

# 中华人民共和国公司法

## Company Law of the People's Republic of China

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《全国人民代表大会常务委员会关于修改〈中华人民共和国公司法〉的决定》已由中华人民共和国第十三届全国人民代表大会常务委员会第六次会议于2018年10月26日通过，现予公布，自公布之日起施行。

中华人民共和国主席 习近平

2018年10月26日

### Order of the President of the People's Republic of China

#### No. 15

The Decision of the Standing Committee of the National People's Congress on Revising the "Company Law of the People's Republic of China", adopted at the Sixth Session of the Standing Committee of the 13th National People's Congress of the People's Republic of Chi-na on October 26, 2018, is hereby promulgated and shall come into effect on the date of promulgation.

President of the People's Republic of China Xi Jinping

October 26, 2018

中华人民共和国公司法

### Company Law of the People's Republic of China

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

次会议《关于修改〈中华人民共和国公司法〉的决定》第四次修正)

(Adopted at the Fifth Session of the Standing Committee of the Eighth National People's Congress on December 29, 1993; Amended for the first time in accordance with the Decision on Revising the Company Law of the People's Republic of China at the 13th Session of the Standing Committee of the Ninth National People's Congress on December 25, 1999; Amended for the second time in accordance with the Decision of on Revising the Company Law of the People's Republic of China at the 11th Session of the Standing Committee of the Tenth National People's Congress on August 28, 2004; Revised at the 18th Session of the Standing Committee of the Tenth National People's Congress on October 27, 2005; amended for the third time in accordance with the Decision of on Revising the Company Law of the People's Republic of China at the 6th Session of the Standing Committee of the Twelfth National People's Congress on December 28, 2013, and amended for the fourth time in accordance with the Decision of on Revising the Company Law of the People's Republic of China adopted at the Sixth Session of the Standing Committee of the 13th National People's Congress of the People's Republic of China on October 26, 2018)

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## 第一章 总则

### Chapter 1: General Provisions

**第一条** 为了规范公司的组织和行为,保护公司、股东和债权人的合法权益,维护社会经济秩序,促进社会主义市场经济的发展,制定本法。

**Article 1** This Law is formulated with a view to regulating the organization and activities of companies, protecting the legitimate rights and interests of companies, and their shareholders and creditors, maintaining social and economic orders, and facilitating the development of the socialist market economy.

**第二条** 本法所称公司是指依照本法在中国境内设立的有限责任公司和股份有限公司。

**Article 2** For the purpose of this Law, a company shall refer to a limited liability company or a company limited by shares established within the territory of the People's Republic of China in accordance with this Law.

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

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

**Article 3** A company is an enterprise legal person with independent legal person property, and is entitled to legal person property rights. The company shall bear liabilities for its debts with all its assets.

The shareholders of a limited liability company shall bear liabilities for the company to the extent of their respective subscribed capital contribution. The shareholders of a company limited by shares shall bear liabilities for the company to the extent of their respective subscribed shares.

**第四条** 公司股东依法享有资产收益、参与重大决策和选择管理者等权利。

**Article 4** The shareholders of a company shall, in accordance with the law, be entitled to such rights as to obtain capital proceeds, to participate in important decision-making, to elect management personnel, etc.

**第五条** 公司从事经营活动,必须遵守法律、行政法规,遵守社会公德、商业道德,诚实守信,接受政府和社会公众的监督,承担社会责任。

公司的合法权益受法律保护,不受侵犯。

**Article 5** A company shall, when engaging in business activities, abide by laws and administrative regulations, observe social moralities and business ethics, act in good faith, accept the supervision of the Government and the general public, and undertake social responsibilities.

The legitimate rights and interests of a company shall be protected by law, and shall not be infringed upon.

**第六条** 设立公司,应当依法向公司登记机关申请设立登记。符合本法规定的设立条件的,由公司登记机关分别登记为有限责任公司或者股份有限公司;不符合本法规定的设立条件的,不得登记为有限责任公司或者股份有限公司。

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

公众可以向公司登记机关申请查询公司登记事项,公司登记机关应当提供查询服务。

**Article 6** To establish a company, an applicant shall submit an application for establishment registration to the relevant company registration authority in accordance with the law. If the application satisfies the establishment conditions provided for herein, the company registration authority shall register the proposed entity as either a limited liability company or a company limited by shares; otherwise, the proposed entity shall not be registered as a limited liability company or a company limited by shares.

Where laws or administrative regulations specify that the establishment of a company shall be subject to approval, the relevant approval formalities shall be gone through in accordance with the law prior to the registration of the company.

The general public may apply to company registration authorities to inquire on company registration matters, and company registration authorities shall provide the inquiry services.

**第七条** 依法设立的公司,由公司登记机关发给公司营业执照。公司营业执照签发日期为公司成立日期。

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

公司营业执照记载的事项发生变更的,公司应当依法办理变更登记,由公司登记机关换发营业执照。

**Article 7** Company registration authorities shall issue business licenses of companies to the companies established under the law. The date of issuance of the business license for a company shall be the date of establishment of the company.

The business license of a company shall state therein such matters as the name, domicile, registered capital, business scope, and the name of the legal representative, etc. of the company.

Where any of the matters stated in the business license of a company is changed, the company shall

go through the formalities for change of registration in accordance with the law, and the relevant company registration authority shall issue a new business license to replace the old one.

**第八条** 依照本法设立的有限责任公司,必须在公司名称中标明有限责任公司或者有限公司字样。依照本法设立的股份有限公司,必须在公司名称中标明股份有限公司或者股份公司字样。

**Article 8** A limited liability company established under this Law shall include the characters "有限责任公司" (limited liability company) or "有限公司" (company limited) in the company name thereof.

A company limited by shares established under this Law shall include the characters "股份有限公司" or "股份公司" (both meaning joint stock company) in the company name thereof.

**第九条** 有限责任公司变更为股份有限公司,应当符合本法规定的股份有限公司的条件。股份有限公司变更为有限责任公司,应当符合本法规定的有限责任公司的条件。

有限责任公司变更为股份有限公司的,或者股份有限公司变更为有限责任公司的,公司变更前的债权、债务由变更后的公司承继。

**Article 9** Where a limited liability company converts to a company limited by shares, such conversion shall meet the requirements on a company limited by shares provided for herein. Where a company limited by shares converts to a limited liability company, such conversion shall meet the requirements on a limited liability company provided for herein.

Whether a limited liability company converts to a company limited by shares or a company limited by shares converts to a limited liability company, the creditors' rights and liabilities of the company before the conversion shall be succeeded to by the company formed after the conversion.

**第十条** 公司以其主要办事机构所在地为住所。

**Article 10** The location of the principal office of a company shall be its domicile.

**第十一条** 设立公司必须依法制定公司章程。公司章程对公司、股东、董事、监事、高级管理人员具有约束力。

**Article 11** To establish a company, the company's articles of association shall be formulated in accordance with the law. The articles of association shall be binding on the company, and its shareholders, directors, supervisors and senior management personnel.

**第十二条** 公司的经营范围由公司章程规定,并依法登记。公司可以修改公司章程,改变经营范围,但是应当办理变更登记。

公司的经营范围中属于法律、行政法规规定须经批准的项目,应当依法经过批准。

**Article 12** The business scope of a company shall be specified in its articles of association, and shall be registered in accordance with the law. A company may modify its articles of association to change the scope of business, provided that the formalities for change of registration shall be gone through.

Where any item in the business scope of a company shall be subject to approval in accordance with laws and administrative regulations, approval shall be obtained pursuant to the law.

**第十三条** 公司法定代表人依照公司章程的规定,由董事长、执行董事或者经理担任,并依法登记。公司法定代表人变更,应当办理变更登记。

**Article 13** The legal representative of a company shall, pursuant to the company's articles of

association, be assumed by the chairman of the board of directors, an executive director or a manager, and shall be registered in accordance with the law. Change of the legal representative of the company shall be subject to the formalities for change of registration.

**第十四条** 公司可以设立分公司。设立分公司,应当向公司登记机关申请登记,领取营业执照。分公司不具有法人资格,其民事责任由公司承担。

公司可以设立子公司,子公司具有法人资格,依法独立承担民事责任。

**Article 14** A company may establish a branch company by filing an application for registration with the relevant company registration authority and obtaining a business license. A branch company is not qualified as a legal person, and its civil liabilities shall be borne by the parent company.

A company may establish subsidiaries. Subsidiaries are qualified as legal persons, and shall independently bear civil liabilities in accordance with the law.

**第十五条** 公司可以向其他企业投资;但是,除法律另有规定外,不得成为对所投资企业的债务承担连带责任的出资人。

**Article 15** A company may invest in other enterprises, provided that it shall not become a capital-contributing party that bears joint and several liabilities for the debts of the enterprises that it invests in, unless otherwise specified by the law.

**第十六条** 公司向其他企业投资或者为他人提供担保,依照公司章程的规定,由董事会或者股东会、股东大会决议;公司章程对投资或者担保的总额及单项投资或者担保的数额有限额规定的,不得超过规定的限额。

公司为公司股东或者实际控制人提供担保的,必须经股东会或者股东大会决议。

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

**Article 16** Where a company invests in another enterprise or provides guarantee for others, the investment or guarantee shall, in accordance with the company's articles of association, be subject to a resolution of the board of directors, the shareholders' meeting or the general meeting. If any limit on the total amount of investments or guarantees or any limit on the amount of a single investment or guarantee is provided for in the company's articles of association, the investment or guarantee shall not exceed the specified limit.

Where a company provides guarantee for a shareholder or the actual controller of the company, such guarantee shall be subject to a resolution of the shareholders' meeting or the general meeting.

Neither a shareholder specified in the preceding Paragraph nor a shareholder who is controlled by the actual controller specified in the preceding Paragraph is allowed to vote on the matters specified in the preceding Paragraph. Such voting shall be subject to adoption by the other shareholders who represent more than half of the voting rights of all the other shareholders present at the meeting.

**第十七条** 公司必须保护职工的合法权益,依法与职工签订劳动合同,参加社会保险,加强劳动保护,实现安全生产。

公司应当采用多种形式,加强公司职工的职业教育和岗位培训,提高职工素质。

**Article 17** A company shall protect the legitimate rights and interests of its staff members, conclude labor contracts with them, participate in the social insurance system, and reinforce the labor protection for them so as to achieve safe production.

The company shall adopt various forms to enhance vocational education and job training for its staff

members to improve their professional competency.

**第十八条** 公司职工依照《中华人民共和国工会法》组织工会,开展工会活动,维护职工合法权益。公司应当为本公司工会提供必要的活动条件。公司工会代表职工就职工的劳动报酬、工作时间、福利、保险和劳动安全卫生等事项依法与公司签订集体合同。

公司依照宪法和有关法律的规定,通过职工代表大会或者其他形式,实行民主管理。

公司研究决定改制以及经营方面的重大问题、制定重要的规章制度时,应当听取公司工会的意见,并通过职工代表大会或者其他形式听取职工的意见和建议。

**Article 18** The staff members of a company shall organize a labor union in compliance with the Labor Union Law of the People's Republic of China to carry out labor union activities and maintain the legitimate rights and interests of the staff members. The company shall provide necessary conditions for the labor union thereof to carry out activities. The labor union of the company shall, in accordance with the law, conclude a collective contract with the company in connection with such matters as labor remunerations, working hours, benefits, insurance, labor safety, and sanitation, on behalf of the staff members.

A company shall, in accordance with the Constitution and other relevant laws, implement democratic management through a general meeting of the representatives of staff members or other forms.

When making research and decisions on restructuring or any major issue concerning its business operations, or when formulating important rules and regulations, a company shall listen to the opinions of its labor union, and to the opinions and suggestions of its staff members through the general meeting of the representatives of staff members or other forms.

**第十九条** 在公司中,根据中国共产党章程的规定,设立中国共产党的组织,开展党的活动。公司应当为党组织的活动提供必要条件。

**Article 19** An organization of the Communist Party of China ("CPC") shall be established in a company to carry out activities of the CPC pursuant to the Constitution of the Communist Party of China. The company shall provide necessary conditions for the activities of the organization of the CPC.

**第二十条** 公司股东应当遵守法律、行政法规和公司章程,依法行使股东权利,不得滥用股东权利损害公司或者其他股东的利益;不得滥用公司法人独立地位和股东有限责任损害公司债权人的利益。

公司股东滥用股东权利给公司或者其他股东造成损失的,应当依法承担赔偿责任。

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

**Article 20** The shareholders of a company shall abide by laws, administrative regulations, and the company's articles of association, and shall exercise shareholder's rights in accordance with the law. A shareholder shall not prejudice the interests of the company or other shareholders by abusing shareholder's rights, nor shall the shareholder prejudice the interests of the creditors of the company by abusing the independent legal person status of the company or by abusing the limited liabilities of the shareholder.

Any shareholder of a company that has caused any loss to the company or to other shareholders by abusing shareholder's rights shall be liable for compensation in accordance with the law.

Where any shareholder of a company evades debts by abusing the independent legal person status of the company or by abusing the shareholder's limited liabilities, thereby gravely prejudicing the interests of the creditors of the company, the shareholder shall be jointly and severally liable for the debts of the

company.

**第二十一条** 公司的控股股东、实际控制人、董事、监事、高级管理人员不得利用其关联关系损害公司利益。

违反前款规定,给公司造成损失的,应当承担赔偿责任。

**Article 21** The controlling shareholders, actual holders, directors, supervisors and senior management personnel of a company shall not make use of their affiliation to prejudice the interests of the company.

Whoever mentioned in the preceding Paragraph shall be liable for compensation if he/she causes any loss to the company by violating the preceding Paragraph.

**第二十二条** 公司股东会或者股东大会、董事会的决议内容违反法律、行政法规的无效。

股东会或者股东大会、董事会的会议召集程序、表决方式违反法律、行政法规或者公司章程,或者决议内容违反公司章程的,股东可以自决议作出之日起六十日内,请求人民法院撤销。

股东依照前款规定提起诉讼的,人民法院可以应公司的请求,要求股东提供相应担保。

公司根据股东会或者股东大会、董事会决议已办理变更登记的,人民法院宣告该决议无效或者撤销该决议后,公司应当向公司登记机关申请撤销变更登记。

**Article 22** The contents of a resolution of the shareholders' meeting, the general meeting or the board of directors shall be invalid if they are in violation of laws or administrative regulations.

Where the procedures for convening, or voting at, the shareholders' meeting, the general meeting or a meeting of the board of directors are in violation of laws, administrative regulations or the company's articles of association, or where a resolution is in violation of the articles of association, a shareholders may, within 60 days of the date on which the resolution is made, file a request with a competent people's court for cancellation.

Where a shareholder files an action in accordance with the preceding Paragraph, the competent people's court may, at the request of the company, require the shareholder to provide corresponding guarantee.

Where after a company has gone through the formalities for change of registration pursuant to a resolution of the shareholders' meeting, the general meeting or the board of directors, the competent people's court declares the resolution invalid or cancels the resolution, the company shall file an application with the relevant company registration authority for cancellation of the change of registration.

## 第二章 有限责任公司的设立和组织机构

### 第一节 设立

#### **Chapter 2: Establishment and Organizational Structure of a Limited Liability Company**

##### **Section 1: Establishment**

**第二十三条** 设立有限责任公司,应当具备下列条件:

- (一)股东符合法定人数;
- (二)有符合公司章程规定的全体股东认缴的出资额;
- (三)股东共同制定公司章程;
- (四)有公司名称,建立符合有限责任公司要求的组织机构;
- (五)有公司住所。

**Article 23** To establish a limited liability company, the following conditions shall be satisfied:

- (1) The number of shareholders meets the quorum;
- (2) The capital contribution subscribed to by all shareholders meets the requirements of the company's articles of association.
- (3) The shareholders jointly formulate the company's articles of association;
- (4) The company has a name, and its organizational structure meets the requirement for a limited liability company; and
- (5) The company has a domicile.

**第二十四条** 有限责任公司由五十个以下股东出资设立。

**Article 24** The establishment of a limited liability company shall be subject to the capital contribution by not more than 50 shareholders.

**第二十五条** 有限责任公司章程应当载明下列事项:

- (一)公司名称和住所;
- (二)公司经营范围;
- (三)公司注册资本;
- (四)股东的姓名或者名称;
- (五)股东的出资方式、出资额和出资时间;
- (六)公司的机构及其产生办法、职权、议事规则;
- (七)公司法定代表人;
- (八)股东会会议认为需要规定的其他事项。

股东应当在公司章程上签名、盖章。

**Article 25** The articles of association of a limited liability company shall set forth the following matters:

- (1) Name and domicile of the company;
- (2) Business scope of the company;
- (3) Registered capital of the company;
- (4) Names of the shareholders;
- (5) Form, amount, and schedule of capital contributions by the shareholders;
- (6) Organizations of the company and the methods of formation, authorities, and rules of procedure thereof;
- (7) Legal representative of the company; and
- (8) Any other matter deemed as necessary to be specified by the shareholders' meeting.

The shareholders shall affix their signatures and seals to the company's articles of association.

**第二十六条** 有限责任公司的注册资本为在公司登记机关登记的全体股东认缴的出资额。

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

**Article 26** The registered capital of a limited liability company shall be the amount of capital contribution subscribed to by all shareholders as registered with the relevant company registration authority.

The provisions otherwise prescribed by laws, administrative regulations and the decisions of the State Council on the actual payment of registered capital and the minimum registered capital of a limited liability company shall prevail.

**第二十七条** 股东可以用货币出资,也可以用实物、知识产权、土地使用权等可以用货币估价并可以依法转让的非货币财产作价出资;但是,法律、行政法规规定不得作为出资的财产除外。

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

**Article 27** A shareholder may make capital contributions in the form of monetary funds, or alternatively may make capital contributions with such valuated non-monetary property as physical items, intellectual property rights, and land-use rights that may be valued in monetary terms and may be transferred in accordance with the law, excluding the property that shall not be used for capital contributions as specified in laws and administrative regulations.

The non-monetary property that is used for capital contributions shall be valued and verified, and shall not be over-valued or under-valued. The provisions on the valuation of such property as prescribed by laws or administrative regulations shall prevail.

**第二十八条** 股东应当按期足额缴纳公司章程中规定的各自所认缴的出资额。股东以货币出资的,应当将货币出资足额存入有限责任公司在银行开设的账户;以非货币财产出资的,应当依法办理其财产权的转移手续。

股东不按照前款规定缴纳出资的,除应当向公司足额缴纳外,还应当向已按期足额缴纳出资的股东承担违约责任。

**Article 28** The shareholders of a company shall, according to the schedule, make full payment for the capital contributions that they have respectively subscribed for as specified in the articles of association of the company. If a shareholder makes capital contribution in the monetary form, the shareholder shall deposit the full amount of the monetary capital contribution into the bank account opened for the limited liability company. If a shareholder makes capital contribution with non-monetary property, the formalities for transfer of the property rights shall be completed pursuant to the law.

A shareholder who fails to pay capital contribution in accordance with the preceding Paragraph shall, in addition to making full payment to the company, bear the liabilities for breach of contract to the shareholders who have already made full payment of their capital contributions as scheduled.

**第二十九条** 股东认足公司章程规定的出资后,由全体股东指定的代表或者共同委托的代理人向公司登记机关报送公司登记申请书、公司章程等文件,申请设立登记。

**Article 29** After the shareholders of a company have fully subscribed to the amount of capital contribution prescribed by the company's articles of association, the representative designated by all shareholders or the agent authorized by all shareholders shall apply for registration of the establishment of the company by submitting the written company registration application, the company's articles of association and other documents to the relevant company registration authority.

**第三十条** 有限责任公司成立后,发现作为设立公司出资的非货币财产的实际价额显著低于公司章程所定价额的,应当由交付该出资的股东补足其差额;公司设立时的其他股东承担连带责任。

**Article 30** After the establishment of a limited liability company, if the actual value of any capital contribution made in the form of non-monetary property is found to be apparently lower than the value specified in the company's articles of association, the shareholder who has made the said capital contribution shall pay up the difference, with the other shareholders at the time of establishment of the company bearing joint and several liability.

**第三十一条** 有限责任公司成立后,应当向股东签发出资证明书。

出资证明书应当载明下列事项:

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

出资证明书由公司盖章。

**Article 31** Upon the establishment of a limited liability company, a capital contribution certificate shall be issued to each of the shareholders.

The capital contribution certificate shall set forth the following matters:

- (1) Name of the company;
- (2) Date of establishment of the company;
- (3) Registered capital of the company;
- (4) Names of the shareholders, amount of their respective capital contributions, and the date on which the capital contributions are made; and
- (5) Serial number and date of issuance of the capital contribution certificate.

The capital contribution certificate shall be affixed with the seal of the company.

**第三十二条** 有限责任公司应当置备股东名册,记载下列事项:

- (一)股东的姓名或者名称及住所;
- (二)股东的出资额;
- (三)出资证明书编号。

记载于股东名册的股东,可以依股东名册主张行使股东权利。

公司应当将股东的姓名或者名称向公司登记机关登记;登记事项发生变更的,应当办理变更登记。未经登记或者变更登记的,不得对抗第三人。

**Article 32** A limited liability company shall prepare and make available a shareholder register, with the following items specified therein:

- (1) Names and domiciles of the shareholders;
- (2) Amount of capital contributions made by each of the shareholders; and
- (3) Serial number of each capital contribution certificate.

The shareholders who are recorded in the shareholder register may exercise the shareholder's rights on the strength of the shareholder register.

A company shall register the names of the shareholders with the relevant company registration authority. In the case of change of any registered item, the formalities for change of registration shall be completed. A company that fails to go through the formalities for registration or change of registration shall not set up a defense against any third party.

**第三十三条** 股东有权查阅、复制公司章程、股东会会议记录、董事会会议决议、监事会会议决议和财务会计报告。

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

**Article 33** The shareholders of a company shall be entitled to inspect and duplicate the company's articles of association, the minutes of the shareholders' meetings, the resolutions of the board of directors, the resolutions of the board of supervisors, and the financial and accounting reports of the company.

The shareholders may request to inspect the accounting books of the company. Where a shareholder so requests, a written request shall be submitted to the company, with the purposes indicated therein. If the company has reasons to believe that the shareholder's request to inspect the accounting books is for any improper purpose and may prejudice the legitimate interests of the company, the company may reject the request and shall, within 15 days after the shareholder submits the written request, give a written reply to the shareholder and state the reasons therefor. Where the company refuses to allow inspection by the shareholder, the shareholder may request the competent people's court to require the company to provide the access to inspection.

**第三十四条** 股东按照实缴的出资比例分取红利;公司新增资本时,股东有权优先按照实缴的出资比例认缴出资。但是,全体股东约定不按照出资比例分取红利或者不按照出资比例优先认缴出资的除外。

**Article 34** The dividends shall be distributed to shareholders in proportion to the actual capital contributions paid up by them, unless otherwise agreed upon by all the shareholders. In the event of capital increase of the company, the shareholders shall have the priority to subscribe for capital contribution proportionate to their actual paid-up capital contributions, unless otherwise agreed upon by all the shareholders.

**第三十五条** 公司成立后, 股东不得抽逃出资。

**Article 35** After the establishment of a company, its shareholders shall not withdraw their paid-up capital contributions.

## 第二节 组织机构

### Section 2: Organizational Structure

**第三十六条** 有限责任公司股东会由全体股东组成。股东会是公司的权力机构,依照本法行使职权。

**Article 36** The shareholders' meeting of a limited liability company shall be composed of all shareholders. The shareholders' meeting is the company's governing body, and shall exercise its powers in accordance with this Law.

**第三十七条** 股东会行使下列职权:

- (一)决定公司的经营方针和投资计划;
- (二)选举和更换非由职工代表担任的董事、监事,决定有关董事、监事的报酬事项;
- (三)审议批准董事会的报告;
- (四)审议批准监事会或者监事的报告;
- (五)审议批准公司的年度财务预算方案、决算方案;
- (六)审议批准公司的利润分配方案和弥补亏损方案;
- (七)对公司增加或者减少注册资本作出决议;
- (八)对发行公司债券作出决议;
- (九)对公司合并、分立、解散、清算或者变更公司形式作出决议;
- (十)修改公司章程;
- (十一)公司章程规定的其他职权。

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

**Article 37** The shareholders' meeting of a company shall exercise the following powers:

- (1) Making decisions on the company's operation guidelines and investment plans;
- (2) Electing and replacing the directors and supervisors who are not the representatives of the staff members, and making decisions on the matters concerning the remunerations of the directors and supervisors;
- (3) Approving the reports of the board of directors through deliberation;
- (4) Approving the reports of the board of supervisors or those of the supervisors through deliberation;
- (5) Approving the annual financial budget plans and final accounts of the company through deliberation;
- (6) Approving the profit distribution plans and loss recovery plans of the company through deliberation;
- (7) Making resolutions on the increase or decrease of the company's registered capital;
- (8) Making resolutions on the issuance of corporate bonds;
- (9) Making resolutions on the merger, division, dissolution or liquidation of the company or on the conversion of the corporate form;
- (10) Modifying the company's articles of association; and
- (11) Exercising other powers specified in the articles of association.

Where all the shareholders have reached a written consensus on a matter listed in the preceding Paragraph, a decision may be directly made without convening a shareholders' meeting, provided that all the shareholders shall affix their signatures and seals to the decision document.

**第三十八条** 首次股东会会议由出资最多的股东召集和主持,依照本法规定行使职权。

**Article 38** The first shareholders' meeting shall be convened and presided over by the shareholder who has made the largest proportion of capital contributions, and shall exercise its powers in accordance with this Law.

**第三十九条** 股东会会议分为定期会议和临时会议。

定期会议应当依照公司章程的规定按时召开。代表十分之一以上表决权的股东,三分之一以上的董事,监事会或者不设监事会的公司的监事提议召开临时会议的,应当召开临时会议。

**Article 39** The shareholders' meetings are classified into regular meetings and interim meetings.

Regular meetings shall be held as scheduled under the company's articles of association. An interim meeting shall be held if so proposed by the shareholders representing more than one tenth of the voting rights, more than one third of the directors, the board of supervisors, or in the absence thereof, the supervisors.

**第四十条** 有限责任公司设立董事会的,股东会会议由董事会召集,董事长主持;董事长不能履行职务或者不履行职务的,由副董事长主持;副董事长不能履行职务或者不履行职务的,由半数以上董事共同推举一名董事主持。

有限责任公司不设董事会的,股东会会议由执行董事召集和主持。

董事会或者执行董事不能履行或者不履行召集股东会会议职责的,由监事会或者不设监事会的公司的监事召集和主持;监事会或者监事不召集和主持的,代表十分之一以上表决权的股东可以自行召集和主持。

**Article 40** Where a limited liability company has established a board of directors, the shareholders' meetings shall be convened by the board of directors and be presided over by the chairman of the board of directors. If the said chairman is unable to or fails to perform the duties thereof, the shareholders' meetings shall be presided over by the vice chairman of the board of directors. If the vice chairman of the board of directors is unable to or fails to perform the duties thereof, the shareholders' meeting shall be presided over by a director elected jointly by more than half of all the directors..

Where a limited liability company has no board of directors, the shareholders' meetings shall be convened and presided over by an executive director.

If the board of directors or the executive director is unable to or fails to perform the duties of convening the shareholders' meetings, the board of supervisors or, in the absence thereof in the company, the supervisors, shall convene and preside over such meetings. If the board of supervisors or the supervisors fail to convene or preside over such meetings, the shareholders representing more than one tenth of the voting rights may convene and preside over such meetings at their own discretion.

**第四十一条** 召开股东会会议,应当于会议召开十五日前通知全体股东;但是,公司章程另有规定或者全体股东另有约定的除外。

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

**Article 41** A notice shall be given to all the shareholders of a company 15 days before a shareholders' meeting is held, unless otherwise specified in the company's articles of association or otherwise agreed upon by all the shareholders.

Minutes shall be prepared by the shareholders' meeting for the decisions on the matters deliberated at each of the shareholders' meetings. Shareholders present at such meetings shall affix their signatures thereto.

**第四十二条** 股东会会议由股东按照出资比例行使表决权;但是,公司章程另有规定的除外。

**Article 42** The shareholders of a company shall exercise their voting rights at shareholders' meetings in proportion to their respective capital contributions, unless otherwise specified in the company's articles of association.

**第四十三条** 股东会的议事方式和表决程序,除本法有规定的外,由公司章程规定。

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

**Article 43** The rules of procedure and voting procedures of the shareholders' meeting of a company shall be set forth in the company's articles of association, unless otherwise specified in this Law.

Any resolutions made at a shareholders' meeting on the amendment of the company's articles of association, increase or decrease of the registered capital and on the merger, division, dissolution, or conversion of the company, shall be adopted by the shareholders representing more than two thirds of the voting rights.

**第四十四条** 有限责任公司设董事会,其成员为三人至十三人;但是,本法第五十条另有规定的除外。

两个以上的国有企业或者两个以上的其他国有投资主体投资设立的有限责任公司,其董事会成员中应当有公司职工代表;其他有限责任公司董事会成员中可以有公司职工代表。董事会中的职工代表由公司职工通过职工代表大会、职工大会或者其他形式民主选举产生。

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

**Article 44** A limited liability company shall have a board of directors that is to be composed of 3 to 13 members, unless otherwise specified in Article 50 of this Law.

In the case of a limited liability company established with investment from two or more State-owned enterprises or two or more other types of State-owned investing parties, the members of its board of directors shall include the representatives of the staff members of the company; in the case of any other limited liability company, the members of its board of directors may include representatives of the staff members of the company. The representatives of the staff members in the board of directors shall be elected democratically through a general meeting of the representatives of the staff members, general meeting of staff members, or in other forms.

The board of directors shall have one chairman, and may have several vice chairmen. The methods for election of the chairman and vice chairmen shall be specified in the company's articles of association.

**第四十五条** 董事任期由公司章程规定,但每届任期不得超过三年。董事任期届满,连选可以连任。

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

**Article 45** The term of office of a director of a company shall be specified in the company's articles of association, subject to a maximum of three years. The term of office of a director may be renewed upon expiry thereof in the case of successful re-election.

Where a new election is not held in a timely manner upon expiry of the term of office of a director, or where the number of the members of the board of directors is less than the quorum due to the resignation of one or more directors during their term of office, such former director(s) shall continue to perform the director's duties in accordance with laws, administrative regulations and the company's articles of association until the newly-elected director(s) take office.

**第四十六条** 董事会对股东会负责,行使下列职权:

- (一)召集股东会会议,并向股东会报告工作;
- (二)执行股东会的决议;
- (三)决定公司的经营计划和投资方案;
- (四)制订公司的年度财务预算方案、决算方案;
- (五)制订公司的利润分配方案和弥补亏损方案;
- (六)制订公司增加或者减少注册资本以及发行公司债券的方案;
- (七)制订公司合并、分立、解散或者变更公司形式的方案;
- (八)决定公司内部管理机构的设置;
- (九)决定聘任或者解聘公司经理及其报酬事项,并根据经理的提名决定聘任或者解聘公司副经理、财务负责人及其报酬事项;
- (十)制定公司的基本管理制度;
- (十一)公司章程规定的其他职权。

**Article 46** The board of directors of a company shall be accountable to the shareholders' meeting and exercise the following powers:

- (1) Convening the shareholders' meetings and reporting to the shareholders' meeting;
- (2) Executing the resolutions of the shareholders' meeting;
- (3) Making decisions on the operation plans and investment plans of the company;
- (4) Formulating the annual financial budget plans and final accounts of the company;

- (5) Formulating the profit distribution plans and loss recovery plans of the company;
- (6) Formulating the plans on the increase or reduction of the registered capital of the company, and on the issuance of corporate bonds;
- (7) Formulating the plans on the merger, division, dissolution, or conversion of the company;
- (8) Making decisions on the set-up of the internal management bodies of the company;
- (9) Making decisions on the employment or dismissal of the manager of the company and matters related to the remuneration thereof, and making decisions, according to the manager's nomination, on the employment or dismissal of the vice manager(s) and the personnel in charge of financial issues and the matters related to their remunerations;
- (10) Formulating the fundamental management systems of the company; and
- (11) Exercising other powers specified in the company's articles of association.

**第四十七条** 董事会会议由董事长召集和主持;董事长不能履行职务或者不履行职务的,由副董事长召集和主持;副董事长不能履行职务或者不履行职务的,由半数以上董事共同推举一名董事召集和主持。

**Article 47** The meetings of the board of directors shall be convened and presided over by the chairman of the board of directors. If the chairman is unable to or fails to perform his/her duties, the meetings shall be convened or presided over by the vice chairman of the board of directors. If the vice chairman is unable to or fails to perform his/her duties, the meetings shall be convened or presided over by a director jointly elected by more than half of all the directors.

**第四十八条** 董事会的议事方式和表决程序,除本法有规定的外,由公司章程规定。  
董事会应当对所议事项的决定作成会议记录,出席会议的董事应当在会议记录上签名。  
董事会决议的表决,实行一人一票。

**Article 48** The rules of procedure and voting procedures of the board of directors of a company shall be set forth in the company's articles of association, unless otherwise specified in this Law.

Minutes shall be prepared by the board of directors for the decisions made on the matters discussed [at each of the meetings of the board of directors]. The directors present at such meetings shall affix their signatures thereto.

In voting on a resolution of the board of directors, one person shall be entitled to only one vote.

**第四十九条** 有限责任公司可以设经理,由董事会决定聘任或者解聘。经理对董事会负责,行使下列职权:

- (一)主持公司的生产经营管理工作,组织实施董事会决议;
- (二)组织实施公司年度经营计划和投资方案;
- (三)拟订公司内部管理机构设置方案;
- (四)拟订公司的基本管理制度;
- (五)制定公司的具体规章;
- (六)提请聘任或者解聘公司副经理、财务负责人;
- (七)决定聘任或者解聘除应由董事会决定聘任或者解聘以外的负责管理人员;
- (八)董事会授予的其他职权。

公司章程对经理职权另有规定的,从其规定。

经理列席董事会会议。

**Article 49** A limited liability company may have a manager whose employment or dismissal shall be subject to the decision of the board of directors. The manager shall be accountable to the board of directors and shall exercise the following powers:

(1) Taking charge of the management of the production and business operations of the company, and organizing the implementation of the resolutions of the board of directors;

(2) Organizing the implementation of the annual operation plans and investment plans of the company;

(3) Drafting the plans on the set-up of the internal management bodies of the company;

(4) Drafting the fundamental management systems of the company;

(5) Formulating specific regulations of the company;

(6) Proposing to employ or dismiss the vice manager(s) or personnel in charge of financial issues of the company;

(7) Making decisions on the employment or dismissal of the persons in charge of management other than those whose employment or dismissal shall be subject to the decision of the board of directors; and

(8) Exercising other powers conferred by the board of directors.

Provisions on the powers of the manager otherwise specified in the company's articles of association shall prevail.

The manager shall attend meetings of the board of directors as a non-voting participant.

**第五十条** 股东人数较少或者规模较小的有限责任公司,可以设一名执行董事,不设董事会。执行董事可以兼任公司经理。

执行董事的职权由公司章程规定。

**Article 50** A limited liability company with relatively few shareholders or of a relatively small size may have one executive director instead of a board of directors. The executive director may concurrently hold the post of the manager of the company.

The powers of the executive director shall be specified by the company's articles of association.

**第五十一条** 有限责任公司设监事会,其成员不得少于三人。股东人数较少或者规模较小的有限责任公司,可以设一至二名监事,不设监事会。

监事会应当包括股东代表和适当比例的公司职工代表,其中职工代表的比例不得低于三分之一,具体比例由公司章程规定。监事会中的职工代表由公司职工通过职工代表大会、职工大会或者其他形式民主选举产生。

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

董事、高级管理人员不得兼任监事。

**Article 51** A limited liability company shall have a board of supervisors that is to be composed of at least three members. A limited liability company with relatively few shareholders or of a relatively small size may have one or two supervisors instead of a board of supervisors.

The board of supervisors shall include representatives of the shareholders and an appropriate proportion of representatives of the staff members of the company. The specific proportion of the latter shall be specified in the company's articles of association, subject to a minimum of one-third. The representatives of the staff members in the board of supervisors shall be elected democratically by the staff members of the company through a general meeting of the representatives of the staff members, a general meeting of staff members, or in other forms.

The board of supervisors shall have one chairman who is to be elected by more than half of all the supervisors. The chairman of the board of supervisors shall convene and preside over the meetings of the board of supervisors. If the chairman is unable to or fails to perform his/her duties, such meetings shall be convened or presided over by a supervisor jointly elected by more than half of all the

supervisors.

The directors or senior management personnel shall not concurrently hold the posts of supervisors.

**第五十二条** 监事的任期每届为三年。监事任期届满,连选可以连任。

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

**Article 52** The term of office of a supervisor shall be three years. The term of office of a supervisor may be renewed upon expiry thereof in the case of successful re-election.

If a new election is not held in a timely manner upon the expiry of the term of office of a supervisor, or if the number of the members of the board of supervisors is less than the quorum due to the resignation of one or more supervisors during their term of office, such former supervisor(s) shall continue to perform supervisor's duties in accordance with laws, administrative regulations, and the company's articles of association until the newly elected supervisor(s) take(s) office.

**第五十三条** 监事会、不设监事会的公司的监事行使下列职权:

- (一)检查公司财务;
- (二)对董事、高级管理人员执行公司职务的行为进行监督,对违反法律、行政法规、公司章程或者股东会决议的董事、高级管理人员提出罢免的建议;
- (三)当董事、高级管理人员的行为损害公司的利益时,要求董事、高级管理人员予以纠正;
- (四)提议召开临时股东会会议,在董事会不履行本法规定的召集和主持股东会会议职责时召集和主持股东会会议;
- (五)向股东会会议提出提案;
- (六)依照本法第一百五十一条的规定,对董事、高级管理人员提起诉讼;
- (七)公司章程规定的其他职权。

**Article 53** The board of supervisors or, in the absence thereof in a company, the supervisors shall exercise the following powers:

- (1) Conducting inspection of the financial issues of the company;
- (2) Supervising the performance of duties by the directors and senior management personnel, and submitting a proposal on the removal of any director or senior management person who violates laws or administrative regulations, the company's articles of association, or any resolution of the shareholders' meeting;
- (3) Requiring the directors or senior management personnel to correct their conducts that prejudice the interests of the company;
- (4) Proposing to convene interim shareholders' meetings, and convening and presiding over shareholders' meetings when the board of directors fails to perform the duties of convening and presiding over shareholders' meetings as specified in this Law;
- (5) Putting forward proposals to the shareholders' meeting;
- (6) Filing actions against the directors or senior management personnel in accordance with Article 151 of this Law; and
- (7) Exercising other powers specified in the company's articles of association.

**第五十四条** 监事可以列席董事会会议,并对董事会决议事项提出质询或者建议。

监事会、不设监事会的公司的监事发现公司经营情况异常,可以进行调查;必要时,可以聘请会计师事务所等协助其工作,费用由公司承担。

**Article 54** The supervisors of a company may attend the meetings of the board of directors as

non-voting participants, and may raise questions or suggestions on the matters decided by the board of directors.

The board of supervisors or, in the absence thereof in a company, the supervisors may conduct investigation when discovering any abnormality in the operating conditions of the company, and, where necessary, may engage an accounting firm and others to provide assistance, with relevant expenses borne by the company.

**第五十五条** 监事会每年度至少召开一次会议,监事可以提议召开临时监事会会议。

监事会的议事方式和表决程序,除本法有规定的外,由公司章程规定。

监事会决议应当经半数以上监事通过。

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

**Article 55** The board of supervisors shall convene a meeting at least once a year, and the supervisors may propose to convene an interim meeting of the board of supervisors.

The rules of procedure and voting procedures of the board of supervisors of a company shall be set forth in the company's articles of association, unless otherwise specified in this Law.

A resolution of the board of supervisors shall be passed by more than half of all the supervisors.

Minutes shall be prepared by the board of supervisors for the decisions on the matters discussed [at each of the meetings of the board of supervisors]. The supervisors present at such meetings shall affix their signatures thereto.

**第五十六条** 监事会、不设监事会的公司的监事行使职权所必需的费用,由公司承担。

**Article 56** The necessary expenses incurred by the board of supervisors or, in the absence thereof in a company, the supervisors for exercise of their powers shall be borne by the company.

### 第三节 一人有限责任公司的特别规定

#### **Section 3: Special Provisions on One-Person Limited Liability Companies**

**第五十七条** 一人有限责任公司的设立和组织机构,适用本节规定;本节没有规定的,适用本章第一节、第二节的规定。

本法所称一人有限责任公司,是指只有一个自然人股东或者一个法人股东的有限责任公司。

**Article 57** This Section shall be applicable to the establishment and the organizational structure of a one-person limited liability company. In the absence of pertinent provisions in this Section, Section 1 and Section 2 of this Chapter shall apply.

For the purpose of this Law, a one-person limited liability company shall refer to a limited liability company comprising only one natural person shareholder or one legal person shareholder.

**第五十八条** 一个自然人只能投资设立一个一人有限责任公司。该一人有限责任公司不能投资设立新的一人有限责任公司。

**Article 58** One natural person can only establish one one-person limited liability company which is prohibited from investing in the establishment of another one-person limited liability company.

**第五十九条** 一人有限责任公司应当在公司登记中注明自然人独资或者法人独资,并在公司营业执照中载明。

**Article 59** A one-person limited liability company shall indicate, in its company registration,

whether it is wholly owned by a natural person or a legal person. The same shall also be stated in the business license of the company.

**第六十条** 一人有限责任公司章程由股东制定。

**Article 60** The articles of association of a one-person limited liability company shall be formulated by the shareholder.

**第六十一条** 一人有限责任公司不设股东会。股东作出本法第三十七条第一款所列决定时,应当采用书面形式,并由股东签名后置备于公司。

**Article 61** A one-person limited liability company has no shareholders' meeting. Where the shareholder makes a decision listed in Paragraph 1 of Article 37 of this Law, the decision shall be made in writing, and shall be prepared and made available at the company after the shareholder has affixed his/her signature thereto.

**第六十二条** 一人有限责任公司应当在每一会计年度终了时编制财务会计报告,并经会计师事务所审计。

**Article 62** A one-person limited liability company shall prepare financial and accounting reports at the end of each fiscal year, and such reports shall be audited by an accounting firm.

**第六十三条** 一人有限责任公司的股东不能证明公司财产独立于股东自己的财产的,应当对公司债务承担连带责任。

**Article 63** Where the shareholder of a one-person limited liability company is unable to prove that the property of the company is independent of his/her own property, the shareholder shall bear joint and several liabilities for the debts of the company.

#### 第四节 国有独资公司的特别规定

### Section 4: Special Provisions on Wholly State-Owned Companies

**第六十四条** 国有独资公司的设立和组织机构,适用本节规定;本节没有规定的,适用本章第一节、第二节的规定。

本法所称国有独资公司,是指国家单独出资、由国务院或者地方人民政府授权本级人民政府国有资产监督管理机构履行出资人职责的有限责任公司。

**Article 64** This Section shall be applicable to the establishment and the organizational structure of a wholly State-owned company. In the absence of pertinent provisions in this Section, Section 1 and Section 2 of this Chapter shall apply.

For the purpose of this Law, a wholly State-owned company shall refer to a limited liability company to which the capital contribution is solely made by the State and for which the State Council or the State-owned assets supervision and administration authority, authorized by the local people's government at the same level, performs the duties of the capital contributing party.

**第六十五条** 国有独资公司章程由国有资产监督管理机构制定,或者由董事会制订报国有资产监督管理机构批准。

**Article 65** The articles of association of a wholly State-owned company shall be formulated by the relevant State-owned assets supervision and administration authority, or be formulated by the board of directors and be reported to the relevant State-owned assets supervision and administration authority

for approval.

**第六十六条** 国有独资公司不设股东会,由国有资产监督管理机构行使股东会职权。国有资产监督管理机构可以授权公司董事会行使股东会的部分职权,决定公司的重大事项,但公司的合并、分立、解散、增加或者减少注册资本和发行公司债券,必须由国有资产监督管理机构决定;其中,重要的国有独资公司合并、分立、解散、申请破产的,应当由国有资产监督管理机构审核后,报本级人民政府批准。

前款所称重要的国有独资公司,按照国务院的规定确定。

**Article 66** A wholly State-owned company has no shareholders' meeting, and the relevant State-owned assets supervision and administration authority shall exercise the powers of the shareholders' meeting. The State-owned assets supervision and administration authority may authorize the board of directors of the company to exercise part of the powers of the shareholders' meeting, and to make decisions on material matters of the company. However, the merger, division, and dissolution of the company, the increase or reduction of the registered capital, or issuance of corporate bonds shall be subject to the decision of the State-owned supervision and administration authority. The merger, division, and dissolution of, or application for bankruptcy by, an important wholly State-owned company shall, after the examination and verification of the State-owned assets supervision and administration authority, be reported to the people's government at the same level for approval.

For the purpose of the preceding Paragraph, an important wholly State-owned company shall be determined in accordance with relevant provisions of the State Council.

**第六十七条** 国有独资公司设董事会,依照本法第四十六条、第六十六条的规定行使职权。董事每届任期不得超过三年。董事会成员中应当有公司职工代表。

董事会成员由国有资产监督管理机构委派;但是,董事会成员中的职工代表由公司职工代表大会选举产生。

董事会设董事长一人,可以设副董事长。董事长、副董事长由国有资产监督管理机构从董事会成员中指定。

**Article 67** A wholly State-owned company shall have a board of directors which shall exercise its powers in accordance with Article 46 and Article 66 of this Law. The term of office of a director shall not exceed three years. The members of the board of directors shall include representatives of the staff members of the company.

The members of the board of directors shall be appointed by the relevant State-owned assets supervision and administration authority. However, the representatives of the staff members in the board of directors shall be elected by the staff members of the company through a general meeting of the representatives of the staff members.

The board of directors shall have one chairman and may have several vice chairmen. The chairman and vice chairmen of the board of directors shall be appointed from among the members of the board by the relevant State-owned assets supervision and administration authority.

**第六十八条** 国有独资公司设经理,由董事会聘任或者解聘。经理依照本法第四十九条规定行使职权。

经国有资产监督管理机构同意,董事会成员可以兼任经理。

**Article 68** A wholly State-owned company may have a manager whose employment or dismissal shall be at the decision of the board of directors. The manager shall exercise his/her powers pursuant to Article 49 of this Law.

Subject to the consent of the relevant State-owned assets supervision and administration authority, a

member of the board of directors may concurrently hold the post of the manager of the company.

**第六十九条** 国有独资公司的董事长、副董事长、董事、高级管理人员,未经国有资产监督管理机构同意,不得在其他有限责任公司、股份有限公司或者其他经济组织兼职。

**Article 69** The chairman, vice chairmen, and directors of the board of directors and the senior management personnel of a wholly State-owned company shall not, without the consent of the relevant State-owned assets supervision and administration authority, concurrently hold any position at any other limited liability company, company limited by shares, or any other economic organization.

**第七十条** 国有独资公司监事会成员不得少于五人,其中职工代表的比例不得低于三分之一,具体比例由公司章程规定。

监事会成员由国有资产监督管理机构委派;但是,监事会成员中的职工代表由公司职工代表大会选举产生。监事会主席由国有资产监督管理机构从监事会成员中指定。

监事会行使本法第五十三条第(一)项至第(三)项规定的职权和国务院规定的其他职权。

**Article 70** The board of supervisors of a wholly State-owned company shall comprise at least five members, among whom the proportion of the representatives of the staff members shall not be less than one third, and the specific proportion shall be specified in the company's articles of association. The members of the board of supervisors shall be appointed by the relevant State-owned assets supervision and administration authority, provided that the representatives of the staff members in the board of supervisors shall be elected through a general meeting of the representatives of the staff members.

The chairman of the board of supervisors shall be appointed from among the members of the board of supervisors by the State-owned assets supervision and administration authority.

The board of supervisors shall exercise the powers specified in Item (1) through to Item (3) of Article 53 of this Law and other powers provided for by the State Council.

### 第三章 有限责任公司的股权转让

#### Chapter 3: Equity Transfer of a Limited Liability Company

**第七十一条** 有限责任公司的股东之间可以相互转让其全部或者部分股权。

股东向股东以外的人转让股权,应当经其他股东过半数同意。股东应就其股权转让事项书面通知其他股东征求同意,其他股东自接到书面通知之日起满三十日未答复的,视为同意转让。其他股东半数以上不同意转让的,不同意的股东应当购买该转让的股权;不购买的,视为同意转让。

经股东同意转让的股权,在同等条件下,其他股东有优先购买权。两个以上股东主张行使优先购买权的,协商确定各自的购买比例;协商不成的,按照转让时各自的出资比例行使优先购买权。

公司章程对股权转让另有规定的,从其规定。

**Article 71** The shareholders of a limited liability company may transfer all or part of their equity among each other.

The proposed transfer of equity by a shareholder to any non-shareholder party shall be subject to the consent of more than half of the other shareholders. The shareholder shall notify the other shareholders in writing of the matters on the proposed equity transfer for their consent. Failure to reply by any of the other shareholders within 30 days upon receipt of the written notice shall be deemed as consent to the transfer. Where more than half of the other shareholders do not consent to the transfer, such non-consenting shareholders shall purchase the equity to be transferred; failure to purchase the equity shall be deemed as consent to the transfer.

With respect to any equity to be transferred with the consent of the shareholders, those shareholders

other than the transferring party shall have the preemptive right under the same conditions. Where two or more shareholders claim to exercise their preemptive right, they shall determine the proportional ratio for purchase through consultation. Where the consultation fails, the preemptive right shall be exercised in proportion to their respective capital contribution at the time of the transfer.

The provisions on equity transfer otherwise prescribed by the articles of association of a company shall prevail.

**第七十二条** 人民法院依照法律规定的强制执行程序转让股东的股权时,应当通知公司及全体股东,其他股东在同等条件下有优先购买权。其他股东自人民法院通知之日起满二十日不行使优先购买权的,视为放弃优先购买权。

**Article 72** A people's court shall, when transferring a shareholder's equity pursuant to the mandatory enforcement procedures under the law, notify the company and all the shareholders that the other shareholders have the preemptive right under the same conditions. The other shareholders who fail to exercise their preemptive right within 20 days of such notification shall be deemed to have waived their preemptive right.

**第七十三条** 依照本法第七十一条、第七十二条转让股权后,公司应当注销原股东的出资证明书,向新股东签发出资证明书,并相应修改公司章程和股东名册中有关股东及其出资额的记载。对公司章程的该项修改不需再由股东会表决。

**Article 73** After transfer of any equity pursuant to Article 71 and Article 72 of this Law, the company concerned shall deregister the capital contribution certificate of the original shareholder, issue a capital contribution certificate to the new shareholder, and modify the records on the shareholder and the capital contributions thereof in the company's articles of association and the shareholder register accordingly. The shareholders' meeting is not required to vote on the said modification to the company's articles of association.

**第七十四条** 有下列情形之一的,对股东会该项决议投反对票的股东可以请求公司按照合理的价格收购其股权:

- (一)公司连续五年不向股东分配利润,而公司该五年连续盈利,并且符合本法规定的分配利润条件的;
- (二)公司合并、分立、转让主要财产的;
- (三)公司章程规定的营业期限届满或者章程规定的其他解散事由出现,股东会会议通过决议修改章程使公司存续的。

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

**Article 74** Under any of the following circumstances, a shareholder of a company who votes against a resolution of the shareholders' meeting may request the company to acquire the equity thereof at a reasonable price:

- (1) Where the company fails to distribute any profit to its shareholders for five consecutive years, while being profitable during those five consecutive years and satisfying the conditions on profit distribution specified in this Law;
- (2) Where the company is merged or divided, or it transfers its primary property; or
- (3) Where upon the expiration of the term of operation specified in the company's articles of association or the occurrence of any other cause of dissolution specified therein, a resolution is adopted at a shareholders' meeting to modify the articles of association to the effect that the company continues to exist.

If the shareholder fails to reach an agreement with the company on equity acquisition within 60 days after the resolution of the shareholders' meeting is adopted, the shareholder may file an action with a competent people's court within 90 days after the resolution of the shareholders' meeting is adopted.

**第七十五条** 自然人股东死亡后,其合法继承人可以继承股东资格;但是,公司章程另有规定的除外。

**Article 75** After the death of a natural person shareholder of a company, the lawful successor thereof may succeed to the shareholder capacity, unless otherwise specified in the company's articles of association.

## 第四章 股份有限公司的设立和组织机构

### 第一节 设立

#### **Chapter 4: Establishment and Organizational Structure of a Company Limited by Shares** **Section 1: Establishment**

**第七十六条** 设立股份有限公司,应当具备下列条件:

- (一)发起人符合法定人数;
- (二)有符合公司章程规定的全体发起人认购的股本总额或者募集的实收股本总额;
- (三)股份发行、筹办事项符合法律规定;
- (四)发起人制订公司章程,采用募集方式设立的经创立大会通过;
- (五)有公司名称,建立符合股份有限公司要求的组织机构;
- (六)有公司住所。

**Article 76** To establish a company limited by shares, the following conditions shall be satisfied:

- (1) The number of promoters meets the statutory quorum;
- (2) The total share capital subscribed to by all promoters or total amount of paid-up share capital raised meets the requirements of the company's articles of association
- (3) The issuance of shares and the preparatory work are in compliance with the law;
- (4) The company's articles of association is formulated by the promoters, or is adopted at the inaugural meeting if the company is established by means of stock flotation;
- (5) The company has a name, and has established an organization structure that conforms to the requirements on a company limited by shares; and
- (6) The company has a domicile.

**第七十七条** 股份有限公司的设立,可以采取发起设立或者募集设立的方式。

发起设立,是指由发起人认购公司应发行的全部股份而设立公司。

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

**Article 77** A company limited by shares may be established through promotion or stock flotation.

Establishment of a company through promotion shall mean that the promoters of a company establish the company by subscribing for all of the shares that shall be issued by the company.

Establishment of a company through stock flotation shall mean the promoters of a company establish the company by subscribing for part of the shares that shall be issued by the company and offering the remaining shares to the public or particular investors for subscription.

**第七十八条** 设立股份有限公司,应当有二人以上二百人以下发起人,其中须有半数以上的发起人

在中国境内有住所。

**Article 78** To establish a company limited by shares, there shall be not less than two but not more than 200 promoters, of whom more than half shall have domiciles within the territory of China.

**第七十九条** 股份有限公司发起人承担公司筹办事务。

发起人应当签订发起人协议,明确各自在公司设立过程中的权利和义务。

**Article 79** The promoters of a company limited by shares shall be responsible for the establishment preparatory work of the company.

They shall conclude a promoters' agreement to clarify their respective rights and obligations during the course of establishment of the company.

**第八十条** 股份有限公司采取发起设立方式设立的,注册资本为在公司登记机关登记的全体发起人认购的股本总额。在发起人认购的股份缴足前,不得向他人募集股份。

股份有限公司采取募集方式设立的,注册资本为在公司登记机关登记的实收股本总额。

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

**Article 80** Where a company limited by shares is established by way of promotion, its registered capital shall be the total amount of share capital subscribed to by all promoters as registered with the relevant company registration authority. The said company is not allowed to offer shares to others for subscription before the shares subscribed to by its promoters are fully paid up.

Where a company limited by shares is established through stock flotation, the registered capital thereof shall be the actual total paid-up share capital registered at the relevant company registration authority.

The provisions otherwise prescribed by laws, administrative regulations and the decisions of the State Council on the actual payment of registered capital and the minimum registered capital of a company limited by shares shall prevail.

**第八十一条** 股份有限公司章程应当载明下列事项:

- (一)公司名称和住所;
- (二)公司经营范围;
- (三)公司设立方式;
- (四)公司股份总数、每股金额和注册资本;
- (五)发起人的姓名或者名称、认购的股份数、出资方式 and 出资时间;
- (六)董事会的组成、职权和议事规则;
- (七)公司法定代表人;
- (八)监事会的组成、职权和议事规则;
- (九)公司利润分配办法;
- (十)公司的解散事由与清算办法;
- (十一)公司的通知和公告办法;
- (十二)股东大会会议认为需要规定的其他事项。

**Article 81** The articles of association of a company limited by shares shall set forth the following matters:

- (1) Name and domicile of the company;
- (2) Business scope of the company;

- (3) Form of establishment of the company;
- (4) Total shares, price per share, and registered capital of the company;
- (5) Names of the promoters, number of shares they have subscribed for, and forms and schedule of their capital contributions;
- (6) Composition, authorities and rules of procedure of the board of directors;
- (7) Legal representative of the company;
- (8) Composition, authorities and rules of procedure of the board of supervisors;
- (9) Methods for profit distribution of the company;
- (10) Causes for dissolution, and methods for liquidation, of the company;
- (11) Methods of notification and public announcement by the company; and
- (12) Any other matters deemed as necessary to be specified by the general meeting.

**第八十二条** 发起人的出资方式,适用本法第二十七条的规定。

**Article 82** Article 27 of this Law shall be applicable to the forms of capital contribution by promoters.

**第八十三条** 以发起设立方式设立股份有限公司的,发起人应当书面认足公司章程规定其认购的股份,并按照公司章程规定缴纳出资。以非货币财产出资的,应当依法办理其财产权的转移手续。

发起人不依照前款规定缴纳出资的,应当按照发起人协议承担违约责任。

发起人认足公司章程规定的出资后,应当选举董事会和监事会,由董事会向公司登记机关报送公司章程以及法律、行政法规规定的其他文件,申请设立登记。

**Article 83** Where a company limited by shares is established by way of promotion, its promoters shall subscribe, in writing, to all shares that they are required to subscribe to under the company's articles of association, and make capital contributions pursuant to the company's articles of association. Where capital contributions are made with non-monetary assets, the promoters shall go through the procedures for transfer of property rights pursuant to the law.

In the event of a promoter's failure to make capital contributions in accordance with the preceding Paragraph, the promoter shall bear the liabilities for breach of contract pursuant to the promoters' agreement.

After the promoters have fully subscribed to the capital contribution prescribed by the company's articles of association, the board of directors and the board of supervisors of the company shall be elected, and the board of directors shall apply for registration of the establishment of the company by submitting the company's articles of association and other documents prescribed by laws and administrative regulations to the relevant company registration authority.

**第八十四条** 以募集设立方式设立股份有限公司的,发起人认购的股份不得少于公司股份总数的百分之三十五;但是,法律、行政法规另有规定的,从其规定。

**Article 84** Where a company limited by shares is established through stock flotation, the shares subscribed for by the promoters shall not be less than 35 percent of the total shares of the company, unless otherwise prescribed by laws or administrative regulations.

**第八十五条** 发起人向社会公开募集股份,必须公告招股说明书,并制作认股书。认股书应当载明本法第八十六条所列事项,由认股人填写认购股数、金额、住所,并签名、盖章。认股人按照所认购股数缴纳股款。

**Article 85** The promoters of a company limited by shares shall announce a prospectus and

prepare a share subscription form if they publicly offer shares for subscription. The share subscription form shall state the items listed in Article 86 of this Law. The subscribers shall fill out the number and value of their subscribed shares and their domiciles, accompanied by their signatures or seals. The subscribers shall pay for the shares according to the number of their subscribed shares.

**第八十六条** 招股说明书应当附有发起人制订的公司章程,并载明下列事项:

- (一)发起人认购的股份数;
- (二)每股的票面金额和发行价格;
- (三)无记名股票的发行总数;
- (四)募集资金的用途;
- (五)认股人的权利、义务;
- (六)本次募股的起止期限及逾期未募足时认股人可以撤回所认股份的说明。

**Article 86** The prospectus shall be accompanied by the company's articles of association formulated by the promoters, and shall set forth the following matters:

- (1) Number of shares subscribed for by the promoters;
- (2) Par value and issuing price per share;
- (3) Total number of bearer stocks issued;
- (4) Purposes of the funds raised;
- (5) Rights and obligations of the subscribers; and
- (6) Commencement and ending dates of the share offering, and a statement that the subscribers may withdraw their subscriptions if the shares are not fully subscribed upon the expiry of the share offer.

**第八十七条** 发起人向社会公开募集股份,应当由依法设立的证券公司承销,签订承销协议。

**Article 87** The public share offering of promoters shall be underwritten by a lawfully-established securities company, and an underwriting agreement shall be concluded.

**第八十八条** 发起人向社会公开募集股份,应当同银行签订代收股款协议。

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

**Article 88** When conducting a public share offering, the promoters shall conclude an agreement with a bank whereby the latter shall collect the payment for shares on behalf of the former.

The receiving bank shall collect and hold the payments for shares in accordance with the agreement, issue receipts to subscribers who have paid for their share subscriptions, and is under the obligation to provide the relevant department with the certificates for payment receipt.

**第八十九条** 发行股份的股款缴足后,必须经依法设立的验资机构验资并出具证明。发起人应当自股款缴足之日起三十日内主持召开公司创立大会。创立大会由发起人、认股人组成。

发行的股份超过招股说明书规定的截止期限尚未募足的,或者发行股份的股款缴足后,发起人在三十日内未召开创立大会的,认股人可以按照所缴股款并加算银行同期存款利息,要求发起人返还。

**Article 89** The payments for the issued shares shall, after being fully made, be subject to capital verification and issuance of a certification by a lawfully-established capital verification agency. The promoters shall convene a meeting to found the company within 30 days after the payments for the shares are fully made. The attendees at the inaugural meeting shall comprise the promoters and subscribers.

If the shares issued are not fully subscribed upon the expiry of the time limit specified in the

prospectus, or if the promoters fail to convene an inaugural meeting within 30 days after the payments for the issued shares are fully made, the subscribers may require the promoters to refund their payments for the shares plus the interest calculated according to the bank deposit interest rate for that corresponding period.

**第九十条** 发起人应当在创立大会召开十五日前将会议日期通知各认股人或者予以公告。创立大会应有代表股份总数过半数的发起人、认股人出席,方可举行。

创立大会行使下列职权:

- (一)审议发起人关于公司筹办情况的报告;
- (二)通过公司章程;
- (三)选举董事会成员;
- (四)选举监事会成员;
- (五)对公司的设立费用进行审核;
- (六)对发起人用于抵作股款的财产的作价进行审核;
- (七)发生不可抗力或者经营条件发生重大变化直接影响公司设立的,可以作出不设立公司的决议。

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

**Article 90** The promoters shall notify each and every subscriber of the date of the inaugural meeting or make a public announcement thereon 15 days before the meeting is held. Only when the promoters and subscribers representing more than half of the total shares are present may the inaugural meeting be held.

The inaugural meeting shall exercise the following powers:

- (1) Deliberating the report of the promoters on the establishment preparatory work of the company;
- (2) Adopting the company's articles of association;
- (3) Electing the members of the board of directors;
- (4) Electing the members of the board of supervisors;
- (5) Examining and verifying the expenses incurred for the establishment of the company;
- (6) Examining and verifying the valuation of the property contributed by the promoters in lieu of payments for shares; and
- (7) Reaching a resolution on non-establishment of the company, as permitted in the occurrence of any force majeure event or material change to operating conditions that directly affects the establishment of the company.

The resolutions on any of the matters listed in the preceding Paragraph shall be passed by the subscribers who represent more than half of the voting rights of all subscribers present at the meeting.

**第九十一条** 发起人、认股人缴纳股款或者交付抵作股款的出资后,除未按期募足股份、发起人未按期召开创立大会或者创立大会决议不设立公司的情形外,不得抽回其股本。

**Article 91** The promoters and subscribers shall not withdraw their share capital after making payments for the shares or otherwise making capital contributions in lieu of payments for shares, except where the issued shares are not fully subscribed by the specified deadline, the promoters fail to convene the inaugural meeting as scheduled, or the inaugural meeting reaches a resolution on non-establishment of the company.

**第九十二条** 董事会应于创立大会结束后三十日内,向公司登记机关报送下列文件,申请设立登记:

- (一)公司登记申请书;
- (二)创立大会的会议记录;

- (三)公司章程;
- (四)验资证明;
- (五)法定代表人、董事、监事的任职文件及其身份证明;
- (六)发起人的法人资格证明或者自然人身份证明;
- (七)公司住所证明。

以募集方式设立股份有限公司公开发行股票,还应当由公司登记机关报送国务院证券监督管理机构的核准文件。

**Article 92** The board of directors of a company limited by shares shall, within 30 days after the conclusion of the inaugural meeting, file an application for establishment registration with the relevant company registration authority by submitting the following documents:

- (1) A written application for company registration;
- (2) Minutes of the inaugural meeting;
- (3) Articles of association of the company;
- (4) Capital verification proofs;
- (5) Appointment documents and identity documents of the legal representative, directors, and supervisors;
- (6) Certifications of the legal person or natural person status of the promoters; and
- (7) Certification on the domicile of the company.

Where a company limited by shares established through stock flotation publicly issues shares, the approval document issued by the securities regulatory authority of the State Council shall also be submitted to the relevant company registration authority.

**第九十三条** 股份有限公司成立后,发起人未按照公司章程的规定缴足出资的,应当补缴;其他发起人承担连带责任。

股份有限公司成立后,发现作为设立公司出资的非货币财产的实际价额显著低于公司章程所定价额的,应当由交付该出资的发起人补足其差额;其他发起人承担连带责任。

**Article 93** After the establishment of a company limited by shares, if a promoter fails to make full payment for the capital contribution as specified in the company's articles of association, the promoter shall make good the due amount, and the other promoters shall bear joint and several liabilities.

After the establishment of a company limited by shares, if the actual value of the non-monetary property used as capital contribution for the establishment of the company is found to be significantly lower than the value specified in the company's articles of association, the promoter who has made the said capital contribution shall pay up the difference, and the other promoters shall bear joint and several liabilities.

**第九十四条** 股份有限公司的发起人应当承担下列责任:

- (一)公司不能成立时,对设立行为所产生的债务和费用负连带责任;
- (二)公司不能成立时,对认股人已缴纳的股款,负退还股款并加算银行同期存款利息的连带责任;
- (三)在公司设立过程中,由于发起人的过失致使公司利益受到损害的,应当对公司承担赔偿责任。

**Article 94** The promoter of a company limited by shares shall bear:

- (1) joint and several liabilities for the debts and expenses resulting from the activities for establishment of the company, in the event of failure to establish the company;
- (2) joint and several liabilities for refunding the subscribers' payments for shares plus interest calculated according to the bank deposit interest rate for the corresponding period, in the event of

failure to establish the company; and

(3) the liability for compensation to the company, in the event that the interests of the company are prejudiced due to the negligence of the promoter during the course of establishment of the company.

**第九十五条** 有限责任公司变更为股份有限公司时,折合的实收股本总额不得高于公司净资产额。有限责任公司变更为股份有限公司,为增加资本公开发行股份时,应当依法办理。

**Article 95** Where a limited liability company converts to a company limited by shares, the total actual paid-up capital converted shall not be more than the company's net assets. Where a limited liability company converts to a company limited by shares, the public offering of shares for capital increase purpose shall be conducted in accordance with the law.

**第九十六条** 股份有限公司应当将公司章程、股东名册、公司债券存根、股东大会会议记录、董事会会议记录、监事会会议记录、财务会计报告置备于本公司。

**Article 96** A company limited by shares shall make available, at the company, its articles of association, shareholder register, counterfoils of corporate bonds, minutes of the general meetings, minutes of the meetings of the board of directors, minutes of the meetings of the board of supervisors, and financial and accounting reports.

**第九十七条** 股东有权查阅公司章程、股东名册、公司债券存根、股东大会会议记录、董事会会议决议、监事会会议决议、财务会计报告,对公司的经营提出建议或者质询。

**Article 97** The shareholders of a company shall be entitled to inspect the company's articles of association, shareholder register, counterfoils of corporate bonds, minutes of the general meetings, minutes of the meetings of the board of directors, minutes of the meetings of the board of supervisors, and financial and accounting reports, and to put forward proposals or raise questions concerning the business operations of the company.

## 第二节 股东大会

### Section 2: General Meeting

**第九十八条** 股份有限公司股东大会由全体股东组成。股东大会是公司的权力机构,依照本法行使职权。

**Article 98** The general meeting of a company limited by shares shall be composed of all the shareholders. The general meeting is the company's governing body, and shall exercise powers in accordance with this Law.

**第九十九条** 本法第三十七条第一款关于有限责任公司股东会职权的规定,适用于股份有限公司股东大会。

**Article 99** The provisions on the powers of the shareholders' meeting of a limited liability company under Paragraph 1 of Article 37 of this Law shall be applicable to the general meeting of a company limited by shares.

**第一百条** 股东大会应当每年召开一次年会。有下列情形之一的,应当在两个月内召开临时股东大会:

- (一)董事人数不足本法规定人数或者公司章程所定人数的三分之二时;
- (二)公司未弥补的亏损达实收股本总额三分之一时;
- (三)单独或者合计持有公司百分之十以上股份的股东请求时;

- (四)董事会认为必要时;
- (五)监事会提议召开时;
- (六)公司章程规定的其他情形。

**Article 100** The general meeting of a company shall hold an annual meeting once every year. An extraordinary general meeting shall be held within two months in the event of any of the following circumstances:

- (1) Where the number of directors is less than two thirds of the number specified in this Law or the company's articles of association;
- (2) Where the unrecovered losses of the company amount to one third of the total paid-up share capital;
- (3) Where the extraordinary general meeting is requested by one shareholder who holds, or several shareholders who jointly hold, at least ten percent of the shares of the company;
- (4) Where the board of directors deems it necessary to hold the extraordinary general meeting;
- (5) Where the extraordinary general meeting is proposed by the board of supervisors; or
- (6) Where there are any other circumstances set forth in the company's articles of association.

**第一百零一条** 股东大会会议由董事会召集,董事长主持;董事长不能履行职务或者不履行职务的,由副董事长主持;副董事长不能履行职务或者不履行职务的,由半数以上董事共同推举一名董事主持。

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

**Article 101** The general meeting of a company shall be convened by the board of directors and presided over by the chairman of the board of directors. If the chairman is unable to or fails to perform his/her duties, the meeting shall be presided over by the vice chairman of the board of directors. If the vice chairman is unable to or fails to perform his/her duties, the meeting shall be presided over by a director jointly elected by more than half of all the directors.

If the board of directors is unable to or fails to perform its duty of convening the general meeting, the board of supervisors shall convene and preside over the meeting in a timely manner. If the board of supervisors fails to convene or preside over the meeting, one shareholder who holds, or several shareholders who jointly hold, at least ten percent of the shares of the company for at least 90 consecutive days may convene and preside over the meeting at their own discretion.

**第一百零二条** 召开股东大会会议,应当将会议召开的时间、地点和审议的事项于会议召开二十日前通知各股东;临时股东大会应当于会议召开十五日前通知各股东;发行无记名股票的,应当于会议召开三十日前公告会议召开的时间、地点和审议事项。

单独或者合计持有公司百分之三以上股份的股东,可以在股东大会召开十日前提出临时提案并书面提交董事会;董事会应当在收到提案后二日内通知其他股东,并将该临时提案提交股东大会审议。临时提案的内容应当属于股东大会职权范围,并有明确议题和具体决议事项。

股东大会不得对前两款通知中未列明的事项作出决议。

无记名股票持有人出席股东大会会议的,应当于会议召开五日前至股东大会闭会时将股票交存于公司。

**Article 102** To convene a general meeting of a company, each shareholder shall be notified, 20 days before the meeting is held, of the time and venue of the meeting and the matters to be deliberated. To convene an extraordinary general meeting, each shareholder shall be notified 15 days before the meeting is held. Where bearer stocks are to be issued, the time and venue of the general meeting and the matters to be deliberated shall be announced 30 days before the meeting is held.

One shareholder who holds, or several shareholders who jointly hold, three percent or more of the shares of the company may submit an interim proposal in writing to the board of directors ten days before the general meeting is held. The board of directors shall, within two days upon receipt of the proposal, notify the other shareholders, and submit the said interim proposal to the general meeting for deliberation. The contents of the interim proposal shall fall within the scope of powers of the general meeting, and the proposal shall have a clear agenda and specific matters on which resolutions are to be made.

The general meeting shall not make resolutions on matters that are not clearly listed in the notices mentioned in the preceding two paragraphs.

If holders of bearer stocks attend a general meeting, they shall have their stocks kept at the company from five days before the meeting is held till the conclusion of the meeting.

**第一百零三条** 股东出席股东大会会议,所持每一股份有一表决权。但是,公司持有的本公司股份没有表决权。

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

**Article 103** A shareholder of a company present at a general meeting shall have one voting right for each share held, provided that the company shall have no voting right for the shares held by itself.

Any resolution of the general meeting shall be passed by the shareholders representing more than half of the voting rights of all shareholders present at the meeting. However, a resolution of the general meeting on modification of the articles of association, increase or reduction of the registered capital, merger, division or dissolution, or the conversion of the company shall be passed by the shareholders representing more than two thirds of the voting rights of all shareholders present at the meeting.

**第一百零四条** 本法和公司章程规定公司转让、受让重大资产或者对外提供担保等事项必须经股东大会作出决议的,董事会应当及时召集股东大会会议,由股东大会就上述事项进行表决。

**Article 104** With regard to any matter that shall be subject to a resolution by the general meeting of a company as specified in this Law and the company's articles of association, such as the company's transfer of any substantial assets to, or acceptance of the transfer of the same from, another party, or the company's provision of guarantee for an external party, the board of directors shall convene a general meeting in a timely manner for the latter to vote on any such matter.

**第一百零五条** 股东大会选举董事、监事,可以依照公司章程的规定或者股东大会的决议,实行累积投票制。

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

**Article 105** The general meeting of a company shall elect directors and supervisors and may, in accordance with the company's articles of association or a resolution of the general meeting, adopt a cumulative voting system.

For the purpose of this Law, a cumulative voting system shall mean that, in the election of directors or supervisors by the general meeting, the number of voting rights under each share is the same as the number of directors or supervisors to be elected, and that the shareholders may cast all of their votes for a single candidate.

**第一百零六条** 股东可以委托代理人出席股东大会会议,代理人应当向公司提交股东授权委托书,并在授权范围内行使表决权。

**Article 106** A shareholder of a company may authorize a proxy to attend a general meeting. The proxy shall submit to the company a power of attorney issued by the shareholder, and shall exercise voting rights within the authorized scope.

**第一百零七条** 股东大会应当对所议事项的决定作成会议记录,主持人、出席会议的董事应当在会议记录上签名。会议记录应当与出席股东的签名册及代理出席的委托书一并保存。

**Article 107** Minutes shall be prepared by the general meeting for the decisions on the matters discussed [at each of the general meetings]. The chairman of the meeting and the directors present at the meeting shall affix their signatures thereto. The minutes shall be kept together with the book of signatures of the shareholders present as well as the documents of the power of attorney for the proxies present.

### 第三节 董事会、经理

#### **Section 3: Board of Directors; Managers**

**第一百零八条** 股份有限公司设董事会,其成员为五人至十九人。

董事会成员中可以有公司职工代表。董事会中的职工代表由公司职工通过职工代表大会、职工大会或者其他形式民主选举产生。

本法第四十五条关于有限责任公司董事任期的规定,适用于股份有限公司董事。

本法第四十六条关于有限责任公司董事会职权的规定,适用于股份有限公司董事会。

**Article 108** A company limited by shares shall have a board of directors that is to be composed of 5 to 19 members.

The board of directors may include representatives of the staff members of the company who shall be elected democratically through a general meeting of the representatives of the staff members, a general meeting of staff members, or in other forms.

The provisions of Article 45 of this Law on the term of office of the directors of a limited liability company shall be applicable to the directors of a company limited by shares.

The provisions of Article 46 of this Law on the powers of the board of directors of a limited liability company shall be applicable to the board of directors of a company limited by shares.

**第一百零九条** 董事会设董事长一人,可以设副董事长。董事长和副董事长由董事会以全体董事的过半数选举产生。

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

**Article 109** The board of directors shall have one chairman and may have one or more vice chairmen. The chairman and vice chairmen of the board of directors shall be elected by more than half of all the directors.

The chairman of the board of directors shall convene and preside over the meetings of the board of directors to inspect the implementation of the resolutions of the board of directors. The vice chairmen shall assist the chairman's work. If the chairman is unable to or fails to perform his/her duties, a vice chairman shall perform the duties instead. If the vice chairman is unable to or fails to perform his/her

duties, a director jointly elected by more than half of all the directors shall perform the duties.

**第一百一十条** 董事会每年度至少召开两次会议,每次会议应当于会议召开十日前通知全体董事和监事。

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

董事会召开临时会议,可以另定召集董事会的通知方式和通知时限。

**Article 110** The board of directors shall convene at least two meetings annually. All the directors and supervisors shall be notified ten days before a meeting is held.

Shareholders representing more than one tenth of the voting rights, more than one third of all directors, or the board of supervisors may propose to convene an interim meeting of the board of directors. The chairman of the board of directors shall convene and preside over an interim meeting of the board of directors within ten days upon receipt of the proposal.

The ways and time limit of notification for convening an interim meeting of the board of directors may be decided separately.

**第一百一十一条** 董事会会议应有过半数的董事出席方可举行。董事会作出决议,必须经全体董事的过半数通过。

董事会决议的表决,实行一人一票。

**Article 111** A meeting of the board of directors may be held only when more than half of all the directors are present. A resolution of the board of directors shall be passed by more than half of all the directors.

In voting on a resolution of the board of directors, one person shall be entitled to only one vote.

**第一百一十二条** 董事会会议,应由董事本人出席;董事因故不能出席,可以书面委托其他董事代为出席,委托书中应载明授权范围。

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

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

**Article 112** The directors shall attend the meetings of the board of directors in person. Any director who is unable to attend a meeting for a certain reason may authorize, in writing, another director to attend the meeting as a proxy, and the scope of authority shall be stated in the power of attorney.

Minutes shall be prepared by the board of directors for the decisions on the matters discussed [at each of the meetings of the board of directors]. The directors present at the meeting shall affix their signatures thereto.

The directors shall be liable for the resolutions of the board of directors. If a resolution of the board of directors is in violation of laws, administrative regulations, the company's articles of association or a resolution of its general meeting, and causes heavy losses to the company, the directors who participate in adopting the resolution shall be liable for compensation, provided that a director may be exempted from liabilities if it is proved that he/she has expressed objections at the time of voting and such objections are recorded in the meeting minutes.

**第一百一十三条** 股份有限公司设经理,由董事会决定聘任或者解聘。

本法第四十九条关于有限责任公司经理职权的规定,适用于股份有限公司经理。

**Article 113** A company limited by shares shall have a manager whose employment and dismissal shall be decided by the board of directors.

The provisions of Article 49 of this Law on the authorities of the manager of a limited liability company shall apply to the manager of a company limited by shares.

**第一百一十四条** 公司董事会可以决定由董事会成员兼任经理。

**Article 114** The board of directors of a company may decide to appoint a member of the board of directors to concurrently hold the post of the manager of the company.

**第一百一十五条** 公司不得直接或者通过子公司向董事、监事、高级管理人员提供借款。

**Article 115** A company shall not, either directly or through any of its subsidiaries, provide loans to any director, supervisor or senior management personnel.

**第一百一十六条** 公司应当定期向股东披露董事、监事、高级管理人员从公司获得报酬的情况。

**Article 116** A company shall regularly disclose to its shareholders information on the remunerations obtained by the directors, supervisors and senior management personnel from the company.

#### 第四节 监事会

### Section 4: Board of Supervisors

**第一百一十七条** 股份有限公司设监事会,其成员不得少于三人。

监事会应当包括股东代表和适当比例的公司职工代表,其中职工代表的比例不得低于三分之一,具体比例由公司章程规定。监事会中的职工代表由公司职工通过职工代表大会、职工大会或者其他形式民主选举产生。

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

董事、高级管理人员不得兼任监事。

本法第五十二条关于有限责任公司监事任期的规定,适用于股份有限公司监事。

**Article 117** A company limited by shares shall have a board of supervisors that is to be composed of at least three members.

The board of supervisors shall include representatives of the shareholders and an appropriate proportion of representatives of the staff members of the company. The specific proportion of the representatives of the staff members shall be specified in the company's articles of association, subject to a minimum of one third. The representatives of the staff members on the board of supervisors shall be elected democratically by the staff members through a general meeting of the representatives of the staff members, a general meeting of staff members, or in other forms.

The board of supervisors shall have one chairman and one or more vice chairmen. The chairman and vice chairmen of the board of supervisors shall be elected by more than half of all the supervisors. The chairman of the board of supervisors shall convene and preside over the meetings of the board of supervisors. If the chairman of the board of supervisors is unable to or fails to perform his/her duties, the meeting may be convened and presided over by a vice chairman. If the vice chairman is unable to or

fails to perform his/her duties, the meeting may be convened and presided over by a supervisor jointly elected by more than half of all the supervisors.

No director or senior management personnel may concurrently hold the post of a supervisor.

The provisions on the term of office of the supervisors of a limited liability company as specified in Article 52 of this Law shall be applicable to the supervisors of a company limited by shares.

**第一百一十八条** 本法第五十三条、第五十四条关于有限责任公司监事会职权的规定,适用于股份有限公司监事会。

监事会行使职权所必需的费用,由公司承担。

**Article 118** The provisions on the powers of the board of supervisors of a limited liability company under Article 53 and Article 54 of this Law shall be applicable to the board of supervisors of a company limited by shares.

The necessary expenses incurred by the board of supervisors for exercise of its powers shall be borne by the company.

**第一百一十九条** 监事会每六个月至少召开一次会议。监事可以提议召开临时监事会会议。

监事会的议事方式和表决程序,除本法有规定的外,由公司章程规定。

监事会决议应当经半数以上监事通过。

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

**Article 119** The board of supervisors of a company shall hold at least one meeting every six months. The supervisors may propose to convene interim meetings of the board of supervisors.

The rules of procedure and voting procedures of the board of supervisors shall be set forth in the company's articles of association, unless otherwise specified in this Law.

A resolution of the board of supervisors shall be passed by more than half of all the supervisors.

Minutes shall be prepared by the board of supervisors for the decisions on the matters discussed [at each of the meetings of the board of supervisors]. The supervisors present at the meeting shall affix their signatures thereto.

## 第五节 上市公司组织机构的特别规定

### Section 5: Special Provisions on the Organizational Structure of a Listed Company

**第一百二十条** 本法所称上市公司,是指其股票在证券交易所上市交易的股份有限公司。

**Article 120** For the purpose of this Law, a listed company shall refer to a company limited by shares whose stocks are listed and traded on a securities exchange.

**第一百二十一条** 上市公司在一年内购买、出售重大资产或者担保金额超过公司资产总额百分之三十的,应当由股东大会作出决议,并经出席会议的股东所持表决权的三分之二以上通过。

**Article 121** Where the value of the purchase or sale of any substantial assets by a listed company or the provision of guarantee exceeds 30 percent of the total asset value of the listed company within a given year, a resolution shall be made by the general meeting, and shall be passed by the shareholders representing more than two thirds of the voting rights of all the shareholders present at the meeting.

**第一百二十二条** 上市公司设独立董事,具体办法由国务院规定。

**Article 122** A listed company shall have independent directors. Detailed measures in this

regard shall be specified by the State Council.

**第一百二十三条** 上市公司设董事会秘书,负责公司股东大会和董事会会议的筹备、文件保管以及公司股东资料的管理,办理信息披露事务等事宜。

**Article 123** A listed company shall have a secretary of the board of directors to be responsible for such matters as preparing for general meetings and the meetings of the board of directors, properly keeping documents, managing the data on the company's shareholders, and disclosing relevant information.

**第一百二十四条** 上市公司董事与董事会会议决议事项所涉及的企业有关联关系的,不得对该项决议行使表决权,也不得代理其他董事行使表决权。该董事会会议由过半数的无关联关系董事出席即可举行,董事会会议所作决议须经无关联关系董事过半数通过。出席董事会的无关联关系董事人数不足三人的,应将该事项提交上市公司股东大会审议。

**Article 124** Any director of a listed company who is affiliated with any enterprise involved in the matters under any resolution made at a meeting of the board of directors shall be prohibited from exercising voting rights concerning that resolution, nor may that director vote on behalf of any other directors. The meeting of the board of directors may be held with the presence of more than half of all the non-affiliated directors. A resolution made at such meeting of the board of directors shall be passed by more than half of all the non-affiliated directors. If the number of non-affiliated directors present is less than three, the matter shall be submitted to the general meeting of the listed company for deliberation.

## 第五章 股份有限公司的股份发行和转让

### 第一节 股份发行

#### Chapter 5: Issuance and Transfer of Shares Held of a Company Limited by Shares

##### Section 1: Issuance of Shares

**第一百二十五条** 股份有限公司的资本划分为股份,每一股的金额相等。

公司的股份采取股票的形式。股票是公司签发的证明股东所持股份的凭证。

**Article 125** The capital of a company limited by shares shall be divided into shares, and each share shall have the same value.

The shares of the company are represented in stocks. Stocks are certificates issued by the company to certify the shares held by its shareholders.

**第一百二十六条** 股份的发行,实行公平、公正的原则,同种类的每一股份应当具有同等权利。

同次发行的同种类股票,每股的发行条件和价格应当相同;任何单位或者个人所认购的股份,每股应当支付相同价额。

**Article 126** Shares shall be issued in accordance with the principles of fairness and impartiality. Each share of the same class shall be entitled to the same rights.

With regard to the shares of the same class that are issued at the same time, the issuing conditions and price for each share shall be the same. Any entity or individual shall pay the same price for each of the shares subscribed for.

**第一百二十七条** 股票发行价格可以按票面金额,也可以超过票面金额,但不得低于票面金额。

**Article 127** The issuing price of a share may be at or above the par value, but shall not be below

the par value.

**第一百二十八条** 股票采用纸面形式或者国务院证券监督管理机构规定的其他形式。

股票应当载明下列主要事项:

- (一)公司名称;
- (二)公司成立日期;
- (三)股票种类、票面金额及代表的股份数;
- (四)股票的编号。

股票由法定代表人签名,公司盖章。

发起人的股票,应当标明发起人股票字样。

**Article 128** Stocks shall be in paper form or in other forms specified by the securities regulatory authority of the State Council.

A stock shall set forth the following major matters:

- (1) Name of the company;
- (2) Date of establishment of the company;
- (3) Class and par value of the stock, and the number of shares that it represents; and
- (4) Serial number of the stock.

Stocks shall bear the signature of the legal representative and the seal of the company.

The stocks for promoters shall be marked with the characters "发起人股票" (promoters' stocks).

**第一百二十九条** 公司发行的股票,可以为记名股票,也可以为无记名股票。

公司向发起人、法人发行的股票,应当为记名股票,并应当记载该发起人、法人的名称或者姓名,不得另立户名或者以代表人姓名记名。

**Article 129** The shares issued by a company may be either registered stocks or bearer stocks.

The stocks issued by a company to a promoter or a legal person shall be registered stocks, with the name of the promoter or legal person recorded thereon. Such stocks shall not be registered under any other name or in the name of a representative.

**第一百三十条** 公司发行记名股票的,应当置备股东名册,记载下列事项:

- (一)股东的姓名或者名称及住所;
- (二)各股东所持股份数;
- (三)各股东所持股票的编号;
- (四)各股东取得股份的日期。

发行无记名股票的,公司应当记载其股票数量、编号及发行日期。

**Article 130** A company that issues registered stocks shall prepare and make available a shareholder register to record the following matters:

- (1) Names and domiciles of the shareholders;
- (2) Number of shares held by each shareholder;
- (3) Serial numbers of the stocks held by each shareholder; and
- (4) Date on which each shareholder obtains the shares.

A company that issues bearer stocks shall record the volume and the serial numbers of the stocks issued, and the issuance date of each of the stocks.

**第一百三十一条** 国务院可以对公司发行本法规定以外的其他种类的股份,另行作出规定。

**Article 131** The State Council may separately formulate provisions on the issuance of shares of

classes other than those provided for in this Law.

**第一百三十二条** 股份有限公司成立后,即向股东正式交付股票。公司成立前不得向股东交付股票。

**Article 132** Once a company limited by shares is established, its stocks shall be formally delivered to the shareholders. No stocks may be delivered to the shareholders prior to the establishment of the company.

**第一百三十三条** 公司发行新股,股东大会应当对下列事项作出决议:

- (一)新股种类及数额;
- (二)新股发行价格;
- (三)新股发行的起止日期;
- (四)向原有股东发行新股的种类及数额。

**Article 133** Where a company issues new shares, a resolution on the following matters shall be made by the general meeting:

- (1) Type and number of the new shares;
- (2) Issuing price of the new shares;
- (3) Commencement and ending dates for the issuance of the new shares; and
- (4) Class and number of the new shares to be issued to the existing shareholders.

**第一百三十四条** 公司经国务院证券监督管理机构核准公开发发行新股时,必须公告新股招股说明书和财务会计报告,并制作认股书。

本法第八十七条、第八十八条的规定适用于公司公开发发行新股。

**Article 134** Where a company issues new shares to the public upon verification and approval of the securities regulatory authority of the State Council, the company shall release the prospectus for the new shares and its financial and accounting reports, and prepare a share subscription form.

**Article 87** and Article 88 of this Law shall be applicable to the public offering of new shares by a company.

**第一百三十五条** 公司发行新股,可以根据公司经营情况和财务状况,确定其作价方案。

**Article 135** A company that issues new shares may, according to its operational and financial conditions, determine a plan for the pricing of the shares.

**第一百三十六条** 公司发行新股募足股款后,必须向公司登记机关办理变更登记,并公告。

**Article 136** A company shall, upon receipt of all the payments for its newly issued shares, go through the formalities for change of registration with the relevant company registration authority and make public the same.

## 第二节 股份转让

### Section 2: Transfer of Shares

**第一百三十七条** 股东持有的股份可以依法转让。

**Article 137** The shares held by shareholders are transferrable under the law.

**第一百三十八条** 股东转让其股份,应当在依法设立的证券交易场所进行或者按照国务院规定的其他方式进行。

**Article 138** Shareholders shall transfer their shares at lawfully-established securities exchanges or by other means provided for by the State Council.

**第一百三十九条** 记名股票,由股东以背书方式或者法律、行政法规规定的其他方式转让;转让后由公司将受让人的姓名或者名称及住所记载于股东名册。

股东大会召开前二十日内或者公司决定分配股利的基准日前五日内,不得进行前款规定的股东名册的变更登记。但是,法律对上市公司股东名册变更登记另有规定的,从其规定。

**Article 139** Registered stocks shall be transferred through endorsement by the relevant shareholder or by any other means specified in laws or administrative regulations. After the transfer, the company concerned shall record the transferee's name and domicile in the shareholder register.

Within 20 days before the general meeting is held, or within five days prior to the benchmark date determined by the company for dividend distribution, the formalities for change of registration of the shareholder register specified in the preceding Paragraph shall not be effected, unless otherwise prescribed by laws on the change of registration of the shareholder register of a listed company.

**第一百四十条** 无记名股票的转让,由股东将该股票交付给受让人后即发生转让的效力。

**Article 140** The transfer of bearer stocks shall become valid upon the delivery of the said stocks to the transferee by the relevant shareholder.

**第一百四十一条** 发起人持有的本公司股份,自公司成立之日起一年内不得转让。公司公开发行股份前已发行的股份,自公司股票在证券交易所上市交易之日起一年内不得转让。

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

**Article 141** The shares of a company by the promoters thereof shall not be transferred within one year of the date of establishment of the company. The shares issued before the public offering of shares by the company shall not be transferred within one year of the date on which the stocks of the company are listed and traded on a securities exchange.

The directors, supervisors, and senior management personnel of the company shall declare, to the company, information on their holdings of the shares of the company and the changes thereto. The shares transferrable by them during each year of their term of office shall not exceed 25 percent of their total holdings of the shares of the company. The shares that they held in the company shall not be transferred within one year of the date on which the stocks of the company are listed and traded. The aforesaid persons shall not transfer their shares of the company within six months of their departure from the company. The company's articles of association may set forth other restrictive provisions on the transfer of the shares of the company held by the directors, supervisors, and senior management personnel.

**第一百四十二条** 公司不得收购本公司股份。但是,有下列情形之一的除外:

- (一)减少公司注册资本;
- (二)与持有本公司股份的其他公司合并;
- (三)将股份用于员工持股计划或者股权激励;
- (四)股东因对股东大会作出的公司合并、分立决议持异议,要求公司收购其股份;
- (五)将股份用于转换上市公司发行的可转换为股票的公司债券;

(六)上市公司为维护公司价值及股东权益所必需。

公司因前款第(一)项、第(二)项规定的情形收购本公司股份的,应当经股东大会决议;公司因前款第(三)项、第(五)项、第(六)项规定的情形收购本公司股份的,可以依照公司章程的规定或者股东大会的授权,经三分之二以上董事出席的董事会会议决议。

公司依照本条第一款规定收购本公司股份后,属于第(一)项情形的,应当自收购之日起十日内注销;属于第(二)项、第(四)项情形的,应当在六个月内转让或者注销;属于第(三)项、第(五)项、第(六)项情形的,公司合计持有的本公司股份数不得超过本公司已发行股份总额的百分之十,并应当在三年内转让或者注销。

上市公司收购本公司股份的,应当依照《中华人民共和国证券法》的规定履行信息披露义务。上市公司因本条第一款第(三)项、第(五)项、第(六)项规定的情形收购本公司股份的,应当通过公开的集中交易方式进行。

公司不得接受本公司的股票作为质押权的标的。

**Article 142** A company may not acquire its own shares, except under any of the following circumstances:

- (1) Where the company reduces its registered capital;
- (2) Where the company merges with other companies that hold its shares;
- (3) Where the company acquires its own shares for employee stock ownership plans or equity incentives;
- (4) Where a shareholder of the company has objections to the resolution on the merger or division of the company as adopted at the general meeting and requires the company to acquire its shares;
- (5) Where the company is listed and acquires its own shares to convert the corporate bonds issued thereby that are convertible to shares; or
- (6) Where the company is listed and needs to acquire its own shares to maintain its value and the rights and interests of shareholders.

Where the company acquires its own shares under Item (1) or Item (2) of the preceding Paragraph, a resolution thereon shall be adopted by the general meeting. Where the company acquires its own shares under Item (3), Item (5) or Item (6) of the preceding Paragraph, the company may, pursuant to its articles of association or according to the authorization granted by the general meeting, proceed with such acquisition upon a resolution adopted at a meeting of the board of directors that is attended by at least two-thirds of all directors.

After acquiring its own shares under Item (1) of Paragraph 1 of this Article, the company shall deregister the acquired shares within ten days from the date of acquisition; after acquiring its own shares under Item (2) or Item (4) of Paragraph 1 of this Article, the company shall transfer or deregister the acquired shares within six months; and, after acquiring its own shares under Item (3), Item (5) or Item (6) of Paragraph 1 of this Article, the company shall ensure that the total number of its own shares held thereby is not in excess of 10% of its total outstanding shares and shall transfer or deregister the acquired shares within three years.

A listed company that acquires its own shares shall perform information disclosure obligations in accordance with the Securities Law of the People's Republic of China. A listed company that acquires its own shares under Item (3), Item (5) or Item (6) of Paragraph 1 of this Article shall conduct such acquisition by way of open centralized trading.

A company shall not accept its own shares as the subject matter for pledges.

**第一百四十三条** 记名股票被盗、遗失或者灭失,股东可以依照《中华人民共和国民事诉讼法》规定的公示催告程序,请求人民法院宣告该股票失效。人民法院宣告该股票失效后,股东可以向公司申请补发股

票。

**Article 143** Where any registered stocks are stolen, lost or damaged, the shareholder concerned may, pursuant to the procedures of public notice for assertion of claim provided for in the Civil Procedure Law of the People's Republic of China, request a competent people's court to declare the stocks invalid. After the people's court has so declared, the said shareholder may apply to the company concerned for re-issuance of the stocks.

**第一百四十四条** 上市公司的股票,依照有关法律、行政法规及证券交易所交易规则上市交易。

**Article 144** The stocks of a listed company shall be listed and traded in accordance with relevant laws, administrative regulations and the trading rules of the securities exchange concerned.

**第一百四十五条** 上市公司必须依照法律、行政法规的规定,公开其财务状况、经营情况及重大诉讼,在每会计年度内半年公布一次财务会计报告。

**Article 145** A listed company shall, in accordance with laws and administrative regulations, disclose its financial position, operational conditions and material lawsuits, and publish its financial and accounting reports once every six months in each accounting year.

## 第六章 公司董事、监事、高级管理人员的资格和义务

### Chapter 6: Qualifications and Obligations of the Directors, Supervisors, and Senior Management Personnel of a Company

**第一百四十六条** 有下列情形之一的,不得担任公司的董事、监事、高级管理人员:

- (一)无民事行为能力或者限制民事行为能力;
- (二)因贪污、贿赂、侵占财产、挪用财产或者破坏社会主义市场经济秩序,被判处刑罚,执行期满未逾五年,或者因犯罪被剥夺政治权利,执行期满未逾五年;
- (三)担任破产清算的公司、企业的董事或者厂长、经理,对该公司、企业的破产负有个人责任的,自该公司、企业破产清算完结之日起未逾三年;
- (四)担任因违法被吊销营业执照、责令关闭的公司、企业的法定代表人,并负有个人责任的,自该公司、企业被吊销营业执照之日起未逾三年;
- (五)个人所负数额较大的债务到期未清偿。

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

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

**Article 146** Whoever is under any of the following circumstances is not allowed to assume the post of a director, supervisor, or senior management person of a company:

- (1) He/she has no or limited civil capacity;
- (2) He/she has been sentenced to criminal punishments due to corruption, bribery, embezzlement of property, misappropriation of property, or disrupting the order of the socialist market economy, and less than five years have elapsed since the punishments are fully executed; or he/she has been deprived of political rights due to any criminal offense, and less than five years have elapsed since the punishment is fully executed;
- (3) He/she has served as a director, factory manager or manager of a company or enterprise that is bankrupt and liquidated, and is personally liable for the bankruptcy of the company or enterprise, and less than three years have elapsed since the date of completion of the bankruptcy liquidation of the company or enterprise;
- (4) He/she has served as the legal representative of a company or enterprise that has its business

license revoked and is ordered to close down due to violations of the law, and is personally liable for such punishment, and less than three years have elapsed since the date of revocation of the business license of the company or enterprise; or

(5) He/she has a relatively large amount of overdue debts.

If the company elects or appoints any director or supervisor, or engages any senior management personnel in violation of the preceding Paragraph, the election, appointment or engagement shall be invalid.

The company shall remove a director, supervisor or senior management person from his/her post if he/she falls under any of the circumstances described in Paragraph 1 of this Article during the term of office.

**第一百四十七条** 董事、监事、高级管理人员应当遵守法律、行政法规和公司章程,对公司负有忠实义务和勤勉义务。

董事、监事、高级管理人员不得利用职权收受贿赂或者其他非法收入,不得侵占公司的财产。

**Article 147** The directors, supervisors and senior management personnel of a company shall abide by laws, administrative regulations and the company's articles of association. They shall be faithful and diligent to the company.

No director, supervisor or senior management personnel may, by abusing their powers, take any bribe or other illegal gains, or encroach on the property of the company.

**第一百四十八条** 董事、高级管理人员不得有下列行为:

- (一)挪用公司资金;
- (二)将公司资金以其个人名义或者以其他个人名义开立账户存储;
- (三)违反公司章程的规定,未经股东会、股东大会或者董事会同意,将公司资金借贷给他人或者以公司财产为他人提供担保;
- (四)违反公司章程的规定或者未经股东会、股东大会同意,与本公司订立合同或者进行交易;
- (五)未经股东会或者股东大会同意,利用职务便利为自己或者他人谋取属于公司的商业机会,自营或者为他人经营与所任职公司同类的业务;
- (六)接受他人与公司交易的佣金归为己有;
- (七)擅自披露公司秘密;
- (八)违反对公司忠实义务的其他行为。

董事、高级管理人员违反前款规定所得的收入应当归公司所有。

**Article 148** A director or senior management person of a company is prohibited from any of the following acts:

- (1) Misappropriating the funds of the company;
- (2) Opening an account in his/her own name or the name of any other individual to deposit the funds of the company;
- (3) Without the consent of the shareholders' meeting, the general meeting or the board of directors, loaning the funds of the company to others or using the company's property to provide guarantee for others in violation of the company's articles of association;
- (4) Concluding contracts or making deals with the company in violation of the company's articles of association or without the consent of the shareholders' meeting or the general meeting;
- (5) Without the consent of the shareholders' meeting or the general meeting, seeking, for the benefit of his/her own or others, any business opportunity that belongs to the company by taking advantage of his/her powers, and operating for his/her own or for others any business that is of the same type with

that of the company that he/she serves;

(6) Accepting, and keeping in his/her possession, commissions for the transactions between others and the company;

(7) Disclosing the company's secrets without authorization; or

(8) Committing other acts in violation of his/her obligation of loyalty to the company.

The income gained by the director or senior management person from any of the acts listed in the preceding Paragraph shall belong to the company.

**第一百四十九条** 董事、监事、高级管理人员执行公司职务时违反法律、行政法规或者公司章程的规定,给公司造成损失的,应当承担赔偿责任。

**Article 149** Where any director, supervisor or senior management person of a company violates laws, administrative regulations or the company's articles of association during the performance of duties, he/she shall be liable for compensation if any loss is caused to the company.

**第一百五十条** 股东会或者股东大会要求董事、监事、高级管理人员列席会议的,董事、监事、高级管理人员应当列席并接受股东的质询。

董事、高级管理人员应当如实向监事会或者不设监事会的有限责任公司的监事提供有关情况和资料,不得妨碍监事会或者监事行使职权。

**Article 150** Where a director, supervisor or senior management person of a company is required to attend a shareholders' meeting or a general meeting as a non-voting participant, the director, supervisor or senior management person shall do so and accept the inquiries from shareholders.

The directors and senior management personnel shall truthfully provide relevant information and materials to the board of supervisors or, in the absence thereof in a limited liability company, to the supervisors, and shall not hinder the board of supervisors or the supervisors from exercising their powers.

**第一百五十一条** 董事、高级管理人员有本法第一百四十九条规定的情形的,有限责任公司的股东、股份有限公司连续一百八十日以上单独或者合计持有公司百分之一以上股份的股东,可以书面请求监事会或者不设监事会的有限责任公司的监事向人民法院提起诉讼;监事有本法第一百四十九条规定的情形的,前述股东可以书面请求董事会或者不设董事会的有限责任公司的执行董事向人民法院提起诉讼。

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

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

**Article 151** Where a director or senior management person falls under any of the circumstances specified in Article 149 of this Law, the shareholder(s) of a limited liability company, or one shareholder of a company limited by shares who holds, or several shareholders thereof who jointly hold, at least one percent stake in the company for at least 180 consecutive days may submit a written request to the board of supervisors or, in the absence thereof in the limited liability company, to the supervisors, to file an action with the competent people's court. Where a supervisor falls under any of the circumstances specified in Article 149 of this Law, the aforesaid shareholder(s) may submit a written request to the board of directors or, in the absence thereof in the limited liability company, to the executive directors to file an action with the competent people's court.

Where the board of supervisors or, in the absence thereof in the limited liability company, the

supervisors refuse to, or if the board of directors or the executive directors refuse to, file an action upon receipt of the shareholders' written request specified in the preceding Paragraph, or fail to file an action within 30 days upon receipt thereof, or where the failure to immediately file an action in an emergency case will cause irreparable damage to the interests of the company, the shareholder(s) specified in the preceding Paragraph may, in their own name, directly file an action to the competent people's court for the interest of the company.

Where any other person infringes upon the legitimate rights and interests of the company and causes losses thereto, the shareholder(s) specified in Paragraph 1 of this Article may file an action with the competent people's court pursuant to the provisions of the preceding two paragraphs.

**第一百五十二条** 董事、高级管理人员违反法律、行政法规或者公司章程的规定，损害股东利益的，股东可以向人民法院提起诉讼。

**Article 152** Where a director or senior management person of a company violates laws, administrative regulations or the company's articles of association, thereby damaging the interests of the shareholder(s), the shareholder(s) may file an action with the competent people's court.

## 第七章 公司债券

### Chapter 7: Corporate Bonds

**第一百五十三条** 本法所称公司债券,是指公司依照法定程序发行、约定在一定期限还本付息的有价证券。

公司发行公司债券应当符合《中华人民共和国证券法》规定的发行条件。

**Article 153** For the purpose of this Law, corporate bonds shall refer to the marketable securities issued by a company pursuant to statutory procedures whose principal plus interest shall be serviced within a specific time limit as agreed upon.

To issue corporate bonds, a company shall satisfy the issuing conditions provided for in the Securities Law of the People's Republic of China.

**第一百五十四条** 发行公司债券的申请经国务院授权的部门核准后,应当公告公司债券募集办法。公司债券募集办法中应当载明下列主要事项:

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

**Article 154** After the application of a company for issuing corporate bonds is approved by a department authorized by the State Council, the company shall announce the methods for offering the bonds.

The methods for offering the corporate bonds shall set forth the following major matters:

- (1) Name of the company;

- (2) Purposes of the funds raised through bond issuance;
- (3) Total amount of the corporate bonds and the par value thereof;
- (4) Method for determining the interest rate of the bonds;
- (5) Time limit and method for servicing the principal and interest;
- (6) Information on the guarantee of the bonds;
- (7) Issuing price of the bonds, and commencement and ending dates of the issuance;
- (8) Net asset value of the company;
- (9) Total amount of the outstanding corporate bonds; and
- (10) Underwriters of the corporate bonds.

**第一百五十五条** 公司以实物券方式发行公司债券的,必须在债券上载明公司名称、债券票面金额、利率、偿还期限等事项,并由法定代表人签名,公司盖章。

**Article 155** Where a company issues corporate bonds in the form of physical bonds, such matters as the company name, the par value, interest rate and time limit for repayment of the bonds, etc. shall be stated on the bonds which shall be signed by the legal representative and affixed with the seal of the company.

**第一百五十六条** 公司债券,可以为记名债券,也可以为无记名债券。

**Article 156** Corporate bonds may be registered bonds or bearer bonds.

**第一百五十七条** 公司发行公司债券应当置备公司债券存根簿。

发行记名公司债券的,应当在公司债券存根簿上载明下列事项:

- (一)债券持有人的姓名或者名称及住所;
- (二)债券持有人取得债券的日期及债券的编号;
- (三)债券总额,债券的票面金额、利率、还本付息的期限和方式;
- (四)债券的发行日期。

发行无记名公司债券的,应当在公司债券存根簿上载明债券总额、利率、偿还期限和方式、发行日期及债券的编号。

**Article 157** Where a company issues corporate bonds, it shall prepare and make available a book of counterfoils for the corporate bonds.

If the company issues registered corporate bonds, its book of counterfoils for the corporate bonds shall record the following matters:

- (1) Names and domiciles of the bondholders;
- (2) Dates on which the bondholders obtain the bonds and the serial numbers of the bonds;
- (3) Total value, par value and interest rate of the bonds, as well as the time limit and method for servicing the principal and interest; and
- (4) Issuance date of the bonds.

Where a company issues bearer corporate bonds, its book of counterfoils for the corporate bonds shall record the total value and interest rate of the bonds, the time limit and method for repayment, issuance date, and the serial numbers of the bonds.

**第一百五十八条** 记名公司债券的登记结算机构应当建立债券登记、存管、付息、兑付等相关制度。

**Article 158** The registration and settlement institutions for registered corporate bonds shall establish relevant systems for the registration, custody, interest payment and redemption of the bonds.

**第一百五十九条** 公司债券可以转让,转让价格由转让人与受让人约定。

公司债券在证券交易所上市交易的,按照证券交易所的交易规则转让。

**Article 159** Corporate bonds are transferable, and the transfer price shall be agreed upon by and between the transferor and the transferee.

Corporate bonds listed and traded on a securities exchange shall be transferred in accordance with the trading rules of the securities exchange.

**第一百六十条** 记名公司债券,由债券持有人以背书方式或者法律、行政法规规定的其他方式转让;转让后由公司将受让人的姓名或者名称及住所记载于公司债券存根簿。

无记名公司债券的转让,由债券持有人将该债券交付给受让人后即发生转让的效力。

**Article 160** Registered corporate bonds shall be transferred through endorsement by the relevant bondholder or by any other means provided for by laws or administrative regulations. After the transfer, the company concerned shall record the name and domicile of the transferee in its book of counterfoils for the corporate bonds.

The transfer of bearer corporate bonds shall come into effect upon the delivery of the said bonds to the transferee by the relevant bondholder.

**第一百六十一条** 上市公司经股东大会决议可以发行可转换为股票的公司债券,并在公司债券募集办法中规定具体的转换办法。上市公司发行可转换为股票的公司债券,应当报国务院证券监督管理机构核准。

发行可转换为股票的公司债券,应当在债券上标明可转换公司债券字样,并在公司债券存根簿上载明可转换公司债券的数额。

**Article 161** A listed company may, subject to a resolution of the general meeting, issue corporate bonds that can be converted to shares, and shall specify the conversion methods in the offering plan of the corporate bonds. The issuance by a listed company of corporate bonds that can be converted to shares shall be subject to the verification and approval of the securities regulatory authority of the State Council.

In the event of issuance of corporate bonds that can be converted to shares, such characters as "可转换公司债券" (convertible corporate bonds) shall be indicated thereon, and the number of convertible corporate bonds shall be recorded in the company's book of counterfoils for corporate bonds.

**第一百六十二条** 发行可转换为股票的公司债券的,公司应当按照其转换办法向债券持有人换发股票,但债券持有人对转换股票或者不转换股票有选择权。

**Article 162** Where corporate bonds that can be converted to shares are issued, a company shall issue shares in exchange for the bonds of the bondholders in accordance with the conversion methods, provided that the bondholders shall have the option as to whether or not to convert their bonds into shares.

## 第八章 公司财务、会计

### Chapter 8: Finance and Accounting of a Company

**第一百六十三条** 公司应当依照法律、行政法规和国务院财政部门的规定建立本公司的财务、会计制度。

**Article 163** A company shall establish its own financial and accounting systems in accordance with laws, administrative regulations and the provisions of the finance department of the State Council.

**第一百六十四条** 公司应当在每一会计年度终了时编制财务会计报告,并依法经会计师事务所审计。财务会计报告应当依照法律、行政法规和国务院财政部门的规定制作。

**Article 164** A company shall, at the end of each accounting year, prepare a financial and accounting report which shall be audited by an accounting firm in accordance with the law.

The financial and accounting report shall be prepared in accordance with laws, administrative regulations and the provisions of the finance department of the State Council.

**第一百六十五条** 有限责任公司应当依照公司章程规定的期限将财务会计报告送交各股东。

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

**Article 165** A limited liability company shall submit its financial and accounting report to each shareholder within the time limit specified in the company's articles of association.

The financial and accounting report of a company limited by shares shall be made available at the company 20 days before the annual general meeting is held for inspection by shareholders. A company limited by shares that publicly offers shares shall announce its financial and accounting report.

**第一百六十六条** 公司分配当年税后利润时,应当提取利润的百分之十列入公司法定公积金。公司法定公积金累计额为公司注册资本的百分之五十以上的,可以不再提取。

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

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

公司弥补亏损和提取公积金后所余税后利润,有限责任公司依照本法第三十四条的规定分配;股份有限公司按照股东持有的股份比例分配,但股份有限公司章程规定不按持股比例分配的除外。

股东会、股东大会或者董事会违反前款规定,在公司弥补亏损和提取法定公积金之前向股东分配利润的,股东必须将违反规定分配的利润退还公司。

公司持有的本公司股份不得分配利润。

**Article 166** When a company distributes its after-tax profit of the current year, ten percent of the profit shall be allocated to its statutory common reserve fund. The company is not required to do so once the cumulative amount of the statutory common reserve fund reaches 50 percent or more of the company's registered capital.

If the statutory common reserve fund of the company is not sufficient to cover its losses in previous years, the company shall use the profit of the current year to cover the losses before accruing the statutory common reserve fund in accordance with the preceding Paragraph.

After the company has accrued the statutory common reserve fund from its after-tax profit, it may, subject to a resolution of the shareholders' meeting or the general meeting, accrue discretionary common reserve fund from the after-tax profit.

After having been used to cover the losses and make allocation to the common reserve fund, the remaining after-tax profit shall be distributed in accordance with Article 34 of this Law, in the case of a limited liability company; or in proportion to the shares held by each shareholder, in the case of a company limited by shares, unless otherwise specified in its articles of association.

Where the shareholders' meeting, general meeting or board of directors violates the preceding Paragraph and distributes profit to shareholders before the company covers the losses and accrues the statutory common reserve fund, the shareholders shall return to the company the profit distributed in

violation.

A company shall not distribute profits to its holdings of its own shares.

**第一百六十七条** 股份有限公司以超过股票票面金额的发行价格发行股份所得的溢价款以及国务院财政部门规定列入资本公积金的其他收入,应当列为公司资本公积金。

**Article 167** Both the premium obtained by a company limited by shares from issuing shares at a price above the par value thereof, and other incomes that shall be included in the capital reserve fund of the company as required by the finance department of the State Council shall be included in the capital reserve fund of the company.

**第一百六十八条** 公司的公积金用于弥补公司的亏损、扩大公司生产经营或者转为增加公司资本。但是,资本公积金不得用于弥补公司的亏损。

法定公积金转为资本时,所留存的该项公积金不得少于转增前公司注册资本的百分之二十五。

**Article 168** The common reserve fund of a company shall be used to cover the losses of the company, expand the production operations of the company, or be converted to increase the company's capital. The capital reserve fund shall not be used to cover the losses of the company.

Where the statutory common reserve fund is converted into capital, the amount thereof remaining after the conversion shall not be less than 25 percent of the registered capital of the company before the increase.

**第一百六十九条** 公司聘用、解聘承办公司审计业务的会计师事务所,依照公司章程的规定,由股东会、股东大会或者董事会决定。

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

**Article 169** The engagement of any accounting firm undertaking the audit of a company, and the termination of the engagement shall, pursuant to the company's articles of association, be decided by the shareholders' meeting, the general meeting or the board of directors.

Where the shareholders' meeting, general meeting or board of directors votes on the termination of the engagement of an accounting firm, the accounting firm shall be allowed to present its opinions.

**第一百七十条** 公司应当向聘用的会计师事务所提供真实、完整的会计凭证、会计账簿、财务会计报告及其他会计资料,不得拒绝、隐匿、谎报。

**Article 170** A company shall provide the accounting firm engaged with truthful and complete accounting proofs, account books, financial and accounting reports and other accounting materials, and may not refuse to provide or conceal any required information or make any false statements.

**第一百七十一条** 公司除法定的会计账簿外,不得另立会计账簿。

对公司资产,不得以任何个人名义开立账户存储。

**Article 171** A company shall not establish any account books other than the statutory ones. No company assets may be deposited under any account opened in any individual's name.

## 第九章 公司合并、分立、增资、减资

### Chapter 9: Merger, Division or Capital Increase or Reduction of a Company

**第一百七十二条** 公司合并可以采取吸收合并或者新设合并。

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

**Article 172** Merger of companies may either be merger by consolidation or merger by incorporation.

Merger by consolidation shall mean that a company absorbs other companies while the absorbed companies shall be dissolved. Merger by incorporation shall mean that two or more companies merge into a newly incorporated company while all the merged parties shall be dissolved.

**第一百七十三条** 公司合并,应当由合并各方签订合并协议,并编制资产负债表及财产清单。公司应当自作出合并决议之日起十日内通知债权人,并于三十日内在报纸上公告。债权人自接到通知书之日起三十日内,未接到通知书的自公告之日起四十五日内,可以要求公司清偿债务或者提供相应的担保。

**Article 173** In the case of a merger of companies, the parties thereto shall conclude a merger agreement and prepare the balance sheet and a list of property. The companies shall notify their creditors within ten days after the resolution on merger is made, and shall publish an announcement in newspapers within 30 days. The creditors may, within 30 days upon receipt of the written notice or, in the case of failure to receive the written notice, within 45 days of the public announcement, request the company to repay the debts or provide the corresponding guaranty.

**第一百七十四条** 公司合并时,合并各方的债权、债务,应当由合并后存续的公司或者新设的公司承继。

**Article 174** In the case of a merger of companies, the claims and debts of each of the companies to the merger shall be succeeded to by the company continuing to exist after the merger or the newly incorporated company.

**第一百七十五条** 公司分立,其财产作相应的分割。

公司分立,应当编制资产负债表及财产清单。公司应当自作出分立决议之日起十日内通知债权人,并于三十日内在报纸上公告。

**Article 175** In the case of the division of a company, the property thereof shall be divided accordingly.

The balance sheet and a list of property of the company shall be prepared for the division thereof. The company shall notify its creditors within ten days after the resolution on division is made, and shall publish an announcement in newspapers within 30 days.

**第一百七十六条** 公司分立前的债务由分立后的公司承担连带责任。但是,公司在分立前与债权人就债务清偿达成的书面协议另有约定的除外。

**Article 176** The companies after the division shall bear joint and several liabilities for the debts of the company prior to the division, unless otherwise agreed upon prior to the division by the company and its creditors in a written agreement concerning the settlement of debts.

**第一百七十七条** 公司需要减少注册资本时,必须编制资产负债表及财产清单。

公司应当自作出减少注册资本决议之日起十日内通知债权人,并于三十日内在报纸上公告。债权人自接到通知书之日起三十日内,未接到通知书的自公告之日起四十五日内,有权要求公司清偿债务或者提供相应的担保。

**Article 177** Where it is necessary for a company to reduce its registered capital, it shall prepare the balance sheet and a list of property.

The company shall notify its creditors within ten days after the resolution on the reduction of the registered capital is made, and shall publish an announcement in newspapers within 30 days. The creditors shall, within 30 days upon receipt of the written notice, or in the case of the failure to receive the written notice, within 45 days after the public announcement, be entitled to request the company to repay the debts or provide the corresponding guaranty.

**第一百七十八条** 有限责任公司增加注册资本时,股东认缴新增资本的出资,依照本法设立有限责任公司缴纳出资的有关规定执行。

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

**Article 178** Where a limited liability company increases its registered capital, the capital contribution subscribed for by its shareholders for the newly increased capital shall be governed by the provisions of this Law on the capital contribution for the establishment of a limited liability company.

Where a company limited by shares issues new shares to increase its registered capital, the subscription of the new shares by its shareholders shall be governed by the provisions of this Law on the payment for shares for the establishment of a company limited by shares.

**第一百七十九条** 公司合并或者分立,登记事项发生变更的,应当依法向公司登记机关办理变更登记;公司解散的,应当依法办理公司注销登记;设立新公司的,应当依法办理公司设立登记。

公司增加或者减少注册资本,应当依法向公司登记机关办理变更登记。

**Article 179** In the event of merger or division of a company, the formalities for change of registration shall be completed with the relevant company registration authority for changes of any registered item in accordance with the law; the company deregistration formalities shall be completed in accordance with the law if the company is dissolved; and the company establishment registration formalities shall be completed in accordance with the law if a new company is established.

In the case of any increase or reduction of a company's registered capital, relevant formalities for change of registration shall be completed with the company registration authority concerned in accordance with the law.

## 第十章 公司解散和清算

### Chapter 10: Dissolution and Liquidation of a Company

**第一百八十条** 公司因下列原因解散:

- (一)公司章程规定的营业期限届满或者公司章程规定的其他解散事由出现;
- (二)股东会或者股东大会决议解散;
- (三)因公司合并或者分立需要解散;
- (四)依法被吊销营业执照、责令关闭或者被撤销;
- (五)人民法院依照本法第一百八十二条的规定予以解散。

**Article 180** A company may be dissolved for any of the following reasons:

- (1) The term of operation specified in the company's articles of association expires or any of the other causes of dissolution specified in the company's articles of association occurs;
- (2) The shareholders' meeting or the general meeting makes a resolution to dissolve the company;
- (3) Dissolution is required by a merger or division of the company;
- (4) The business license of the company is revoked, or the company is ordered to close down or is removed, in accordance with the law; or

(5) A people's court decides to dissolve the company pursuant to Article 182 of this Law.

**第一百八十一条** 公司有本法第一百八十条第(一)项情形的,可以通过修改公司章程而存续。

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

**Article 181** A company under Item (1) of Article 180 of this Law may continue to exist by modifying its articles of association.

The modification of the company's articles of association in accordance with the preceding Paragraph shall be passed, in the case of a limited liability company, by the shareholders representing more than two thirds of the voting rights or, in the case of a company limited by shares, by the shareholders representing more than two thirds of the voting rights of all shareholders present at the general meeting.

**第一百八十二条** 公司经营管理发生严重困难,继续存续会使股东利益受到重大损失,通过其他途径不能解决的,持有公司全部股东表决权百分之十以上的股东,可以请求人民法院解散公司。

**Article 182** Where a company faces difficulty in operations and management such that the interests of its shareholders will suffer heavy losses if the company continues to exist, and there is no other way to resolve the problem, the shareholders representing more than ten percent of the voting rights of all the shareholders of the company may file a request with the competent people's court to dissolve the company.

**第一百八十三条** 公司因本法第一百八十条第(一)项、第(二)项、第(四)项、第(五)项规定而解散的,应当在解散事由出现之日起十五日内成立清算组,开始清算。有限责任公司的清算组由股东组成,股份有限公司的清算组由董事或者股东大会确定的人员组成。逾期不成立清算组进行清算的,债权人可以申请人民法院指定有关人员组成清算组进行清算。人民法院应当受理该申请,并及时组织清算组进行清算。

**Article 183** Where a company is dissolved under Item (1), Item (2), Item (4) or Item (5) of Article 180 of this Law, a liquidation group shall be formed to commence liquidation within 15 days after a cause of dissolution occurs. The liquidation group shall be composed of shareholders, in the case of a limited liability company; or shall be composed of the candidates determined by the directors or the general meeting, in the case of a company limited by shares. Where a liquidation group is not formed to carry out liquidation within the specified time limit, the creditors may apply to the competent people's court to designate relevant personnel to form a liquidation group for liquidation. The people's court shall accept the application, and shall promptly organize a liquidation group to carry out liquidation.

**第一百八十四条** 清算组在清算期间行使下列职权:

- (一)清理公司财产,分别编制资产负债表和财产清单;
- (二)通知、公告债权人;
- (三)处理与清算有关的公司未了结的业务;
- (四)清缴所欠税款以及清算过程中产生的税款;
- (五)清理债权、债务;
- (六)处理公司清偿债务后的剩余财产;
- (七)代表公司参与民事诉讼活动。

**Article 184** The liquidation group of a company may exercise the following powers during liquidation:

- (1) Liquidating the property of the company, and preparing the balance sheet and a list of property;

- (2) Informing the creditors of the company by notice or public announcement;
- (3) Handling the outstanding liquidation-related business of the company;
- (4) Paying off the due and payable taxes and the taxes incurred during the liquidation;
- (5) Liquidating the claims and the debts of the company;
- (6) Handling the property remaining after the full repayment of the debts of the company; and
- (7) Participating in civil litigations on behalf of the company.

**第一百八十五条** 清算组应当自成立之日起十日内通知债权人,并于六十日内在报纸上公告。债权人应当自接到通知书之日起三十日内,未接到通知书的自公告之日起四十五日内,向清算组申报其债权。

债权人申报债权,应当说明债权的有关事项,并提供证明材料。清算组应当对债权进行登记。  
在申报债权期间,清算组不得对债权人进行清偿。

**Article 185** The liquidation group of a company shall notify the creditors within ten days upon its formation, and publish an announcement on newspapers within 60 days. The creditors shall declare their claims to the liquidation group within 30 days upon receipt of the written notice or in the case of the failure to receive the written notice, within 45 days of the public announcement.

When declaring the claims, the creditors shall clarify the matters related thereto and provide supporting materials. The liquidation group shall register the claims.

During the period for declaration of claims, the liquidation group shall not make any repayment to any of the creditors.

**第一百八十六条** 清算组在清理公司财产、编制资产负债表和财产清单后,应当制定清算方案,并报股东会、股东大会或者人民法院确认。

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

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

**Article 186** The liquidation group of a company shall, after having liquidated the property of the company and prepared the balance sheet and a list of property, formulate a liquidation plan which shall be submitted to the shareholders' meeting, the general meeting or the competent people's court for confirmation.

After paying off the liquidation expenses, the salaries, social insurance premiums and the statutory compensations of the staff members, the due and payable taxes and the debts of the company, the liquidation group shall distribute the remaining property, in the case of a limited liability company, in proportion to the shareholders' capital contribution or, in the case of a company limited by shares, in proportion to the shares held by each shareholder.

During the liquidation, the company shall continue to exist, but shall not carry out business activities irrelevant to the liquidation. The property of the company shall not be distributed to any shareholder before full payments have been made out of the property in accordance with the preceding Paragraph.

**第一百八十七条** 清算组在清理公司财产、编制资产负债表和财产清单后,发现公司财产不足清偿债务的,应当依法向人民法院申请宣告破产。

公司经人民法院裁定宣告破产后,清算组应当将清算事务移交给人民法院。

**Article 187** Where the liquidation group of a company discovers, after having liquidated the property of the company and prepared the balance sheet and a list of property, that the property of the company is not sufficient for debt repayment in full, it shall apply to the competent people's court for

bankruptcy declaration in accordance with the law.

After the people's court rules to declare the company bankrupt, the liquidation group shall hand over the liquidation matters to the people's court.

**第一百八十八条** 公司清算结束后,清算组应当制作清算报告,报股东会、股东大会或者人民法院确认,并报送公司登记机关,申请注销公司登记,公告公司终止。

**Article 188** After the completion of the liquidation of a company, the liquidation group shall prepare a liquidation report which shall be submitted to the shareholders' meeting, the general meeting or the competent people's court for confirmation, and to the relevant company registration authority for the purpose of applying for the deregistration of the company and the public announcement on the termination of the company.

**第一百八十九条** 清算组成员应当忠于职守,依法履行清算义务。

清算组成员不得利用职权收受贿赂或者其他非法收入,不得侵占公司财产。

清算组成员因故意或者重大过失给公司或者债权人造成损失的,应当承担赔偿责任。

**Article 189** The members of a liquidation group shall devote themselves to their duties and perform liquidation obligations in accordance with the law.

The members of a liquidation group shall not take advantage of their powers to accept bribes or other illegal gains, nor shall they encroach on the property of the company concerned.

A member of a liquidation group who has caused any losses to the company or its creditors intentionally or by gross negligence shall be liable for compensation.

**第一百九十条** 公司被依法宣告破产的,依照有关企业破产的法律实施破产清算。

**Article 190** Where a company is declared bankrupt pursuant to the law, bankruptcy liquidation shall be carried out in accordance with the laws on enterprise bankruptcy.

## 第十一章 外国公司的分支机构

### Chapter 11: Branches of a Foreign Company

**第一百九十一条** 本法所称外国公司是指依照外国法律在中国境外设立的公司。

**Article 191** For the purpose of this Law, a foreign company shall refer to a company established outside the territory of China under a foreign law.

**第一百九十二条** 外国公司在中国境内设立分支机构,必须向中国主管机关提出申请,并提交其公司章程、所属国的公司登记证书等有关文件,经批准后,向公司登记机关依法办理登记,领取营业执照。

外国公司分支机构的审批办法由国务院另行规定。

**Article 192** To establish a branch within the territory of China, a foreign company shall file an application with the competent authority of China and submit relevant documents such as its articles of association and the company registration certificate issued by the authority of the country where it is registered. Upon approval, the foreign company shall go through the registration formalities with the relevant company registration authority in accordance with the law and collect the business license for the branch.

Measures for examination and approval of the branches of a foreign company shall be formulated separately by the State Council.

**第一百九十三条** 外国公司在中国境内设立分支机构,必须在中国境内指定负责该分支机构的代表人或者代理人,并向该分支机构拨付与其所从事的经营活动相适应的资金。

对外国公司分支机构的经营资金需要规定最低限额的,由国务院另行规定。

**Article 193** A foreign company shall, in establishing a branch within the territory of China, designate a representative or an agent within the territory of China to be responsible for the branch, and allocate to the branch the funds commensurate with the business activities in which the branch engages.

Other necessary provisions on the minimum amount of the operational funds for a branch of a foreign company shall be separately formulated by the State Council.

**第一百九十四条** 外国公司的分支机构应当在其名称中标明该外国公司的国籍及责任形式。

外国公司的分支机构应当在本机构中置备该外国公司章程。

**Article 194** A branch of a foreign company shall include, in its name, the country of origin and the form of liability of the foreign company.

A branch of a foreign company shall make available, at the branch's premises, the articles of association of the foreign company.

**第一百九十五条** 外国公司在中国境内设立的分支机构不具有中国法人资格。

外国公司对其分支机构在中国境内进行经营活动承担民事责任。

**Article 195** A branch established within the territory of China by a foreign company is not qualified as a Chinese legal person.

A foreign company shall bear civil liabilities for the business activities carried out by its branches within the territory of China.

**第一百九十六条** 经批准设立的外国公司分支机构,在中国境内从事业务活动,必须遵守中国的法律,不得损害中国的社会公共利益,其合法权益受中国法律保护。

**Article 196** When conducting business activities within the territory of China, branches of foreign companies that are established upon approval shall comply with Chinese laws, and shall not prejudice the social and public interest of China. Their legitimate rights and interests are protected by Chinese laws.

**第一百九十七条** 外国公司撤销其在中国境内的分支机构时,必须依法清偿债务,依照本法有关公司清算程序的规定进行清算。未清偿债务之前,不得将其分支机构的财产移至中国境外。

**Article 197** Where a foreign company removes any of its branches within the territory of China, it shall pay off its debts pursuant to the law, and carry out liquidation in accordance with the company liquidation procedures under this Law. The property of the branch shall not be transferred outside the territory of China before the debts are repaid in full.

## 第十二章 法律责任

### Chapter 12: Legal Liabilities

**第一百九十八条** 违反本法规定,虚报注册资本、提交虚假材料或者采取其他欺诈手段隐瞒重要事实取得公司登记的,由公司登记机关责令改正,对虚报注册资本的公司,处以虚报注册资本金额百分之五以上百分之十五以下的罚款;对提交虚假材料或者采取其他欺诈手段隐瞒重要事实的公司,处以五万元以上五十万元以下的罚款;情节严重的,撤销公司登记或者吊销营业执照。

**Article 198** Where, in violation of this Law, a company has been registered by false reporting

of the registered capital, submission of false materials, or concealment of any important fact by other fraudulent means, the company registration authority concerned shall order correction to be made. Where a company falsely reports its registered capital, a fine of not less than five percent but not more than 15 percent of the falsely-reported registered capital shall be imposed. Where a company submits false materials or conceals any important facts by other fraudulent means, a fine of not less than RMB 50,000 but not more than RMB 500,000 shall be imposed. Under grave circumstances, the company shall be deregistered or its business license shall be revoked.

**第一百九十九条** 公司的发起人、股东虚假出资,未交付或者未按期交付作为出资的货币或者非货币财产的,由公司登记机关责令改正,处以虚假出资金额百分之五以上百分之十五以下的罚款。

**Article 199** Where a promoter or shareholder of a company makes false capital contribution, fails to deliver the monetary amount or the non-monetary property used as capital contribution, or fails to deliver the same as scheduled, the relevant company registration authority shall order the promoter or shareholder to make correction, and impose thereon a fine of not less than five percent but not more than 15 percent of the amount of the falsely made capital contribution.

**第二百条** 公司的发起人、股东在公司成立后,抽逃其出资的,由公司登记机关责令改正,处以所抽逃出资金额百分之五以上百分之十五以下的罚款。

**Article 200** Where a promoter or shareholder of a company illegally withdraws its capital contribution after the company is established, the relevant company registration authority shall order the promoter or shareholder to make correction, and impose thereon a fine of not less than five percent but not more than 15 percent, of the capital contribution withdrawn.

**第二百零一条** 公司违反本法规定,在法定的会计账簿以外另立会计账簿的,由县级以上人民政府财政部门责令改正,处以五万元以上五十万元以下的罚款。

**Article 201** Where a company violates this Law and establishes account books other than the statutory ones, the finance department of the relevant people's government at or above the county level shall order the company to make correction, and impose thereon a fine of not less than RMB 50,000 but not more than RMB 500,000.

**第二百零二条** 公司在依法向有关主管部门提供的财务会计报告等材料上作虚假记载或者隐瞒重要事实的,由有关主管部门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。

**Article 202** Where a company makes any false record or conceals any important fact in such materials as the financial and accounting reports that are submitted to the competent authority in accordance with the law, the competent authority shall impose a fine of not less than RMB 30,000 but not more than RMB 300,000 on the primary persons-in-charge subject to direct liabilities and other personnel subject to direct liabilities.

**第二百零三条** 公司不依照本法规定提取法定公积金的,由县级以上人民政府财政部门责令如数补足应当提取的金额,可以对公司处以二十万元以下的罚款。

**Article 203** Where a company fails to accrue the statutory common reserve fund in accordance with this Law, the finance department of the relevant people's government at or above the county level shall order the company to make good the accrual, and may impose thereon a fine of up to RMB 200,000.

**第二百零四条** 公司在合并、分立、减少注册资本或者进行清算时,不依照本法规定通知或者公告债权人的,由公司登记机关责令改正,对公司处以一万元以上十万元以下的罚款。

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

**Article 204** During the merger, division, reduction of registered capital or liquidation of a company, where the company fails to inform its creditors by notice or public announcement in accordance with this Law, the relevant company registration authority shall order the company to make correction, and impose thereon a fine of not less than RMB 10,000 but not more than RMB 100,000.

During the liquidation of a company, where the company conceals its property or makes any false record in the balance sheet or list of property, or distributes its property prior to the repayment of the debts in full, the relevant company registration authority shall order the company to make correction, impose thereon a fine of not less than five percent but not more than 10 percent of the value of the property that the company has concealed or distributed prior to the repayment of debts in full, and impose a fine of not less than RMB 10,000 but not more than RMB 100,000 on the primary persons-in-charge subject to direct liabilities or other personnel subject to direct liability.

**第二百零五条** 公司在清算期间开展与清算无关的经营活动的,由公司登记机关予以警告,没收违法所得。

**Article 205** Where a company carries out any business activity irrelevant to the liquidation during the liquidation period, the relevant company registration authority shall issue a warning to the company and confiscate the illegal gains.

**第二百零六条** 清算组不依照本法规定向公司登记机关报送清算报告,或者报送清算报告隐瞒重要事实或者有重大遗漏的,由公司登记机关责令改正。

清算组成员利用职权徇私舞弊、谋取非法收入或者侵占公司财产的,由公司登记机关责令退还公司财产,没收违法所得,并可以处以违法所得一倍以上五倍以下的罚款。

**Article 206** Where a liquidation group fails to submit a liquidation report to the relevant company registration authority pursuant to this Law, or where any important fact is concealed or any material omission is found in the liquidation report submitted, the relevant company registration authority shall order the liquidation group to make correction.

Where any member of a liquidation group takes advantage of his/her powers to practice favoritism for personal gains, seek for illegal gains or encroach on any property of the company, the relevant company registration authority shall order the member to return such property of the company, confiscate his/her illegal gains and may impose thereon a fine of not less than one time but not more than five times the illegal gains.

**第二百零七条** 承担资产评估、验资或者验证的机构提供虚假材料的,由公司登记机关没收违法所得,处以违法所得一倍以上五倍以下的罚款,并可以由有关主管部门依法责令该机构停业、吊销直接责任人员的资格证书,吊销营业执照。

承担资产评估、验资或者验证的机构因过失提供有重大遗漏的报告的,由公司登记机关责令改正,情节较重的,处以所得收入一倍以上五倍以下的罚款,并可以由有关主管部门依法责令该机构停业、吊销直接责任人员的资格证书,吊销营业执照。

承担资产评估、验资或者验证的机构因其出具的评估结果、验资或者验证证明不实,给公司债权人造

成损失的,除能够证明自己没有过错的外,在其评估或者证明不实的金额范围内承担赔偿责任。

**Article 207** Where an institution that undertakes capital valuation, capital verification or certificate verification provides any false materials, the relevant company registration authority shall confiscate the illegal gains of the institution, and impose thereon a fine of not less than one time but not more than five times the illegal gains. The competent authority may also, pursuant to the law, order the institution to terminate its business operations, and revoke the qualification certificates of its personnel subject to direct liabilities and the business license of the institution.

Where an institution that undertakes capital valuation, capital verification or certificate verification provides a report with material omission out of negligence, the relevant company registration authority shall order the institution to make correction and, under grave circumstances, impose thereon a fine of not less than one time but not more than five times the illegal gains. The competent authority may also, pursuant to the law, order the institution organization to terminate its business operations, and revoke the qualification certificates of its personnel subject to direct liabilities and the business license of the institution.

Where the valuation results, capital verification certification or certificate verification certification issued by an institution that undertakes capital valuation, capital verification or certificate verification is not truthful, thus causing losses to the creditors of the company concerned, the institution shall bear the liability for compensation to the extent of the value affected by its untruthful valuation or certification, unless it can prove that it is not at fault.

**第二百零八条** 公司登记机关对不符合本法规定条件的登记申请予以登记,或者对符合本法规定条件的登记申请不予登记的,对直接负责的主管人员和其他直接责任人员,依法给予行政处分。

**Article 208** Where a company registration authority approves a registration application that fails to satisfy the conditions hereunder, or fails to approve a registration application that satisfies the conditions hereunder, administrative disciplinary measures shall be taken, in accordance with the law, against the primary persons-in-charge subject to direct liabilities and other personnel subject to direct liabilities.

**第二百零九条** 公司登记机关的上级部门强令公司登记机关对不符合本法规定条件的登记申请予以登记,或者对符合本法规定条件的登记申请不予登记的,或者对违法登记进行包庇的,对直接负责的主管人员和其他直接责任人员依法给予行政处分。

**Article 209** Where a superior department of a company registration authority orders the latter to approve a registration application that fails to satisfy the conditions hereunder or not to approve a registration application that satisfies the conditions hereunder, or where the superior department covers up any illegal registration by the latter, administrative disciplinary measures shall be taken, in accordance with the law, against the primary persons-in-charge subject to direct liabilities and other personnel subject to direct liabilities of the superior department.

**第二百一十条** 未依法登记为有限责任公司或者股份有限公司,而冒用有限责任公司或者股份有限公司名义的,或者未依法登记为有限责任公司或者股份有限公司的分公司,而冒用有限责任公司或者股份有限公司的分公司名义的,由公司登记机关责令改正或者予以取缔,可以并处十万元以下的罚款。

**Article 210** Where an entity not registered as a limited liability company or a company limited by shares in accordance with the law fraudulently names itself as such, or where an entity not registered as a branch company of a limited liability company or a company limited by shares in accordance with the law fraudulently names itself as such, the relevant company registration authority shall order the

entity to make correction or ban the entity, and may concurrently impose thereon a fine of up to RMB 100,000.

**第二百一十一条** 公司成立后无正当理由超过六个月未开业的,或者开业后自行停业连续六个月以上的,可以由公司登记机关吊销营业执照。

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

**Article 211** Where a company fails to commence business within six months after its establishment without justifiable reasons, or where a company suspends its business for at least six consecutive months at its own discretion after the commencement of business, the relevant company registration authority may revoke its business license.

Where a company fails to go through the formalities for change of registration of the changes in its registered items in accordance with this Law, the relevant company registration authority shall order the company to go through the registration formalities within a specified time limit; if the company fails to do so by the specified deadline, a fine of not less than RMB 10,000 but not more than RMB 100,000 shall be imposed thereon.

**第二百一十二条** 外国公司违反本法规定,擅自在中国境内设立分支机构的,由公司登记机关责令改正或者关闭,可以并处五万元以上二十万元以下的罚款。

**Article 212** Where a foreign company violates this Law and establishes a branch within the territory of China without authorization, the relevant company registration authority shall order the foreign company to make correction or close down the branch, and may concurrently impose thereon a fine of not less than RMB 50,000 but not more than RMB 200,000.

**第二百一十三条** 利用公司名义从事危害国家安全、社会公共利益的严重违法行为的,吊销营业执照。

**Article 213** The business license of a company shall be revoked if grave illegalities that endanger State security or prejudice social and public interests are committed in the name of the company.

**第二百一十四条** 公司违反本法规定,应当承担民事赔偿责任和缴纳罚款、罚金的,其财产不足以支付时,先承担民事赔偿责任。

**Article 214** A company that violates this Law shall bear civil liabilities for compensation and pay relevant fines, and shall, in the event that its property is not sufficient to make all payments, bear civil liabilities for compensation first.

**第二百一十五条** 违反本法规定,构成犯罪的,依法追究刑事责任。

**Article 215** Whoever violates this Law shall be investigated for criminal liabilities pursuant to the law if the violation constitutes a criminal offense.

### 第十三章 附则

## Chapter 13: Supplementary Provisions

**第二百一十六条** 本法下列用语的含义:

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

他人员。

(二)控股股东,是指其出资额占有限责任公司资本总额百分之五十以上或者其持有的股份占股份有限公司股本总额百分之五十以上的股东;出资额或者持有股份的比例虽然不足百分之五十,但依其出资额或者持有的股份所享有的表决权已足以对股东会、股东大会的决议产生重大影响的股东。

(三)实际控制人,是指虽不是公司的股东,但通过投资关系、协议或者其他安排,能够实际支配公司行为的人。

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

**Article 216** For the purpose of this Law:

(1) "senior management personnel" shall refer to the manager, vice managers and the person in charge of financial matters of a company, the secretary of the board of directors of a listed company, and any other personnel specified in the articles of association of a company;

(2) "controlling shareholder" shall refer to a shareholder whose capital contribution accounts for 50 percent or more of the total capital of a limited liability company, a shareholder whose shares account for 50 percent or more of the total share capital of a company limited by shares, or a shareholder whose voting rights corresponding to the capital contribution or shares thereof are sufficient to exert a material influence on the resolutions of the shareholders' meeting or the general meeting, despite the fact that the shareholder's capital contribution or shares account for less than 50 percent of the total capital or total share capital;

(3) "actual controller" shall refer to a person who is not a shareholder of a company but who is able to actually control the acts of the company through investment relations, agreements or other arrangements; and

(4) "affiliation" shall refer to the relationship between a controlling shareholder, actual controller, director, supervisor or senior management person of a company with an enterprise under the direct or indirect control thereof, or any other relationship that may lead to the transfer of the interests of the company, provided that the enterprises in which the State is the controlling shareholder are not necessarily affiliated to each other solely on the ground that the State controls the shares thereof.

**第二百一十七条** 外商投资的有限责任公司和股份有限公司适用本法;有关外商投资的法律另有规定的,适用其规定。

**Article 217** This Law shall be applicable to foreign-invested limited liability companies and companies limited by shares. The provisions otherwise prescribed by the laws on foreign investment shall prevail.

**第二百一十八条** 本法自2006年1月1日起施行。

**Article 218** This Law shall come into effect on January 1, 2006.

## 到境外上市公司章程必备条款

# The Mandatory Provisions for Articles of Association of Companies to Be Listed Overseas

颁布机关:	国家经济体制改革委员会（现国家发展和改革委员会）
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## 第一章 总则

### Chapter I General Provisions

**第一条** 本公司系依照《中华人民共和国公司法》(简称《公司法》)、《国务院关于股份有限公司境外募集股份及上市的特别规定》(简称《特别规定》)和国家其他有关法律、行政法规成立的股份有限公司。

**Article 1**"The company" refers to the company limited by shares established in accordance with the Company Law of the People's Republic of China (hereinafter referred to as the Company Law), the Special Provisions of the State Council concerning Public offering and Listing of Shares Overseas by Companies Limited by Shares (hereinafter referred to as the Special Provisions) and other laws and administrative regulations of the State.

公司经[批准机关和批准文件名称]批准,于[设立日期],以发起方式[或募集方式]设立,于[登记日期]在[公司登记机关所在地名]工商行政管理局注册登记,取得公司营业执照。

公司的营业执照号码为:[号码数字]

公司的发起人为:[发起人全称]

Subject to approval by [name of approval authority and documents of approval], the company is established on [date of establishment] by way of promotion [or public share offer] and registered with [name of the place where the company registration authority is located] administration for industry and commerce on [date of registration], and has obtained a business license.

The number of the company's business license is: [number].

The promoters of the company are: [full names of the promoters].

**第二条** 公司注册名称:[中文全称][英文全称]

**Article 2** The registered name of the company: [full name in Chinese] and [full name in English].

**第三条** 公司住所：公司住所全称，邮政编码，电话、电传号码]

**Article 3** The company's address: [full details of the company address, post code, telephone number(s) and telex number].

**第四条** 公司的法定代表人是公司董事长。

**Article 4** The legal representative of the company is the chairman of the board of directors of the company.

**第五条** 公司的营业期限为[年数]年[或公司为永久存续的股份有限公司。

**Article 5** The duration of operations of the company is [number] of years, [or the company is a perpetual company limited by shares].

**第六条** 公司章程自公司成立之日起生效。

**Article 6** The Articles of Association of the company shall take effect from the date of the company's establishment.

自公司章程生效之日起，公司章程即成为规范公司的组织与行为、公司与股东之间、股东与股东之间权利义务的，具有法律约束力的文件。

Once the Articles of Association have taken effect, it shall become a legally binding document to regulate the organization and activities of the company and the rights and obligations between the company and its shareholders and among its shareholders.

**第七条** 公司章程对公司及其股东、董事、监事、经理和其他高级管理人员均有约束力；前述人员均可以依据公司章程提出与公司事宜有关权利主张。

**Article 7** The Articles of Association of the company shall be binding on the company and its shareholders, directors, supervisors, managers and other senior officers, and the aforesaid personnel shall be entitled to assert their rights on matters in relation to the company in accordance with the Articles of Association of the company.

股东可以依据公司章程起诉公司；公司可以依据公司章程起诉股东；股东可以依据公司章程起诉股东；股东可以依据公司章程起诉公司的董事、监事、经理和其他高级管理人员。

A shareholder may take any legal action against the company in accordance with the Articles of Association of the company; the company may take any legal action against a shareholder in accordance with the Articles of Association of the company; a shareholder may take any legal action against other shareholders in accordance with the Articles of Association of the company; a shareholder may take any legal action against a director, supervisor, manager or other senior officers in accordance with the Articles of Association of the company.

前款所称起诉，包括向法院提起诉讼或者向仲裁机构申请仲裁。

"Take legal action" as mentioned in the preceding paragraph shall include the filing of a lawsuit with the court or the filing of an application for arbitration with an arbitral body.

**第八条** 公司可以向其他有限责任公司、股份有限公司投资，并以该出资额为限对所投资公司承担责任。

**Article 8** The company may invest in other limited liability companies or companies limited by shares and shall assume an amount of liability toward the invested company equivalent to the amount of the investment.

经国务院授权的公司审批部门批准，公司可以根据经营管理的需要，按照《公司法》第十二条第二款所述控股公司运作。

Subject to approval by the company examination and approval authority authorized by the State Council, the company may, according to the requirements of business management, operate as a holding company as stated in paragraph 2 of Article 12 of the Company Law.

## 第二章 经营宗旨和范围

### Chapter II Purpose and Scope of Business

**第九条** 公司的经营宗旨是：[宗旨内容]。

**Article 9** The company's business purpose is: [details of the purpose].

**第十条** 公司的经营范围以公司登记机关核准的项目为准。

**Article 10** The scope of business of the company shall be based on the projects examined and approved by the company registration authority.

公司的主营范围包括[公司登记机关核准的项目]。The scope of business in which is primarily engaged by the company shall include [projects examined and approved by the company registration authority].

公司的兼营范围包括[公司登记机关核准的项目]。

The scope of business in which is concurrently engaged by the company shall include [projects examined and approved by the company registration authority].

## 第三章 股份和注册资本

### Chapter III Share and Registered Capital

**第十一条** 公司在任何时候均设置普通股；公司根据需要，经国务院授权的公司审批部门批准，可以设置其他种类的股份。

**Article 11** The company may, at any time, issue ordinary shares; the company may, in accordance with the requirements of and subject to approval by the company examination and approval authority authorized by the State Council, issue other categories of shares.

**第十二条** 公司发行的股票，均为有面值股票，每股面值人民币一元。

**Article 12** Shares issued by the company shall have a face value. The face value of each share shall be CNY1 yuan.

**第十三条** 经国务院证券监管机构批准，公司可以向境内投资人和境外投资人发行股票。

**Article 13** Subject to approval by the competent securities department of the State Council, the company may issue shares to domestic and foreign investors.

前款所称境外投资人是指认购公司发行股份的外国和香港、澳门、台湾地区的投资人；境内投资人是指认购公司发行股份的，除前述地区以外的中华人民共和国境内的投资人。

The term "overseas investors" as mentioned in the preceding paragraph shall refer to investors from foreign countries or from Hong Kong, Macao and Taiwan who purchase shares issued by the company; The term "domestic investors" as mentioned in the preceding paragraph shall refer to investors within the territory of the People's Republic of China other than the aforesaid regions who purchase shares issued by the company.

**第十四条** 公司向境内投资人发行的以人民币认购的股份，称为内资股。公司向境外投资人发行的以外币认购的股份，称为外资股。外资股在境外上市的，称为境外上市外资股。

**Article 14** Shares issued by the company in CNY to domestic investors shall be called domestic shares. Shares issued by the company in foreign currency to foreign investors shall be called foreign shares. Foreign shares which are listed overseas shall be called foreign shares to be listed overseas.

**第十五条** 经国务院授权的公司审批部门批准，公司可以发行的普通股总数为[股份数额]股，成立时向发起人发行[股份数额]股，占公司可发行的普通股总数的百分之[百分比数]。

**Article 15** Subject to approval by the company examination and approval authority authorized by the State Council, the company may issue a total number of [number of shares] ordinary shares, with [number of shares] shares already issued to promoters at the time of the company's establishment, which constitutes [percentage]% of the total ordinary shares to be issued by the company.

**第十六条** 公司成立后发行普通股[股份数额]股，包括不少于[股份数额]股，不超过[股份数额]股的境外上市外资股，占公司可发行的普通股总数的百分之[百分比数]，以及向社会公众发行的[股份数额]股的内资股。

**Article 16** After its establishment, the company will issue [number of shares] ordinary shares, including no less than [number of shares] and no more than [number of shares] foreign shares to be listed overseas, and which constitutes a total of [percentage]% of shares to be issued as ordinary shares by the company and [number of shares] domestic shares to be issued to the general public.

公司的股本结构为：普通股[股份数额]股，其中发起人[各发起人姓名或者名称]持有[股份数额]股，其他内资股股东持有[股份数额]股，境外上市外资股股东持有[股份数额]股。

The share capital structure of the company is: [number of shares] ordinary shares, of which [number of shares] are held by the promoters [name and title of each promoter], [number of shares] held by other domestic shareholders and [number of shares] held by holders of foreign shares to be listed overseas.

**第十七条** 经国务院证券主管机构批准的公司发行境外上市外资股和内资股的计划，公司董事会可以作出分别发行的实施安排。

**Article 17** Where the company has a scheme approved by the competent securities department of the State Council for issuing foreign shares to be listed overseas and domestic shares, the board of directors of the company may implement arrangements to make separate issue.

公司依照前款规定分别发行境外上市外资股和内资股的计划，可以自国务院证券委员会批准之日起15个月内分别实施。

A scheme for the separate issue of foreign shares to be listed overseas and domestic shares prepared by the company in accordance with the preceding paragraph may be implemented separately within fifteen (15) months of the date on which the issue scheme is approved by the Securities Commission of the State Council.

**第十八条** 公司在发行计划确定的股份总数内，分别发行境外上市外资股和内资股的，应当分别一次募足；有特殊情况不能一次募足的，经国务院证券委员会批准，也可以分次发行。

**Article 18** If the company separately issues foreign shares to be listed overseas and domestic shares within the total amount of shares fixed in the company's issue scheme, foreign shares to be listed overseas and domestic shares shall separately be offered in full at one time. Under special circumstances, where the total amount of shares in each issue cannot be entirely offered in full at one time, such shares may, subject to approval by the Securities Commission of the State Council, be issued in installments.

**第十九条** 公司的注册资本为人民币E[资本数额]元。

**Article 19** The registered capital of the company is [amount of capital] yuan.

**第二十条** 公司根据经营和发展的需要，可以按照公司章程的有关规定批准增加资本。

**Article 20** The company may, in accordance with the requirements of its business operation and development, increase its capital with approval as stipulated in the company's Articles of Association.

公司增加资本可以采取下列方式：

The company may adopt the following methods to increase its capital:

(一)向非特定投资人募集新股；

1. Offering new shares to non-designated investors;

(二)向现有股东配售新股；

2. Conduct a rights issue of new shares to existing shareholders;

(三)向现有股东派送新股；

3. Conduct a bonus issue of new shares to existing shareholders; and

(四)法律、行政法规许可的其他方式。

4. Other methods permitted by laws and administrative regulations.

公司增资发行新股，按照公司章程的规定批准后，根据国家有关法律、行政法规规定的程序办理。

Where the company has increased its capital through a new share issue with approval as stipulated in the company's **Articles** of Association, the matter shall be handled in accordance with the procedures as stipulated in relevant State laws and administrative regulations.

**第二十一条** 除法律、行政法规另有规定外，公司股份可以自由转让，并不附带任何留置权。

**Article 21** Except as otherwise provided in laws and administrative regulations shares of the company may be subject to free assignment and shall have no lien attached.

#### 第四章 减资和购回股份

#### Chapter IV Reduction of Capital and Buy-back of Shares

**第二十二條** 根据公司章程的规定，公司可以减少其注册资本。

**Article 22** In accordance with the provisions of its **Articles** of Association, the company may reduce its registered capital.

**第二十三條** 公司减少注册资本时，必须编制资产负债表及财产清单。

**Article 23** When reducing its registered capital, the company must prepare a balance sheet and an inventory of property.

公司应当自作出减少注册资本决议之日起 10 日内通知债权人，并于 30 日内在报纸上至少公告 3 次。债权人自接到通知书之日起 30 日内，未接到通知书的自第一次公告之日起 90 日内，有权要求公司清偿债务或者提供相应的偿债担保。

Within ten (10) days of the date on which the resolution on reducing registered capital is made, the creditors shall be notified by the company and a public announcement shall be made in the press three (3) times within thirty (30) days. A creditor shall, within thirty (30) days of receipt of such a notice or within ninety (90) days of the first public announcement where the creditor has not received the notice, have the right to require the company to settle its claim or provide a relevant debt repayment guarantee.

公司减少资本后的注册资本，不得低于法定的最低限额。

The registered capital after its reduction shall not be less than the statutory minimum amount.

**第二十四條** 公司在下列情况下，可以经公司章程规定的程序通过，报国家有关主管机构批准，购回其发行在外的股份：

**Article 24** In any of the following circumstances, the company may buy back the issued and outstanding shares in accordance with procedures stipulated in the company's **Articles** of Association and after the approval of the relevant competent authority of the State:

(一)为减少公司资本而注销股份；

1. Where shares are cancelled in order to reduce its capital;

(二)与持有本公司股票的其他公司合并；

2. Where the company merges with other companies which hold the company's shares;

or

(三)法律、行政法规许可的其他情况。

3. Other circumstances permitted in laws and administrative regulations.

**第二十五條** 公司经国家有关主管机构批准购回股份，可以下列方式之一进行：

**Article 25** Subject to approval by the relevant competent authority of the State, any of the following methods may be adopted to buy back shares:

(一)向全体股东按照相同比例发出购回要约；

1. Issuing a buy back offer to all shareholders according to an equal proportion;

(二)在证券交易所通过公开交易方式购回；

2. Buying back share by way of open trading at a stock exchange; or

(三)在证券交易所外以协议方式购回。

3. Buying back share by way of an agreement outside the stock exchange.

**第二十六条** 公司在证券交易所外以协议方式购回股份时，应当事先经股东大会按公司章程的规定批准。经股东大会以同一方式事先批准，公司可以解除或者改变经前述方式已订立的合同，或者放弃其合同中的任何权利。

**Article 26** When the company buys back shares by means of an agreement outside a stock exchange, the approval of shareholders' meeting must be obtained in advance in accordance with the provisions of the company's Articles of Association. Subject to advance approval by the meeting of shareholders to buy back shares through means of an agreement, the company may rescind or modify the contracts which have already been concluded through the procedure described above or waive any rights stipulated in those contracts.

前款所称购回股份的合同，包括(但不限于)同意承担购回股份义务和取得购回股份权利的协议。

The aforesaid share buy-back contract shall include (but not be limited to) agreements to bear the obligation of buying back shares and to obtain share buy-back rights.

公司不得转让购回其股份的合同或者合同中规定的任何权利。

The company shall not transfer a contract for the buy back of its shares, nor assign any rights stipulated in the contract.

**第二十七条** 公司依法购回股份后，应当在法律、行政法规规定的期限内，注销该部分股份，并向原公司登记机关申请办理注册资本变更登记。

**Article 27** After buying back shares in accordance with the law, the company shall, within the period of time stipulated by laws and administrative regulations, cancel that portion of shares and shall apply with the original company registration authority to make registrations for the change of registered capital.

被注销股份的票面总值应当从公司的注册资本中核减。

The total face value of the cancelled shares shall be offset against the registered capital of the company.

**第二十八条** 到香港上市公司，应当将下列内容载入公司章程：

**Article 28** For companies listed in Hong Kong, the following content shall be included in the company's **Articles** of Association.

除非公司已经进入清算阶段，公司购回其发行在外的股份，应当遵守下列规定：

Unless the company has already entered into liquidation, the company shall abide by the following provisions when buying back its issued and outstanding shares:

(一)公司以面值价格购回股份的，其款项应当从公司的可分配利润帐面余额、为购回旧股而发行的新股所得中减除；

1. Where the company buys back its shares at face value, the funds expended shall be deducted from the book balance of the distributable profits and from proceeds derived from the issue of new shares for the buy-back of old shares.

(二)公司以高于面值价格购回股份的，相当于面值的部分从公司的可分配利润帐面余额、为购回旧股而发行的新股所得中减除；高出面值的部分，按照下述办法办理：

2. Where the company buys back shares at a price in excess of their face value, that portion of funds equivalent to the face value shall be deducted from the book balance of distributable profits and proceeds derived from the issue of new shares for the buy back of old shares; that portion of funds in excess of the face value shall be handled pursuant to the following measures:

(1)购回的股份是以面值价格发行的，从公司的可分配利润帐面余额中减除；

(1) Where the bought back shares are issued at face value, the funds shall be deducted from the book balance of the distributable profits;

(2)购回的股份是以高于面值的价格发行的，从公司的可分配利润帐面余额、为购回旧股而发行的新股所得中减除；但是从发行新股所得中减除的金额；不得超过购回的旧股发行时所得的溢价总额，也不得超过购回时公司溢价帐户[或资本公积金帐户]上的金额(包括发行新股的溢价金额)；

(2) Where the bought back shares are issued at a price in excess of their face value, the funds expended shall be deducted from the book balance of distributable profits and proceeds derived from the issue of new shares for the buy back of old shares; however, the amount deducted from the proceeds derived from the issue of new shares shall not exceed the total premium on the bought back old shares at the time when those shares were issued, and shall not exceed the amount (including the premium on the issue of new shares) in the premium account [or capital accumulation fund account] at the time of buying back of those shares.

(三)公司为下列用途所支付的款项，应当从公司的可分配利润中支出：

3. Funds used for any of the following purposes shall be withdrawn from distributable profits of the company:

(1)取得购回其股份的购回权；

(1) Obtaining buy back rights for the buying back of shares;

(2)变更购回其股份的合同；

(2) Amending the share buy back contract; or

(3)解除其在购回合同中的义务。

(3) Canceling the obligations in the share buy-back contract.

(四)被注销股份的票面总值根据有关规定从公司的注册中核减后，从可分配的利润中减除的用于购回股份面值部分的金额，应当计入公司的溢价帐户[或资本公积金帐户]中。

4. After the total face value of cancelled shares has been offset against the registered capital of the company pursuant to relevant regulations, the amount spent on buying back the face value of shares which can be deducted from the distributable profits shall be charged to the premium account [or capital accumulation fund account] of the company.

## 第五章 购回公司股份的财务资助

### Chapter V Financial Aid for the Purchase of the Company's Shares

**第二十九条** 公司或者其子公司在任何时候均不应当以任何方式，对购买或者拟购买公司股份的人提供任何财务资助。前述购买公司股份的人，包括因购买公司股份而直接或者间接承担义务的人。

公司或者其子公司在任何时候均不应当以任何方式，为减少或者解除前述义务人的义务向其提供财务资助。

**Article 29** The company or its subsidiaries shall not be permitted at any time in any means to provide any financial aid to any parties buying or intending to buy the company's shares. The aforesaid parties buying the company's shares shall include parties who directly or indirectly assume obligations because of the purchase of the company's shares.

The company or its subsidiaries shall not be permitted at any time in any means to provide financial aid to the aforesaid obligated parties in order to reduce or cancel their obligations.

本条规定不适用于本章**第三十一条**所述的情形。

The provisions of this Article shall not apply in any of the circumstances described in Article 31 of this Chapter.

**第三十条** 本章所称财务资助，包括(但不限于)下列方式：

**Article 30** For the purposes of this Chapter, financial aid shall include (but not be limited to) the following:

(一)馈赠；

1. Giving a gift;

(二)担保(包括由保证人承担责任或者提供财产以保证义务人履行义务)、补偿(但是不包括因公司本身的过错所引起的补偿)、解除或者放弃权利；

2. Providing a guarantee (including an undertaking by the guarantor to bear liability or the guarantor providing property in order to ensure that the obligor fulfils an obligation), making compensation (but not including such compensation made due to the company's own fault), canceling or waiving rights;

(三)提供贷款或者订立由公司先于他方履行义务的合同，以及该贷款、合同当事方的变更和该贷款、合同中权利的转让等；

3. Providing loans or concluding a contract which stipulates that the company assumes obligations ahead of another party, changing the parties to these loans or contracts, or assigning rights pertaining to these loans or contracts; and

(四)公司在无力偿还债务、没有净资产或者将会导致净资产大幅度减少的情形下，以任何其他方式提供的财务资助。

4. Providing financial aid through any other means when the company is unable to repay its debts, has no net assets or in circumstances likely to lead to a heavy reduction in net assets.

本章所称承担义务，包括义务人因订立合同或者作出安排(不论该合同或者安排是否可以强制执行，也不论是由其个人或者与任何其他人共同承担)，或者以任何其他方式改变了其财务状况而承担的义务。

For the purposes of this Chapter, the phrase "assumes obligations" shall include an act whereby the obligor assumes obligations as a result of entering into a contract or making an arrangement (regardless of whether or not that contract or arrangement can be compulsorily enforced, or regardless of whether or not the obligor assumes obligations itself or jointly with others), or changing its financial position through any other means.

**第三十一条** 下列行为不视为本章**第二十九条**禁止的行为：

**Article 31** The following acts shall not be regarded as those prohibited by **Article 29** of this Chapter:

(一)公司提供的有关财务资助是诚实地为了公司利益，并且该项财务资助的主要目的不是为购买本公司股份，或者该项财务资助是公司某项总计划中附带的一部分；

1. Financial aid honestly provided by the company for the company's interests and where the main aim of such financial aid is not the purchase of the company's shares, or where the said financial aid is an incidental part of a certain overall plan of the company;

(二)公司依法以其财产作为股利进行分配；

2. The company uses its property as dividends for distribution in accordance with the law;

(三)以股份的形式分配股利；

3. Dividends distributed in the form of shares;

(四)依据公司章程减少注册资本、购回股份、调整股权结构等;

4. Reducing registered capital, buying back shares or adjusting equity structure in accordance with the company's **Articles** of Association;

(五)公司在其经营范围内,为其正常的业务活动提供贷款(但是不应当导致公司的净资产减少,或者即使构成了减少,但该项财务资助是从公司的可分配利润中支出的);

5. Providing loans for its normal business operations within its scope of the business (however, this shall not result in a reduction of the company's net assets, or, where there is a reduction in its net assets, the financial aid is made from the company's distributable profits); and

(六)公司为职工持股计划提供款项(但是不应当导致公司的净资产减少,或者即使构成了减少,但该项财务资助是从公司的可分配利润中支出的)。

6. Providing loans to enable employees to hold shares (however, this shall not result in a reduction of the net assets of the company, or, where there is a reduction in its net assets, the financial aid is made from the company's distributable profits).

## 第六章 股票和股东名册

### Chapter VI Share Certificates and Register of Shareholders

**第三十二条** 公司股票采用记名式。

**Article 32** The share certificates of the company shall adopt the form of registered share certificates.

公司股票应当载明的事项,除《公司法》规定的外,还应当包括公司股票上市的证券交易所要求载明的其他事项。

In addition to the items which shall be specified on a share certificate of the company as stipulated in the Company Law, other items as required by the stock exchange where the company's shares are listed shall also be included.

**第三十三条** 股票由董事长签署。公司股票上市的证券交易所要求公司其他高级管理人员签署的,还应当由其他有关高级管理人员签署。股票经加盖公司印章或者以印刷形式加盖印章后生效。公司董事长或者其他有关高级管理人员在股票上的签字也可以采取印刷形式。

**Article 33** A share certificate shall be signed by the chairman of the board of directors. If the stock exchange on which the company's shares are listed requires other senior officers to sign the share certificates, a share certificate shall also be signed by those senior officers. A share certificate shall only become valid after it is affixed with the company seal or with the company seal in a printed format. Printed format may also be adopted for the signature of the chairman of the board of directors or other senior officers on a share certificate.

**第三十四条** 公司应当设立股东名册,登记以下事项:

**Article 34** A register of shareholders shall be established by the company to record the following items:

(一)各股东的姓名(名称)、地址(住所)、职业或性质;

1. The name (or title), address (or residence) and occupation or nature of each shareholder;

(二)各股东所持股份的类别及其数量;

2. The type and amount of shares held by each shareholder;

(三)各股东所持股份已付或者应付的款项;

3. The amount paid for or amount payable for shares held by each shareholder;

(四)各股东所持股份的编号;

4. The serial numbers of shares held by each shareholder;

(五)各股东登记为股东的日期;

5. The date on which each shareholder is registered as a shareholder; and

(六)各股东终止为股东的日期。

6. The date on which each shareholder ceases to be a shareholder.

股东名册为证明股东持有公司股份的充分证据; 但是有相反证据的除外。

The register of shareholders shall be sufficient evidence to verify that a shareholder holds company shares, except where evidence to the contrary exists.

**第三十五条** 公司可以依据国务院证券主管部门与境外证券监管机构达成的谅解、协议, 将境外上市外资股股东名册存放在境外, 并委托境外代理机构管理。公司应当将境外上市外资股股东名册的副本备置于公司住所; 受委托的境外代理机构应当随时保证境外上市外资股股东名册正、副本的一致性。境外上市外资股股东名册正、副本的记载不一致时, 以正本为准。

**Article 35** In accordance with the mutual understanding and agreement reached between the competent securities department of the State Council and an overseas securities regulatory authority, the original copy of the company's register of shareholders holding foreign shares listed overseas may be kept overseas and managed by an overseas agency entrusted by the company. A duplicate copy of the company's register of shareholders holding foreign shares listed overseas shall be kept at the residence of the company. The entrusted overseas agency shall ensure the consistency of the original and duplicate copies of the register of shareholders of foreign shares listed overseas at all times.

If a duplicate copy is inconsistent with the original of the register of shareholders holding foreign shares listed overseas, the original copy shall prevail.

**第三十六条** 公司应当保存有完整的股东名册。

**Article 36** The company shall maintain a complete register of shareholders.

股东名册包括下列部分:

A register of shareholders shall consist of the following details:

(一)存放在公司住所的、除本款(二)、(三)项规定以外的股东名册;

1. The register of shareholders other than those stipulated in items 2 and 3 of this paragraph to be kept at the residence of the company;

(二)存放在境外上市的证券交易所所在地的公司境外上市外资股股东名册;

2. The company's register of shareholders who hold foreign shares listed overseas to be kept at the location of the overseas stock exchange on which the company's foreign shares are listed; and

(三)董事会为公司股票上市的需要而决定存放在其他地方的股东名册。

3. The register of shareholders to be kept in another place designated by the board of directors so as to meet the requirements for listing of the company's shares.

**第三十七条** 股东名册的各部分应当互不重叠。在股东名册某一部分注册的股份的转让，在该股份注册存续期间不得注册到股东名册的其他部分。

**Article 37** There shall be no overlap between the various parts of the register of shareholders. In the event of assignment of shares registered in a certain part of the register of shareholders, those shares shall not be registered in another part of the register of shareholders during the period of time in which their registration is maintained in the other part of the register.

股东名册各部分的更改或者更正，应当根据股东名册各部分存放地的法律进行。

Modification or correction of any part of a register of shareholders shall be carried out in accordance with the laws of the places where those parts of the register of shareholders are kept.

**第三十八条** 股东大会召开前 30 日内或者公司决定分配股利的基准日前 5 日内，不得进行因股份转让而发生的股东名册的变更登记。

**Article 38** The procedures for registering any modification of a register of shareholders resulting from an assignment of shares shall not be gone through within thirty (30) days of the commencement of a shareholders' meeting or within five (5) days before the date on which dividends are to be distributed as decided by the company.

**第三十九条** 公司召开股东大会、分配股利、清算及从事其他需要确认股权的行为时，应当由董事会决定某一日为股权确定日，股权确定日终止时，在册股东为公司股东。

**Article 39** When convening a shareholders' meeting, distributing dividends, making liquidation or conducting other activities involving the confirmation of stock equity, the board of directors of the company shall fix a certain date as the stock equity confirmation date. At the end of the stock equity confirmation date, shareholders registered in the register of shareholders shall be the company's shareholders.

**第四十条** 任何人对股东名册持有异议而要求将其姓名(名称)登记在股东名册上，或者要求将其姓名(名称)从股东名册中删除的，均可以向有管辖权的法院申请更正股东名册。

**Article 40** Any party which raises an objection to a register of shareholders and requires its name (or title) to be registered in the register of shareholders or requires its name (or title) to be deleted from the share of register may apply to the court having jurisdiction to amend that register of shareholders.

**第四十一条** 任何登记在股东名册上的股东或者任何要求将其姓名(名称)登记在股东名册上的人，如果其股票(即"原股票")遗失，可以向公司申请就该股份(即"有关股份")补发新股票。内资股股东遗失股票，申请补发的，依照《公司法》第一百五十条的规定处理。

**Article 41** Any shareholder registered in the register of shareholders or any party who requires its name (or title) to be registered in the register of shareholders may apply with the company for reissue of share certificates (i.e. "relevant share certificates" if its share certificates (i.e. "original share certificates") have been lost. In the case of a domestic shareholder losing its share certificate and applying for reissue of share certificate, this shall be handled in accordance with the provisions of Article 150 of the Company Law.

境外上市外资股股东遗失股票，申请补发的，可以依照境外上市外资股股东名册正本存放地的法律、证券交易场所规则或者其他有关规定处理。

In the case of a holder of foreign shares listed overseas losing its share certificate and applying for reissue of share certificate, this shall be handled in accordance with the law of the place where the original register of foreign shareholders is kept with the rules of the stock exchange or other relevant regulations.

到香港上市公司的境外上市外资股股东遗失股票申请补发的，其股票的补发应当符合下列要求：

If a holder of foreign shares listed in Hong Kong has lost its share certificate and applies for reissue of share certificate, the reissue of share certificate shall be in compliance with the following requirements:

(一)申请人应当用公司指定的标准格式提出申请并附上公证书或者法定声明文件。公证书或者法定声明文件的内容应当包括申请人申请的理由、股票遗失的情形及证据，以及无其他任何人可就有关股份要求登记为股东的声明。

1. The applicant shall lodge an application according to the standard format designated by the company and shall attach a notarial certificate or statutory statement document. The contents of the notarial certificate or statutory statement document shall include reasons for the application, details and evidence of the loss of the share certificate and a statement that no other party can request the registration of such shares as a shareholder;

(二)公司决定补发新股票之前，没有收到申请人以外的任何人对该股份要求登记为股东的声明。

2. No declaration has been made by any party other than the applicant requesting the registration of those shares as a shareholder before the company makes a decision on reissue of share certificate;

(三)公司决定向申请人补发新股票，应当在董事会指定的报刊上刊登准备补发新股票的公告；公告期间为90日，每30日至少重复刊登一次。

3. Where the company decides to make reissue of share certificate, a public announcement of the intended reissue of the share certificate shall be published in the newspaper(s) designated by the board of directors; the period for a public announcement shall be ninety (90) days and the public announcement shall be republished at least once every thirty (30) days;

(四)公司在刊登准备补发新股票的公告之前，应当向其挂牌上市的证券交易所提交一份拟刊登的公告副本，收到该证券交易所的回复，确认已在证券交易所内展示该公告后，即可刊登。公告在证券交易所内展示的期间为90日。

4. Before the publication of a public announcement on the intended reissue of the share certificate, a duplicate copy of the public announcement to be published shall be submitted to the stock exchange on which the company's shares are listed. The public announcement may then be published after receipt of a reply from the stock exchange confirming the display of the public announcement in the stock exchange has occurred. The period for display of a public announcement in the stock exchange shall be ninety (90) days.

如果补发股票的申请未得到有关股份的登记在册股东的同意，公司应当将拟刊登的公告的复印件邮寄给该股东。

If an application for the reissue of the share certificate is made without the consent of a shareholder registered in the register of shareholders who holds the relevant shares, the company shall send a copy of the public announcement to be published to the shareholder concerned;

(五)本条(三)、(四)项所规定的公告、展示的 90 日期限届满，如公司未收到任何人对补发股票的异议，即可以根据申请人的申请补发新股票。

5. Upon the expiration of the ninety (90) day period for a public announcement or display as stipulated in items 3 and 4 of this Article and where no objection to reissue of the share certificate has been raised by any party, the new share certificate may be issued pursuant to the application.

(六)公司根据本条规定补发新股票时，应当立即注销原股票，并将此注销和补发事项登记在股东名册上。

6. When making reissue of the share certificate pursuant to the provisions of this **Article**, the company shall promptly cancel the original share certificate and shall record such cancellation and reissue of the share certificate on the register of shareholders; and

(七)公司为注销原股票和补发新股票的全部费用，均由申请人负担。在申请人未提供合理的担保之前，公司有权拒绝采取任何行动。

7. All expenses incurred by the company in the cancellation of the original share certificate and the reissue of the share certificate shall be borne by the applicant. The company shall have the right to refuse to take any action before an applicant provides a reasonable guarantee.

**第四十二条** 公司根据公司章程的规定补发新股票后，获得前述新股票的善意购买者或者其后登记为该股份的所有者的股东(如属善意购买者)，其姓名(名称)均不得从股东名册中删除。

**Article 42** After a new share certificate has been issued by the company in accordance with the provisions of the **Articles** of Association, a good faith purchaser who obtains the said new shares or a shareholder (if a good faith purchaser) who later registers as owners of the said shares shall not have its name (or title) deleted from the register of shareholders.

**第四十三条** 公司对于任何由于注销原股票或者补发新股票而受到损害的人均无赔偿义务，除非该当事人能证明公司有欺诈行为。

**Article 43** The company shall not bear liability to compensate for any loss incurred by any party as a result of cancellation of the original share certificate or issue of the new share certificate unless the party concerned can prove that the company has committed fraud.

## 第七章 股东的权利和义务

### Chapter VII Rights and Obligations of Shareholders

**第四十四条** 公司股东为依法持有公司股份并且其姓名(名称)登记在股东名册上的人。

**Article 44** The shareholders of the company shall be the parties who legally hold the company's shares and whose names (or titles) have been registered on the register of shareholders.

股东按其持有股份的种类和份额享有权利，承担义务；持有同一种类股份的股东，享有同等权利，承担同种义务。

A shareholder shall enjoy rights and assume obligations according to the category and quantity of shares held; holders of the same type of share shall enjoy equal rights and assume equal obligations.

**第四十五条** 公司普通股股东享有下列权利：

**Article 45** A holder of ordinary shares of the company shall have the following rights:

(一)依照其所持有的股份份额领取股利和其他形式的利益分配；

1. To receive dividends and beneficial distributions in other forms according to the quantity of shares held;

(二)参加或者委派股东代理人参加股东会议，并行使表决权；

2. To attend or entrust an proxy to attend shareholders' meetings and to exercise voting rights;

(三)对公司的业务经营活动进行监督管理，提出建议或者质询；

3. To supervise and manage business activities of the company and to give suggestions or make inquiries;

(四)依照法律、行政法规及公司章程的规定转让股份；

4. To assign shares pursuant to the provisions of laws, administrative regulations and the company's **Articles** of Association;

(五)依照公司章程的规定获得有关信息，包括：

5. To obtain information pursuant to the provisions of the company's **Articles** of Association including:

1. 在缴付成本费用后得到公司章程；

(1) Obtaining a copy of the company's **Articles** of Association after payment of cost;

2. 在缴付了合理费用后有权查阅和复印：

(2) The right to inspect or copy the following materials after a reasonable fee has been paid:

(1)所有各部分股东的名册；

A. All parts of the register of shareholders;

(2)公司董事、监事、经理和其他高级管理人员的个人资料，包括：

B. Personal information concerning directors, supervisors and other senior officers of the company, including:

(A)现在及以前的姓名、别名；

(a) Their current and previous names and/or alternative names;

(B)主要地址(住所)；

(b) Their principal address (residence);

(C)国籍；

(c) Their nationality;

(D)专职及其他全部兼职的职业、职务；

(d) Their full-time position and/or other concurrent positions and posts;

(E)身份证明文件及其号码。

(e) Their ID documentation and numbers.

(3)公司股本状况；

C. company share capital position;

(4)自上一会计年度以来公司购回自己每一类别股份的票总值、数值、最高价和最低价，以及公司为此支付的全部费用的报告；

D. Reports on the total face value and quantity of each type of share bought back by the company since the previous financial year, the highest buying price and the lowest buying price for such shares, and the total expenses incurred thereon;

(5) 股东会议的会议记录。

E. minutes of shareholders' meetings.

(六) 公司终止或者清算时，按其所持有的股份份额参加公司剩余财产的分配；

6. To participate in, upon the company's termination or liquidation, the distribution of the company's remaining assets according to the quantity of shares held; and

(七) 法律、行政法规及公司章程所赋予的其他权利。

7. Other rights granted in laws, administrative regulations and the company's **Articles of Association**.

**第四十六条** 公司普通股股东承担下列义务：

**Article 46** A holder of ordinary shares of the company shall assume the following obligations:

(一) 遵守公司章程；

1. To abide by the company's **Articles of Association**.

(二) 依其所认购股份和人股方式缴纳股金；

2. To pay funds according to the quantity of subscribed shares and the method of subscription;

(三) 法律、行政法规及公司章程规定应当承担的其他义务。

3. Other obligations which shall be assumed as provided by laws, administrative regulations and the company's **Articles of Association**.

股东除了股份的认购人在认购时所同意的条件外，不承担其后追加任何股本的责任。

Apart from the conditions accepted at the time of subscribing to shares, a shareholder shall not bear liability for any additional share capital.

**第四十七条** 除法律、行政法规或者公司股份上市的证券交易所的上市规则所要求的义务外，控股股东在行使其股东的权力时，不得因行使其表决权在下列问题上作出有损于全体或者部分股东的利益的决定：

**Article 47** In addition to obligations as required by laws, administrative regulations or the listing rules of the stock exchange on which the company's shares are listed, a controlling shareholder when exercising its shareholding rights shall not exercise its voting rights to make decisions on the following matters which harm the interests of all or some shareholders:

(一) 免除董事、监事应当真诚地以公司最大利益为出发点行事的责任；

1. To exempt a director or supervisor from his/her responsibility for acting in good faith for the best interests of the company;

(二) 批准董事、监事(为自己或者他人利益)以任何形式剥夺公司财产，包括(但不限于)任何对公司有利的机会；

2. To approve the expropriation of the company's property by a director or supervisor (for his/her own interests or another's interests) through any means including (but not limited to) any opportunity which is beneficial to the company; or

(三) 批准董事、监事(为自己或者他人利益)剥夺其他股东的个人权益，包括(但不限于)任何分配权、表决权，但不包括根据公司章程提交股东大会通过的公司改组。

3. To approve the divestment of other shareholders' individual rights and interests by a director or supervisor (for his/her own interests or another's interests), including (but not limited to) any distribution rights and voting rights, but not including where the matter is submitted to the shareholders' meeting for adoption in accordance with the company's Articles of Association that there be reorganization of the company.

**第四十八条** 前条所称控股股东是具备以下条件之一的人：

**Article 48** A controlling shareholder as stated in the preceding **Article** shall be a person who meets any of the following requirements:

(一)该人单独或者与他人一致行动时，可以选出半数以上的董事；

1. When taking independent action or acting in unison with others, the shareholder can elect a majority of directors;

(二)该人单独或者与他人一致行动时，可以行使公司 30% 以上(30%)的表决权或者可以控制公司的 30% 以上(含 30%)表决权的行使；

2. When taking independent action or acting in unison with others, the shareholder exercises more than 30% (inclusive) of the company's voting rights or control the exercise of more than 30% (inclusive) of the company's voting rights;

(三)该人单独或者与他人一致行动时，持有公司发行在外 30% 以上(含 30%)的股份；

3. When taking independent action or acting in unison with others, the shareholder holds more than 30% (inclusive) of the company's issued and outstanding shares; or

(四)该人单独或者与他人一致行动时，以其他方式在事实上控制公司。

4. When taking independent action or acting in unison with others, the shareholder has actual control over the company in other ways.

## 第八章 股东大会

### Chapter VIII Shareholders' Meetings

**第四十九条** 股东大会是公司的权力机构，依法行使职权。

**Article 49** Shareholders' meeting is an authority of the company and shall exercise its powers in accordance with the law.

**第五十条** 股东大会行使下列职权：

**Article 50** A shareholders' meeting shall exercise the following powers:

(一)决定公司的经营方针和投资计划；

1. To determine the company's business policies and investment plans;

(二)选举和更换董事，决定有关董事的报酬事项； 2. To elect and replace directors and determine matters concerning the remuneration of directors;

(三)选举和更换由股东代表出任的监事，决定有关监事的报酬事项；

3. To elect and replace supervisors who are representatives of shareholders and determine the remuneration of those supervisors;

(四)审议批准董事会的报告；

4. To deliberate and approve reports compiled by the board of directors;

(五)审议批准监事会的报告；

5. To deliberate and approve reports compiled by the board of supervisors;

- (六)审议批准公司的年度财务预算方案、决算方案;
6. To deliberate and approve the company's annual budget and final accounting plans;
- (七)审议批准公司的利润分配方案和弥补亏损方案;
7. To Board of Supervisors the company's profit distribution and loss recovery plans;
- (八)对公司增加或者减少注册资本作出决议;
8. To pass resolutions on matters such as increase or reduction of the company's registered capital;
- (九)对公司合并、分立、解散和清算等事项作出决议;
9. To pass resolutions on matters such as the consolidation, division, dissolution or liquidation;
- (十)对公司发行债券作出决议;
10. To pass resolutions on the issue of corporate bonds;
- (十一)对公司聘用、解聘或者不再续聘会计师事务所作出决议;
11. To pass resolutions on matters such as engagement, dismissal or cease of engagement of the accounting firm;
- (十二)修改公司章程;
12. To amend the company's Articles of Association;
- (十三)审议代表公司有表决权的股份 5% 以上(含 5%)的股东的提案;
13. To deliberate proposals submitted by the shareholders who represent more than 5% (including 5%) of the company's shareholders with voting rights; and
- (十四)法律、行政法规及公司章程规定应当由股东大会作出决议的其他事项。
14. Other matters on which the shareholders meeting shall make resolutions as provided by laws, administrative regulations and the company's Articles of Association.

**第五十一条** 非经股东大会事前批准,公司不得与董事、监事、经理和其他高级管理人员以外的人订立将公司全部或者重要业务的管理交予该人负责的合同。

**Article 51** Without the prior approval of a shareholders' meeting, the company shall not enter into a contract with a person other than a director, supervisor, manager or any other senior officer by which the responsibility for the management of all business or important business of the company is given to that person.

**第五十二条** 股东大会分为股东年会和临时股东大会。股东大会由董事会召集。股东年会每年召开一次,并应于上一会计年度完结之后的 6 个月之内举行。

**Article 52** Shareholders' meetings shall be separated into annual and interim meetings. A shareholders' meeting shall be convened by the board of directors. Annual shareholders' meetings shall be convened once each year within six (6) months after the end of the previous fiscal year.

有下列情形之一的,董事会应当在两个月内召开临时股东大会:

The board of directors shall convene an interim shareholders' meeting within two (2) months in any of the following circumstances:

(一)董事人数不足《公司法》规定的人数或者少于公司章程要求的数额的 2 / 3 时;

1. Where the number of directors does not meet the number specified in the Company Law or is less than two-thirds of the number required in the **Articles** of Association of the company;

(二)公司未弥补亏损达股本总额的  $L/3$  时;

2. Where the company's losses which have not yet been offset account for one-third of the total amount of actual share capital;

(三)持有公司发行在外的有表决权的股份 10% 以上(含 10%)的股东以书面形式要求召开临时股东大会时;

3. Where shareholders holding more than 10% (including 10%) of the issued and outstanding shares of the company with voting rights make a written request for the convocation of an interim shareholders' meeting; or

(四)董事会认为必要或者监事会提出召开时。

4. Where the board of directors believes it is necessary to hold an interim shareholders' meeting or the board of supervisors proposes that an interim shareholders' meeting be convened.

**第五十三条** 公司召开股东大会,应当于会议召开 45 日前发出书面通知,将会议拟审议的事项以及开会的日期和地点告知所有在册股东。拟出席股东大会的股东,应当于会议召开 20 日前,将出席会议的书面回复送达公司。

**Article 53** When convening a shareholders' meeting, written notification shall be made to the shareholders registered in the register of shareholders forty-five (45) days before the convocation of the meeting of those matters to be discussed at the meeting and the date and location of the meeting. Shareholders intending to attend the shareholders' meeting shall send their written reply to the company twenty (20) days before the convocation of the meeting.

**第五十四条** 公司召开股东大会年会,持有公司有表决权的股份总数 5% 以上(含 5%)的股东,有权以书面形式向公司提出新的提案,公司应当将提案中属于股东大会职责范围内的事项,列入该次会议的议程。

**Article 54** When convening an annual shareholders' meeting, shareholders with more than 5% (inclusive) of the company's total shares with voting rights shall be entitled to make new proposals in writing to the company. Matters mentioned in proposals which are within the scope of the powers of the shareholders' meeting shall be included in the meeting agenda.

**第五十五条** 根据股东大会召开前 20 日时收到的书面回复,计算拟出席会议的股东所代表的有表决权的股份数。拟出席会议的股东所代表的有表决权的股份数达到公司有表决权的股份总数  $L/2$  以上的,公司可以召开股东大会;达不到的,公司应当在 5 日内将会议拟审议的事项、开会日期和地点以公告形式再次通知股东,经公告通知,公司可以召开股东大会。临时股东大会不得决定通知未载明的事项。

**Article 55** The company shall, based on the written replies received twenty (20) days before the commencement of the shareholders' meeting, calculate the shares with voting rights held by those shareholders intending to attend the meeting. A shareholders' meeting may be convened if those shareholders intending to attend have more than half of the company's shares with voting rights; if not, the company shall, within five (5) days, notify the shareholders once again through public announcement of those matters to be discussed at the meeting, and the date and location of the meeting. The company may convene the shareholders' meeting only after such public announcement has been made.

An interim shareholders' meeting shall not make a decision on matters which were not included in the notice.

**第五十六条** 股东会议的通知应当符合下列要求:

**Article 56** The notice for a shareholders' meeting shall meet the following requirements:

(一)以书面形式作出;

1. Be made in writing;

(二)指定会议的地点、日期和时间;

2. Specifying the location, date and time of the meeting;

(三)说明会议将讨论的事项;

3. Stating those matters to be discussed at the meeting;

(四)向股东提供为使股东对将讨论的事项作出明智决定所需要的资料及解释;此原则包括(但不限于)在公司提出合并、购回股份、股本重组或者其他改组时,应当提供拟议中的交易的具体条件和合同(如果有的话),并对其起因和后果作出认真的解释;

4. Providing the shareholders with data and explanations required to make informed decisions on those matters to be discussed; this principle includes (but not be restricted to) providing detailed conditions and contracts (if such exist) on deals to be conducted and proper explanation of consequences where the company proposes consolidation, buy back of shares, share capital restructuring or other reorganization;

(五)如任何董事、监事、经理和其他高级管理人员将与讨论的事项有重要利害关系,应当披露其利害关系的性质和程度;如果将讨论的事项对该董事、监事、经理和其他高级管理人员作为股东的影响有别于对其他同类别股东的影响,则应当说明其区别;

5. If any director, supervisor, manager or any other senior officer is an interested party to a matter to be discussed at the meeting, the nature and degree of that interest shall be disclosed; if any matter to be discussed has any impact upon such a director, supervisor, manager or other senior officer in their capacity as shareholders and such impact differs from the impact on other shareholders holding the same categories of shares, such difference shall be explained;

(六)载有任何拟在会议上提议通过的特别决议的全文;

6. Including the full text of any special resolution to be passed at the meeting;

(七)以明显的文字说明,有权出席和表决的股东有权委任一位或者一位以上的股东代理人代为出席和表决,而该股东代理人不必为股东;

7. Unequivocally stating in clear language that a shareholder with the right to attend the meeting and to vote shall be entitled to entrust one or more proxies to attend the meeting and to vote on behalf of that shareholder, and that the proxies of that shareholder need not necessarily be a shareholder; and

(八)载明会议投票代理委托书的送达时间和地点。

8. Stating clearly the place and date by which a letter of proxy for voting is to be received.

**第五十七条** 股东大会通知应当向股东(不论在股东大会上是否有表决权)以专人送出或者以邮资已付的邮件送出,受件人地址以股东名册登记的地址为准。对内资股股东,股东大会通知也可以用公告方式进行。

**Article 57** A notice of a shareholders' meeting shall be sent to shareholders (regardless of whether or not they have voting rights) by personal delivery or pre-paid mail. The addresses registered in the register of shareholders shall be the addresses used. For domestic shareholders, a notice of a shareholders' meeting may be made through public announcement.

前款所称公告，应当于会议召开前 45 日至 50 日的期间内，在国务院证券主管机构指定的一家或者多家报刊上刊登，一经公告，视为所有内资股股东已收到有关股东会议的通知。

The aforesaid public announcement shall, within forty-five (45) to fifty (50) days before the commencement of the meeting, be published in one or more newspapers designated by the competent securities department of the State Council. Once a public announcement has been made, this shall be regarded as notice received by all domestic shareholders.

**第五十八条** 因意外遗漏未向某有权得到通知的人送出会议通知或者该等人没有收到会议通知，会议及会议作出的决议并不因此无效。

**Article 58** In the event of failure to send the notice of shareholders' meeting due to accidental omission to a certain person who has the right to obtain the notice or where the person fails to receive the notice, the meeting and resolutions passed at that meeting shall not become invalid as a result thereof.

**第五十九条** 任何有权出席股东会议并有权表决的股东，有权委任一人或者数人(该人可以不是股东)作为其股东代理人，代为出席和表决。该股东代理人依照该股东的委托，可以行使下列权利：

**Article 59** Any shareholder who has the right to attend a shareholders' meeting and the right to vote shall have the right to entrust one or more persons (such persons need not be shareholders) as a proxy to attend the meeting and to exercise voting rights. An proxy of a shareholder may exercise the following rights according to the scope of authority entrusted by the shareholder:

(一)该股东在股东大会上的发言权；

1. The shareholder's right to speak at the shareholders' meeting;

(二)自行或者与他人共同要求以投票方式表决；

2. The right to request, alone or in conjunction with others, that a matter be decided through a ballot vote; and

(三)以举手或者投票方式行使表决权，但是委任的股东代理人超过一人时，该等股东代理人只能以投票方式行使表决权。

3. The right to vote by a show of hands or by ballot; however, if more than one person has been entrusted as proxies, such proxies shall only be permitted to exercise the right to vote by ballot.

**第六十条** 股东应当以书面形式委托代理人，由委托人签署或者由其以书面形式委托的代理人签署；委托人为法人的，应当加盖法人印章或者由其董事或者正式委任的代理人签署。

**Article 60** A shareholder shall use written form when entrusting a proxy. The letter of proxy shall be signed by the principal or the proxy entrusted by the principal in writing. If a principal is a corporation, the letter of proxy shall be affixed with the seal of the corporation or shall be signed by its director or the officially entrusted proxy.

**第六十一条** 表决代理委托书至少应当在该委托书委托表决的有关会议召开前 24 小时，或者在指定表决时间前 24 小时，备置于公司住所或者召集会议的通知中指定的其他地方。委托书由委托人授权他人签署的，授权签署的授权书或者其他授权文件应当经过公证。经公证的授权书或者其他授权文件，应当和表决代理委托书同时备置于公司住所或者召集会议的通知中指定的其他地方。

**Article 61** A letter of proxy for voting shall be received and kept at the company's premises or at another place designated in the notice of the meeting at least twenty-four (24) hours prior to commencement of the relevant meeting or before the designated time of voting. If a letter of proxy is signed by another party as authorized by the principal, a power of attorney to sign the letter of proxy or other document of authorization shall be subject to notarization. The notarized power of attorney or other authorization document shall be kept with the letter of proxy at the company's premises or other place as stipulated in the notice of meeting.

委托人为法人的，其法定代表人或者董事会、其他决策机构决议授权的人作为代表出席公司的股东会议。

If the principal is a corporation, its legal representative or any person authorized by its board of directors or other decision-making department shall be the representative to attend shareholders' meetings of the company.

**第六十二条** 任何由公司董事会发给股东用于任命股东代理人的委托书的格式，应当让股东自由选择指示股东代理人投赞成票或者反对票，并就会议每项议题所要作出表决的事项分别作出指示。委托书应当注明如果股东不作指示，股东代理人可以按自己的意思表决。

**Article 62** Any format of a letter of proxy issued by the board of directors used in appointing an proxy on behalf of a shareholder shall allow the shareholder to freely choose to instruct that proxy as to whether or not to make an affirmative or negative vote and to give instructions respectively on matters to be decided by vote at the meeting. A letter of proxy shall clearly state that if a shareholder does not give instructions, the proxy may vote according to his/her judgment.

**第六十三条** 表决前委托人已经去世、丧失行为能力、撤回委任、撤回签署委任的授权或者有关股份已被转让的，只要公司在有关会议开始前没有收到该等事项的书面通知，由股东代理人依委托书所作出的表决仍然有效。

**Article 63** Where the principal dies before voting, loses the capacity to act, withdraws a letter of proxy, withdraws the power of attorney to sign a letter of proxy or if the relevant shares have been assigned, and if the company has not received a written notice concerning this matter prior to commencement of the relevant meeting, a vote made by the shareholder's proxy according to the letter of proxy shall remain valid.

**第六十四条** 股东大会决议分为普通决议和特别决议。

**Article 64** Resolutions of shareholders' meetings shall be divided into ordinary and special resolutions.

股东大会作出普通决议，应当由出席股东大会的股东(包括股东代理人)所持表决权的 L / 2 以上通过。

An ordinary resolution at a shareholders' meeting shall require the approval of more than half of the voting rights of shareholders (including their proxies) who are present at the meeting in order to be valid.

股东大会作出特别决议，应当由出席股东大会的股东(包括股东代理人)所持表决权的 2 / 3 以上通过。

A special resolution at a shareholders' meeting shall require the approval of a two-third majority of the voting rights of shareholders (including their proxies) who are present at the meeting in order to be valid.

**第六十五条** 股东(包括股东代理人)在股东大会表决时，以其所代表的有表决权的股份数额行使表决权，每一股份有一票表决权。

**Article 65** When voting at a shareholders' meeting, a shareholder (including the proxy of a shareholder) shall exercise voting rights according to the number of shares held. Each share held shall represent one voting right.

**第六十六条** 除非下列人员在举手表决以前或者以后，要求以投票方式表决，股东大会以举手方式进行表决：

**Article 66** A shareholders' meeting shall make a decision on resolutions through a vote by a show of hands except where it is required either before or after they show of hands by the following personnel that a resolution be passed through a ballot vote:

(一)会议主席：

1. The chairman of the meeting;

(二)至少两名有表决权的股东或者有表决权的股东的代理人：

2. At least two 2 shareholders with voting rights or two 2 proxies of shareholders with voting rights;

(三)单独或者合并计算持有在该会议上有表决权的股份 10%以上(含 10%)的一个或者若干股东(包括股东代理人)。

3. One or more shareholders (including proxies of shareholders) with more than 10% (inclusive) of shares with voting rights calculated alone or in consolidation present at the meeting.

除非有人提出以投票方式表决，会议主席根据举手表决的结果，宣布提议通过情况，并将此记载在会议记录中，作为最终的依据，无须证明该会议通过的决议中支持或者反对的票数或者其比例。

Unless a party requires that a resolution on a matter be passed through vote by ballot, the chairman of the meeting shall, based on the result of a vote by a show of hands, declare the result of the vote on a proposal and this shall be recorded in the minutes of the meeting as the final basis. It is not necessary to certify the number of affirmative or negative votes or the percentages of each.

以投票方式表决的要求可以由提出者撤回。

A request for a ballot vote may be withdrawn by the party which makes the request.

**第六十七条** 如果要求以投票方式表决的事项是选举主席或者中止会议，则应当立即进行投票表决；其他要求以投票方式表决的事项，由主席决定何时举行投票，会议可以继续进行，讨论其他事项，投票结果仍被视为在该会议上所通过的决议。

**Article 67** If it has been required that a decision to elect the chairman of the meeting or to stop the meeting be made through a ballot vote, the ballot vote shall be promptly conducted. In relation to other matters to be decided through vote by ballot as required, the chairman shall decide when the ballot vote shall be conducted. The meeting may then be continued and other matters discussed. The results of the vote shall be regarded as a resolution passed by the meeting.

**第六十八条** 在投票表决时，有两票或者两票以上的表决权的股东(包括股东代理人)，不必把所有表决权全部投赞成票或者反对票。

**Article 68** When voting by ballot, a shareholder (including the proxy of a shareholder) with two (2) or more voting rights need not cast all of their voting rights as affirmative or negative votes.

**第六十九条** 当反对和赞成票相等时，无论是举手还是投票表决，会议主席有权多投一票。

**Article 69** Should there be a tie between negative and affirmative votes on a matter, the chairman of the meeting shall have the right to cast another vote, regardless of whether or not it is a vote by show of hands or by ballot.

**第七十条** 下列事项由股东大会的普通决议通过：

**Article 70** The following matters shall be passed through ordinary resolutions at a shareholders' meeting:

(一)董事会和监事会的工作报告；

1. Work reports of the board of directors and the board of supervisors;

(二)董事会拟订的利润分配方案和亏损弥补方案；

2. Profit distribution plan and loss recovery plan prepared by the board of directors;

(三)董事会和监事会成员的罢免及其报酬和支付方法；

3. Dismissal of members of the board of directors and the board of supervisors and forms of their remuneration and payment methods;

(四)公司年度预、决算报告，资产负债表、利润表及其他财务报表；

4. The company's annual budget and financial accounting reports, balance sheet, profit and loss statements and other financial statements; and

(五)除法律、行政法规规定或者公司章程规定应当以特别决议通过以外的其他事项。

5. Matters other than those which shall be passed through special resolutions as provided by laws, administrative regulations or the company's **Articles** of Association.

**第七十一条** 下列事项由股东大会以特别决议通过：

**Article 71** The following matters shall be passed through special resolutions at a shareholders' meeting:

(一)公司增、减股本和发行任何种类股票、认股证和其他类似证券；

1. Company share capital increase and reduction, and the issue of any types of share, share certificate subscription and other similar securities;

(二)发行公司债券；

2. The issue of corporate bonds；

(三)公司的分立、合并、解散和清算；

3. Company division, consolidation, dissolution and liquidation；

(四)公司章程的修改；

4. Amendments to the company's **Articles** of Association； and

(五)股东大会以普通决议通过认为会对公司产生重大影响的、需要以特别决议通过的其他事项。

5. Other matters which are deemed by the shareholders' meeting to have a major impact on the company and where it is passed by ordinary resolution at the shareholders' meeting that the matter be resolved by special resolution.

**第七十二条** 股东要求召集临时股东大会或者类别股东会议，应当按照下列程序办理：

**Article 72** Shareholders who require the convocation of an interim shareholders' meeting or a meeting of a certain category of shareholders shall do so in accordance with the following procedures:

(一)合计持有在该拟举行的会议上有表决权的股份 10%以上(含 10%)的两个或者两个以上的股东，可以签署一份或者数份同样格式内容的书面要求，提请董事会召集临时股东大会或者类别股东会议，并阐明会议的议题。董事会收到前述书面要求后应当尽快召集临时股东大会或者类别股东会议。前述持股数按股东提出书面要求日计算。

1. Two (2) or more shareholders with a total of more than 10% (inclusive) of shares with voting rights at the meeting to be convened may sign one or more written request in the same format and with the same content to the board of directors to convene an interim shareholders' meeting or category shareholders' meeting and which shall also specify the meeting's agenda. After receiving the aforesaid written request, the board of directors shall promptly convene an interim shareholders' meeting or category shareholders' meeting. The aforesaid number of shares held by shareholders shall be calculated at the date on which the written request is made.

(二)如果董事会在收到前述书面要求后 30 日内没有发出召集会议的通告，提出该要求的股东可以在董事会收到该要求后 4 个月内自行召集会议，召集的程序应当尽可能与董事会召集股东会议的程序相同。股东因董事会未应前述要求举行会议而自行召集并举行会议的，其所发生的合理费用，应当由公司承担，并从公司欠付失职董事的款项中扣除。

2. If the board of directors fails to issue the notice of convening a meeting within thirty (30) days after receiving the aforesaid written request, the shareholder who makes the request may convene the meeting within four (4) months after the board of directors received that request. The procedures for convening such a meeting shall be, as much as possible, the same as the procedures for convening a shareholders' meeting by the board of directors.

In the case of shareholders organizing the convocation of a meeting as a result of the failure of the board of directors to convene a meeting as requested above, reasonable expenses incurred on the meeting shall be borne by the company and shall be deducted from the money payable to those directors who were negligent in the performance of their duties.

**第七十三条** 股东大会由董事会召集并担任会议主席；董事长因故不能出席会议的，应当由副董事长召集会议并担任会议主席；董事长和副董事长均无法出席会议的，董事会可以指定一名公司董事代其

召集会议并且担任会议主席；未指定会议主席的，出席会议的股东可以选举一人担任主席；如果因任何理由，股东无法选举主席，应当由出席会议的持有最多表决权股份的股东(包括股东代理人)担任会议主席。

**Article 73** The chairman of the board of directors shall convene a shareholders' meeting and serve as the chairman of the meeting. If the board chairman is unable to attend the meeting, the vice-chairman of the board of directors shall convene the meeting and serve the chairman of the meeting. If, for some reason, both the chairman and the vice-chairman are unable to attend the meeting, the board of directors may designate a director of the company to convene the meeting and to preside over the meeting on his behalf. If no chairman of the meeting is designated, shareholders at the meeting may elect a chairman. Where shareholders are unable, for any reason, to elect a chairman of the meeting, the shareholder who holds the majority of shares with voting rights shall be the chairman of the meeting (including a proxy of a shareholder).

**第七十四条** 会议主席负责决定股东大会的决议是否通过，其决定为终局决定，并应当在会上宣布和载入会议记录。

**Article 74** The chairman of a meeting shall be responsible for making a decision on whether or not resolutions at the meeting have been passed. Decisions made shall be final and shall be declared at the meeting and recorded in the minutes of the meeting.

**第七十五条** 会议主席如果对提交表决的决议结果有任何怀疑，可以对所投票数进行点算；如果会议主席未进行点票，出席会议的股东或者股东代理人对会议主席宣布结果有异议的，有权在宣布后立即要求点票，会议主席应当即时进行点票。

**Article 75** If the chairman of a meeting has any doubts as to the results of any resolutions submitted for voting at the meeting, the chairman may count the number of the votes; if the chairman of the meeting does not count the votes and a shareholder or an proxy of a shareholder attending the meeting objects to a result declared by the chairman of the meeting, the shareholder or proxy shall have the right to request a re-count of votes followed by an immediate declaration; the chairman of the meeting shall promptly count the votes.

**第七十六条** 股东大会如果进行点票，点票结果应当记入会议记录。

**Article 76** The result of vote counting at a shareholders' meeting shall be recorded in the minutes of the meeting.

会议记录连同出席股东的签名簿及代理出席的委托书，应当在公司住所保存。

Minutes of a shareholders' meeting and the register of shareholders attending the meeting and letters of proxy shall be kept at the company's premises.

**第七十七条** 股东可以在公司办公时间免费查阅会议记录复印件。任何股东向公司索取有关会议记录的复印件，公司应当在收到合理费用后 7 日内把复印件送出。

**Article 77** A shareholder may inspect the copy of the minutes of a shareholders' meeting free of charge during the business hours of the company. If a shareholder asks for a copy of the minutes of a shareholders' meeting from the company, the company shall send a copy to that shareholder within seven (7) days after receipt of a reasonable fee.

**第九章 类别股东表决的特别程序**

## Chapter IX Special Procedures for Voting by Categories of Shareholders

**第七十八条** 持有不同种类股份的股东，为类别股东。

**Article 78** Shareholders holding different categories of shares shall be regarded as different categories of shareholders.

类别股东依据法律、行政法规和公司章程的规定，享有权利和承担义务。

The various categories of shareholders shall enjoy rights and assume obligations in accordance with laws, administrative regulations and the company's **Articles** of Association.

**第七十九条** 公司拟变更或者废除类别股东的权利，应当经股东大会以特别决议通过和经受影响的类别股东在按第八十一条至第八十五条分别召集的股东会议上通过，方可进行。

**Article 79** If the company intends to change or abolish the rights of a category of shareholders, this shall be subject to adoption of a special resolution proposed at a shareholders' meeting and at a meeting of that category of shareholder concerned, according to the provisions of Articles 81 to 85 hereof respectively.

**第八十条** 下列情形应当视为变更或者废除某类别股东的权利：

**Article 80** In any of the following situations, the rights of a certain category of shareholders shall be regarded as having been changed or abolished:

(一)增加或者减少该类别股份的数目，或者增加或减少与该类别股份享有同等或者更多的表决权、分配权、其他特权的类别股份的数目；

1. Increasing or reducing the number of shares of that category, or increasing or reducing the number of that category of shares which have equal or greater voting rights, distribution rights and other rights to the said category of shares;

(二)将该类别股份的全部或者部分换作其他类别，或者将另一类别的股份的全部或者部分换作该类别股份或者授予该等转换权；

2. Exchanging all or part of the said category of shares with another category of shares, exchanging all or part of another category of shares to the said category, or granting equal conversation rights between the said category and another category of shares;

(三)取消或者减少该类别股份所具有的、取得已产生的股利或者累积股利的权利；

3. Cancelling or reducing the rights of a said category of shares to obtain dividends which have been gained or accumulated;

(四)减少或者取消该类别股份所具有的优先取得股利或者在公司清算中优先取得财产分配的权利；

4. Reducing or cancelling the priority right of a said category of shares to obtain dividends or to obtain distributed property during the company's liquidation;

(五)增加、取消或者减少该类别股份所具有的转换股份权、选择权、表决权、转让权、优先配售权、取得公司证券的权利；

5. Increasing, cancelling or reducing the conversion rights, options, voting rights, assignment rights, priority placement rights or rights to obtain company securities pertaining to the said category of shares;

(六)取消或者减少该类别股份所具有的，以特定货币收取公司应付款项的权利；

6. Canceling or reducing the right of the said category of shares to use a specific currency to collect the company's funds payable;

(七)设立与该类别股份享有同等或者更多表决权、分配权或者其他特权的新类别；

7. Establishing a new category of shares which have voting rights, distribution rights or other rights equivalent to or greater than the said category of shares;

(八)对该类别股份的转让或所有权加以限制或者增加该等限制;

8. Restricting assignment of or ownership rights to a said category of shares or the addition of further restrictions;

(九)发行该类别或者另一类别的股份认购权或者转换股份的权利;

9. Issuing the right to subscribe to the said category or to another category of shares or the right to convert shares;

(十)增加其他类别股份的权利和特权;

10. Increasing the rights and privileges of other categories of shares;

(十一)公司改组方案会构成不同类别股东在改组中不按比例地承担责任;

11. Where the company's restructuring plan results in different categories of shareholders assuming disproportionate liabilities during the restructuring; or

(十二)修改或者废除本章所规定的条款。

12. Amending or abolishing articles stipulated in this Chapter.

**第八十一条** 受影响的类别股东，无论原来在股东大会上是否有表决权，在涉及第八十条(二)至(八)、(十一)至(十二)项的事项时，在类别股东会上具有表决权，但有利害关系的股东在类别股东会上没有表决权。

**Article 81** Regardless of whether or not an affected category of shareholders originally has voting rights, the concerned shareholders shall have voting rights at a category shareholders' meeting on those matters mentioned in items 2 to 8 and items 11 and 12 of Article 80; however, if a shareholder is an interested party, he/she shall not have voting rights at a category shareholders' meeting.

前款所述有利害关系股东的含义如下:

The aforesaid interested shareholder shall include the following meanings:

(一)在公司按本章程**第二十五条**的规定向全体股东按照相同比例发出购回要约或者在证券交易所通过公开交易方式购回自己股份的情况下，“有利害关系的股东”是指本章程**第四十八条**所定义的控股股东;

1. In circumstances where, pursuant to the provisions of Article 25 of this Articles of Association, the company issues a buy back offer to all shareholders or buys back its own shares through open transactions at the stock exchange, "an interested shareholder" shall refer to the controlling shareholder as defined in Article 48 of this Articles of Association;

(二)在公司按照本章程**第二十五条**的规定在证券交易所外以协议方式购回自己股份的情况下，“有利害关系的股东”是指与该协议有关的股东;

2. In circumstances where the company, pursuant to the provisions of Article 25 of this Articles of Association, buys back its own shares through means of an agreement outside of the stock exchange, "an interested shareholder" shall refer to a shareholder related to such an agreement; and

(三)在公司改组方案中，“有利害关系股东”是指以低于本类别其他股东的比例承担责任的股东或者与该类别中的其他股东拥有不同利益的股东。

3. Where the company is undergoing restructuring, "an interested shareholder" shall refer to a shareholder who assumes liability less than that assumed by shareholders of the same category or who has interests different from other shareholders in the same category.

**第八十二条** 类别股东会的决议，应当经根据**第八十一条**由出席类别股东会议的有表决权的 2 / 3 以上的股权表决通过，方可作出。

**Article 82** A resolution at a category shareholders' meeting shall be made only after being passed through voting by a two-thirds majority of that category of shareholders with voting rights present at the meeting, in accordance with the provisions of Article 81 of this Articles of Association.

**第八十三条** 公司召开类别股东会议，应当于会议召开 45 日前发出书面通知，将会议拟审议的事项以及开会日期和地点告知所有该类别股份的在册股东。拟出席会议的股东，应当于会议召开 20 日前，将出席会议的书面回复送达公司。

**Article 83** When convening a category shareholders' meeting, the company shall issue a written notice forty-five (45) days in advance of the meeting to notify that category of registered shareholders of those matters to be discussed at the meeting and of the date and location of the meeting. A shareholder who intends to attend the meeting shall send a written reply to the company twenty (20) days before the commencement of the meeting.

拟出席会议的股东所代表的在该会议上有表决权的股份数，达到在该会议上有表决权的该类别股份总数 L / 2 以上的，公司可以召开类别股东会议；达不到的，公司应当在 5 日内将会议拟审议的事项、开会日期和地点以公告形式再次通知股东，经公告通知，公司可以召开类别股东会议。

If the amount of shares with voting rights represented by shareholders intending to attend the meeting is more than half of the total amount of the said category of shares with voting rights, the company may convene the category shareholders' meeting. If not, the company shall, within five (5) days, notify the shareholders of those matters to be discussed at the meeting and the date and location of the meeting through a public announcement. After this public announcement is made, the company may convene a category shareholders' meeting.

**第八十四条** 类别股东会议的通知只须送给有权在该会议上表决的股东。

**Article 84** The notice of a category shareholders' meeting shall only be sent to those shareholders who have the right to vote at the meeting.

类别股东会议应当与股东大会尽可能相同的程序举行，公司章程中有关股东大会举行程序的条款适用于类别股东会议。

The procedures to be followed at a category shareholders' meeting shall be, as far as possible, the same as the procedures to be followed at a shareholders' meeting. The articles in the company's Articles of Association dealing with the procedures to be followed at a shareholders' meeting shall apply to a category shareholders' meeting.

**第八十五条** 如果公司股票上市的证券交易所的规则有要求，公司章程应当载人“除其他类别股份股东外，内资股股东和境外上市外资股股东视为不同类别股东”的内容。

**Article 85** If the rules of the stock exchange on which the company's shares are listed so require, the company's Articles of Association shall include "apart from shareholders with other categories of shares, holders of domestic shares and holders of foreign shares listed overseas shall be recognized as different categories of shareholder" as part of its content.

载有前款规定内容的公司章程，应当同时规定“下列情形不适用类别股东表决的特别程序：

The Articles of Association which includes the content stipulated in the preceding paragraph shall also provide that "the special procedures for voting by a category of shareholders shall not be applied in the following circumstances:

(一) 经股东大会以特别决议批准, 公司每间隔 12 个月单独或者同时发行内资股、境外上市外资股, 并且拟发行的内资股、境外上市外资股的数量各自不超过该类已发行在外股份的 20%的;

(1) subject to approval by a special resolution of a shareholders' meeting, the company issues domestic shares and/or foreign shares to be listed overseas independently or simultaneously once every twelve (12) months, and the number of domestic shares and foreign shares to be listed overseas to be issued does not exceed 20% of the shares of this category already issued and outstanding;

(二) 公司设立时发行内资股、境外上市外资股的计划, 自国务院证券委员会批准之日起 15 个月内完成的。

2. the scheme for the issue of domestic shares and/or foreign shares to be listed overseas when establishing the company has been fulfilled within fifteen (15) months of the date of approval from the Securities Commission of the State Council".

## 第十章 董事会

### Chapter X Board of Directors

**第八十六条** 公司设董事会, 董事会由[人数]名董事组成, 设董事长一人, 副董事长[人数]人, 董事[人数]人。

**Article 86** The company shall establish a board of directors which shall consist of [number] directors and have one chairman, [number] vice-chairmen and [number] directors.

**第八十七条** 董事由股东大会选举产生, 任期[年数]年。董事任期届满, 可以连选连任。

**Article 87** Directors shall be elected by a shareholders' meeting. The term of office for a director shall be [number] years. If the term of office for a director expires and he/she is re-elected, that director may be elected for another term.

董事长、副董事长由全体董事的过半数选举和罢免, 董事长、副董事长任期[年数]年, 可以连选连任。

A chairman and vice-chairman shall be elected or removed from office by the board of directors with approval of a majority of all the directors. The term of office for a chairman and vice-chairman shall be [number] of years and they may be elected for another term.

董事无须持有公司股份。

A director shall not be required to hold the company's shares.

**第八十八条** 董事会对股东大会负责, 行使下列职权:

**Article 88** The board of directors shall be responsible to the shareholders' meeting and shall exercise the following powers:

(一) 负责召集股东大会, 并向股东大会报告工作;

1. To be responsible for convening shareholders' meetings and to report to those meetings on work matters;

(二) 执行股东大会的决议;

2. To implement resolutions of a shareholders' meeting;

(三) 决定公司的经营计划和投资方案;

3. To determine the company's business plans and investment plans;  
(四) 制定公司的年度财务预算方案、决算方案;
4. To prepare the company's annual budget and final accounting plan;  
(五) 制定公司的利润分配方案和弥补亏损方案;
5. To prepare the company's profit distribution and loss recovery plans;  
(六) 制定公司增加或者减少注册资本的方案以及发行公司债券的方案;
6. To prepare the company's registered capital increase or reduction plans and corporate bond issue plans;  
(七) 拟定公司合并、分立、解散的方案;
7. To draft plans for such matters as the consolidation, division or dissolution of the company;  
(八) 决定公司内部管理机构的设置;
8. To determine the setup of internal administrative bodies of the company;  
(九) 聘任或者解聘公司经理, 根据经理的提名, 聘任或者解聘公司副经理、财务负责人, 决定其报酬事项;
9. To appoint and dismiss the managers of the company and, based on the nomination of the managers, appoint and dismiss the company's deputy managers and the financial supervisor and determine their remuneration;  
(十) 制定公司的基本管理制度;
10. To formulate the company's general management system;  
(十一) 制订公司章程修改方案。
11. To prepare a plan for the amendment of the company's Articles of Association.  
董事会作出前款决议事项, 除第(六)、(七)、(十一)项必须由 2 / 3 以上的董事表决同意外, 其余可以由半数以上的董事表决同意。

When the board of directors proposes resolutions on the aforesaid matters, apart from resolutions on matters in items 6, 7 and 11 which shall be approved by a two-third majority of the directors, resolutions on other matters may be approved by a majority of directors.

**第八十九条** 董事会在处置固定资产时, 如拟处置固定资产的预期价值, 与此项处置建议前 4 个月内已处置了的固定资产所得到的价值的总和, 超过股东大会最近审议的资产负债表所显示的固定资产价值的 33%, 则董事会在未经股东大会批准前不得处置或者同意处置该固定资产。

**Article 89** When the board of directors disposes of fixed assets, if the sum of the anticipated value of the fixed assets to be disposed of and the value of fixed assets already disposed of within four (4) months prior to this proposed disposal exceeds 33% of the value of fixed assets in the balance sheet most recently examined at the shareholders' meeting, the board of directors shall not dispose of or to consent to the disposal of that fixed asset before the approval of the shareholders' meeting.

本条所指对固定资产的处置, 包括转让某些资产权益的行为, 但不包括以固定资产提供担保的行为。

For the purposes of this Article, disposal of fixed assets shall include assignment of certain assets and interests, but shall not include the use of the fixed assets as a guarantee.

公司处置固定资产进行的交易的有效性, 不因违反本条第一款而受影响。

The validity of transactions for disposal of fixed assets shall not be affected by violation of the provisions of paragraph 1 of this Article.

**第九十条** 董事长行使下列职权：

**Article 90** The chairman of the board of directors shall exercise the following powers:

(一) 主持股东大会和召集、主持董事会会议；

1. To preside over shareholders' meetings and convene and preside over meetings of the board of directors;

(二) 检查董事会决议的实施情况；

2. To examine the implementation of resolutions of the board of directors;

(三) 签署公司发行的证券；

3. To sign securities issued by the company; and

(四) 董事会授予的其他职权。

4. Other powers granted by the board of directors.

董事长不能履行职权时，可以由董事长指定副董事长代行其职权。

When the chairman of the board of directors is unable to exercise his/her powers, he/she shall appoint a vice-chairman to act on his/her behalf.

**第九十一条** 董事会每年至少召开两次会议，由董事长召集，于会议召开[日数]日以前通知全体董事。有紧急事项时，经[人数]名以上董事或者公司经理提议，可以召开临时董事会会议。

**Article 91** Meetings of the board of directors shall be convened at least twice each year by the chairman of the board. When convening a meeting of the board of directors, all the directors shall be notified [number] days in advance. When urgent matters arise, upon proposal by more than [number] directors or the company manager, an interim meeting of the board of directors may be convened.

**第九十二条** 董事会及临时董事会会议召开的通知方式为：[具体通知方式]；通知时限为：[具体通知时限]。

**Article 92** The method of notification for convening a meeting or interim meeting of the board of directors is: [specific method of notification] and the period of notice is [specific notice period].

**第九十三条** 董事会会议应当由  $L/2$  以上的董事出席方可举行。

**Article 93** A meeting of the board of directors shall require a majority of the directors to be present in order to be convened.

每名董事有一票表决权。董事会作出决议，必须经全体董事的过半数通过。

Each director shall have one voting right. Resolutions proposed by the board of directors shall require the approval of a majority of all the directors in order to be valid.

当反对票和赞成票相等时，董事长有权多投一票。

Should there be a tie between negative and affirmative votes on a matter, the chairman of the board of directors shall have the right to cast another vote.

**第九十四条** 董事会会议，应当由董事本人出席。董事因故不能出席，可以书面委托其他董事代为出席董事会，委托书中应当载明授权范围。

**Article 94** A director shall attend meetings of the board of directors in person. Where a director is unable to attend a board meeting due to any reason, he/she may entrust, in writing,

another director to attend the meeting on his/her behalf and the power of attorney shall stipulate the scope of authority.

代为出席会议的董事应当在授权范围内行使董事的权利。董事未出席某次董事会会议，亦未委托代表出席的，应当视作已放弃在该次会议上的投票权。

The entrusted director shall exercise the right of the entrusting director within the designated scope of authority. If a director does not attend a certain meeting of the board of directors, nor entrusts a representative to attend the meeting, this shall be regarded as a waiver of his/her voting rights at that meeting.

**第九十五条** 董事会应当对会议所议事项的决定作成会议记录，出席会议的董事和记录员应当在会议记录上签名。董事应当对董事会的决议承担责任。董事会的决议违反法律、行政法规或者公司章程，致使公司遭受严重损失的，参与决议的董事对公司负赔偿责任；但经证明在表决时曾表明异议并记载于会议纪录的，该董事可以免除责任。

**Article 95** Minutes of meetings of the board of directors shall be kept to record decisions on matters discussed at those meetings and shall be signed by the directors and the recorder in attendance. Directors shall assume responsibility for resolutions adopted by the board of directors. If a resolution of the board of directors is in violation of the law, administrative regulations or the company's Articles of Association so as to result in any serious losses of the company, those directors who have participated in passing the resolution shall bear compensation liability towards the company. However, if a director is able to prove his/her objection to that resolution at the time of voting, and such objection has been recorded in the minutes of the meeting, that director may be exempt from liability.

## 第十一章 公司董事会秘书

### Chapter XI Secretary of the Board of Directors

**第九十六条** 公司设董事会秘书。董事会秘书为公司的高级管理人员。

**Article 96** The board of directors of the company shall have a secretary. The secretary of the board of directors shall be a senior officer of the company.

**第九十七条** 公司董事会秘书应当是具有必备的专业知识和经验的自然人，由董事会委任。其主要职责是：

**Article 97** The secretary of the board of directors shall be a natural person who has the necessary professional knowledge and experience and shall be appointed by the board of directors. The main duties of the secretary are:

(一) 保证公司有完整的组织文件和记录；

1. To guarantee that the company maintains complete organizational documents and records;

(二) 确保公司依法准备和递交有权机构所要求的报告和文件；

2. To ensure the company, in accordance with the law, prepares and submits reports and documents required by the competent authorities; and

(三) 保证公司的股东名册妥善设立，保证有权得到公司有关记录和文件的人及时得到有关记录和文件。

3. To ensure the company's register of shareholders is properly established and to

ensure that those who have the right to obtain relevant records and documents of the company are able to obtain them promptly.

**第九十八条** 公司董事或者其他高级管理人员可以兼任公司董事会秘书。公司聘请的会计师事务所的会计师不得兼任公司董事会秘书。

**Article 98** A director or any other senior officer of the company may hold the post of secretary of the board of directors concurrently. An accountant of the accounting firm engaged by the company shall not hold the post of secretary of the board of directors concurrently.

当公司董事会秘书由董事兼任时，如某一行为应当由董事及公司董事会秘书分别作出，则该兼任董事及公司董事会秘书的人不得以双重身份作出。

Where the post of secretary of the board of directors is concurrently held by a director and if a certain action shall be taken respectively by the director and the secretary of the board of directors, that director holding the post of secretary shall not do so with dual capacity.

## 第十二章 公司经理

### Chapter XII Company Manager

**第九十九条** 公司设经理一名，由董事会聘任或者解聘。

**Article 99** The company shall have one manager who shall be appointed and dismissed by the board of directors.

**第一百条** 公司经理对董事会负责，行使下列职权：

**Article 100** The company's manager shall be responsible to the board of directors and shall have the following powers:

(一)主持公司的生产经营管理工作，组织实施董事会决议；

1. To be in charge of the company's production and business management and to organize the implementation of resolutions of the board of directors;

(二)组织实施公司年度经营计划和投资方案；

2. To organize the implementation of the company's annual business plan and investment plan;

(三)拟订公司内部管理机构设置方案；

3. To draft the company's internal administrative structure plan;

(四)拟订公司的基本管理制度；

4. To draft the company's fundamental management system;

(五)制定公司的基本规章；

5. To formulate fundamental rules and regulations of the company;

(六)提请聘任或者解聘公司副经理、财务负责人；

6. To propose the appointment and dismissal of the company's deputy managers and the financial supervisor;

(七)聘任或者解聘除应由董事会聘任或者解聘以外的负责管理人员；

7. To appoint or dismiss management personnel other than those appointed and dismissed by the board of directors; and

(八) 公司章程和董事会授予的其他职权。

8. Other powers granted by the company's Articles of Association or the board of directors.

**第一百零一条** 公司经理列席董事会会议；非董事经理在董事会会议上没有表决权。

**Article 101** The manager may attend meetings of the board of directors as a non-voting member. If the manager is not a director, he/she shall have no voting rights at meetings of the board of directors.

**第一百零二条** 公司经理在行使职权时，应当根据法律、行政法规和公司章程的规定，履行诚信和勤勉的义务。

**Article 102** When exercising powers, the company's manager shall abide by laws, administrative regulations and the company's Articles of Association and shall assume obligations of sincerity and diligence towards the company.

### 第十三章 监事会

#### Chapter XIII Board of Supervisors

**第一百零三条** 公司设监事会。

**Article 103** The company shall establish a board of supervisors.

**第一百零四条** 监事会由[人数]人组成，其中一人出任监事会主席。监事任期[年数]年，可以连选连任。

**Article 104** The board of supervisors shall consist of [number] members of which one member shall be appointed as the chairman of the board of supervisors. The term of office for a supervisor shall be [number] years. After the term of office for a supervisor expires, the supervisor may be elected for another term.

**第一百零五条** 监事会成员由[人数]名股东代表和[人数]名公司职工代表组成。

**Article 105** The members of the board of supervisors shall consist of [number] shareholder representatives and [number] employee representatives.

股东代表由股东大会选举和罢免，职工代表由公司职工民主选举和罢免。

The shareholder representatives shall be elected and removed from office by the shareholders' meeting, and employee representatives shall be elected and removed from office democratically by the company employees.

**第一百零六条** 公司董事、经理和财务负责人不得兼任监事。

**Article 106** Any director, the manager or the financial supervisor of the company shall not concurrently serve as a supervisor.

**第一百零七条** 监事会每年至少召开[次数]次会议，由监事会主席负责召集。

**Article 107** Meetings of the board of supervisors shall be convened at least [number] times a year and the chairman of the board of supervisors shall be responsible for the convocation of the meeting.

**第一百零八条** 监事会向股东大会负责，并依法行使下列职权：

**Article 108** The board of supervisors shall be responsible to the shareholders' meeting and shall exercise the following powers:

(一) 检查公司的财务；

1. To investigate the company's financial affairs;

(二) 对公司董事、经理和其他高级管理人员执行公司职务时违反法律、行政法规或者公司章程的行为进行监督；

2. To supervise acts conducted by the company's directors, managers and other senior officers during the performance of their duties which are in violation of the law, administrative regulations or the company's Articles of Association;

(三) 当公司董事、经理和其他高级管理人员的行为损害公司的利益时，要求前述人员予以纠正；

3. To require the company's directors, managers and other senior officers to rectify the situation if their acts are harmful to the interests of the company;

(四) 核对董事会拟提交股东大会的财务报告、营业报告和利润分配方案等财务资料，发现疑问的，可以公司名义委托注册会计师、执业审计师帮助复审；

4. To check financial reports, business reports, profit distribution plans and other financial documents to be submitted to shareholders' meetings by the board of directors and, if questions are raised concerning such documents, to commission certified public accountants and practicing auditors in the company's name to assist in verification of doubtful documents;

(五) 提议召开临时股东大会；

5. To propose the convocation of interim shareholders' meetings;

(六) 代表公司与董事交涉或者对董事起诉；

6. To represent the company in negotiations with directors or in initiating legal proceedings against a director; and

(七) 公司章程规定的其他职权。

7. Other powers as stipulated in the company's Articles of Association.

监事列席董事会会议。

Supervisors may attend meetings of the board of directors as non-voting members.

**第一百零九条** 监事会的议事方式为：[具体议事方式]；表决程序为：[具体表决程序]。

**Article 109** The forms of procedure of the board of supervisors are: [specific forms of procedure] and voting procedures are: [specific voting procedures]

**第一百一十条** 监事会行使职权时聘请律师、注册会计师、执业审计师等专业人员所发生的合理费用，应当由公司承担。

**Article 110** If, when exercising its powers, the board of supervisors needs to engage a lawyer, certified public accountant, practicing auditor or any other professional, reasonable fees incurred in so doing shall be borne by the company.

**第一百一十一条** 监事应当依照法律、行政法规及公司章程的规定，忠实履行监督职责。

**Article 111** A supervisor shall faithfully perform his/her duties of supervision in accordance with the law, administrative regulations and the company's Articles of Association.

#### 第十四章 公司董事、监事、经理和其他高级管理人员的资格和义务

### Chapter XIV Qualifications and Obligations of Directors, Supervisors, Managers and other Senior Officers of the Company

**第一百一十二条** 有下列情况之一的，不得担任公司的董事、监事、经理或者其他高级管理人员：

**Article 112** A person may not hold the position of director, supervisor, manager or other senior officers of the company in any of the following circumstances:

(一) 无民事行为能力或者限制民事行为能力；

1. Where the person has no civil capacity or has restricted civil capacity;

(二) 因犯有贪污、贿赂、侵占财产、挪用财产罪或者破坏社会经济秩序罪，被判处刑罚，执行期满未逾 5 年，或者因犯罪被剥夺政治权利，执行期满未逾 5 处；

2. Where a period of less than five (5) years has elapsed since the person was released after serving the full term of a sentence for corruption, bribery, seizure, embezzlement of property or crimes of disruption to the social economic order; or if a period of less than five (5) years has elapsed since the person has resumed his/her political rights which were forfeited due to a criminal offence;

(三) 担任因经营管理不善破产清算的公司、企业的董事或者厂长、经理，并对该公司企业的破产负有个人责任的，该公司、企业破产清算完结之日起未逾 3 年；

3. Where the person has held the post of director, factory superintendent or manager of the company or enterprise which became bankrupt and was liquidated as a result of unsound business management and that person has held personal responsibility for such matter and a period of less than three (3) years has elapsed since the date of the conclusion of the liquidation.

(四) 担任因违法被吊销营业执照的公司的法定代表人，并负有个人责任的，自该公司、企业被吊销营业执照之日起未逾 3 年；

4. Where a period of less than three (3) years has elapsed since the date of the imposition of a decision to revoke the business license of the company or enterprise of which the person was legal representative and who bears personal responsibility for such revocation where its business license was revoked due to illegal business operations;

(五) 个人所负数额较大的债务到期未清偿；

5. Where personal debts of relatively large amounts have not been repaid on time;

(六) 因触犯刑法被司法机关立案调查，尚未结案；

6. Where the person has been involved in illegal activities which are subject to investigation by the judicial authorities and the case has yet to be settled;

(七) 法律、行政法规规定不能担任企业领导；

7. Where provisions of laws and administrative regulations stipulate that the person is not permitted to assume the position of leader of an enterprise;

(八) 非自然人；

8. Where the person is not a natural person; or

(九) 被有关主管机构裁定违反有关证券法规的规定，且涉及有欺诈或者不诚实的行为，自该裁定之日起未逾 5 年。

9. Where a period of less than five (5) years has elapsed since the date the person was found to be in violation of the provisions of relevant securities regulations and was involved in deceitful or dishonest activities as ruled by the competent authority.

**第一百一十三条** 公司董事、经理和其他高级管理人员代表公司的行为对善意第三人的有效性，不因其在任职、选举或者资格上有任何不合规行为而受影响。

**Article 113** For a good faith third party, the validity of actions of the director, manager or senior officers of the company when acting as representatives of the company shall not be affected as a result of those representatives not conforming to the rules pertaining to their appointment, election or qualifications.

**第一百一十四条** 除法律、行政法规或者公司股票上市的证券交易所的上市规则要求的义务外，公司董事、监事、经理和其他高级管理人员在行使公司赋予他们的职权时，还应当对每个股东负有下列义务：

**Article 114** Apart from obligations as stipulated in laws, administrative regulations or the listing rules of stock exchanges on which the company's shares are listed, the directors, supervisors or other senior officers of company shall, when exercising his/her powers granted by the company, assume the following obligations towards the shareholders:

(一) 不得使公司超越其营业执照规定的营业范围；

1. To refrain from allowing the company to exceed the scope of its business operations as stipulated in its business licence;

(二) 应当真诚地以公司最大利益为出发点行事；

2. To act faithfully for the best interests of the company;

(三) 不得以任何形式剥夺公司财产，包括（但不限于）对公司有利的机会；

3. To refrain from expropriating the company's property by way of any means, including (but not limited to) when this involves opportunities beneficial to the company; and

(四) 不得剥夺股东个人权益，包括（但不限于）分配权、表决权，但不包括根据公司章程提交股东大会通过的公司改组。

4. To refrain from infringing upon the individual rights and interests of shareholders, including (but not limited to) distribution rights and voting rights; however, this shall not include the situation where the restructuring of the company is proposed for adoption by the shareholders' meeting in accordance with the company's Articles of Association.

**第一百一十五条** 公司董事、监事、经理和其他高级管理人员都有责任在行使其权利或者履行其义务时，以一个合理的谨慎的人在相似情形下所应表现的谨慎、勤勉和技能为其所应为的行为。

**Article 115** Directors, supervisors, managers and other senior officers of the company shall all have responsibility, when exercising their rights and performing their obligations, to act with the prudence, diligence and skill which would be displayed by a reasonably prudent person in similar circumstances.

**第一百一十六条** 公司董事、监事、经理和其他高级管理人员在履行职责时，必须遵守诚信原则，不当置自己于自身的利益与承担的义务可能发生冲突的处境。此原则包括（但不限于）履行下列义务：

**Article 116** When performing their duties, directors, supervisors, managers and other senior officers of the company must abide by the principle of sincerity and shall not place

themselves in situations in which their interests may conflict with their obligations. This principle shall include (but not limited to) the performance of the following obligations:

(一) 真诚地以公司最大利益为出发点行事;

1. To act faithfully for the best interests of the company;

(二) 在其职权范围内行使权力, 不得越权;

2. To exercise authority within their powers and refrain from acting beyond that powers;

(三) 亲自行使所赋予他的酌量处理权, 不得受他人操纵; 非经法律、行政法规允许或者得到股东大会在知情的情况下的同意, 不得将其酌量处理权转给他人行使;

3. To personally exercise the authorized right to handle matters according to one's own judgment and not to be manipulated by others; the right to handle matters according to one's own judgment shall not be passed on to others without the authority of laws and administrative regulations or without the informed consent of the shareholders' meeting;

(四) 对同类别的股东应当平等, 对不同类别的股东应当公平;

4. To treat the same categories of shareholders equally and to treat different categories of shareholders fairly;

(五) 除公司章程另有规定或者由股东大会在知情的情况下另有批准外, 不得与公司订立合同、交易或者安排;

5. To enter into contacts, deals or arrangements with the company unless it is stipulated otherwise in the company's Articles of Association or without the informed approval of the shareholders' meeting shall be prohibited;

(六) 未经股东大会在知情的情况下同意, 不得以任何形式利用公司财产为自己谋取利益;

6. To use the company's property to seek personal gains through any means without the informed consent of the shareholders' meeting shall be prohibited;

(七) 不得利用职权收受贿赂或者其他非法收入, 不得以任何形式侵占公司的财产, 包括(但不限于)对公司有利的机会;

7. To use the powers to receive bribes or other illicit gains and encroach upon the company's property through any means, including (but not limited to) opportunities which are beneficial to the company shall be prohibited;

(八) 未经股东大会在知情的情况下同意, 不得接受与公司交易有关的佣金;

8. To receive commissions from company transactions without the informed consent of the shareholders' meeting shall be prohibited;

(九) 遵守公司章程, 忠实履行职责, 维护公司利益, 不得利用其在公司的地位和职权为自己谋取私利;

9. To follow the company's Articles of Association, faithfully perform one's duties and safeguard the company's interests, and refrain from using the position and powers to seek personal gains;

(十) 未经股东大会在知情的情况下同意, 不得以任何形式与公司竞争;

10. Without the informed consent of the shareholders' meeting, to refrain from engaging in any activities which are in competition with the company;

(十一) 不得挪用公司资金或者将公司资金借贷给他人, 不得将公司资产以其个人名义或者以其他名义开立帐户存储, 不得以公司资产为本公司的股东或者其他个人债务提供担保;

11. To refrain from embezzling company funds or to lend company funds to others, and from using company funds to open bank accounts in one's own name or using another's

name or to use company assets to provide guarantees for debts of company shareholders or other persons; and

(十二) 未经股东大会在知情的情况下同意，不得泄露其在任职期间所获得的涉及本公司的机密信息；除非以公司利益为目的，亦不得利用该信息；但是，在下列情况下，可以向法院或者其他政府主管机构披露该信息：

12. Without the informed consent of the shareholders' meeting, to refrain from disclosing confidential information concerning the company which became known in the course of holding the position; unless it is in the company's interests, such information shall not be used. However, such information may be disclosed to the court or other competent government organs in any of the following circumstances:

1. 法律有规定；

(1) Where it is so provided in the law;

2. 公众利益有要求；

(2) Where the public interest so requires; or

3. 该董事、监事、经理和其他高级管理人员本身的利益要求。

(3) Where the interests of such a director, supervisor, manager or other senior officers

themselves so require.

**第一百一十七条** 公司董事、监事、经理和其他高级管理人员，不得指使下列人员或者机构（“相关人”）做出董事、监事、经理和其他高级管理人员不能做的事：

**Article 117** The directors, supervisors, managers and other senior officers of the company shall not instruct the following persons or organizations ("related parties") to do things which the director, supervisor, manager and other senior officers cannot do:

(一) 公司董事、监事、经理和其他高级管理人员的配偶或者未成年子女；

1. The spouse or minor children of the director, supervisor, manager and other senior officers;

(二) 公司董事、监事、经理和其他高级管理人员或者本条(一)项所述人员的信托人；

2. The trustee of the director, supervisor, manager and other senior officers or of those mentioned in item 1 of this Article;

(三) 公司董事、监事、经理和其他高级管理人员或者本条(一)、(二)项所述人员的合伙人；

3. The partner(s) of the director, supervisor, manager and other senior officers or of those mentioned in item 1 of this Article;

(四) 由公司董事、监事、经理和其他高级管理人员在事实上单独控制的公司，或者与本条(一)、(二)、(三)项所提及的人员或者公司其他董事、监事、经理和其他高级管理人员在事实上共同控制的公司；

4. Any company which is in fact independently controlled by the director, supervisor, manager and other senior officers or, is in fact jointly controlled by the director, supervisor, manager and other senior officers together with those mentioned in items 1, 2 and 3 of this Article, or jointly controlled with another director, supervisor, manager and other senior officers; and

(五) 本条(四)项所指被控制的公司的董事、监事、经理和其他高级管理人员。

5. The directors, supervisors, managers and other senior officers of the controlled company as mentioned in item 4 of this Article.

**第一百一十八条** 公司董事、监事、经理和其他高级管理人员所负的诚信义务不一定因其任期结束而终止，其对公司商业秘密保密的义务在其任期结束后仍有效。其他义务的持续期应当根据公平的原则决定，取决于事件发生时与离任之间时间的长短，以及与公司的关系在何种情况和条件下结束。

**Article 118** The obligations of good faith assumed by the directors, supervisors, managers or other senior officers of the company are not necessarily terminated at the conclusion of his/her office term and the obligations of maintaining confidential information concerning the company's business shall remain valid after the conclusion of his/her office term. The periods of validity for other obligations shall be determined in accordance with the principle of fairness and shall depend on the length of time intervening between the occurrence of an event and the time of vacancy and on the circumstances under which that director, supervisor, manager and other senior officers terminates the relationship with the company.

**第一百一十九条** 公司董事、监事、经理和其他高级管理人员因违反某项具体义务所负的责任，可以由股东大会在知情的情况下解除，但是本章程**第四十七条**所规定的情形除外。

**Article 119** The responsibility borne by directors, supervisors, managers and other senior officers due to violation of a specific obligation may be relieved by an informed meeting of shareholders except in those circumstances stipulated in Article 47 of this Articles of Association.

**第一百二十条** 公司董事、监事、经理和其他高级管理人员，直接或者间接与公司已订立的或者计划中的合同、交易、安排有重要利害关系时(公司与董事、监事、经理和其他高级管理人员的聘任合同除外)，不论有关事项在正常情况下是否需要董事会批准同意，均应当尽快向董事会披露其利害关系的性质和程度。

**Article 120** When the directors, supervisors, managers or other senior officers of the company have any significant direct or indirect interest in a contract, deal or arrangement concluded by or intended to be concluded by the company (apart from contracts of appointment concluded between the company and directors, supervisors, managers or other senior officers), regardless of whether or not the matter is required to be approved by the board of directors under normal circumstances, the nature and degree of interest shall be promptly disclosed to the board of directors.

除非有利害关系的公司董事、监事、经理和其他高级管理人员按照本条前款的要求向董事会做了披露，并且董事会在不将其计人法定人数，亦未参加表决的会议上批准了该事项，公司有权撤销该合同、交易或者安排，但在对方是对有关董事、监事、经理和其他高级管理人员违反其义务的行为不知情的善意当事人的情形下除外。

Unless the interested directors, supervisors, managers or other senior officers have disclosed his/her interest to the board of directors according to provisions of the preceding paragraph of this Article, and the board of directors has approved the matter in a vote in which that directors, supervisors, managers and other senior officers have not been included, the company shall have the right to cancel that contract, deal or arrangement. However, exception shall be made if the other party is a good faith party which does not know that the actions of the directors, supervisors, managers and other senior officers were in violation of his/her obligations.

公司董事、监事、经理和其他高级管理人员的相关人与某合同、交易、安排有利害关系的，有关董事、监事、经理和其他高级管理人员也应被视为有利害关系。

If a party related to the director, supervisor, manager and other senior officer of the company has an interest in a contract, deal or arrangement, that director, supervisor, manager and other senior officer shall also be regarded as an interested party.

**第一百二十一条** 如果公司董事、监事、经理和其他高级管理人员在公司首次考虑订立有关合同、交易、安排前以书面形式通知董事会，声明由于通知所列的内容，公司日后达成的合同、交易、安排与其有利害关系，则在通知阐明的范围内，有关董事、监事、经理和其他高级管理人员视为做了本章前条所规定的披露。

**Article 121** If a director, supervisor, manager or any other senior officer of the company has, before the company considers for the first time to conclude a contract, deal or arrangement, notified the board of directors in writing, declaring the nature of his/her interest in that contract, deal or arrangement, that director, supervisor, manager and other senior officer shall be regarded as having made disclosure as stipulated in the preceding Article in this Chapter of those matters in the notification.

**第一百二十二条** 公司不得以任何方式为其董事、监事、经理和其他高级管理人员缴纳税款。

**Article 122** The company shall not pay, by way of any means, taxes for its directors, supervisors, managers and other senior officers.

**第一百二十三条** 公司不得直接或者间接向本公司和其母公司的董事、监事、经理和其他高级管理人员提供贷款、贷款担保；亦不得向前述人员的相关人提供贷款、贷款担保。

**Article 123** The company shall not, directly or indirectly, provide loans to or loan guarantees for directors, supervisors, managers and other senior officers of the company or its parent company and the company shall also not provide loans to or loan guarantees for parties related to the aforesaid persons.

前款规定不适用于下列情形：

The provisions of the preceding paragraph shall not apply in the following circumstances:

(一) 公司向其子公司提供贷款或者为子公司提供贷款担保；

1. Where the company provides loans to its subsidiaries or provides loan guarantees for its subsidiaries;

(二) 公司根据经股东大会批准的聘任合同，向公司的董事、监事、经理和其他高级管理人员提供贷款、贷款担保或者其他款项，使之支付为了公司目的或者为了履行其公司职责所发生的费用；

2. Where the company, in accordance with the contract of appointment approved by the shareholders' meeting, provides the directors, supervisors, managers and other senior officers of the company with loans, loan guarantees or other funds for payments made on behalf of the company or for payments or expenses incurred in the performance of their duties; and

(三) 如公司的正常业务范围包括提供贷款、贷款担保，公司可以向有关董事、监事、经理和其他高级管理人员及其相关人提供贷款、贷款担保，但提供贷款、贷款担保的条件应当是正常商务条件。

3. Where the scope of the company's normal business operations includes provision of loans and loan guarantees, the company may provide loans to or provide loan guarantees for

its directors, supervisors, managers and other senior officers and to their related parties; however, the conditions for the provision of such loans and loan guarantees shall be normal business conditions.

**第一百二十四条** 公司违反前条规定提供贷款的，不论其贷款条件如何，收到款项的人应当立即偿还。

**Article 124** If the company provides loans in violation of the provisions of the preceding Article, regardless of loan conditions, the party receiving the loan shall make prompt repayment.

**第一百二十五条** 公司违反**第一百二十三条**第一款的规定所提供的贷款担保，不得强制公司执行；但下列情况除外：

**Article 125** If the company have provided a loan guarantee in violation of the provisions of paragraph 1 of Article 123, the company shall not be forced to implement that guarantee except in the following circumstances:

(一) 向公司或者其母公司的董事、监事、经理和其他高级管理人员的相关人提供贷款时，提供贷款人不知情的；

1. Where, when providing a loan to a related party of a director, supervisor, manager and other senior officers of the company or its parent company, the loan provider is unaware of the facts; and

(二) 公司提供的担保物已由提供贷款人合法地售予善意购买者的。

2. Where the collateral security provided by the company has been legally sold to a good faith purchaser.

**第一百二十六条** 本章前述条款中所称担保，包括由保证人承担责任或者提供财产以保证义务人履行义务的行为。

**Article 126** Guarantee as mentioned in the preceding Articles of this Chapter shall include an act whereby the guarantor assumes liability or provides property to ensure that the obligor performs its obligations.

**第一百二十七条** 公司董事、监事、经理和其他高级管理人员违反对公司所负的义务时，除法律、行政法规规定的各种权利、补救措施外，公司有权采取以下措施：

**Article 127** Where the directors, supervisors, managers or other senior officers of the company are found to have violated obligations to the company, apart from the various rights and remedial measures provided in laws and administrative regulations, the company has the right to adopt the following measures:

(一) 要求有关董事、监事、经理和其他高级管理人员赔偿由于其失职给公司造成的损失；

1. To require the directors, supervisors, managers and other senior officers to compensate for losses incurred by the company due to their negligence in the performance of their duties;

(二) 撤销任何由公司与有关董事、监事、经理和其他高级管理人员订立的合同或者交易，以及由公司与第三人(当第三人明知或者理应知道代表公司的董事、监事、经理和其他高级管理人员违反对公司应负的义务)订立的合同或者交易；

2. To cancel any contract or deal concluded between the company and the directors, supervisors, managers and other senior officers, and cancel any contract or deal concluded between the company and a third party (if the third party knows or should have known that the directors, supervisors, managers and other senior officers represent the company in violation of obligations to the company);

(三) 要求有关董事、监事、经理和其他高级管理人员交出因违反义务而获得的收益;

3. To require the directors, supervisors, managers and other senior officers to hand over any gains derived in violation of his/her obligations;

(四) 追回有关董事、监事、经理和其他高级管理人员收受的本应为公司所收取的款项, 包括(但不限于)佣金;

4. To recover funds including (but not limited to) commissions received by the directors, supervisors, managers and other senior officers which should have been collected by the company; and

(五) 要求有关董事、监事、经理和其他高级管理人员退还因本应交予公司的款项所赚取的、或者可能赚取的利息。

5. To require the directors, supervisors, managers and other senior officers to return any interests gained or which may be gained from any funds which should be handed over to the company.

**第一百二十八条** 公司应当就报酬事项与公司董事、监事订立书面合同, 并经股东大会事先批准。前述报酬事项包括:

**Article 128** The company shall enter into a written contract on remuneration matters with the company director or supervisor which shall be approved by the shareholders' meeting in advance. The aforesaid remuneration matters shall include:

(一) 作为公司的董事、监事或者高级管理人员的报酬;

1. Remuneration of company director, supervisor or senior officers;

(二) 作为公司的子公司的董事、监事或者高级管理人员的报酬;

2. Remuneration of directors, supervisors or senior officers of subsidiaries of the company;

(三) 为公司及其子公司的管理提供其他服务的报酬;

3. Remuneration for the provision of other management services to the company and its subsidiaries; and

(四) 该董事或者监事因失去职位或者退休所获补偿的款项。

4. Compensatory payments to directors or supervisors in case of retirement or loss of position.

除按前述合同外, 董事、监事不得因前述事项为其应获取的利益向公司提出诉讼。

Except where doing so in accordance with the aforesaid contract, a director or supervisor shall not initiate legal proceedings against the company based on benefits receivable for the aforesaid matters.

**第一百二十九条** 公司在与公司董事、监事订立的有关报酬事项的合同应当规定, 当公司将被收购时, 公司董事、监事在股东大会事先批准的前提下, 有权取得因失去职位或者退休而获得的补偿或者其他款项。前款所称公司被收购是指下列情况之一:

**Article 129** A contract on remuneration matters concluded between the company and a director or supervisor of the company shall stipulate that upon acquisition of the company, the director or supervisor of company shall, under conditions of approval granted in advance by the shareholders' meeting, be entitled to obtain compensation or other payments as a result of loss of post or retirement. Acquisition of the company as referred to in the preceding paragraph shall refer to any of the following instances:

(一) 任何人向全体股东提出收购要约;

1. An acquisition offer made to all shareholders by any party; or

(二) 任何人提出收购要约, 旨在使要约人成为控股股东。控股股东的定义与本章程第四十八条中的定义相同。

2. An acquisition offer made by any party intending to become a controlling shareholder. The definition of a controlling shareholder shall be the same as that defined in Article 48 of this Articles of Association.

如果有关董事、监事不遵守本条规定, 其收到的任何款项, 应当归那些由于接受前述要约而将其股份出售的人所有, 该董事、监事应当承担因按比例分发该等款项所产生的费用, 该费用不得从该等款项中扣除。

If a related director or supervisor is in violation of the provisions of this Article, any funds received by the director or supervisor shall be owned by those who accepted such offer and who sold their shares, expenses incurred on pro rata distribution of such funds shall be borne by the director or supervisor and expenses shall not be deducted from those funds.

## 第十五章 财务会计制度与利润分配

### Chapter XV Financial and Accounting System and Distribution of Profits

**第一百三十条** 公司依照法律、行政法规和国务院财政部门制定的中国会计准则的规定, 制定本公司的财务会计制度。

**Article 130** The company shall establish a financial and accounting system in accordance with the law, administrative regulations and the accounting standard of China formulated by the competent financial department under the State Council.

**第一百三十一条** 公司应当在每一会计年度终了时制作财务报告, 并依法经审计验证。

**Article 131** The company shall produce financial reports at the end of each fiscal year which shall be subject to examination and verification in accordance with the law.

**第一百三十二条** 公司董事会应当在每次股东年会上, 向股东呈交有关法律、行政法规、地方政府及主管部门颁布的规范性文件所规定由公司准备的财务报告。

**Article 132** The board of directors of the company shall, at each annual shareholders' meeting, submit to the shareholders a financial report prepared by the company in accordance with the provisions of laws, administrative regulations and normative documents promulgated by the local government and the competent departments.

**第一百三十三条** 公司的财务报告应当在召开股东大会年会的 20 日以前备置于本公司, 供股东查阅。公司的每个股东都有权得到本章中所提及的财务报告。

**Article 133** The company shall make its financial reports available for inspection by the shareholders of the company twenty (20) days before the convocation of its annual shareholders' meeting. Every shareholder of the company shall have the right to obtain the financial reports as mentioned in this Chapter.

到香港上市的公司至少应当将前述报告以邮资已付的邮件寄给每个境外上市外资股股东，收件人地址以股东的名册登记的地址为准。

Companies listed in Hong Kong shall send financial reports to each holder of foreign shares listed overseas by pre-paid mail. The addresses of recipients shall be those registered in the register of shareholders.

**第一百三十四条** 公司的财务报表除应当按中国会计准则及法规编制外，还应当按国际或者境外上市地会计准则编制。如按两种会计准则编制的财务报表有重要出人，应当在财务报表附注中加以注明。公司在分配有关会计年度的税后利润时，以前述两种财务报表中税后利润数较少者为准。

**Article 134** Financial statements of the company shall be prepared in accordance with the Accounting standard of China and relevant regulations and, in addition, shall also be prepared in accordance with the international accounting standard or the accounting standard of the country or region where the company is listed. If there are significant discrepancies between the financial statements prepared according to two different accounting standards, such discrepancies shall be clearly indicated in the notes attached to the financial statements. When distributing post-tax profits in a fiscal year, the lesser amount of post-tax profits in the two financial statements shall be used as the standard amount.

**第一百三十五条** 公司公布或者披露的中期业绩或者财务资料应当按中国会计准则及法规编制，同时按国际或者境外上市地会计准则编制。

**Article 135** Reports on mid-term business results or financial information published or disclosed by the company shall be prepared in accordance with the accounting standard of China and relevant regulations and, simultaneously, shall also be prepared in accordance with the international accounting standard or the accounting standard of the country or region where the company is listed.

**第一百三十六条** 公司每一会计年度公布两次财务报告，即在一会计年度的前 6 个月结束后的 60 天内公布中期财务报告，会计年度结束后的 120 天内公布年度财务报告。

**Article 136** The company shall publish its financial reports twice each fiscal year, i.e. a interim financial report shall be published within sixty (60) days of the end of the first six (6) months of that fiscal year and an annual financial report shall be published within 120 days after the end of the fiscal year.

**第一百三十七条** 公司除法定的会计帐册外，不得另立会计帐册。

**Article 137** The company shall not establish account books other than statutory account books.

**第一百三十八条** 资本公积金包括下列款项：

**Article 138** The capital accumulation fund shall include the following items:

(一) 超过股票面额发行所得的溢价款；

1. Premiums gained on shares issued for more than their face value; and

(二) 国务院财政部门规定列入资本公积金的其他收入。

2. Other revenue to be charged to the capital accumulation fund as stipulated by the financial department in charge under the State Council.

**第一百三十九条** 公司可以下列形式分配股利：

**Article 139** The company may use the following for distribution of dividends:

(一) 现金；

1. Cash; and

(二) 股票。

2. Share certificates.

**第一百四十条** 公司应当为持有境外上市外资股股份的股东委任收款代理人。收款代理人应当代

**Article 140** The company shall entrust a collection agent for holders of foreign shares listed overseas.

有关股东收取公司就境外上市外资股股份分配的股利及其他应付的款项。

A collection agent shall collect dividends on foreign shares and other payable items from the company on behalf of relevant shareholders.

公司委任的收款代理人应当符合上市地法律或者证券交易所有关规定的要求。

A collection agent entrusted by the company shall meet the requirements of the law in the place where the company is listed or relevant regulations of the stock exchange.

## 第十六章 会计师事务所的聘任

### Chapter XVI Appointment of Accounting Firm

**第一百四十一条** 公司应当聘用符合国家有关规定的、独立的会计师事务所，审计公司的年度财务报告，并审核公司的其他财务报告。

**Article 141** The company shall appoint a State qualified independent accounting firm to audit the company's annual financial reports and to examine and verify other financial reports.

公司的首任会计师事务所可以由创立大会在首次股东年会前聘任，该会计师事务所的任期在首次股东年会结束时终止。

The company's first accounting firm may be appointed by the founding meeting before the first shareholders' meeting. The term of office for the first accounting firm shall terminate at the conclusion of the first shareholders' meeting.

创立大会不行使前款规定的职权时，由董事会行使该职权。

Where the founding meeting does not exercise the powers stipulated in the preceding paragraph, the board of directors shall exercise the said powers.

**第一百四十二条** 公司聘用会计师事务所的聘期，自公司本次股东年会结束时起至下次股东年会结束时为止。

**Article 142** The term of office for an accounting firm shall commence on the date of conclusion of the current shareholders' meeting and end on the date of conclusion of the subsequent shareholders' meeting.

**第一百四十三条** 经公司聘用的会计师事务所享有下列权利:

**Article 143** An accounting firm appointed by the company shall have the following rights:

(一)随时查阅公司的帐簿、记录或者凭证,并有权要求公司的董事、经理或者其他高级管理人员提供有关资料和说明;

1. To inspect, at any time, the company's account books, records or vouchers, and shall have the right to require the directors, managers or other senior officers to provide relevant data and explanations;

(二)要求公司采取一切合理措施,从其子公司取得该会计师事务所为履行职务而必需的资料和说明;

2. To require the company to adopt all reasonable measures to obtain from its subsidiaries data and explanations which the accounting firm requires for the performance of its duties; and

(三)出席股东会议,得到任何股东有权收到的会议通知或者与会议有关的其他信息,在任何股东会议上就涉及其作为公司的会计师事务所的事宜发言。

3. To attend shareholders' meetings and to obtain information which is available to any shareholder who has the right to receive notice of a meeting or on other matters related to the meeting, and to speak at any shareholders' meeting about matters related to its functions as accounting firm to the company.

**第一百四十四条** 如果会计师事务所职位出现空缺,董事会在股东大会召开前,可以委任会计师事务所填补该空缺。但在空缺持续期间,公司如有其他在任的会计师事务所,该等会计师事务所仍可行事。

**Article 144** If the position of the accounting firm falls vacant, the board of directors may, before convening a shareholders' meeting, appoint an accounting firm to fill the vacancy. However, if, during the period of the vacancy, the company has other appointed accounting firms, those firms may continue to handle matters.

**第一百四十五条** 不论会计师事务所与公司订立的合同条款如何规定,股东大会可以在任何会计师事务所任期届满前,通过普通决议决定将该会计师事务所解聘。有关会计师事务所如有因被解聘而向公司索偿的权利,有关权利不因此而受影响。

**Article 145** Regardless of what is stipulated in a contract concluded between an accounting firm and the company, the shareholders' meeting may, before the expiration of term of office for the accounting firm expires, decide to dismiss that firm through the adoption of an ordinary resolution. If such accounting firm has the right to claim compensation from the company for reason of such dismissal, that right shall not be affected.

**第一百四十六条** 会计师事务所的报酬或者确定报酬的方式由股东大会决定。由董事会聘任的会计师事务所的报酬由董事会确定。

**Article 146** The remuneration of an accounting firm or methods for determining remuneration shall be decided at a shareholders' meeting. The remuneration of an accounting firm appointed by the board of directors shall be determined by the board of directors.

**第一百四十七条** 公司聘用、解聘或者不再续聘会计师事务所由股东大会作出决定，并报国务院证券主管机构备案。

**Article 147** Decisions on matters relating to the appointment, removal or non-reappointment of an accounting firm shall be made at shareholders' meetings and such decisions shall be reported to the competent securities department of the State Council for the record.

**第一百四十八条** 公司解聘或者不再续聘会计师事务所，应当事先通知会计师事务所，会计师事务所所有权向股东大会陈述意见。会计师事务所提出辞聘的，应当向股东大会说明公司有无不当情事。

**Article 148** The company shall notify the accounting firm in advance if it is to be dismissed or not to be reappointed. The accounting firm shall have the right to make a statement in respect of its dismissal or non-reappointment at the shareholders' meeting. If an accounting firm resigns, it shall explain to the shareholders' meeting whether or not the company has been involved in any improper dealings.

## **第十七章 公司的合并与分立**

### **Chapter XVII Company Consolidation and Division**

**第一百四十九条** 公司合并或者分立，应当由公司董事会提出方案，按公司章程规定购程序通过后，依法办理有关审批手续。反对公司合并、分立方案的股东，有权要求公司或者同意公司合并、分立方案的股东，以公平价格购买其股份。公司合并、分立决议的内容应当作成专门文件，供股东查阅。

**Article 149** In the case of the consolidation or division of the company, a consolidation or division plan shall be drafted by the board of directors and after the plan is adopted according to the procedures stipulated in the company's Articles of Association, the relevant procedures for examination and approval shall then be carried out in accordance with the law. If a shareholder objects to the consolidation or division plan, that shareholder shall have the right to require the company or those shareholders who approve the consolidation or division plan to purchase his/her shares at a fair price. The content of a resolution on the consolidation or division of the company shall be made into a special document to be available for inspection by shareholders.

对到香港上市公司的境外上市外资股股东，前述文件还应当以邮件方式送达。

For holders of foreign shares of the company listed in Hong Kong the aforesaid document shall be delivered by mail.

**第一百五十条** 公司合并可以采取吸收合并和新设合并两种形式。

**Article 150** The consolidation of the company may be made by the consolidation via absorption and new establishment.

公司合并，应当由合并各方签订合并协议，并编制资产负债表及财产清单。公司应当自作出合并决议之日起 10 日内通知债权人，并于 30 日内在报纸上至少公告 3 次。

When the company is undergoing a consolidation, the various parties to the consolidation shall sign a consolidation agreement and a balance sheet and a property inventory shall be prepared. Within ten (10) days of the proposal of a resolution on the consolidation of the company, the company shall notify the various creditors and a public announcement shall be made in the press at least three (3) times within thirty (30) days.

公司合并后，合并各方的债权、债务，由合并后存续的公司或者新设的公司承继。

Following a consolidation, the takeover company or the company newly established as the result of the consolidation shall assume the debts receivable and debts payable of the parties to the consolidation.

**第一百五十一条** 公司分立，其财产应当作相应的分割。

**Article 151** If the company is to be divided, its assets shall be divided accordingly.

公司分立，应当由分立各方签订分立协议，并编制资产负债表及财产清单。公司应当自作出分立决议之日起10日内通知债权人，并于30日内在报纸上至少公告3次。

When the company is divided, the parties to the division shall sign a division agreement and a balance sheet and a property inventory shall be prepared. Within ten (10) days of the proposal of a resolution on the division of the company, the company shall notify the various creditors and a public announcement shall be made in the press at least three (3) times in thirty (30) days.

公司分立前的债务按所达成的协议由分立后的公司承担。

The debts payable by the company before its division shall be assumed by the companies divided in accordance with the concluded agreement.

**第一百五十二条** 公司合并或者分立，登记事项发生变更的，应当依法向公司登记机关办理变更登记；公司解散的，依法办理公司注销登记；设立新公司的，依法办理公司设立登记。

**Article 152** Where registered items are changed as a result of the consolidation or division of the company, an application shall be made with the company registration authority to register the amendment in accordance with the law. Where the company is dissolved, an application shall be made to register the cancellation in accordance with the law; where the company is newly established, an application shall be made to register the establishment.

## 第十八章 公司解散的清算

### Chapter XVIII Company Dissolution and Liquidation

**第一百五十三条** 公司有下列情形之一的，应当解散并依法进行清算：

**Article 153** The company shall terminate its operation and enter into liquidation in accordance with the law in any of the following circumstances:

(一) 营业期限届满；

1. Expiry of the company's term of business operations;

(二) 股东大会决议解散；

2. A shareholders' meeting passes the resolution on the dissolution of the company;

(三) 因公司合并或者分立需要解散；

3. Dissolution becomes necessary because of consolidation or division of the company;

(四) 公司因不能清偿到期债务被依法宣告破产；

4. The company is declared bankrupt in accordance with the law due to inability to discharge its debts; or

(五) 公司违反法律、行政法规被依法责令关闭。

5. The company has been ordered to close down in accordance with the law as a result of violations of the law and administrative regulations.

**第一百五十四条** 公司因前条(一)、(二)项规定解散的,应当在15日之内成立清算组,并由股东大会以普通决议的方式确定其人选。

**Article 154** If the company is dissolved in accordance with the provisions of items 1 and 2 of the preceding Article, the company shall, within fifteen (15) days, establish a liquidation committee, the members of which shall be determined by the shareholders' meeting through an ordinary resolution.

公司因前条(四)项规定解散的,由人民法院依照有关法律的规定,组织股东、有关机关及有关专业人员成立清算组,进行清算。

If the company is dissolved in accordance with the provisions of item 4 of the preceding Article, the people's court shall, in accordance with laws and administrative regulations, organize shareholders, relevant authorities and relevant professionals to form a liquidation committee to conduct the liquidation.

公司因前条(五)项规定解散的,由有关主管机关组织股东、有关机关及有关专业人员成立清算组,进行清算。

If the company is dissolved in accordance with the provisions of item 5 of the preceding Article, the competent authority shall organize shareholders, relevant authorities and relevant professionals to form a liquidation committee to conduct the liquidation.

**第一百五十五条** 如董事会决定公司进行清算(因公司宣告破产而清算的除外),应当在为此召集的股东大会的通知中,声明董事会对公司的状况已经做了全面的调查,并认为公司可以在清算开始后12个月内全部清偿公司债务。

**Article 155** In the case of the board of directors deciding that the company should enter into liquidation (except if the company is declared bankrupt and enters into liquidation), the board of directors shall, in the notice for a shareholders' meeting convened for this reason, declare that the board of directors has already fully investigated the position of the company and considers that the company can fully repay its debts within twelve (12) months after commencement of the liquidation.

股东大会进行清算的决议通过之后,公司董事会的职权立即终止。

Following a resolution on liquidation passed by a shareholders' meeting, the powers of the board of directors shall immediately be terminated.

清算组应当遵循股东大会的指示,每年至少向股东大会报告一次清算组的收入和支出,公司的业务和清算的进展,并在清算结束时向股东大会作最后报告。

The liquidation committee shall adhere to the instructions given by the shareholders' meeting and shall report to the shareholders' meeting on the income and expenditure of the liquidation committee, the business operations of the company and progress of the liquidation of the company at least once each year. The liquidation committee shall submit a final report to the shareholders' meeting at the conclusion of liquidation proceedings.

**第一百五十六条** 清算组应当自成立之日起10日内通知债权人,并于60日内在报纸上至少公告3次。清算组应当对债权进行登记。

**Article 156** The liquidation committee shall, within ten (10) days of its establishment, notify creditors and make a public announcement in the press at least three (3) times within sixty (60) days. The liquidation committee shall register all claims.

**第一百五十七条** 清算组在清算期间行使下列职权：

**Article 157** The liquidation committee shall exercise the following powers during the period of liquidation:

(一) 清理公司财产，分别编制资产负债表和财产清单；

1. To perform a stocktake of the company's property and formulate a balance sheet and property inventory;

(二) 通知或者公告债权人；

2. To notify creditors and make public announcement of the liquidation;

(三) 处理与清算有关的公司未了结的业务；

3. To handle and finalize matters in relation to the unfinished business affairs of the company;

(四) 清缴所欠税款；

4. To pay overdue taxes;

(五) 清理债权、债务；

5. To clear debts receivable and payable;

(六) 处理公司清偿债务后的剩余财产；

6. To dispose of the remaining assets after all debts have been paid; and

(七) 代表公司参与民事诉讼活动。

7. To participate in civil proceedings on behalf of the company.

**第一百五十八条** 清算组在清理公司财产、编制资产负债表和财产清单后，应当制定清算方案，并报股东大会或者有关主管机关确认。

**Article 158** A liquidation plan shall be work out by the liquidation committee after the stocktaking of the company property has been performed and the balance sheet and property inventory have been compiled, and the same shall be submitted to the shareholders' meeting or to the relevant competent authority for confirmation.

公司财产按下列顺序清偿：[清偿顺序]。

The company property shall be used to settle claims in the following order: [settlement order].

公司财产按前款规定清偿后的剩余财产，由公司股东按其持有股份的种类和比例进行分配。

The assets remaining after the company has settled its debts pursuant to the preceding paragraph shall be distributed to the various shareholders according to the categories and percentages of shares held.

清算期间，公司不得开展新的经营活动。

During the period of liquidation, the company shall not carry out new business activities.

**第一百五十九条** 因公司解散而清算，清算组在清理公司财产、编制资产负债表和财产清单后，发现公司财产不足清偿债务的，应当立即向人民法院申请宣告破产。

**Article 159** Where liquidation is carried out as a result of dissolution of the company, after dissolution and after a stocktake of the company's assets and compilation of a balance sheet and proper inventory, where the amount of assets is insufficient to settle debts, the liquidation committee shall promptly apply to the People's Court for a declaration of

bankruptcy.

公司经人民法院裁定宣告破产后，清算组应当制作清算事务移交书交给人民法院。

If the company has been declared bankrupt by the People's Court, the liquidation committee shall hand over liquidation matters to the People's Court.

**第一百六十条** 公司清算结束后，清算组应当制作清算报告以及清算期内收支报表和财务账册，经中国注册会计师验证后，报股东大会或者有关主管机关确认。清算组应当自股东大会或者有关主管机关确认之日起30日内，将前述文件报送公司登记机关，申请注销公司登记，公告公司终止。

**Article 160** After the conclusion of liquidation proceedings, the liquidation committee shall compile a liquidation report as well as prepare income and expenditure statements and various financial accounts for the liquidation period which shall be submitted to the shareholders' meeting or the relevant competent authority for confirmation following verification by a certified public accountant registered in China. Within thirty (30) days of confirmation by the shareholders' meeting or the relevant competent authority, the liquidation committee shall submit the aforesaid documents to the company registration authority and apply for cancellation of company registration and then publicly announce the company's termination.

## 第十九章 公司章程的修订程序

### Chapter XIX Procedures for Amendment of the Articles of Association

**第一百六十一条** 公司根据法律、行政法规及公司章程的规定，可以修改公司章程。

**Article 161** The company may amend its Articles of Association in accordance with the law, administrative regulations and its Articles of Association.

**第一百六十二条** 公司章程的修改，涉及《到境外上市公司章程必备条款》（简称《必备条款》）内容的，经国务院授权的公司审批部门和国务院证券委员会批准后生效；涉及公司登记事项的，应当依法办理变更登记。

**Article 162** Amendment of Articles of Association which involves the contents of the "Essential Clauses in Articles of Association of Companies Listed Overseas" (hereinafter referred to as "Essential Clauses") shall, in order to be valid, be subject to approval by the Securities Commission of the State Council and the company examination and approval authority authorized by the State Council; where the registered items have to be changed, the company shall apply to register the amendment in accordance with the law.

## 第二十章 争议的解决

### Chapter XX Resolution of Disputes

**第一百六十三条** 凡境外上市外资股股东与公司之间，境外上市外资股股东与公司董事、监事、经理或者其他高级管理人员之间，境外上市外资股股东与内资股股东之间，基于公司章程及有关法律、行政法规所规定的权利义务发生的与公司事务有关的争议或者权利主张，国务院证券监管机构未就争议解决方式与境外有关证券监管机构达成谅解、协议的，有关当事人可以依照法律、行政法规规定的方式解决，也可以双方协议确定的方式解决。

**Article 163** With respect to disputes and claims relating to the company's affairs between the holders of foreign shares listed overseas and the company's directors, supervisors, managers and other senior officers, or between the holders of foreign shares listed overseas and the holders of domestic shares arising out of rights and obligations provided in the company's Articles of Association, laws and administrative regulations, where the competent securities department of the State Council has not reached an understanding or agreement with the relevant overseas securities regulatory authority on the method of resolution or disputes, the parties concerned may resolve the dispute through means provided in laws and administrative regulations or may resolve the matter through means determined by agreement of both parties.

到香港上市的公司，应当将下列内容载入公司章程：

Companies listed in Hong Kong shall include the following content in their Articles of Association:

(一) 凡境外上市外资股股东与公司之间，境外上市外资股股东与公司董事、监事、经理或者其他高级管理人员之间，境外上市外资股股东与内资股股东之间，基于公司章程、《公司法》及其他有关法律、行政法规所规定的权利义务发生的与公司事务有关的争议或者权利主张，有关当事人应当将此类争议或者权利主张提交仲裁解决。

1. With respect to any dispute or claim relating to the company's affairs between the holders of foreign shares listed overseas and the company, between the holders of foreign shares listed overseas and the company's directors, supervisors, managers and other senior officers, or between the holders of foreign shares listed overseas and the holders of domestic shares arising out of rights and obligations provided for in the company's Articles of Association, the Company Law or other laws and administrative regulations, the parties concerned shall submit the dispute or claim to an arbitral body for settlement.

前述争议或者权利主张提交仲裁时，应当是全部权利主张或者争议整体；所有由于同一事由有诉因的人或者该争议或权利主张的解决需要其参与的人，如果其身份为公司或公司股东、董事、监事、经理或者其他高级管理人员，应当服从仲裁。

When referring the aforesaid dispute or claim to an arbitral body, it shall be the whole dispute or entire claim which is so referred; where those persons who have a cause of action arising out of the same facts or those persons required to participate in the resolution of the dispute or claim are the company's shareholders, directors, supervisors or other senior officers or such person is the company itself, such person shall be subject to arbitration.

有关股东界定、股东名册的争议，可以不用仲裁方式解决。

Disputes over shareholder status and the register of shareholders may be resolved through means other than arbitration.

(二) 申请仲裁者可以选择中国国际经济贸易仲裁委员会按其仲裁规则进行仲裁，也可以选择香港国际仲裁中心按其证券仲裁规则进行仲裁。

2. An applicant who applies for arbitration may select the China International Economic and Foreign Trade Arbitration Commission to conduct arbitration according to its rules or, alternatively, may choose the Hong Kong International Arbitration Centre to conduct arbitration according to its rules on securities arbitration.

申请仲裁者将争议或者权利主张提交仲裁后，对方必须在申请者选择的仲裁机构进行仲裁。

After the applicant for arbitration refers the dispute or claim for arbitration, the opposing party shall participate in the arbitration at the arbitral body chosen by the applicant.

如申请仲裁者选择香港国际仲裁中心进行仲裁，则任何一方可以按香港国际仲裁中心的证券仲裁规则的规定请求该仲裁在深圳进行。

If an applicant chooses the Hong Kong Arbitration Centre, any party concerned may, in accordance with the rules of the Hong Kong Arbitration Centre on securities arbitration, request the arbitration to be conducted in Shenzhen.

(三)以仲裁方式解决因(一)项所述争议或者权利主张，适用中华人民共和国的法律；但法律、行政法规另有规定的除外。

3. In resolving any disputes or claims as mentioned in item 1 of the Article through arbitration, the law of the People's Republic of China shall apply except as otherwise provided in laws and administrative regulations.

(四)仲裁机构作出的裁决是终局裁决，对各方均具有约束力。

4. An award made by the arbitral body shall be final and have binding force on the parties concerned.

## 第二十一章 附 则

### Chapter XXI Supplementary Provisions

**第一百六十四条** 《必备条款》申明确规定到香港上市的股份有限公司章程所应当载明的内容，无须载入到香港以外的其他地区或者国家上市的股份有限公司的章程。

**Article 164** The content which shall be included in the Articles of Association of companies limited by shares listed in Hong Kong as clearly stipulated in the Essential Clauses need not be included in the Articles of Association of companies limited by shares listed in regions or countries other than Hong Kong.

**第一百六十五条** 对于到香港上市的公司，《必备条款》中所称会计师事务所的含义与“核数师”相同。

**Article 165** For companies listed in Hong Kong, the meaning of the term "accounting firms" as mentioned in the Essential Clauses shall be the same as that of "auditors".

**第一百六十六条** 《必备条款》中，以“[]”标示的内容，由公司按照实际情况填入；以“( )”标示的内容，必须载入公司章程。

**Article 166** In the Essential Clauses, the content marked with [ ] shall be filled in by the company according to its actual circumstances; the content marked with ( ) must be included in the company's Articles of Association.

# 国务院关于股份有限公司境外募集股份及上市的特别规定

## Special Provisions of the State Council Concerning Issuing and Listing of Shares Overseas by Joint Stock Limited Company

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**第一条** 为适应股份有限公司境外募集股份及境外上市的需要, 根据《中华人民共和国公司法》第八十五条、第一百五十五条, 制定本规定。

**Article 1** These Provisions are formulated in accordance with the provisions of Article 85 and Article 155 of the Company Law of the People's Republic of China in order to satisfy the needs of issuing and listing of shares overseas by joint stock limited companies.

**第二条** 股份有限公司经国务院证券委员会批准, 可以向境外特定的、非特定的投资人募集股份, 其股票可以在境外上市。

本规定所称境外上市, 是指股份有限公司向境外投资人发行的股票, 在境外公开的证券交易场所流通转让。

**Article 2** A joint stock limited company may, after being approved by the Securities Commission of the State Council, issue shares to designated or non-designated investors overseas and its shares may be listed overseas.

Listing of shares overseas referred to in these Provisions means the transfer of shares issued to investors overseas by joint stock limited companies on overseas public securities exchanges.

**第三条** 股份有限公司向境外投资人募集并在境外上市的股份 (以下简称境外上市外资股), 采取记名股票形式, 以人民币标明面值, 以外币认购。

境外上市外资股在境外上市, 可以采取境外存股证形式或者股票的其他派生形式。

**Article 3** The shares issued to overseas investors and listed overseas (hereinafter referred to as foreign capital shares listed overseas) by joint stock limited companies shall be in the form of registered shares, with the face value indicated in Renminbi and subscribed for in foreign currencies.

Listing overseas of foreign capital shares listed overseas may adopt the form of overseas shares depository receipts or other derivative forms of shares.

**第四条** 国务院证券委员会或者其监督管理执行机构中国证券监督管理委员会, 可以与境外证券监督管理机构达成谅解、协议, 对股份有限公司向境外投资人募集股份并在境外上市及相关活动进行合作监督管理。

**Article 4** The Securities Commission of the State Council or its supervisory agency, the China Securities Regulatory Commission, may, through mutual understanding or entry into an agreement with overseas securities supervisory agencies, cooperatively supervise the issuing of shares to overseas investors and listing overseas by joint stock limited companies limited by shares.

**第五条** 股份有限公司向境外投资人募集股份并在境外上市，应当按照国务院证券委员会的要求提出书面申请并附有关材料，报经国务院证券委员会批准。

**Article 5** A joint stock limited company wishing to issue shares to overseas investors and list those shares overseas shall, in accordance with the requirements of the Securities Commission of the State Council, submit a written application, together with relevant documents, to the Securities Commission of the State Council for approval.

**第六条** 国有企业或者国有资产占主导地位的企业按照国家有关规定改建为向境外投资人募集股份并在境外上市的股份有限公司，以发起方式设立的，发起人可以少于5人；该股份有限公司一经成立，即可以发行新股。

**Article 6** Where a State-owned enterprise or an enterprise with State-owned assets occupying a dominant position, pursuant to relevant State provisions, is restricted as a joint stock limited company and incorporated by means of sponsorship, which is to issue shares to overseas investors and list those shares overseas, the number of sponsors may be less than five; once the joint stock limited company is incorporated, it may issue new shares.

**第七条** 向境外投资人募集股份并在境外上市的股份有限公司(以下简称公司)向境内投资人发行的股份(以下简称内资股)，采取记名股票形式。

**Article 7** Shares issued to domestic investors (hereinafter referred to as domestic capital shares) by a joint stock limited company which issue shares to overseas investors and list overseas (hereinafter referred to as a company) shall be in the form of registered shares.

**第八条** 经国务院证券委员会批准的公司发行境外上市外资股和内资股的计划，公司董事会可以做出分别发行的实施安排。

公司依照前款规定分别发行境外上市外资股和内资股的计划，可以自国务院证券委员会批准之日起15个月内分别实施。

**Article 8** The board of directors of a company may make executive arrangements for the respective issue of shares in respect of the plan of the company to issue foreign capital shares listed overseas and domestic capital shares approved by the Securities Commission of the State Council.

The company's plan for respective issuance of foreign capital shares listed overseas and domestic capital shares pursuant to the provisions of the preceding paragraph may be separately executed within 15 months after the date of approval by the Securities Commission of the State Council.

**第九条** 公司在发行计划确定的股份总数内，分别发行境外上市外资股和内资股的，应当分别一次募足；有特殊情况不能一次募足的，经国务院证券委员会批准，也可以分次发行。

**Article 9** Where a company respectively issues foreign capital shares listed overseas and domestic capital shares within the total amount of shares fixed in a company's issue plan, the shares shall respectively be fully subscribed for at one time. Under special circumstances where the total amount of shares of each issue cannot be subscribed for in full at one time, such shares may, subject to the approval of the Securities Commission of the State Council, be issued in installments.

**第十条** 公司发行计划确定的股份未募足的，不得在该发行计划外发行新股。公司需要调整发行计划的，由股东大会做出决议，经国务院授权的公司审批部门核准后，报国务院证券委员会审批。

公司增资发行境外上市外资股与前一次发行股份的间隔期间，可以少于12个月。

**Article 10** Where a company fails to have the shares fixed in its issue plan fully subscribed for, it may not issue new shares outside the original issue plan. Where the share issue plan needs to be adjusted, the company's shareholders' general meeting shall make a resolution on the adjustment which, after examination and approval by the company examining and approving department authorized by the State Council, shall be reported to the Securities Commission of the State Council for approval.

The interval between the date of a company's issuance of foreign capital shares listed overseas to increase its capital and the date of the previous issue may be less than 12 months.

**第十一条** 公司在发行计划确定的股份总数内发行境外上市外资股，经国务院证券委员会批准，可以与包销商在包销协议中约定，在包销数额之外预留不超过该次拟募集境外上市外资股数额15%的股份。预留股份的发行，视为该次发行的一部分。

**Article 11** Where a company issues foreign capital shares listed overseas within the total amount of shares fixed in the share issue plan, the company may, subject to the approval by the Securities Commission of the State Council, agree with the firm commitment institution in the firm commitment agreement to retain not more than 15% of the intended total amount of foreign capital shares listed overseas to be issued for offer, outside the amount of shares underwritten. The issue of shares retained shall be regarded as part of the total shares issued under the original issue plan.

**第十二条** 公司分别发行境外上市外资股和内资股的计划，应当在公司各次募集股份的招股说明材料中全面、详尽披露。对已经批准并披露的发行计划进行调整的，必须重新披露。

**Article 12** A company's plan for issuing foreign capital shares listed overseas and domestic capital shares company's respectively shall be disclosed completely and exhaustively in the respective prospectus for share offer. Any adjustments to the approved and disclosed issue plan shall be disclosed anew.

**第十三条** 国务院证券委员会会同国务院授权的公司审批部门，可以对公司章程必备条款做出规定。公司章程应当载明公司章程必备条款所要求的内容；公司不得擅自修改或者删除公司章程中有关公司章程必备条款的内容。

**Article 13** The Securities Commission of the State Council may, in conjunction with the company examining and approving department authorized by the State Council, formulate provisions relating to certain essential clauses of the company's articles of association.

A company's articles of association shall clearly specify the contents required by the essential clauses of the company's articles of association. A company may not amend or delete the contents of the essential clauses in its articles of association.

**第十四条** 公司应当在公司章程中载明公司的营业期限。公司的营业期限，可以为永久存续。

**Article 14** A company shall specify the term of business operations in the company's articles of association. The term of business operations of a company may be perpetual.

**第十五条** 公司章程对公司及其股东、董事、监事、经理和其他高级管理人员具有约束力。

公司及其股东、董事、监事、经理和其他高级管理人员均可以依据公司章程主张权利，提出仲裁或者提起诉讼。

本条第一款、第二款所称其他高级管理人员包括公司财务负责人、董事会秘书和公司章程规定的其他人员。

**Article 15** The articles of association of a company shall have binding force on the company and its shareholders, directors, supervisors, managers and other senior management personnel.

A company and its shareholders, directors, supervisors, managers and other senior management personnel may, in accordance with the company's articles of association, put in a claim, apply for arbitration or bring a law suit.

Other senior management personnel referred to in the first and second paragraphs of this Article includes persons responsible for the company's financial affairs, the secretaries of the board of directors and other personnel as stipulated in the company's articles of association.

**第十六条** 依法持有境外上市外资股、其姓名或者名称登记在公司的股东名册上的境外投资人，为公司的境外上市外资股股东。

境外上市外资股的权益拥有人可以依照境外上市外资股股东名册正本存放地或者境外上市地的法律规定，将其股份登记在股份的名义持有人名下。

境外上市外资股股东名册为证明境外上市外资股股东持有公司股份的充分证据；但是有相反证据的除外。

**Article 16** Overseas investors who legally hold foreign capital shares listed overseas and whose names or titles are registered in the company's register of shareholders shall be the shareholders of foreign capital shares listed overseas of the company.

A beneficial owner of foreign capital shares listed overseas may, in accordance with the statutory provisions of the place where the original register of shareholders is kept or the shares are listed, register his shares under the name of a nominal holder of the shares.

The register of shareholders of foreign capital shares listed overseas shall be sufficient evidence to

verify the holding of a company's shares by the holders of foreign capital shares listed overseas, unless there is contradictory evidence.

**第十七条** 依据本规定第四条所指的谅解、协议，公司可以将境外上市外资股股东名册正本存放在境外，委托境外代理机构管理；公司应当将境外代理机构制作的境外上市外资股股东名册的副本备置于公司的住所。受委托的境外代理机构应当随时保证境外上市外资股股东名册正本、副本的一致性。

**Article 17** A company may, in accordance with the mutual understanding and agreement as referred to in Article 4 of these Provisions, deposit the original copy of the register of shareholders of foreign capital shares listed overseas and entrust an overseas agency for its management. A duplicate copy of the company's register of shareholders of foreign capital shares listed overseas prepared by the overseas agency shall be kept at the business domicile of the company. The entrusted overseas agency shall ensure at any time the consistency of the original and duplicate copies of the register of shareholders of foreign capital shares listed overseas.

**第十八条** 境外上市外资股股东名册正本的更正需要依据司法裁定做出的，可以由名册正本存放地有管辖权的法院裁定。

**Article 18** Where any correction to the original copy of a company's register of shareholders of foreign capital shares listed overseas needs to be based on a judicial ruling, it may be ruled by the court having jurisdiction in the place where the original copy of the register is kept.

**第十九条** 境外上市外资股股东遗失股票，申请补发的，可以依照境外上市外资股股东名册正本存放地的法律、证券交易场所规则或者其他有关规定处理。

**Article 19** Where a shareholder of foreign capital shares listed overseas loses his shares and applies for re-issuance of the shares, the case may be handled in accordance with the law or rules of the securities exchanges or other relevant provisions of the place where the original copy of the register of shareholders of foreign capital shares listed overseas is deposited.

**第二十条** 公司召开股东大会，应当于会议召开45日前发出书面通知，将会议拟审议的事项以及会议日期和地点告知所有在册股东。

拟出席股东大会的股东应当于会议召开20日前，将出席会议的书面回复送达公司。

书面通知和书面回复的具体形式由公司在公司章程中做出规定。

**Article 20** In case of convening a shareholders' general meeting, a company shall send a written notice 45 days prior to the commencement of the meeting to all registered shareholders, informing them of the agenda, date and place of the meeting.

Shareholders intending to attend the shareholders' general meeting shall make a written reply to the company 20 days prior to the commencement of the meeting.

The specific forms of the written notice and written reply shall be stipulated by the company in its articles of association.

**第二十一条** 公司召开股东大会年会，持有公司有表决权的股份5%以上的股东有权以书面形式向公司提出新的提案，公司应当将提案中属于股东大会职责范围内的事项，列入该次会议的议程。

**Article 21** Where a company convenes an annual shareholders' general meeting, shareholders who hold the company's shares representing more than 5 % of the voting rights may raise new proposals to the company in written form. The company shall include those matters in such proposals which fall under the functions and powers of the shareholders' general meeting into the agenda of the said meeting.

**第二十二条** 公司根据股东大会召开前20日时收到的书面回复，计算拟出席会议的股东所代表的有表决权的股份数。拟出席会议的股东所代表的有表决权的股份数达到公司有表决权的股份总数二分之一的，公司可以召开股东大会；达不到的，公司应当于5日内将会议拟审议的事项、会议日期和地点以公告形式再次通知股东，经公告通知，公司可以召开股东大会。

**Article 22** A company shall count the number of voting shares represented by the shareholders intending to attend the meeting based on the written reply received by the company 20 days prior to the date of the shareholders' general meeting. A shareholders' general meeting may be convened as the number of voting shares represented by the shareholders intending to attend the meeting amounts to one half of the total amount of voting shares; if not, the company shall, within 5 days, inform the

shareholders once again by way of public notice which shall include the agenda, date and place of the meeting. A shareholders' general meeting may be convened after a public notice has been made.

**第二十三条** 公司的董事、监事、经理和其他高级管理人员对公司负有诚信和勤勉的义务。

前款所列人员应当遵守公司章程，忠实履行职务，维护公司利益，不得利用在公司的地位和职权为自己牟取私利。

**Article 23** The directors, supervisors, managers and other senior management personnel of a company shall bear the obligations of fidelity and diligence to the company.

Those personnel mentioned in the preceding paragraph shall abide by the company's articles of association and carry out their duties faithfully, protect the rights and interests of the company, and may not seek personal gains by taking advantage of their positions and powers in the company.

**第二十四条** 公司应当聘用符合国家有关规定的、独立的会计师事务所，审计公司的年度报告，并复核公司的其他财务报告。

公司应当向其聘用的会计师事务所提供有关资料和答复询问。

公司聘用会计师事务所的聘期，自公司本次股东年会结束时起至下次股东年会结束时止。

**Article 24** A company shall engage an independent accounting firm, which is qualified according to relevant provisions of the State, to audit the annual report of the company and review other financial reports whereof.

A company shall provide relevant information to the engaged accounting firm and answer its inquiries.

The period of engagement of an accounting firm by a company shall commence from the date of conclusion of the current annual shareholders' general meeting and end at the conclusion of the subsequent annual shareholders' general meeting.

**第二十五条** 公司解聘或者不再续聘会计师事务所，应当事先通知会计师事务所，会计师事务所所有权向股东大会陈述意见。

会计师事务所提出辞聘的，应当向股东大会说明公司有无不当情事。

**Article 25** A company shall inform the accounting firm in advance when disengaging or not re-engaging the firm. The accounting firm shall have the right to state its opinions on the matter to the shareholders' general meeting.

An accounting firm shall, when resigning from the engagement, make a statement to the shareholders' general meeting whether or not there is anything inappropriate in respect of the company.

**第二十六条** 公司聘用、解聘或者不再续聘会计师事务所由股东大会做出决定，并报中国证券监督管理委员会备案。

**Article 26** The engagement, disengagement or non re-engagement of an accounting firm by a company shall be decided by the shareholders' general meeting and reported to the China Securities Regulatory Commission for the record.

**第二十七条** 公司向境外上市外资股股东支付股利以及其他款项，以人民币计价和宣布，以外币支付。公司所筹集的外币资本金的结汇和公司向股东支付股利以及其他款项所需的外币，按照国家有关外汇管理的规定办理。

公司章程规定由其他机构代为兑换外币并付给股东的，可以依照公司章程的规定办理。

**Article 27** Dividends or other payments which are to be paid by the company to the shareholders of the company's foreign capital shares listed overseas shall be calculated and declared in Renminbi and paid in foreign currencies. The exchange settlement of the capital raised by a company in foreign currencies and the foreign exchange needed by a company to pay share dividends and make other payments to its shareholders shall be handled in accordance with the provisions of the State relating to foreign exchange control.

Where the articles of association of a company provide that the aforesaid payments shall be converted into foreign currencies and paid to shareholders by other agencies on the company's behalf, the case may be handled according to the provisions of the company's articles of association.

**第二十八条** 公司所编制的向境内和境外公布的信息披露文件，内容不得相互矛盾。

分别依照境内、境外法律、法规、证券交易场所规则的规定，公司在境内、境外或者境外不同国家和地区披露的信息有差异的，应当将差异在有关的证券交易场所同时披露。

**Article 28** The contents of the documents prepared by a company to disclose relevant information published within and outside the territory of China shall not be contradictory.

Where there are discrepancies between the information disclosed within and outside the territory of China or those between the information disclosed in different foreign countries and regions due to respective laws and statutory regulations, rules of the securities exchanges, such discrepancies shall be disclosed in the relevant securities exchanges simultaneously.

**第二十九条** 境外上市外资股股东与公司之间，境外上市外资股股东与公司董事、监事和经理之间，境外上市外资股股东与内资股股东之间发生的与公司章程规定的内容以及公司其他事务有关的争议，依照公司章程规定的解决方式处理。

解决前款所述争议，适用中华人民共和国法律。

**Article 29** Disputes in relation to the contents of a company's articles of association and other matters between the shareholders of foreign capital shares listed overseas and the company, between the shareholders of foreign capital shares listed overseas and the company's directors, supervisors and managers, or between the shareholders of foreign capital shares listed overseas and shareholders of domestic capital shares shall be resolved in accordance with the provisions of the company's articles of association.

The settlement of disputes mentioned in the preceding paragraph shall apply the laws of the People's Republic of China.

**第三十条** 本规定自发布之日起施行。

**Article 30** These Provisions shall take effect as of the date of promulgation.