

## 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 asset 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 senior 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 in 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 split-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 dutiful, 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 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-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 intention 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.

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## 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）

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## 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；

- (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退还股票认购人。

**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方式。

**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：

- (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。

**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员。

**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）持有人的名称、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，并于公告。

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

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，并处以三万元以上三十万元以下的罚款。

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，可以并处三万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，并处以三万元以上三十万元以下的罚款。

**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，并处以三万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。

**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三万元的，处以三万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三十万元的，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，并处以三万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，并处以三万元以上三十万元以下的罚款。

**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，处以十万元以上三十万元以下的罚款。

**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，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。