

**Company Law  
of the People's Republic of China  
(2018 Revision)**

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

**Contents**

Chapter I General Provisions

Chapter II Establishment and Organizational Structure of a Limited Liability Company

Section 1 Establishment

Section 2 Organizational structure

Section 3 Special Provisions on One-person Limited Liability Companies

Section 4 Special Provisions on Wholly State-owned Companies

Chapter III Transfer of Stock Right of a Limited Liability Company

Chapter IV Establishment and Organizational Structure of a Joint Stock Limited Company

Section 1 Establishment

Section 2 Shareholders' Assembly

Section 3 Board of Directors and Managers

Section 4 Board of Supervisors

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

Chapter V Issuance and Transfer of Shares of a Joint Stock Limited Company

Section 1 Issuance of Shares

Section 2 Transfer of Shares

Chapter VI Qualifications and Obligations of the Directors, Supervisors and Senior Managers of a Company

Chapter VII Corporate Bonds

Chapter VIII Financial Affairs and Accounting of Company

Chapter IX Merger and Split-up of Company; Increase and Deduction of Registered Capital

Chapter X Dissolution and Liquidation of Company

Chapter XI Branches of Foreign Companies

Chapter XII Legal Liabilities

Chapter XIII Supplementary Provisions

## **Chapter I General Provisions**

**Article 1** This Law is enacted for the purposes of regulating the organization and operation of companies, protecting the legitimate rights and interests of companies, shareholders and creditors, maintaining the socialist economic order, and promoting the development of the socialist market economy

**Article 2** The term "company" as mentioned in this Law refers to a limited liability company or a joint stock company limited set up within the territory of the People's Republic of China according to the provisions of this Law.

**Article 3** A company is an enterprise legal person, which has independent legal person property and enjoys the right to legal person property. It shall bear the liabilities for its debts with all its property.

For a limited liability company, a shareholder shall be liable for the company to the extent of the capital contributions it has paid. For a joint stock limited company, a shareholder shall be liable for the company to the extent of the shares it has subscribed to.

**Article 4** The shareholders of a company shall be entitled to enjoy the capital proceeds, participate in making important decisions, choose managers and enjoy other rights.

**Article 5** When conducting business operations, a company shall comply with the laws and administrative regulations, social morality, and business morality. It shall act in good faith, accept the supervision of the government and general public, and bear social responsibilities.

The legitimate rights and interests of a company shall be protected by laws and may not be trespassed.

**Article 6** To establish a company, an application for establishment registration shall be filed with the company registration authority. If the application meets the establishment requirements of this Law, the company registration authority shall register the company as a limited liability company or joint stock limited company. If the application does not meet the establishment requirements of this Law, it shall not be registered as a limited liability company or joint stock limited company.

If any law or administrative regulation provides that the establishment of a company shall be subject to approval, and relevant approval formalities shall be gone through prior to the registration of the company.

The general public may go to a company registration authority to search and consult the registration information filed by a company and the authority shall provide the research services for the public.

**Article 7** For a lawfully established company, the company registration authority shall issue a company business license to the company. The date of issuance of the company business license shall be the date of establishment of the company.

The company business license shall state the name, domicile, registered capital, business scope, legal representative, etc.

If any of the items as stated in the business license is changed, the company shall modify the registration and the company registration authority shall replace its old business license by a new one.

**Article 8** A limited liability company established according to this Law shall include the words of "limited liability company" or "limited company" in its name.

A joint stock limited company established according to this Law shall include words of "joint stock limited company" or "joint stock company".

**Article 9** A limited liability company to be changed into a joint stock limited company shall satisfy the requirements as prescribed in this Law for joint stock

limited companies. A joint stock limited company to be changed into a limited liability company shall conform to the conditions as prescribed in this Law for limited liability companies.

In either of the aforesaid cases, the creditor's rights and debts of the company prior to the change shall be succeeded by the company after the change.

**Article 10** A company shall regard its main office as its domicile.

**Article 11** A company established according to this Law shall formulate its bylaw that are binding on the company, its shareholders, directors, supervisors and senior managers.

**Article 12** A company's business scope shall be defined in its bylaw and shall be registered according to law. The company may change its business scope by modifying its bylaw, but it shall go through the formalities for modifying the registration.

If the business scope a company covers any item subject to approval pursuant to any law or administrative regulation, approval shall be obtained according to the law.

**Article 13** The legal representative of a company shall, be assumed by the chairman of the board of directors, acting director or manager according to the company's bylaw and shall be registered according to law. If the legal representative of the company is changed, the company shall go through the formalities for modifying the registration.

**Article 14** A company may set up branches. To set up a branch, the company shall file a registration application with the company registration authority and shall obtain a business license. A branch shall not enjoy the status of an enterprise legal person and its civil liabilities shall be born by its parent company.

A company may set up subsidiaries which enjoy the status of an enterprise legal person and shall be independently responsible for their own civil liabilities.

**Article 15** A company may invest in other enterprises. However, unless it is otherwise provided for by any law, it shall not become a capital contributor that shall bear several and joint liabilities for the debts of the enterprises in which it invests.

**Article 16** Where a company intends to invest in any other enterprise or provide guaranty for others, the company shall make a resolution through the board of directors, shareholders' meeting or shareholders' assembly according to its bylaw. If the bylaw prescribes any limit on the total amount of investments or guaranties, or on the amount of a single investment or guaranty, the aforesaid total amount or amount shall not exceed the limited amount.

If a company intends to provide guaranty to a shareholder or actual controller of the company, it shall make a resolution through the shareholder's meeting or shareholders' assembly.

The shareholder as mentioned in the preceding paragraph or the shareholder dominated by the actual controller as mentioned in the preceding paragraph shall not participate in voting on the matter as mentioned in the preceding paragraph. Such matter requires the affirmative votes of more than half of the other shareholders attending the meeting.

**Article 17** Every company shall protect the lawful rights and interests of its employees, sign employment contracts with its employees, buy social insurances, and strengthen labor protection so as to ensure work safety.

Every company shall, in various forms, intensify the professional education and in-service training of its employees so as to improve their personal quality.

**Article 18** The employees of a company shall, according to the Labor Union Law of the People's Republic of China, organize a labor union, which shall carry out union activities and safeguard the lawful rights and interests of the employees. The company shall provide necessary conditions for its labor union to carry out activities. The labor union shall, on behalf of the employees, sign collective contracts with the company with respect to the remuneration, working hours, welfare, insurance, work safety and sanitation, and other matters.

In accordance with the Constitution and other relevant laws, a company shall adopt democratic management in the form of assembly of the representatives of the employees or any other ways.

To make a decision on restructuring or any important issue relating to business operations, or to formulate any important bylaw, a company shall solicit the opinions of its labor union, and shall solicit the opinions and proposals of the employees through the assembly of the representatives of the employees or in any other way.

**Article 19** The Chinese Communist Party may, according to the Constitution of the Chinese Communist Party, establish its branches in companies to carry out activities of the Chinese Communist Party. The company shall provide necessary conditions to facilitate the activities of the Party.

**Article 20** The shareholders of a company shall abide by the laws, administrative regulations and bylaw and shall exercise the shareholder's rights under the law. None of them may injure any of the interests of the company or of other shareholders by abusing the shareholder's rights, or injure the interests of any creditor of the company by abusing the independent status of legal person or the shareholder's limited liabilities.

Where any of the shareholders of a company causes any loss to the company or to other shareholders by abusing the shareholder's rights, it shall be liable for compensation.

Where any of the shareholders of a company evades the payment of its debts by abusing the independent status of legal person or the shareholder's limited liabilities, if it seriously injures the interests of any creditor, it shall bear several and joint liabilities for the debts of the company.

**Article 21** Neither the controlling shareholder, nor the actual controller, nor any of the directors, supervisors or senior management of the company may injure the interests of the company by taking advantage of its connection relationship.

Anyone who causes any loss to the company due to violating the preceding paragraph shall be liable for the compensation.

**Article 22** A resolution of the shareholders' meeting, shareholders' assembly or board of directors of the company that is in violation of any law or administrative regulation shall be null and void.

If the procedures for calling a shareholders' meeting or shareholders' assembly, or meeting of the board of directors, or the voting form, is in violation of any law, administrative regulation or the bylaw, or if a resolution is in violation of the bylaw of the company, the shareholders may, within 60 days from the day when the resolution is made, request the people's court to revoke it.

If the shareholders initiate a lawsuit under the preceding paragraph, the people's court shall, at the request of the company, demand the shareholders to provide corresponding guaranty.

Where a company has, according to the resolution of the shareholders' meeting, shareholders' assembly or meeting of the board of directors, completed the modification registration, if the people's court declares the resolution null and void or revoke the resolution, the company shall file an application with the company registration authority for revoking the modification registration.

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

### **Section 1 Establishment**

**Article 23** The establishment of a limited liability company shall meet the following conditions:

(1) The number of shareholders constitutes the quorum;

(2) The amount of capital contributions subscribed for by all its shareholders is in compliance with the company bylaws;

(3) The shareholders jointly work out the bylaw;

(4) The company has a name and its organizational structure complies with that of a limited liability company; and

(5) The company has a domicile.

**Article 24** A limited liability company shall be established by no more than 50 shareholders that make capital contributions.

**Article 25** A limited liability company shall state the following items:

(1) The name and domicile of the company;

(2) Business Scope of the company;

(3) Registered capital of the company;

(4) Names of shareholders;

(5) Forms, amount and date of capital contributions made by shareholders;

(6) The organizations of the company and its formation, their functions and rules of procedure;

(7) Legal representative of the company;

(8) Other matters deemed necessary by shareholders.

The shareholders should affix their signatures or seals to the bylaw of the company.

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

Where any law or administrative regulation or any decision of the State Council provides otherwise for the paid-in registered capital or the minimum amount of registered capital of a limited liability company, such provisions shall prevail.

**Article 27** A shareholder may make capital contributions in cash, in kind, or intellectual property right, land use right, or other non-monetary properties that may be assessed on the basis of currency and may be transferred according to the law, excluding the properties that shall not be treated as capital contributions under any law or administrative regulation.

The value of the non-monetary properties as capital contributions shall be assessed and verified, which shall not be over-valued or under-valued. If any

law or administrative regulations provides for the value assessment, such law or administrative regulation shall be followed.

**Article 28** Each shareholder shall make full payment for the capital contributions he has subscribed to according to the bylaw. If a shareholder makes his capital contribution in cash, he shall deposit the full amount of such cash capital contribution into a temporary bank account opened for the limited liability company. If any capital contributions are made in non-monetary properties, the appropriate transfer procedures for the property rights therein shall be followed according to law.

Where a shareholder fails to make his capital contribution as specified in the preceding paragraph, he shall not only make full payment to the company but also bear the liabilities for breach of contract to the shareholders who have made full payment of capital contributions on schedule.

**Article 29** After the amount of capital contributions stated in the company bylaws has been fully subscribed for, the representative designated or the agent authorized by all the shareholders shall submit a company registration application, the company bylaws, and other documents to the company registration authority to apply for incorporation registration.

**Article 30** After the establishment of a limited liability company, if the actual value of the capital contributions in non-monetary properties is found to be apparently lower than that set forth in the bylaw of the company, the difference shall be made up by the shareholder who offered them, and the other shareholders of the company who established the company shall bear several and joint liabilities.

**Article 31** After the establishment of a limited liability company, each shareholder shall be issued a capital contribution certificate,

which shall specify the following:

- (1) The name of the company;
- (2) The date of establishment of the company;
- (3) The company's registered capital;
- (4) The name of the shareholder, the amount of his capital contribution, and the day when the capital contribution is made; and
- (5) The serial number and date of issuance of the capital contribution certificate.

The capital contribution certificate shall bear the seal of the company.

**Article 32** A limited liability company shall prepare a registry of shareholders and the registry shall record the following information:



- (1) The names of all shareholders and their domiciles thereof;
- (2) The amount of capital contributions made by each shareholder;
- (3) The serial numbers for all capital contribution certificates.

The shareholders recorded in the registry of shareholders may, pursuant to the registry of shareholders, claim to and exercise the shareholder's rights.

A company shall register each shareholder's name in the company registration authority. Where any of the registered items is changed, the company shall modify the registration. If the company fails to do so, it shall not, on the basis of the unregistered or un-modified registration item, stand up to any third party.

**Article 33** Every shareholder shall be entitled to review and duplicate the company's bylaw, the minutes of the shareholders' meetings, the resolutions of the board of directors' meetings, the resolutions of the board of supervisors' meetings, as well as the financial reports.

Every shareholder may request to review the accounting books of the company. Where a shareholder requests to review the accounting books of the company, it shall submit a written request, which shall state his motives. If the company, has the legitimate reason to believe that the shareholder's requests to review the accounting books has an improper motive and may impair the legitimate interests of the company, it may reject the request of the shareholder to review the books and shall, within in 15 days after the shareholder submits a written request, give the shareholder a written reply, which shall include an explanation. If the company reject the request of any shareholder to review the accounting books, the shareholder may plead a people's court to demand the company to open the books for his review.

**Article 34** Shareholders shall be distributed with the dividends based on the percentages of the capital that they actually contributed. When a company is going to increase the capital, its shareholders have the preemptive right to subscribe to the new capitals based on the same percentages of the old capital that they contributed. The exception shall be given if all shareholders agree that they will not be distributed with the dividends or have the preemptive right to subscribe to the new capitals based on the percentages of the old capital that they contributed.

**Article 35** After the establishment of a company, no shareholder may illegally take away the registered capital.

## **Section 2 Organizational Structure**

**Article 36** The shareholders' meeting of a limited liability company shall be composed of all the shareholders. It is the authority of the company and shall exercise its powers according to this Law.

**Article 37** The shareholders' meeting shall exercise the following functions:

- (1) Determining the company's operational guidelines and investment plans;
- (2) Electing and changing the directors and supervisors assumed by non-representatives of the employees and deciding the matters relating to their salaries and compensations;
- (3) Deliberating and approving reports of the board of directors;
- (4) Deliberating and approving reports of the board of supervisors or the supervisor;
- (5) Deliberating and approving annual financial budget plans and final account plans of the company;
- (6) Deliberating and approving company profit distribution plans and loss recovery plans;
- (7) Making resolutions about the increase or reduction of the company's registered capital;
- (8) Making resolutions about the issuance of corporate bonds;
- (9) Adopting resolutions about the assignment, split-up, change of company form, dissolution, liquidation of the company;
- (10) Revising the bylaw of the company;
- (11) Other functions as specified in the bylaw.

If all the shareholders consent to any of the matters listed in the preceding paragraph by writing, they do not need to hold a shareholders' meeting and may make decisions and have the decisions signed and sealed by all the shareholders.

**Article 38** The first shareholders' meeting shall be convened and presided over by the shareholder who made the largest capital contributions, and he shall exercise his powers according to this Law.

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

The regular meetings shall be timely held according to the bylaw. Where an interim meeting is proposed by the shareholders representing 1/10 of the voting rights or more, or by directors representing 1/3 of the voting rights or more, or by the board of supervisors, or by the supervisors of the company with no board of supervisors, an interim meeting shall be held.

**Article 40** Where a limited liability company has set up a board of directors. The shareholders' meetings shall be convened by the board of directors and

presided over by the chairman of the board of directors. If the chairman is unable or fails to perform his duties, the meetings thereof shall be presided over by the deputy chairman of the board of directors. If the deputy chairman of the board of directors is unable or fails to perform his duties, the meetings shall be presided over by a director jointly recommended by half or more of the directors.

For a limited liability company with no board of directors, the shareholders' meetings shall be convened and presided over by the acting director.

If the board of directors or the acting director is unable or fails to fulfill the duties of convening the shareholders' meeting, the board of supervisors or the supervisor of the company with no board of supervisors may convene and preside over such meetings. If the board of supervisors or supervisor does not convene or preside over such meetings, the shareholders representing 1 / 10 or more of the voting rights may convene and preside over such meetings on their own initiatives.

**Article 41** Every shareholder shall be given a notice 15 days before a shareholders' meeting is held unless it is otherwise specified by the bylaw or it is otherwise stipulated by all the shareholders.

A shareholders' meeting shall make the minutes for the decisions about the matters discussed at the meeting. The shareholders who attended the meeting shall affix their signatures to the minutes.

**Article 42** The shareholders shall exercise their voting rights at the shareholders' meetings based on their respective percentage of the capital contributions unless it is otherwise prescribed by the bylaw.

**Article 43** Unless it is otherwise provided for by this Law, the discussion methods and voting procedures of the shareholders' meeting shall be provided for in the bylaw.

A resolution made at a shareholders' meeting on revising the bylaw, increasing or reducing the registered capital, merger, split-up, dissolution or change of the company form shall be adopted by the shareholders representing 2 / 3 or more of the voting rights.

**Article 44** The board of directors established by a limited liability company shall be composed of 3 up to 13 members unless it is otherwise provided by Article 51 of this Law.

If a limited liability company established by 2 or more state-owned enterprises or other state-owned investors, the board of directors shall include representatives of the employees of the companies. The board of directors of any other limited liability company may also include representatives of the employees of the company concerned. The employees' representatives who are to serve as board directors shall be democratically elected by the

employees of the company through the general assembly of the representatives of employees, employees' assembly of the company or in any other way.

The board of directors shall have one chairman and may have one or more deputy chairmen. The appointment of the chairman and deputy chair shall be specified in the bylaw.

**Article 45** The term of office of the directors shall be provided for by the bylaw, but each term of office shall not exceed 3 years. The directors may, after the expiry of their term of office, hold a consecutive term upon re-election.

If no reelection is timely carried out after the expiry of the term of office of the directors, or if the number of the members of the board of directors is less than the quorum due to the resignation of some directors from the board of directors prior to the expiry of their term of office, the original directors shall, before the newly elected directors assume their posts, perform the powers of the directors according to the laws, administrative regulations, as well as the bylaw.

**Article 46** The board of directors shall be responsible for the shareholders' meeting and exercise the following functions:

- (1) Convening shareholders' meetings and presenting reports thereto;
- (2) Implementing the resolutions made at the shareholders' meetings;
- (3) Determining the company's business and investment plans;
- (4) Working out the company's annual financial budget plans and final account plans;
- (5) Working out the company's profit distribution plans and loss recovery plans;
- (6) Working out the company's plans on the increase or reduction of registered capital, as well as on the issuance of corporate bonds;
- (7) Working out the company's plans on merger, split, change of the company form, or dissolution, etc.;
- (8) Making decisions on the establishment of the company's internal management departments;
- (9) Making decisions on hiring or dismissing the company's manager and his salary and compensation, and, according to the nomination of the manager, deciding on the hiring or dismissal of vice manager(s) and the persons in charge of finance as well as their salaries and compensations;
- (10) Working out the company's basic management system; and
- (11) Other functions as specified in the bylaw.

**Article 47** A meeting of the board of directors shall be convened and presided over by the chairman of the board of directors. If the chairman of the board of directors is unable or fails to perform his duties, it may be convened or presided over by the deputy chairman of the board of directors. If the deputy chairman of the board of directors is unable or fails to perform his duties, it may be convened or presided over by a director whom is jointly recommended by half or more of the directors.

**Article 48** Unless it is otherwise provided for by this Law, the discussion methods and voting procedures of the board of directors shall be specified by the bylaw.

The board of directors shall make minutes of the decisions about the matters discussed at the meetings thereof. The shareholders who attend the meeting shall affix their signatures to the minutes.

In the voting on a resolution of the board of directors, every director shall have one vote.

**Article 49** A limited liability company may have a manager, who shall be hired or dismissed upon decision of the board of directors. The manager shall be responsible for 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, organizing the implementation of the resolutions of the board of directors;
- (2) Organizing the execution of the company's annual business plans and investment plans;
- (3) Drafting plans on the establishment of the company's internal management departments;
- (4) Drafting the company's basic management system;
- (5) Formulating the company's specific rules and policies;
- (6) Proposing to hire or dismiss the company's vice manager(s) and the person in charge of finance;
- (7) Deciding on the hiring or dismissal of the persons-in-charge other than those who shall be decided by the board of directors; and
- (8) Other powers conferred by the board of directors.

If the bylaw provides otherwise for the powers of managers, the bylaw shall be followed.

The manager attends the meetings of the board of directors as a non-voting representative.

**Article 50** For a limited liability company with a relatively small number of shareholders or for a relatively small limited liability company, it may have an acting director and no board of directors. The acting director may concurrently hold the post of the company's manger.

The powers of the acting director shall be specified in the bylaw.

**Article 51** A limited liability company may set up a board of supervisors, which shall be composed of at least 3 persons. For a limited liability company in which there is a relatively small number of shareholders or which is relatively small in scale, it may have 1 or 2 supervisors and does not have to establish a board of supervisors.

The board of supervisors shall include shareholders' representatives and representatives of the employees of the company at an appropriate ratio to be specifically prescribed in the bylaw. The employees' representatives who are to serve as members of the board of supervisors shall be democratically elected by the employees of the company through the assembly of the employees' representatives, or employees' assembly or by any other means.

The board of supervisors shall have one chairman, who shall be elected by half or more 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 supervisors is unable or fails to perform his duties, the supervisor recommended by half or more of the supervisors shall convene and preside over the meetings of the board of supervisors.

No director or senior manager may concurrently serve as a supervisor.

**Article 52** Each term of office of the supervisors shall be 3 years. The supervisors may, after the expiry of their term of office, hold a consecutive term upon reelection.

If no reelection is timely carried out after the expiry of the term of office of the supervisors, or if the number of the members of the board of directors is less than the quorum due to the resignation of some directors from the board of supervisors prior to the expiry of their term of office, the original supervisors shall, before the newly elected supervisors assume their posts, exercise the powers of the supervisors according to laws, administrative regulations, as well as the bylaw.

**Article 53** The board of supervisors or supervisor of a company with no board of supervisors may exercise the following powers:

- (1) To check the financial affairs of the company;
- (2) To supervise the duty-related acts of the directors and senior managers, to put forward proposals on the removal of any director or senior manager who

violates any law, administrative regulation, the bylaw or any resolution of the shareholders' meeting;

(3) To demand any director or senior manager to make corrections if his act has injured the interests of the company;

(4) To propose to call interim shareholders' meetings, to call and preside over shareholders' meetings when the board of directors does not exercise the function of calling and presiding over shareholders' meetings as prescribed in this Law;

(5) To put forward proposals at shareholders' meetings;

(6) To initiate actions against directors or senior managers according to Article 151 of this Law; and

(7) Other duties as provided for by the bylaw.

**Article 54** The supervisors may attend the meetings of the board of directors as non-voting attendees, and may raise questions or suggestions about the meeting agenda discussed by the board of directors.

If the board of supervisors or the supervisors of the company that does not have a board of supervisors find that the company is running abnormally, they may conduct an investigation. Where necessary, they may hire an accounting firm to help them with the investigation and the related expenses shall be born by the company.

**Article 55** The board of supervisors shall hold meetings at least once a year. Any supervisors may propose to hold interim meetings of the board of supervisors.

The discussion methods and voting procedures of the board of supervisors shall be specified in the bylaw unless it is otherwise provided by this Law.

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

The board of supervisors shall scribe the minutes for the resolutions about the agenda and have the minutes signed by the supervisors in presence.

**Article 56** The expenses necessary for the board of supervisors or the supervisor of a company that does not have a board of supervisors to perform their duties shall be borne by the company.

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

**Article 57** The provisions of this Section shall apply to the establishment and the organizational structure of a one-person limited liability. For any matter not touched by this Section, it shall be governed by Sections 1 and 2 of this Chapter.

The term "one-person limited liability company" as mentioned in this Law refers to a limited liability company with only one natural person shareholder or legal person shareholder.

**Article 58** One natural person is allowed to establish merely a one-person limited liability company, which shall not establish any more one-person limited liability company.

**Article 59** A one-person limited liability company shall, in the company registration, give a clear indication that it is solely-funded by one natural person or legal person and the same shall be specified in the business license of the company.

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

**Article 61** A one-person limited liability company has no board of directors. When the shareholder makes a decision on any of the matters as listed in Article 38 of this Law, he shall make it in writing, sign it, and keep it in the company.

**Article 62** A one-person limited liability company shall make a financial report by the end of every fiscal year and have the report audited by an accounting firm.

**Article 63** If the shareholder of a one-person limited liability company is unable to prove that the property of the one-person limited liability company is independent from his own property, he shall bear joint liabilities for the debts of the company.

#### **Section 4 Special Provisions on Wholly State-owned Companies**

**Article 64** The provisions of this Chapter shall apply to the establishment and organizational structure of the wholly state-owned companies. Any matter not covered by this Chapter shall be governed by the provisions of Sections 1 and 2 of this Chapter.

A "wholly state-owned company" as mentioned in this Law refers to a limited liability company invested wholly by the state, for which the State Council or the local people's government authorizes the state-owned assets supervision and administration institution of the people's government at the same level to perform the functions of the capital contributor.

**Article 65** The bylaw of a wholly state-owned company shall be formulated by the state-owned assets supervision and administration institution, or shall be drafted by the board of directors and then be submitted to the state-owned assets supervision and administration institution for approval.



**Article 66** Wholly state-owned companies do not have shareholders' meetings. The state-owned assets supervision and administration institution shall exercise the functions of the shareholders' meeting. The state-owned assets supervision and administration institution may authorize the company's board of directors to exercise some of the functions of the shareholders' meeting and decide on the important matters of the company, excluding those that must be decided by the state-owned assets supervision and administration, such as merger, split-up, dissolution of the company, increase or reduction of registered capital as well as the issuance of corporate bonds. For the merger, split-up, dissolution or application for bankruptcy of an important wholly state-owned company, it shall, be subject to the examination of the state-owned assets supervision and administration institution, and then be submitted to the people's government at the same level for approval.

The term "important wholly state-owned company" as mentioned in the preceding paragraph shall be determined according to the provisions of the State Council.

**Article 67** A wholly state-owned company shall establish a board of directors, which shall exercise its functions according to Articles 46 and 66 of this Law. Each term of office of the directors shall not exceed 3 years. The board of directors shall include representatives of the employees.

The members of the board of directors shall be appointed by the state-owned assets supervision and administration institution, but of whom the representatives of the employees shall be elected through the assembly of the representatives of the employees of the company.

The board of directors shall have one chairman and may have deputy chairmen. The chairman and deputy chairmen shall be designated by the state-owned assets supervision and administration institution from the members of the board of directors.

**Article 68** A wholly state-owned company shall have a manager, whom shall be hired or dismissed by the board of directors. The manager shall exercise his powers according to Article 49 of this Law.

Upon consent of the state-owned assets supervision and administration institution, the members of the board of directors may concurrently hold the post of manager.

**Article 69** None of the chairman, deputy chairmen, directors and senior managers of a wholly state-owned company may concurrently take up a post in any other limited liability company, joint stock limited company or any other economic organization unless it is so consented by the state-owned assets supervision and administration institution.

**Article 70** The board supervisors of a wholly state-owned company shall be composed of at least 5 members, of whom the employees' representatives shall account for no less than 1/3, the specific percentage shall be specified by the bylaw.

The members of the board of supervisors shall be appointed by the state-owned assets supervision and administration institution, however, the employee representative members of the board of supervisors shall be elected by the assembly of the employee representatives of the company. The chairman of the board of supervisors shall be designated by the state-owned assets supervision and administration institution from the members of the board of supervisors.

The board of supervisions shall exercise the functions as mentioned in Article 53 (1) through (3) of this Law and those provided for by the State Council.

### **Chapter III Transfer of Stock Right of a Limited Liability Company**

**Article 71** All or some of the stock rights of the shareholders of a limited liability company may be transferred among the shareholders.

Where a shareholder intends to transfer his/its stock rights to any one other than the shareholders, he shall obtain the consent from more than half of the other shareholders. The shareholder shall give the other shareholders a written notice about the matters related to the transfer of stock rights for their consent. If any of the other shareholders fails to give it a reply within 30 days after it receives a written notice, it shall be deemed to have consented to the transfer. If half or more of the other shareholders disagree to the transfer, the shareholders who disagree to the transfer shall purchase the stock rights to be transferred. If they refuse to purchase these stock rights, they shall be deemed to have consented to the transfer.

Under the same conditions, the other shareholders have a preemptive right to purchase the stock rights to be transferred upon their consent. If two or more shareholders claim the preemptive right, they shall determine their respective purchase percentage through negotiation. If they fail to reach an agreement during the negotiation, they shall exercise the preemptive right on the basis of their respective percentage of capital contributions.

Unless it is otherwise provided for the transfer of stock rights in the bylaw, the bylaw shall be followed.

**Article 72** When the people's court transfers the stock rights of a shareholder pursuant to the mandatory enforcement procedure as provided in laws, the court shall notify the company and all the shareholders that the other shareholders have a preemptive right under the same conditions. If any of the

other shareholders fails to exercise the preemptive right within 20 days after he/it receives the notice of the court, it shall be deemed to have waived his preemptive right.

**Article 73** After a company transfers its stock rights according to Articles 71 and 72 of this Law, it shall cancel the capital contribution certificate of the former shareholder, issue a capital contribution certificate to the new shareholder and modify the shareholders and their capital contributions in the bylaw and the registry of shareholders. No voting of the shareholders' meeting is needed for the modification of the bylaw regarding the transfer of stock rights.

**Article 74** Under any of the following circumstances, a shareholder, who votes against the resolution of the shareholders' meeting, may request the company to purchase its stock rights at a reasonable price:

- (1) The company that has made profits for five consecutive years has failed to distribute any dividends to the shareholders for 5 consecutive years and conforms to the profit distribution conditions as prescribed in this Law;
- (2) The company is going to merge with others, to be split up, or transfer the major properties of the company to others;
- (3) When the business term as specified in the bylaw expires or other reasons for dissolution as prescribed in the bylaw occur, the shareholders' meeting makes the company exist continuously by adopting a resolution to modify the bylaw.

Within 60 days after the resolution is adopted at the shareholders' meeting, if the shareholder and the company fail to reach an agreement on the purchase of stock rights, the shareholder may initiate a lawsuit in the people's court within 90 days after the resolution is adopted at the shareholders' meeting.

**Article 75** After the death of a natural-person shareholder, his lawful inheritor may inherit the shareholder's qualifications unless it is otherwise provided for by the bylaw.

## **Chapter IV Establishment and Organizational Structure of a Joint Stock Limited Company**

### **Section 1 Establishment**

**Article 76** The establishment of a joint stock limited company shall satisfy the following conditions:

- (1) The number of promoters meets the quorum requirement;

(2) The capital stock subscribed for by all its promoters or the paid-in capital stock raised is in compliance with the company bylaws;

(3) The issuance of shares and the preparatory work conform to the provisions of laws;

(4) The bylaw is formulated by the promoters, and is adopted at the establishment meeting if the company is to be launched by stock floatation;

(5) The company has a name and its organizational structure complies with that of a joint stock limited company

(6) The company has a domicile.

**Article 77** A joint stock limited company may be established by the way of promotion or stock floatation.

The establishment of a company by promotion means that the promoters establish a company by subscribing to all of the shares that should be issued by the company.

The establishment of a company by stock floatation means that the promoters establish a company by subscribing to some of the shares that should be issued by the company and offering the remaining shares to the general public or to a group of specified people for subscription.

**Article 78** To establish a joint stock limited company, there shall not be less than 2 but not more than 200 promoters, of whom half or more shall have a domicile within the territory of China.

**Article 79** The promoters of a joint stock limited company shall undertake the preparatory work of the company.

They shall conclude a promoter's agreement to clarify their respective rights and obligations during the course of establishing the company.

**Article 80** Where a joint stock limited company is formed by promotion, its registered capital shall be the capital stock subscribed for by all its promoters as registered with the company registration authority. Before all its promoters have fully paid for their subscriptions, the company may not offer shares to other investors.

Where a joint stock limited company is established by stock floatation, its registered capital shall be the total actually paid capital stocks registered with the company registration authority.

Where any law or administrative regulation or any decision of the State Council provides otherwise for the paid-in registered capital or the minimum amount of registered capital of a joint stock limited company, such provisions shall prevail.

**Article 81** The bylaw of a joint stock limited company shall specify the following matters:

- (1) The name and address of the company;
- (2) The business scope of the company;
- (3) The form of company establishment;
- (4) Total shares, par value of each share, and the amount of registered capital of the company;
- (5) The name of each promoter, the shares it has subscribed to, as well as the form and date of capital contributions;
- (6) The composition, powers, term of office, and rules of procedure of the board of directors;
- (7) The legal representative of the company;
- (8) The composition, powers, term of office, and rules of procedure of the supervisory board;
- (9) The method for profit distribution of the company;
- (10) The reasons for dissolution of the company and liquidation methods;
- (11) The methods for issuing notices or public announcements of the company; and
- (12) Other matters deemed necessary by the meetings of shareholders' assembly.

**Article 82** The form of capital contributions of promoters shall be governed by the provisions of Article 27 of this Law.

**Article 83** Where a joint stock limited company is formed by promotion, the promoters shall, in writing, fully subscribe for their respective shares as stated in the company bylaws, and pay for their subscriptions in accordance with the company bylaws. If capital contribution is made with non-monetary assets, the procedures for assignment of property rights shall be fulfilled in accordance with the law.

If any of the promoters fails to make capital contributions by following the provisions of the preceding paragraph, it shall bear the liabilities for breach of contract under the stipulations in the promoter's agreement.

After the promoters have fully subscribed for the capital contributions stated in the company bylaws, they shall elect the members of the board of directors and the board of supervisors, and the board of directors shall submit the company

bylaws and other documents set out by laws and administrative regulations to the company registration authority to apply for incorporation registration,

**Article 84** For a joint stock limited company established by stock flotation, the shares subscribed by the promoters shall not be less than 35 % of the total shares. However, if it is otherwise provided for by any law or administrative regulation, such law or administrative regulation shall prevail.

**Article 85** For the public offer shares, the promoters shall publish a prospectus and prepare share subscription forms. The share subscription form shall contain the items listed in Article 86, and a subscriber shall fill in the number and amount of shares he subscribes to and his domicile, and shall affix his signature or seal thereto. A subscriber shall pay the shares according to the number of shares he has subscribed to.

**Article 86** The prospectus shall be accompanied by the bylaw formulated by the promoters and shall state the following:

- (1) The number of shares subscribed to by the promoters;
- (2) The par value and issuing price of each share;
- (3) The total number of unregistered stocks issued;
- (4) The purposes for the fund raising;
- (5) The rights and obligations of the subscribers; and
- (6) The beginning and ending dates for the public offering and a statement to indicate that the subscribers may revoke their subscriptions if the offered stocks cannot be fully subscribed at the closing time of the public offering.

**Article 87** The public offer shares shall be underwritten by a lawfully established securities company and an underwriting agreement shall be concluded.

**Article 88** For the public offer shares, the promoters shall sign an agreement with the bank receiving the funds to purchase the shares.

The receiving bank shall receive and hold as agent the payments for shares according to the agreement, produce receipts to subscribers who have made the payments, and shall be obliged to produce evidence of receipt of payments to the relevant departments.

**Article 89** After full payments have been made for the public offer shares, they shall be verified by a lawfully established capital verification institution and a certification shall be issued thereby. The promoters shall hold a company establishment meeting within 30 days, which shall be composed of the subscribers.

If the public offer shares are not fully subscribed to at the expiration of the time limit prescribed in the prospectus, or if the promoters fail to hold an establishment meeting within 30 days after full payment for the public offer shares is made, the subscribers may demand the promoters to make repayments for the public offer shares plus an interest calculated at the bank deposit interest rate for the same period.

**Article 90** The promoters shall notify each subscriber of the date of the establishment meeting or make a public announcement about the meeting 15 days in advance. The establishment meeting may not be held unless subscribers representing at least half of the shares appear.

The establishment meeting shall exercise the following powers:

- (1) Deliberating the report on the pre-establishment activities prepared by the sponsors;
- (2) Adopting the bylaw;
- (3) Electing members of the board of directors;
- (4) Electing members of the board of supervisors;
- (5) Verifying expenses incurred for the establishment of the company;
- (6) Verifying the value of the assets contributed by the promoters in lieu of pecuniary payment for the shares;
- (7) Where the force majeure or a material change of the operational conditions makes the establishment of a company impossible, the promoters may decide not to establish the company.

A resolution adopted at the establishment meeting on any of the matters as mentioned in the previous paragraph requires affirmative votes by subscribers representing more than half of the votes of those attending the meeting.

**Article 91** The promoters and subscribers shall not withdraw their share capital after making payments for the shares they have subscribed to or after making capital contributions by using non-monetary properties, unless the public offer shares have not been fully subscribed within the time limit, the promoters fail to convene the establishment meeting within the time limit, or the establishment meeting has decided not to set up the company.

**Article 92** The board of directors shall, within 30 days after the establishment meeting ends, file a registration application with the company registration authority and submit thereto the following documents:

- (1) A company registration application;
- (2) The minutes of the establishment meeting;

- (3) The bylaw;
- (4) A capital verification certification;
- (5) The appointment documents and identity certificates of the legal representative, directors, supervisors;
- (6) The promoters' certifications of the legal person or the identifications of natural persons, and
- (7) The certification for the domicile of the company.

For a joint stock limited company established by stock floatation that makes public stock offerings, besides the aforementioned documents, it shall submit to the company registration authority the approval documents issued by the securities regulatory institution of the State Council.

**Article 93** After the establishment of a joint stock limited company, if any of the promoters fail to make full payments for the capital contributions as stipulated in the bylaw, they shall make up the arrears and the other promoters shall bear several and joint liabilities.

After the establishment of a joint stock limited company, if it is found that the actual value of the non-monetary properties used as capital contributions for the establishment of the company is obviously lower than as the value stipulated in the bylaw, the promoter who made such a capital contribution shall make up the difference and the other promoters shall bear several and joint liabilities.

**Article 94** The promoters of a joint stock limited company shall bear the following liabilities:

- (1) In the event of failure to establish the company, being jointly and severally liable for the debts and expenses incurred from the activities related to the company establishment;
- (2) In the event of failure to establish the company, being jointly and severally liable for refunding the subscribers with their paid capital plus the interests calculated according to the bank interest rate for the same period of time; and
- (3) If the company's interest is injured in the course of its establishment due to the negligence of the promoters, being liable for making compensations to the company.

**Article 95** Where a limited liability company is changed into a joint stock limited company, the total amount of the paid capital shall not be more than the total amount of the net assets. Where a limited liability company is changed into a joint stock limited company, the public offer stocks issued for the purpose of increasing the capital shall comply with the law.



**Article 96** A joint stock limited company shall make and keep the bylaw, the register of the shareholders, the stubs of corporate bonds, the minutes of the shareholders' assembly meetings, the minutes of the meetings of the board of directors, the minutes of the meetings of the board of supervisors, and the financial reports in the company.

**Article 97** The shareholders shall be entitled to review the bylaw, the register of the shareholders, the stubs of corporate bonds, the minutes of the shareholders' assembly meetings, the minutes of the meetings of the board of directors, the minutes of the meetings of the board of supervisors, and the financial reports, and may put forward proposals or raise questions about the business operations of the company.

## **Section 2 Shareholders' Assembly**

**Article 98** The shareholders' assembly of a joint stock limited company shall be composed of all the shareholders. It is the company's organ of power, which shall exercise its powers according to this law.

**Article 99** The provisions regarding the powers of the shareholders' assembly of a limited liability company as prescribed in the first paragraph of Article 37 of this Law shall apply to the shareholders' assembly of a joint stock limited company.

**Article 100** An annual session of the shareholders' assembly shall be held each year. Under any of the following circumstances, an interim shareholders' assembly session shall be held within 2 months:

- (1) The number of directors is less than two-thirds of the number of directors as required by this Law or the number of directors as specified in the bylaw;
- (2) The un-recovered losses of the company reach one-third of the total paid-in capital;
- (3) At the request of the shareholders separately or aggregately holding 10% or more of the company's shares;
- (4) The board of directors deems it necessary;
- (5) At the request of the board of supervisors; and
- (6) Other circumstances as specified in the bylaw.

**Article 101** A session of the shareholders' assembly shall be convened by the board of directors and shall be presided over by the chairman of the board of directors. If the chairman is unable or fails to perform his duties, the meetings thereof shall be presided over by the deputy chairman of the board of directors. If the deputy chairman of the board of directors is unable or fails to perform his

duties, the meetings shall be presided over by a director jointly recommended by half or more of the directors.

If the board of directors or the acting director is unable or fails to fulfill the obligation of convening the meetings of the shareholders' assembly, the board of supervisors shall convene and preside over such meetings. If the board of supervisors does not convene or preside over such meetings, the shareholders separately or aggregately holding 1/10 or more of the shares may convene and preside over such meetings on their own initiative.

**Article 102** For a shareholders' assembly meeting to be held, a notice shall be given to each shareholder 20 days in advance, which shall state the time and place of the meeting, and the matters to be deliberated at the meeting. For an interim meeting of the shareholders' assembly, a notice shall be given to each shareholder 15 days in advance. For the issue of unregistered stocks, the time and place of the meeting and the matters to be deliberated at the meeting shall be announced 30 days in advance.

The shareholders separately or aggregately holding 3% or more of the shares of the company may put forward a written interim proposal to the board of directors 10 days before a shareholders' assembly is held. The board of directors may notify other shareholders within 2 days and submit the interim proposal to the meeting of the shareholders' assembly for deliberation. The contents of an interim proposal shall fall within the scope to be decided by the shareholders' assembly, and the interim proposal shall have a clear topic for discussion and matters to be decided.

The shareholders' assembly shall not make any decision on any matter not listed in the notice as mentioned in the preceding two paragraphs.

If the holders of unregistered stocks attend the shareholders' assembly, they shall have their stocks preserved in the company during the period from 5 days before the meeting is held to the day when the shareholders' assembly is closed.

**Article 103** When a shareholder attends a meeting of the shareholders' assembly, he shall have one voting right for each share he holds. However, the company has no voting right for its own shares it holds.

When any resolution is to be made by the shareholders' assembly, it shall be adopted by shareholders representing more than half of the voting rights of the shareholders in presence. However, when the shareholders' assembly makes a decision to modify the bylaw, or to increase or reduce the registered capital, or a resolution about the merger, split-up, dissolution or change of the company form, such a decision shall be adopted by shareholders representing 2/3 or more of the voting rights of the shareholders in presence.

**Article 104** The important matters, such as the company to transfer or accept any significant asset or to provide a guaranty for any other person shall be decided by the shareholders' assembly according to this Law and the bylaw, the board of directors shall timely call a shareholders' assembly to vote on these matters.

**Article 105** A shareholders' assembly may adopt a cumulative voting system to elect the directors or supervisors according to the bylaw or its resolutions.

The term "cumulative voting system" as mentioned in this Law refers to a system of voting by shareholders for the election of directors or supervisors at a meeting of the shareholders' assembly in which the shareholder can multiply his voting rights by the number of candidates and vote them all for one candidate for director or supervisor.

**Article 106** A shareholder may entrust an agent to attend a shareholders' assembly. The agent shall present a proxy issued by the shareholder to the company and shall exercise his voting rights within the authorization scope.

**Article 107** The shareholders' assembly shall scribe the minutes for the decisions about the matters discussed at the assembly. The chair of the meeting and the directors in presence shall affix their signatures to the minutes, which shall be preserved together with the book of signatures of the shareholders in presence as well as the power of attorney thereof.

### **Section 3 Board of Directors and Managers**

**Article 108** A joint stock limited company shall set up a board of directors, which shall be composed of 5-19 persons.

The board of directors may include representatives of the company's employees. The representatives of the employees who serve as board directors shall be democratically elected through the assembly of the representatives of the employees, the assembly of employees, or other methods.

The provisions in Article 45 of this Law on the term of office of the directors of a limited liability company shall apply to the director of a joint stock limited company.

The provisions in Article 46 of this Law on the functions of the board of directors of a limited liability company shall apply to the board of directors of a joint stock limited company.

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

The chairman of the board of directors shall call and preside over the meetings of the board of directors and check the implementation of the resolutions of the board of directors. The deputy chairman shall assist the chairman to work. If the chairman is unable or fails to perform his duties, the deputy chairman shall perform such duties. If the deputy chairman of the board of directors is unable or fails to perform his duties, a director who is jointly recommended by half or more of the directors shall perform such duties.

**Article 110** The board of directors shall convene at least two meetings every year and shall give a notice to all directors and supervisors 10 days before it holds a meeting.

The shareholders representing 1/10 or more of the voting rights, or 1/3 of the directors, or the board of supervisors may put forward a proposal to hold an interim meeting of the board of directors. The chairman of the board of directors shall, within 10 days after he receives such a proposal, call and preside over a meeting of the board of directors.

If the board of directors holds an interim meeting, it may separately decide the method and time limit for the notification about convening meetings of the board of directors.

**Article 111** No meeting of the board of directors may be held unless more than half of the directors are present. When the board of directors makes a resolution, it shall be adopted by more than half of all the directors.

For the voting on a resolution of the board of directors, each director shall have one vote only.

**Article 112** The meetings of the board of directors shall be attended by the directors in person. Where any director is unable to attend the meeting for a certain reason, he may, by issuing a written proxy, entrust another director to attend the meeting on his behalf, and the proxy shall state the scope of authorization.

The board of directors shall prepare minutes regarding the resolutions on the matters discussed at the meeting, which shall be signed by the directors in presence.

The directors shall be responsible for the resolutions of the board of directors. Where a resolution of the board of directors is in violation of any law, administrative regulation, bylaw, or resolution of the shareholders' assembly and causes any serious loss to the company, the directors who participate in adopting the resolution shall make compensation. However, if a director is proven to have expressed his objection to the vote on such resolution and his objection was recorded in the minutes, then the director may be exempted from liability.

**Article 113** A joint stock limited company may have a manager whom may be hired or dismissed by the board of directors.

The provisions of Article 49 of this Law on the powers of the manager of a limited liability company shall apply to the manager of a joint stock limited company.

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

**Article 115** No company may, directly or via its subsidiary, lend money to any of its directors, supervisors, or senior managers.

**Article 116** A Company shall regularly disclose to its shareholders with the information about remunerations received by the directors, supervisors and senior managers from the company.

#### **Section 4 Board of Supervisors**

**Article 117** A joint stock limited company shall set up a board of supervisors, which shall be composed of at least 3 persons.

The board of supervisors shall include representatives of shareholders and an appropriate percentage of representatives of the company's employees. The percentage of the representatives of employees shall account for no less than 1/3 of all the supervisors, but the concrete percentage shall be specified in the bylaw. The representatives of employees who serve as members of the board of supervisors shall be democratically elected through the assembly of representatives of the company's employees, the shareholders' assembly or by other means.

The board of supervisors shall have one chairman and may have a deputy chairman. The chairman and deputy chairman shall elected by more than half of all the supervisors. The chairman of the board of supervisors shall call and preside over the meetings of the board of supervisors. If the chairman of the board of supervisors is unable or fails to perform his duties, the deputy chairman of the board of supervisors shall call and preside over the meeting of the board of supervisors. If the deputy chairmen of the board of supervisors are unable or fail to perform their duties, a supervisor jointly recommended by half or more of the supervisors shall call and preside over the meetings of the board of supervisors.

No director or senior manager may concurrently act as a supervisor.

The provisions of Article 52 of this Law on the term of office of the supervisors of a limited liability company shall apply to the supervisors of a joint stock limited company.

**Article 118** The provisions of Articles 53 and 54 of this Law on the functions of a limited liability company shall apply to the board of supervisors of a joint stock limited company.

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

**Article 119** The board of supervisors shall hold at least one meeting every 6 months. The supervisors may propose to call interim meetings of the board of supervisors.

The discussion methods and voting procedures of the board of supervisors shall be specified in the bylaw unless it is otherwise provided for by this Law.

The resolution of the board of supervisors requires the approval of more than half of the total number of board of supervisors.

The board of supervisors shall prepare minutes for the decisions about the matters discussed at the meeting, which shall be signed by the supervisors in presence.

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

**Article 120** The term "listed company" as mentioned in this Law refers to the joint stock limited companies whose stocks are listed and traded in a stock exchange.

**Article 121** Where a listed company purchases or sells any important asset, or provides guaranties that exceed 30% of the company's total assets within a year, such actions shall be authorized the resolutions made by the shareholders' assembly and adopted by the shareholders representing 2/3 of the voting rights of the shareholders who attend the assemblies.

**Article 122** A listed company shall have independent directors. The concrete measures shall be formulated by the State Council.

**Article 123** A listed company may have a secretary of the board of directors, who shall be responsible for the preparation of the sessions of shareholders' assembly and meetings of the board of directors, the preservation of documents, the management of the company's stock rights, and the information of disclosure, etc.

**Article 124** Where any of the directors has any relationship with the enterprise involved in the matter to be decided at the meeting of the board of directors, he shall not vote on this resolution, nor may he vote on behalf of any other person. The meeting of the board of directors shall not be held unless more than half of the unrelated directors are present at the meeting. A resolution of the board of

directors shall be adopted by more than half of the unrelated directors. If the number of unrelated directors in presence is less than 3 persons, the matter shall be submitted to the shareholders' assembly of the listed company for deliberation.

## **Chapter V Issuance and Transfer of Shares of a Joint Stock Limited Company**

### **Section 1 Issuance of Shares**

**Article 125** The capital of a joint stock limited company shall be divided into shares and all the shares shall be of equal value.

The shares of a company are represented by stocks. A stock is a certificate issued by the company to certify the share held by a shareholder.

**Article 126** The issuance of shares shall comply with the principle of fairness and impartiality. The shares of the same class shall have the same rights and benefits.

The stocks issued at the same time shall be equal in price and shall be subject to the same conditions. The price of each share purchased by any organization or individual shall be the same.

**Article 127** The stocks may be issued at a price equal to or in excess of par value, but not below par value.

**Article 128** The stocks shall be in paper form or in other forms prescribed by the securities regulatory institution of the State Council.

A stock shall state the following major items:

- (1) The company name;
- (2) The company's date of establishment;
- (3) The class and par value of the stock, as well as the number of shares it represents; and
- (4) The serial number of the stock.

The stock shall bear the signature of the legal representative and the seal of the company.

The stocks held by the promoters shall be marked with the words "promoters' stocks".

**Article 129** The stocks issued by a company may be registered stocks or unregistered stocks.

The stocks issued to promoters or legal persons shall be registered stocks, which shall state the names of such promoters or legal persons, and shall not be registered in any other person's name or the names of any representative.

**Article 130** A company that issues registered stocks shall prepare a register of shareholders, which shall state the following:

- (1) The name and domicile of each shareholder;
- (2) The number of shares held by each shareholder;
- (3) The serial numbers of the stocks held by each shareholder; and
- (4) The date on which each shareholder acquired his shares.

A company issuing unregistered stocks shall record the amount, serial numbers and issuance date of the stocks.

**Article 131** For the company's issuance of other shares not provided for in this Law, the State Council may formulate separate provisions.

**Article 132** After a joint stock limited company is established, it shall formally deliver the stocks to the shareholders. No company may deliver any stock to the shareholders prior to its establishment.

**Article 133** Where a company intends to issue new stocks, it shall, under its bylaw, make a resolution about the following matters through the shareholders' assembly or board of directors:

- (1) The class and amount of new stocks;
- (2) The issuing price of the new stocks;
- (3) The beginning and ending dates for the issuance of new stocks; and
- (4) The class and amount of the new stocks to be issued to the original shareholders.

**Article 134** When a company publicly issues new stocks upon approval of the securities regulatory institution, it shall publish a new stock prospectus and its financial reports, and shall make a stock subscription form.

The provisions of Articles 87 and 88 of this Law shall apply to the public offering of new stocks of a company.

**Article 135** When a company issues new stocks, it may make a pricing plan according to its business operations and financial status.

**Article 136** After a company raises enough capital, it shall go through modification registration in the company registration authority and make an public announcement.



## **Section 2 Transfer of Shares**

**Article 137** The shares held by the stockholders may be transferred according to laws.

**Article 138** Where a stockholder intends to transfer its shares, it shall transfer its shares in a lawfully established stock exchange or by any other means as prescribed by the State Council.

**Article 139** Registered stocks may be assigned by their stockholders' endorsement or by any other means prescribed by the relevant laws or administrative regulations. After the assignment, the company shall record the name and domicile of the transferee in the register of shareholders.

Within 20 days before an assembly of shareholders is held, or within 5 days prior to the benchmark date decided by the company for the distribution of dividends, no modification registration may be made to the register of shareholders as mentioned in the preceding paragraph. However, if any law provides otherwise for the modification registration of the register of shareholders of listed companies, the latter shall prevail.

**Article 140** The transfer of an unregistered stock takes effect as soon as the stockholder delivers the stock to the transferee.

**Article 141** The shares of a company held by the promoters of this company shall not be transferred within 1 year after the date of the establishment of the company. The shares issued before the company publicly issues shares shall not be transferred within 1 year from the day when the stocks of the company get listed and are traded in a stock exchange.

The directors, supervisors and senior managers of the company shall declare to the company the shares held by them and the changes thereof. During the term of office, the shares transferred by any of them each year shall not exceed 25% of the total shares of the company he holds. The shares of the company held by the aforesaid persons shall not be transferred within 1 year from the day when the stocks of the company get listed and are traded in a stock exchange. Within six months after any of the aforesaid persons is removed from his post, he shall not transfer the shares of the company he holds. The bylaw may have other restrictions on the transfer of shares held by the directors, supervisors and senior managers.

**Article 142** A company shall not purchase its own shares except under any of the following circumstances:

- (1) To reduce the registered capital of the company.
- (2) To merge with another company that holds its shares.

- (3) To use shares for employee stock ownership plan or equity incentives.
- (4) A shareholder requests the company to purchase the shares held by him since he objects to a resolution of the shareholders' meeting on the combination or division of the company.
- (5) To use shares for converting convertible corporate bonds issued by the listed company.
- (6) It is necessary for a listed company to protect the corporate value and the rights and interests of shareholders.

A company purchasing its own shares under any of the circumstances set forth in items (1) and (2) of the preceding paragraph shall be subject to a resolution of the shareholders' meeting; and a company purchasing its own shares under any of the circumstances set forth in items (3), (5) and (6) of the preceding paragraph may, pursuant to the bylaws or the authorization of the shareholders' meeting, be subject to a resolution of a meeting of the board of directors at which more than two-thirds of directors are present.

After purchasing its own shares pursuant to the provisions of the first paragraph of this article, a company shall, under the circumstance set forth in item (1), cancel them within 10 days after the purchase; while under the circumstance set forth in either item (2) or (4), transfer or cancel them within six months; and while under the circumstance set forth in item (3), (5) or (6), aggregately hold not more than 10% of the total shares that have been issued by the company, and transfer or cancel them within three years.

A listed company purchasing its own shares shall perform the obligation of information disclosure according to the Securities Law of the People's Republic of China. A listed company purchasing its own shares under any of the circumstances set forth in items (3), (5) and (6) of paragraph 1 of this article shall carry out trading in a public and centralized manner.

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

**Article 143** Where any registered stocks are stolen, lost or destroyed, the shareholder may request the people's court to declare these stocks invalid according to the public notice procedure prescribed in the Civil Procedural Law of the People's Republic of China. After the people's court has invalidated these stocks, the shareholder may file an application to the company for the issuance of new stocks.

**Article 144** The stocks of a listed company shall get listed and traded according to the relevant laws, administrative regulations, as well as the trading rules of the stock exchange.

**Article 145** A listed company shall, in pursuance of the laws and administrative regulations, publicize its financial status, business operations and important lawsuits, and shall publish its financial reports once every six months in each fiscal year.

## **Chapter VI Qualifications and Obligations of the Directors, Supervisors and Senior Managers of a Company**

**Article 146** Anyone who is under any of the following circumstances shall not assume the post of a director, supervisor or senior manager of a company:

- (1) Being without civil capacity or with only limited civil capacity;
- (2) Having been sentenced to any criminal penalty due to an offence of corruption, bribery, encroachment of property, misappropriation of property or disrupting the economic order of the socialist market and 5 years have not elapsed since the completion date of the execution of the penalty; or he has ever been deprived of his political rights due to any crime and 3 years have not elapsed since the completion date of the execution of the penalty;
- (3) He was a former director, factory director or manager of a company or enterprise which was bankrupt and liquidated, whereby he was personally liable for the bankruptcy of such company or enterprise, and three years have not elapsed since the date of completion of the bankruptcy and liquidation of the company or enterprise;
- (4) He was the legal representative of a company or enterprise, but the business license of this company or enterprise was revoked and this company or enterprise was ordered to close due to a violation of the law, whereby he is personally liable for the revocation, and three years have not elapsed since the date of the revocation of the business license thereof;
- (5) He has a relatively large amount of debt which is due but has not been paid.

Where a company elects or appoints any director or supervisor, or hires any senior manager by violating the provisions in the preceding paragraph, such elections, appointments, or hiring shall be invalid.

Where any director, supervisor or senior manager, during his term of office, is under any of the circumstances as mentioned in the preceding paragraph, the company shall remove him from his post.

**Article 147** The directors, supervisors and senior managers shall comply with the laws, administrative regulations, and bylaw. They shall bear the obligations of fidelity and diligence to the company.

No director, supervisor or senior manager may accept any bribe or other illegal gains by taking the advantage of his powers, or encroach on the property of the company.

**Article 148** No director or senior manager may commit any of the following acts:

- (1) Misappropriating the company's fund;
- (2) Depositing the company's fund into an account under his own name or any other individual's name;
- (3) Without consent of the shareholders' meeting, shareholders' assembly, or the board of directors, loaning the company's fund to others or providing any guaranty to any other person by using the company's property as in violation of the bylaw;
- (4) Entering a contract or trading with this company by violating the bylaw or without consent of the shareholders' meeting or shareholders' assembly;
- (5) Without consent of the shareholders' meeting or shareholders' assembly, seeking business opportunities that belong to the company for himself or any other persons by taking advantages of his powers, or operating similar business of the company for which he works for himself or for any other persons;
- (6) Taking commissions on the transactions between others and the company into his own pocket;
- (7) Illegally disclosing the company's confidential information;
- (8) Other acts inconsistent with the obligation of fidelity to the company.

The income of any director or senior manager from any act in violation of the preceding paragraph shall belong to the company.

**Article 149** Where any director, supervisor or senior manager violates any law, administrative regulation, or the bylaw during the course of performing his duties, if any loss is caused to the company, he shall be liable for compensation.

**Article 150** If the shareholder's meeting or shareholders' assembly demands a director, supervisor or senior manager to attend the meeting as a non-voting representative, he shall do so and shall answer the shareholders' inquiries.

The directors and senior managers shall faithfully offer relevant information and materials to the board of supervisors or the supervisor of a limited liability company that does not have a board of supervisors, none of them may impede the board of supervisors or supervisor from exercising their powers.

**Article 151** Where a director or senior manager is under the circumstance as mentioned in Article 149 of this Law, the shareholder(s) of the limited liability company or joint stock limited company separately or aggregately holding 1%

or more of the total shares of the company for 180 consecutive days or more may request in writing the board of supervisors or the supervisor of the limited liability company with no board of supervisors to initiate a lawsuit in the people's court. If the supervisor is under the circumstance as mentioned in Article 149 of this Law, the aforesaid shareholder(s) may request in writing the board of directors or the acting director of the limited liability company with no board of directors to lodge an action in the people's court.

If the board of supervisors, or supervisor of a limited liability company with no board of supervisors, or board of directors or acting director refuses to lodge a lawsuit after receiving a written request as mentioned in the preceding paragraph, or if they fail to initiate a lawsuit within 30 days after receiving the request, or if, in an emergency, the failure to lodge an action immediately will cause unrecoverable damages to the interests of the company, the shareholder(s) as listed in the preceding paragraph may, on their own behalf, directly lodge a lawsuit in the people's court.

If the legitimate rights and interests of a company are impaired and any losses are caused to the company, the shareholders as mentioned in the preceding paragraph may initiate a lawsuit in the people's court according to the provisions of the preceding two paragraphs.

**Article 152** If any director or senior manager damages the shareholders' interests by violating any law, administrative regulation, or the bylaw, the shareholders may lodge a lawsuit in the people's court.

## **Chapter VII Corporate Bonds**

**Article 153** The term "corporate bonds" as mentioned in this Law refers to the negotiable instruments that are issued by a company under the statutory procedures with guaranteed payment of the principal plus interest by a specified future date.

To issue corporate bonds, a company shall satisfy the issuance requirements of the Securities Law of the People's Republic of China.

**Article 154** After an application for issuing corporate bonds has been approved by the department authorized by the State Council, the company shall publish its bond issuance plan,

which shall mainly state:

- (1) the company's name;
- (2) the purposes of use of the corporate bonds;
- (3) the total amount of corporate bonds and par value thereof;

- (4) the method for determining the interest rate of the bonds;
- (5) the time limit and method for paying the principal plus interest;
- (6) guaranty of the bonds;
- (7) issuing price of the bonds, beginning and ending dates of the issuance;
- (8) net assets of the company;
- (9) total amount of corporate bonds having been issued but not yet due; and
- (10) underwriters of the corporate bonds.

**Article 155** The physical bonds issued by a company shall state the company's name, par value, interest rate, time limit for repayment, etc., and shall bear the signature of legal representative and seal of the company.

**Article 156** The corporate bonds may be registered or unregistered bonds.

**Article 157** A company shall prepare and keep the stubs of corporate bonds.

If the company issues registered corporate bonds, the stubs thereof shall state:

- (1) the name and domicile of the bondholders;
- (2) the dates on which the bondholder acquires the bonds and the serial number of the bonds;
- (3) the total amount of the bonds, par value, interest rate, time limit and method for repayment of principal plus interest; and
- (4) the date on which the bonds are issued.

If the company issues unregistered corporate bonds, the stubs thereof shall state the total amount of the bonds, interest rate, time limit and method for repayment, issuance date and serial numbers of the bonds.

**Article 158** The registration and settlement institution of registered corporate bonds shall establish bylaws on the registration, preservation, interest payment and acceptance of bonds.

**Article 159** The corporate bonds may be transferred. The transfer price shall be negotiated between the transferor and transferee.

The transfer of any corporate bonds, which get listed and are traded in a stock exchange, shall follow the trading rules of the stock exchange.

**Article 160** Registered corporate bonds may be assigned by the bondholders' endorsement or by other methods prescribed by the relevant laws and administrative regulations. In the case of transfer of registered bonds, the

company shall record the transferee's name and domicile in the stub of corporate bonds.

The transfer of unregistered corporate bonds becomes effective as soon as the bondholder delivers the bonds to the transferee.

**Article 161** A listed company may, upon a resolution of the shareholders' assembly, issue corporate bonds that may be converted into stocks and shall work out concrete conversion measures in the corporate bond issuance plan. To issue corporate bonds that may be converted into stocks, a listed company shall file an application with the securities regulatory institution for examination and approval.

The corporate bonds that may be converted into stocks shall be marked with the words "convertible corporate bonds" and the number of convertible company bonds shall be specified in the company's record of bondholders.

**Article 162** Where any convertible company bonds are issued, the company shall exchange its stocks for the bonds held by the bondholders in the prescribed method of conversion, provided that the bondholders have the option on whether or not to convert their bonds.

## **Chapter VIII Financial Affairs and Accounting of Company**

**Article 163** A company shall establish its own financial and accounting bylaws according to the laws, administrative regulations, and provisions of the treasury department of the State Council.

**Article 164** A company shall, after the end of each fiscal year, formulate a financial report and shall have it audited by an accounting firm.

The financial report shall be work out according to the laws, administrative regulations, and provisions of the treasury department of the State Council.

**Article 165** A limited liability company shall submit the financial report to each shareholder within the time limit as prescribed in the bylaw.

The financial report of a joint stock limited company shall be ready for the consultation of the shareholders at the company 20 days before the annual meeting of the shareholders' assembly is held. A joint stock limited company of public offer stocks shall make a public announcement about its financial report.

**Article 166** Where a company distributes its after-tax profits of the current year, it shall draw 10 percent of the profits as the company's statutory common reserve. The company may stop drawing the profits if the aggregate balance of the common reserve has already accounted for over 50 percent of the company's registered capital.

If the aggregate balance of the company's statutory common reserve is not enough to make up for the losses of the company of the previous year, the current year's profits shall first be used for making up the losses before the statutory common reserve is drawn according to the provisions of the preceding paragraph.

After the company has drawn statutory common reserve from the after-tax profits, it may, upon a resolution made by the shareholders' assembly, draw a discretionary common reserve from the after-tax profits.

After the losses have been made up and common reserves have been drawn, the remaining profits shall be distributed to shareholders according to Article 34 of this Law in the case of a limited liability company and according to the number of shares held by shareholders as in the case of a joint stock company limited.

If the shareholders' meeting, shareholders' assembly or board of directors distributes the profits by violating the provisions of the preceding paragraph before the losses are made up and the statutory common reserves are drawn, the profits distributed must be refunded to the company.

No profit may be distributed for the company's shares held by this company.

**Article 167** The premium of a joint stock limited company from the issuance of stocks at a price above the par value of the stocks, and other incomes listed in the capital reserve under provisions of the treasury department of the State Council shall be listed as the company's capital reserve.

**Article 168** The company's common reserves shall be used for making up losses, expanding the production and business scale or increasing the registered capital of the company, but the capital common reserve shall not be used for making up the company's losses.

When the statutory common reserve is changed to capital, the remainder of the common reserve shall not be less than 25 % of the registered capital prior to the increase.

**Article 169** Where a company plans to hire or dismiss any accounting firms to undertake the auditing of the company, a resolution shall be made by the shareholders' meeting, the shareholders' assembly, or the board of directors according to the provisions of the bylaw.

When the shareholders' meeting, the shareholders' assembly, or the board of directors carries out a vote to dismiss an accounting firm, the accounting firm shall be allowed to state its own opinions.

**Article 170** A company shall provide the accounting firm it hires with truthful and complete accounting vouchers, accounting books, financial and accounting



statements, and other accounting materials, and shall not refuse to do so, conceal any of these materials, or make any false statements.

**Article 171** Except for the statutory account books, no company may set up other accounting books.

No company asset may be deposited into any individual's account.

## **Chapter IX Merger and Split-up of Company; Increase and Deduction of Registered Capital**

**Article 172** The mergers of companies may take the form of mergers by absorption or mergers by new establishment.

In the case of mergers by absorption, a company absorbs other companies and the absorbed company is dissolved. In the case of mergers by new establishment, two or more companies combine together for the establishment of a new one, and the pre-merger companies are dissolved.

**Article 173** To carry out a corporate merger, both parties to the merger shall conclude an agreement with each other and formulate balance sheets and checklists of properties. The companies involved shall, within ten days after making the decision of merger, notify the creditors, and shall make a public announcement on a newspaper within 30 days. The creditors may, within 30 days after receiving the notice or within 45 days after the issuance of the public announcement if it fails to receive a notice, demand the company to clear off its debts or to provide corresponding guaranties.

**Article 174** To carry out a merger, the credits and debts of the companies involved shall be succeeded by the company that survives the merger or by the newly established company.

**Article 175** To split a company, the properties thereof shall be divided accordingly. To split the company, balance sheets and checklists of properties shall be worked out.

The company shall, within 10 days after the decision of split-up is made, inform the creditors and make a public announcement on a newspaper within 30 days.

**Article 176** The post-split companies shall bear several and joint liabilities for the debts of the company before its split unless it is otherwise prescribed in a written agreement reached by the company and the creditors before the split regarding the debt pay-off.

**Article 177** Where a company finds it necessary to reduce its registered capital, it must work out balance sheets and checklists of properties.

The company shall, within ten days after the decision of reducing registered capital, notify the creditors and make a public announcement on a newspaper within 30 days. The creditors shall, within 30 days after receiving the notice or within 45 days after the issuance of the public announcement if it fails to receive the notice, be entitled to demand the company to pay off the debts or to provide respective guaranties.

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

Where a joint stock limited company issues new stocks for increasing its registered capital, the subscription to new stocks by shareholders shall be governed by the relevant provisions of the present Law regarding the payment of stock premium for the establishment of a joint stock limited company.

**Article 179** Where, in the process of company merger or split, any of the registered items is changed, the companies shall go through modification registration with the company registration authority. Where a company is dissolved, it shall be deregistered according to law. If a new company is established, it shall go through the procedures for company establishment according to law.

In the case of increasing or reducing its registered capital, a company shall go through modification registration with the company registration authority according to law.

## **Chapter X Dissolution and Liquidation of Company**

**Article 180** A company may be dissolved under one of the following circumstances:

- (1) the term of business operation as prescribed by the bylaw expires or any of the situations for dissolution prescribed in the company's bylaw occurs;
- (2) the shareholders' meeting or the shareholders' assembly decides to dissolve the company;
- (3) it is necessary to be dissolved due to merger or split of the company;
- (4) the business license is canceled, or it is ordered to close down or to be dissolved according to laws; or
- (5) it is decided by the people's court to be dissolved according to Article 183 of this Law.

**Article 181** Where any of the circumstances as prescribed in Article 180 (1) of this Law occurs, a company may continue to exist by amending its bylaw.

To amend its bylaw according to the provisions of the preceding paragraph, the consent of the shareholders who hold two thirds or more of the voting rights shall be obtained if it is a limited liability company, and the consent of two thirds or more of the voting rights the shareholders who attend the meeting of the shareholders assembly shall be obtained if it is a joint stock limited company.

**Article 182** Where any company meets any serious difficulty in its operations or management so that the interests of the shareholders will face heavy loss if the company continues to exist and the difficulty cannot be solved by any other means, the shareholders who hold ten percent or more of the voting rights of all the shareholders of the company may plead the people's court to dissolve the company.

**Article 183** Where any company is dissolved according to the provisions of Article 180 (1), (2), (4), or (5) of this Law, a liquidation group shall be formed within fifteen days after the occurrence of the cause of dissolution so as to carry out a liquidation. The liquidation group of a limited liability company shall be composed of the shareholders, while that of a joint stock limited company shall be composed of the directors or any other people as determined by the shareholders' assembly. Where no liquidation group is formed within the time limit, the creditors may plead the people's court to designate relevant persons to form a liquidation group. The people's court shall accept such request and form a liquidation group so as to carry out the liquidation in a timely manner.

**Article 184** The liquidation group may exercise the following functions during the process of liquidation:

- (1) liquidating the properties of the company, producing balance sheets and asset checklists;
- (2) notifying creditors by mail or public announcement;
- (3) handling and liquidating the unfinished business of the company;
- (4) paying off the outstanding taxes and the taxes incurred in the process of liquidation;
- (5) claiming credits and paying off debts;
- (6) disposing the remaining properties after all the debates being paid off; and
- (7) participating in the civil proceedings of the company.

**Article 185** The liquidation group shall, notify the creditors within ten days after its formation and make a public announcement on newspapers within 60 days after its formation. The creditors shall, within thirty days after receiving the

notice or within 45 days after the issuance of the public announcement in the case of failing to receiving a notice, declare their credits before the liquidation group.

To declare credits, a creditor shall describe the relevant matters and provide relevant evidential materials.

The liquidation group shall record the declared credits and may not pay off any debts to any creditors during the period of credit declaration.

**Article 186** The liquidation group shall, after liquidating the properties of the company and producing balance sheets and checklists of properties, make a plan of liquidation and report the report to the shareholders' meeting, the shareholders' assembly, or the people's court for confirmation.

After paying off the liquidation expenses, wages of employees, social insurance premiums and legal indemnities, the outstanding taxes and the debts of the company, the remaining properties may, in the case of a limited liability company, be distributed according to the proportion of capital contribution of the shareholders, or, in the case of a joint stock limited company, distributed according to the proportion of stocks held by the shareholders.

During the liquidation, the company continues to exist but may not carry out any business operation that has nothing to do with liquidation. None of the properties of the company may be distributed to any shareholder before they are used for debt payoff as described in the preceding paragraph.

**Article 187** If the liquidation group finds that the properties of the company is not sufficient for paying off the debts after liquidating the properties of the company and producing balance sheets and checklists of properties, it shall file an application to the people's court for bankruptcy.

Once the people's court makes a ruling declaring the company bankrupt, the liquidation group shall hand over the liquidation matters to the people's court.

**Article 188** After the liquidation of the company is completed, the liquidation group shall make a liquidation report and submit the report to the shareholders' meeting, the shareholders' assembly, the people's court for confirmation, and the company registration authority to deregister the company. The liquidation group shall also make a public announcement regarding the cease of the company.

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

None of the members of the liquidation group may take advantage of his position to take any bribe or any other illegal proceeds, nor may he misappropriate any of the properties of the company.

Where any of the members of the liquidation group causes any loss to the company or any creditor by intention or due to gross negligence, he shall make respective compensations.

**Article 190** Where a company is declared bankrupt according to law, it shall carry out a bankruptcy liquidation according to the legal provisions concerning bankruptcy liquidation.

## **Chapter XI Branches of Foreign Companies**

**Article 191** The term "foreign company" as mentioned in this Law refers to a company established beyond the territory of China according to any foreign law.

**Article 192** A foreign company which plans to establish any branch within the territory of China shall submit an application to the competent authority of China and other relevant documents such as the articles of incorporation, the company registration certificate issued by the country where the foreign company was established. After the application is approved, the foreign company shall go through registration formalities with the company registration authority according to law and obtain a business license.

The measures for the examination and approval of the branches of foreign companies shall be separately formulated by the State Council.

**Article 193** Where a foreign company establishes any branch within the territory of China, it must designate a representative or agent within the territory of China to take charge of the branch, and shall allocate to the branch funds which are in match with the business activities it is engaged in.

When it is necessary to set a minimum for the operation fund for a branch of a foreign company, it shall be provided for separately by the State Council.

**Article 194** The branch of a foreign company shall indicate in its name the nationality and the form of liability of the foreign company concerned.

The branch of a foreign company shall keep a copy of the bylaw of the foreign company at its office.

**Article 195** The branch of a foreign company established within the territory of China does not have the status of a legal person.

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

**Article 196** The branches of foreign companies which are established upon approval shall abide by the laws of China in their business activities within the

territory of China, and may not injure the social public interests of China, and the lawful rights and interests thereof shall be protected by Chinese law.

**Article 197** Where a foreign company relinquishes any of its branches within the territory of China, it must clear off the debts thereof according to law, and shall carry out a liquidation according to the provisions of this Law regarding the procedures for the liquidation of companies. Before the debts are cleared off, it may not transfer any of the properties of the branch out of China.

## **Chapter XII Legal Liabilities**

**Article 198** Where anyone obtains the registration of a company by fabricating a registered capital, submitting false materials or by any other fraudulent means to conceal any important facts, he shall be ordered by the company registration authority to make a rectification. In the case of fabricating a registered capital, he shall be fined not less than 5% but not more than 15% of the fabricated registered capital; in the case of submitting false materials or by any other fraudulent means so that any important facts are concealed, he shall be fined not less than 50,000 yuan but not more than 500,000 yuan; if the circumstances are serious, the company registration certificate shall be revoked or the business license shall be canceled.

**Article 199** Any of the promoters or shareholders of a company who makes any false capital contribution or fails to deliver or fails to deliver in good time the money or non-monetary properties used as capital contribution shall be ordered by the company registration authority to make a rectification and shall be fined not less than 5% but not more than 15% of the sum of false capital contribution.

**Article 200** Where any promoter or shareholder unlawfully withdraws his capital contribution after the company is established, he shall be ordered by the company registration authority to make a rectification, and shall be fined not less than 5% but not more than 15% of the capital contribution he has unlawfully taken away.

**Article 201** Any company which establishes another set of accounting books apart from legally prescribed accounting books in violation of this Law shall be ordered by the treasury department of the people's government at the county level or above to make a rectification, and shall be fined not less than 50,000 yuan but not more than 500,000 yuan.

**Article 202** Where any company makes any false records or conceals any important facts in such materials as financial and accounting statements submitted to the relevant departments in charge, the relevant department in charge shall impose a fine of not more than 30,000 yuan but not more than

300, 000 yuan upon the directly liable persons in charge and other directly liable persons.

**Article 203** Where any company fails to draw legal accumulative funds according to this Law, it shall be ordered by the treasury department of the people's government at the county level or above to make up the amount it is due, and may be fined up to 200, 000 yuan.

**Article 204** Where any company fails to notify its creditors by notice or by public announcement in the process of merger, split, reducing its registered capital or liquidation, the company shall be ordered by the company registration authority to make a rectification, and may be fined not less than 10, 000 yuan but not more than 100, 000 yuan.

Where, in the process of liquidation, any company hides any of its properties or makes any false record in its balance sheet or property checklist or distributes any of the company's property before clearing off its debts, it shall be ordered by the company registration authority to make a rectification, and may be fined not less than 5% but not more than 10% of the value of the company properties it has hidden or distributed prior to the clearing of company debts, and the directly liable person-in-charge as well other directly liable persons may be fined not less than 10, 000 yuan but not more than 100, 000 yuan.

**Article 205** Where, in the process of liquidation, any company carries out any business activity which has nothing to do with the liquidation, it shall be admonished by the company registration authority and its illegal proceeds shall be confiscated.

**Article 206** Where a liquidation group fails to submit a liquidation report to the company registration authority according to the provisions of this Law or where any important fact is concealed or there is any important omission in the liquidation report it submits, it shall be ordered by the company registration authority to make a rectification.

Where any member of the liquidation group takes advantage of his power to seek unlawful benefits for himself or any of his relatives, procures any unlawful gains, or misappropriates any of the company's properties, the company registration authority may order him to return the company property and confiscate his illegal gains, and may also impose a fine of between 1 and 5 times of the illegal proceeds on him.

**Article 207** Where any institution that undertakes the appraisal or verification of assets or the verification of certificates provides any false materials, the company registration authority may confiscate its illegal proceeds and impose a fine between 1 and 5 times of the illegal proceeds, and the competent administrative department may also order the institution to suspend its business

operation or revoke the qualifications certificates of the directly liable persons and its business license.

Where any institution that undertakes the appraisal or verification of assets or the verification of certificates has any important omission in the report it submits, the company registration authority may order the institution to make a rectification; if the circumstances are serious, it shall be fined between 1 and 5 times of the proceeds it has obtained, and the competent administrative department may order the institution to suspend its business operation and revoke the qualifications certificate of the directly liable persons and its business license.

Where the appraisal result or proof of asset verification or certificate verification as provided by any institution that undertakes the appraisal or verification of assets or the verification of certificates is proved to be untrue and has caused any loss to the creditors of the company, the institution shall bear the compensation liabilities within the sum that is found to be untrue, unless it could prove that the loss is not the result of its fault.

**Article 208** Where any company registration authority registers any application that does not meet the conditions as provided by this Law or fails to register any application that meets the conditions as prescribed by this Law, the directly liable person-in-charge and other directly liable persons shall be given an administrative sanction.

**Article 209** Where the superior organ of any company registration authority forces the latter to register any application that does not meet the conditions as prescribed in this Law, decline any application that meets the conditions as provided for in this Law, or covers up for any illegal registration, the directly liable person-in-charge and other directly liable persons shall be given an administrative sanction according to law.

**Article 210** Where anyone who fails to register as a limited liability company or joint stock limited company according to law but carries out its business operations in the name of the limited liability company or joint stock limited company or who fails to register as a subsidiary of any limited liability company or joint stock limited company according to law but carries out its business operations in the name of the subsidiary of any limited liability company or joint stock limited company, the company registration authority may order him to make a rectification or close down his business, and may also impose a fine of no more than 100,000 yuan on him.

**Article 211** Where any company fails to start its business operations six months after it is established without justifiable reasons or suspends its business operations on its own initiative for consecutively six months after it has started



business operations, its business license may be canceled by the company registration authority.

Where any registered item of any company changes, and the company fails to go through the corresponding modification procedures according to this Law, it shall be ordered by the company registration authority to make modification registration within a time limit; if it still fails to make the registration, it shall be fined not less than 10, 000 yuan but not more than 100, 000 yuan.

**Article 212** Where any foreign company violates this Law by unlawfully establishing a branch within China, the company registration authority may order the company to make a rectification or to close down its branch, and may also impose a fine of not less than 50,000 yuan but not more than 200, 000 yuan on the company.

**Article 213** Where a company conducts any serious illegal activities in the name of the company, which may endanger the security of the state or the public interest of the society, the business license of the company shall be revoked.

**Article 214** Where any company violates any provision of this Law, it shall bear the respective civil liabilities of compensation and pay the respective fines and pecuniary penalties; if its property is not enough to pay for all the liabilities, it shall pay for the civil liabilities first.

**Article 215** Where any company that violates this Law and any crime is constituted, it shall be investigated for criminal liabilities.

### **Chapter XIII Supplementary Provisions**

**Article 216** Definitions of the following terms:

(1) The "senior management persons" refer to the manager, vice managers, chief financial officers, the secretary of the board of directors of a listed company, or any other persons provided in the bylaw.

(2) A "controlling shareholder" refers to a shareholder whose capital contribution occupies 50% or more in the total capital of a limited liability company or a shareholder whose stocks occupies more than 50% of the total equity stocks of a joint stock limited company or a shareholder whose capital contribution or proportion of stock is less than 50% but who enjoys a voting right according to its capital contribution or the stocks it holds is large enough to impose an big impact upon the resolution of the shareholders' meeting or the shareholders' assembly.

(3) An "actual controller" refers to anyone who is not a shareholder but is able to hold actual control of the acts of the company by means of investment relations, agreements or any other arrangements.

(4) "Connection relationship" refers to the relationship between the controlling shareholders, actual controllers, directors, supervisors, or senior management persons of a company and the enterprise directly or indirectly controlled thereby and any other relationship that may lead to the transfer of any interest of the company. However, the enterprises controlled by the state do not incur a connection relationship simply because their shares are controlled by the state.

**Article 217** The limited liability companies and joint stock limited companies invested by foreign investors shall be governed by this Law. Where there are otherwise different provisions in any law regarding foreign investment, such provisions shall prevail.

**Article 218** This Law shall become effective on January 1, 2006.