Measures for the Administration of Foreign Debts of the PRC

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Chapter I — General Provisions

Article 1 — These Measures are formulated in accordance with the relevant laws and regulations of the State for the purpose of strengthening the administration of foreign debts, regulating the borrowing of foreign debts, preventing foreign debt risks, and safeguarding national economic security.

Article 2 — For the purposes of these Measures, the term "foreign debt" means any debt owed by a domestic institution to a non-resident, including but not limited to:

1. International financial organization loans and foreign government loans;

2. Foreign commercial loans and loans from foreign financial institutions;

3. Foreign bonds issued abroad;

4. Deferred payments for imports;

5. Advance receipts for exports;

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6. Other forms of foreign debt.

Article 3 — The State shall implement total-volume control administration for foreign debts. The State Development Planning Commission shall, in conjunction with relevant departments, formulate the annual foreign debt plan and submit it to the State Council for approval.

Article 4 — The State Administration of Foreign Exchange shall be responsible for the registration, statistical monitoring, and administration of foreign debts.

Article 5 — The borrowing of foreign debts shall comply with State industrial policies and foreign debt administration regulations and shall not violate State laws and regulations.

Chapter II — Foreign Debt Administration

Article 6 — Medium and long-term foreign debts (with a term of more than one year) issued by the State Council shall be subject to plan administration and strict examination and approval in accordance with State regulations.

Article 7 — Medium and long-term foreign debts shall be used for the construction of infrastructure and public welfare projects, for the introduction of advanced technology and equipment, and for the promotion of industrial restructuring and upgrading. They shall not be used for speculative or high-risk investments.

Article 8 — Short-term foreign debts (with a term of one year or less) shall be subject to balance administration. The balance of short-term foreign debts shall not exceed the quota approved by the State Administration of Foreign Exchange.

Article 9 — Foreign-invested enterprises may borrow foreign debts within the difference between their total investment amount and their registered capital without prior approval, provided that they register the foreign debt with the State Administration of Foreign Exchange.

Article 10 — Foreign-invested enterprises shall register their foreign debts with the local foreign exchange administration authority within 15 days after the signing of the foreign debt contract. The foreign exchange administration authority shall issue a Foreign Debt Registration Certificate.

Article 11 — The borrowing of foreign debts by domestic Chinese-funded institutions (other than foreign-invested enterprises) shall be subject to approval by the relevant State authorities in accordance with the law. The approved borrowing shall be registered with the State Administration of Foreign Exchange.

Article 12 — The funds raised through foreign debts shall be used for the purposes specified in the approval documents. The use of funds shall not be changed without authorization.

Article 13 — Foreign debt contracts shall specify the loan amount, interest rate, term, repayment method, and the rights and obligations of the parties. Foreign debt contracts shall comply with the relevant provisions of State laws and regulations.

Article 14 — Foreign guarantees provided for foreign debts shall comply with the relevant provisions of the State on foreign guarantee administration. The provision of foreign guarantees without authorization is prohibited.

Chapter III — Foreign Debt Repayment and Risk Management

Article 15 — Foreign debt borrowers shall repay the principal and interest on schedule in accordance with the foreign debt contract. Where repayment difficulties arise, the borrower shall promptly report to the relevant authorities and seek solutions.

Article 16 — The State encourages foreign debt borrowers to adopt risk management measures such as hedging to guard against exchange rate and interest rate risks.

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Article 17 — Foreign debt borrowers shall establish a sound foreign debt risk management system, strengthen foreign debt information management, and regularly report their foreign debt status to the foreign exchange administration authority.

Article 18 — Where a foreign debt borrower is unable to repay the foreign debt when due, the borrower may, with the consent of the creditor, apply for an extension of the debt period in accordance with the law. The extension shall be subject to examination and approval by the original examining and approving authority.

Article 19 — The foreign exchange administration authority shall monitor the foreign debt status and shall issue risk warnings in a timely manner where abnormal foreign debt situations are discovered.

Article 20 — In the event of an international balance of payments crisis or other emergency, the State may take emergency measures such as temporary control of foreign debt repayment in accordance with the law.

Chapter IV — Supervision and Administration

Article 21 — The State Administration of Foreign Exchange shall establish a foreign debt statistical monitoring system to collect, consolidate, and analyze foreign debt data on a regular basis.

Article 22 — Foreign debt borrowers shall truthfully submit foreign debt statistical statements and relevant information to the foreign exchange administration authority on a regular basis in accordance with the regulations.

Article 23 — The State Administration of Foreign Exchange shall have the right to inspect the foreign debt business of foreign debt borrowers. Foreign debt borrowers shall cooperate with such inspections and truthfully provide relevant information.

Article 24 — Where a foreign debt borrower violates foreign debt administration regulations, the State Administration of Foreign Exchange may take measures such as issuing a warning, imposing a fine, or revoking the foreign debt registration in accordance with the law.

Article 25 — Where financial institutions violate foreign debt administration regulations while conducting foreign debt business, the relevant financial regulatory authorities shall impose penalties in accordance with the law.

Article 26 — The auditing authorities shall, in accordance with the law, audit the foreign debt borrowing and use by units subject to audit supervision.

Article 27 — Any unit or individual shall have the right to report violations of foreign debt administration regulations. The relevant authorities shall keep the reporter's information confidential.

Chapter V — Supplementary Provisions

Article 28 — The foreign exchange administration authority shall formulate detailed implementing rules for foreign debt administration in accordance with these Measures.

Article 29 — The foreign debt administration of policy banks and other financial institutions shall also comply with the relevant provisions of the financial regulatory authorities.

Article 30 — Where international treaties concluded or acceded to by the People's Republic of China contain provisions different from these Measures, the provisions of the international treaties shall apply, except where the People's Republic of China has declared reservations.

Article 31 — The interpretation of these Measures shall be vested in the State Development Planning Commission, the Ministry of Finance, and the State Administration of Foreign Exchange.

Article 32 — These Measures shall take effect as of March 1, 2003.

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