，可以向委托人要求赔偿损失。

第四百零八条 【另行委托】委托人经受托人同意，可以在受托人之外委托第三人处理委托事务。因此给受托人造成损失的，受托人可以向委托人要求赔偿损失。

第四百零九条 【受托人的连带责任】两个以上的受托人共同处理委托事务的，对委托人承担连带责任。

第四百一十条 【任意解除权】委托人或者受托人可以随时解除委托合同。因解除合同给对方造成损失的，除不可归责于该当事人的事由以外，应当赔偿损失。

第四百一十一条 【委托合同的终止】委托人或者受托人死亡、丧失民事行为能力或者破产的，委托合同终止，但当事人另有约定或者根据委托事务的性质不宜终止的除外。

第四百一十二条 【委托人的后合同义务】因委托人死亡、丧失民事行为能力或者破产，致使委托合同终止将损害委托人利益的，在委托人的继承人、法定代理人或者清算组织承受委托事务之前，受托人应当继续处理委托事务。

第四百一十三条 【受托人死亡后其继承人等的义务】因受托人死亡、丧失民事行为能力或者破产，致使委托合同终止的，受托人的继承人、法定代理人或者清算组织应当及时通知委托人。因委托合同终止将损害委托人利益的，在委托人作出善后处理之前，受托人的继承人、法定代理人或者清算组织应当采取必要措施。

第二十二章 行纪合同

第四百一十四条 【定义】行纪合同是行纪人以自己的名义为委托人从事贸易活动，委托人支付报酬的合同。

第四百一十五条 【处理委托事务的费用承担】行纪人处理委托事务支出的费用，由行纪人负担，但当事人另有约定的除外。

第四百一十六条 【行纪人对委托物的保管义务】行纪人占有委托物的，应当妥善保管委托物。

第四百一十七条 【委托物的处理】委托物交付给行纪人时有瑕疵或者容易腐烂、变质的，经委托人同意，行纪人可以处分该物；和委托人不能及时取得联系的，行纪人可以合理处分。

第四百一十八条 【未按指示进行行纪活动的后果】行纪人低于委托人指定的价格卖出或者高于委托人指定的价格买入的，应当经委托人同意。未经委托人同意，行纪人补偿其差额的，该买卖对委托人发生效力。

行纪人高于委托人指定的价格卖出或者低于委托人指定的价格买入的，可以按照约定增加报酬。没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，该利益属于委托人。

委托人对价格有特别指示的，行纪人不得违背该指示卖出或者买入。

第四百一十九条 【行纪人的介入权】行纪人卖出或者买入具有市场定价的商品，除委托人有相反的意思表示的以外，行纪人自己可以作为买受人或者出卖人。

行纪人有前款规定情形的，仍然可以要求委托人支付报酬。

第四百二十条 【委托物的处置】行纪人按照约定买入委托物，委托人应当及时受领。经行纪人催告，委托人无正当理由拒绝受领的，行纪人依照本法第一百零一条的规定可以提存委托物。

委托物不能卖出或者委托人撤回出卖，经行纪人催告，委托人不取回或者不处分该物的，行纪人依照本法第一百零一条的规定可以提存委托物。

第四百二十一条 【行纪人与第三人的关系】行纪人与第三人订立合同的，行纪人对该合同直接享有权利、承担义务。

第三人不履行义务致使委托人受到损害的，行纪人应当承担损害赔偿责任，但行纪人与委托人另有约定的除外。

第四百二十二条 【行纪人的报酬请求权及留置权】行纪人完成或者部分完成委托事务的，委托人应当向其支付相应的报酬。委托人逾期不支付报酬的，行纪人对委托物享有留置权，但当事人另有约定的除外。

第四百二十三条 【对委托合同的适用】本章没有规定的，适用委托合同的有关规定。

第二十二章 居间合同

第四百二十四条 【定义】居间合同是居间人向委托人报告订立合同的机会或者提供订立合同的媒介服务，委托人支付报酬的合同。

第四百二十五条 【居间人如实报告义务】居间人应当就有关订立合同的事项向委托人如实报告。

居间人故意隐瞒与订立合同有关的重要事实或者提供虚假情况，损害委托人利益的，不得要求支付报酬并应当承担损害赔偿责任。

第四百二十六条 【居间人的报酬请求权】居间人促成合同成立后，委托人应当按照约定支付报酬。对居间人的报酬没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，根据居间人的劳务合理确定。因居间人提供订立合同的媒介服务而促成合同成立的，由该合同的当事人平均负担居间人的报酬。

居间人促成合同成立的，居间活动的费用，由居间人负担。

第四百二十七条 【未促成合同成立的处理】居间人未促成合同成立的，不得要求支付报酬，但可以要求委托人支付从事居间活动支出的必要费用。

附则

第四百二十八条 【生效日期及废止条款】本法自１９９９年１０月１日起施行，《中华人民共和国经济合同法》、《中华人民共和国涉外经济合同法》、《中华人民共和国技术合同法》同时废止。