Regulations on Disciplinary Actions against Managers of State-Owned Enterprises of the PRC

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Chapter I — General Provisions

Article 1 — These Regulations are formulated in accordance with the Law on Government Sanctions for Public Officials of the People's Republic of China (hereinafter referred to as the Government Sanctions Law) and other laws for the purposes of regulating the imposition of disciplinary actions on managers of state-owned enterprises and strengthening supervision over managers of state-owned enterprises.

Article 2 — For the purposes of these Regulations, "managers of state-owned enterprises" means the following public officials in enterprises funded by the state:

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(1) personnel performing organizational, leadership, management, and supervisory duties in wholly state-owned companies and enterprises;

(2) personnel who, through nomination, recommendation, appointment, approval, or otherwise by Party organizations or state organs, wholly state-owned companies and enterprises, or public institutions, perform organizational, leadership, management, and supervisory duties in state-controlled companies, companies in which the state holds equity, and their branches; and

(3) personnel who, with the approval of, or upon research and decision by, organizations within state-funded enterprises responsible for the management and supervision of state-owned assets, perform organizational, leadership, management, and supervisory work on behalf thereof in state-controlled companies, companies in which the state holds equity, and their branches.

Where the organs and units responsible for the appointment and removal of managers of state-owned enterprises (hereinafter referred to as the appointment and removal organs and units) impose disciplinary actions on managers of state-owned enterprises who have violated the law, the provisions of Chapters II and III of the Government Sanctions Law and of these Regulations shall apply.

Article 3 — The work of imposing disciplinary actions on managers of state-owned enterprises shall uphold the leadership of the Communist Party of China and the principle of the Party's leadership over cadres, strengthen the building of the contingent of managers of state-owned enterprises, and promote the high-quality development of state-owned enterprises.

Article 4 — The appointment and removal organs and units shall strengthen the education, management, and supervision of managers of state-owned enterprises. In imposing disciplinary actions on managers of state-owned enterprises, they shall uphold impartiality and fairness and make decisions through collective discussion; combine leniency with strictness and integrate punishment with education; uphold the principle of the rule of law, take facts as the basis and the law as the criterion, and protect the lawful rights and interests of the managers of state-owned enterprises and other relevant persons in accordance with the law.

Article 5 — The institutions performing the duties of a capital contributor or the departments with cadre management authority shall, in accordance with laws, regulations, and relevant state provisions, guide state-owned enterprises in integrating and optimizing supervision resources, promote the linkage of supervision by the contributor with discipline inspection and supervisory supervision, inspection-tour supervision, audit supervision, financial and accounting supervision, and social supervision, improve a coordinated and efficient supervision mechanism, and establish an internal supervision and management system in which the relevant parties cooperate with and check one another, so as to enhance the systematic, targeted, and effective supervision of state-owned enterprises and their managers.

Article 6 — The imposition of a disciplinary action on a manager of a state-owned enterprise shall be based on clear facts, conclusive evidence, accurate characterization, appropriate handling, lawful procedures, and complete formalities, and shall be commensurate with the nature, circumstances, and degree of harm of the illegal act.

Chapter II — Types and Application of Disciplinary Actions

Article 7 — The types of disciplinary actions are:

(1) warning;

(2) demerit;

(3) major demerit;

(4) demotion;

(5) removal from office; and

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(6) expulsion.

Article 8 — The periods of disciplinary actions are:

(1) six months for a warning;

(2) twelve months for a demerit;

(3) eighteen months for a major demerit; and

(4) twenty-four months for demotion or removal from office.

A disciplinary action decision shall take effect from the date on which it is made, and the period of the disciplinary action shall be calculated from the date on which the disciplinary action decision takes effect.

Article 9 — Where a manager of a state-owned enterprise has committed two or more illegal acts for which disciplinary actions should be imposed at the same time, the disciplinary action for each shall be determined separately. Where the types of disciplinary actions to be imposed are different, the heaviest among them shall be executed; where multiple disciplinary actions of the same type below removal from office should be imposed, the period of the disciplinary action may be set at not less than one such period and not more than the sum of the multiple periods, but shall not exceed forty-eight months in the longest case.

Article 10 — Where a state-owned enterprise commits an illegal act, or a decision made collectively by managers of a state-owned enterprise is illegal, and legal liability should be pursued, disciplinary actions shall be imposed on the managers of the state-owned enterprise among the responsible leading personnel and directly responsible personnel.

Where two or more managers of a state-owned enterprise jointly commit an illegal act and disciplinary actions need to be imposed, corresponding disciplinary actions shall be imposed on each of them according to the liability each should bear.

Article 11 — Where a manager of a state-owned enterprise has any of the following circumstances, a lighter or mitigated disciplinary action may be imposed:

(1) voluntarily confessing an illegal act for which the person should receive a disciplinary action;

(2) cooperating with the investigation and truthfully explaining the facts of the person's own illegal act;

(3) reporting the illegal acts of others, which is verified to be true;

(4) voluntarily taking measures to effectively avoid or recover losses or eliminate adverse effects;

(5) playing a secondary or auxiliary role in a joint illegal act;

(6) voluntarily turning over or returning and compensating illegal gains;

(7) the mistake or error occurred due to lack of experience or early and trial implementation in the course of advancing the reform of state-owned enterprises; or

(8) other circumstances of lighter or mitigated punishment provided for by laws and regulations.

"Imposing a lighter disciplinary action" means imposing a lighter disciplinary action within the range of disciplinary actions to which the illegal act provided for in these Regulations should be subject.

"Imposing a mitigated disciplinary action" means imposing a disciplinary action one level lower than the range of disciplinary actions to which the illegal act provided for in these Regulations should be subject.

Article 12 — Where the illegal act of a manager of a state-owned enterprise is minor in circumstances and the person has any of the circumstances set out in paragraph 1 of Article 11 of these Regulations, the person may be given a cautionary talk, criticism and education, ordered to make a self-examination, or given an admonition, and be exempted from or not given a disciplinary action.

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Where a manager of a state-owned enterprise participates in illegal activities because the person is coerced or compelled without knowing the truth, and, after criticism and education, genuinely shows repentance, the disciplinary action may be mitigated, or the person may be exempted from or not given a disciplinary action.

Article 13 — Where a manager of a state-owned enterprise has any of the following circumstances, a heavier disciplinary action shall be imposed:

(1) intentionally committing an illegal act again within the period of a disciplinary action, which should be subject to a disciplinary action;

(2) preventing others from reporting or providing evidence;

(3) colluding in testimony or forging, concealing, or destroying evidence;

(4) shielding a co-perpetrator in the same case;

(5) coercing or instigating others to commit illegal acts;

(6) refusing to turn over or return and compensate illegal gains; or

(7) other circumstances of heavier punishment provided for by laws and regulations.

"Imposing a heavier disciplinary action" means imposing a heavier disciplinary action within the range of disciplinary actions to which the illegal act provided for in these Regulations should be subject.

Article 14 — During the period of a disciplinary action, a manager of a state-owned enterprise shall not be promoted in post, post grade, or professional title; and, among them, those given a demerit, major demerit, demotion, or removal from office shall not be promoted in remuneration and benefits grade. Those removed from office shall have their post or post grade lowered, and their remuneration and benefits shall be lowered at the same time. Where a person is expelled, the employing unit shall terminate the labor contract in accordance with the law.

Article 15 — The property illegally obtained by a manager of a state-owned enterprise and the person's own property used for the illegal act shall, except where it should be confiscated, recovered, or ordered to be returned and compensated by the relevant authorities in accordance with the law, be returned to the original owner or the original holder.

Where a manager of a state-owned enterprise has obtained other benefits through an illegal act, such as post, position level, rank, post and staff grade, professional title, treatment, qualification, academic degree, degree, honor, or reward, the appointment and removal organs and units shall make corrections, or shall suggest that the relevant organs, units, or organizations make corrections in accordance with the provisions.

Article 16 — Where a manager of a state-owned enterprise who has already retired committed an illegal act before or after retirement for which a disciplinary action should be imposed, no disciplinary action decision shall be made, but a case may be filed for investigation; where a disciplinary action of demotion, removal from office, or expulsion should be imposed in accordance with the law, the treatment enjoyed by the person shall be adjusted accordingly in accordance with the provisions, and the property illegally obtained by the person and the person's own property used for the illegal act shall be handled in accordance with Article 15 of these Regulations.

Chapter III — Illegal Acts and the Disciplinary Actions Applicable Thereto

Article 17 — Where a manager of a state-owned enterprise commits any of the following acts, the person shall, in accordance with Article 28 of the Government Sanctions Law, be given a demerit or a major demerit; where the circumstances are relatively serious, be demoted or removed from office; and where the circumstances are serious, be expelled:

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(1) disseminating remarks that undermine the adherence to and improvement of the basic socialist economic system;

(2) refusing to implement, or implementing in a disguised manner the refusal to implement, the relevant decisions and arrangements concerning the reform and development of state-owned enterprises and Party building; or

(3) harming national security and national interests in foreign economic cooperation, foreign aid, foreign exchanges, and other work.

A person who publicly publishes articles, speeches, declarations, statements, or the like that oppose the guiding ideology of the state established by the Constitution, oppose the leadership of the Communist Party of China, oppose the socialist system, or oppose reform and opening up shall be expelled.

Article 18 — Where a manager of a state-owned enterprise commits any of the following acts, the person shall, in accordance with Article 30 of the Government Sanctions Law, be given a warning, a demerit, or a major demerit; and where the circumstances are serious, be demoted or removed from office:

(1) deciding, in violation of prescribed decision-making procedures or the limits of duties and authority, on major decision-making matters, important personnel appointment and removal matters, major project arrangement matters, and large-amount fund operation matters of a state-owned enterprise;

(2) deliberately circumventing, interfering with, or undermining collective decision-making, with one person or a minority of persons deciding on major decision-making matters, important personnel appointment and removal matters, major project arrangement matters, and large-amount fund operation matters of a state-owned enterprise;

(3) refusing to implement, or arbitrarily changing, major decisions made collectively in accordance with the law by the Party committee (leading Party members' group), shareholders' meeting (general meeting), board of directors, staff and workers' congress, or other bodies of a state-owned enterprise; or

(4) refusing to implement, or implementing in a disguised manner the refusal to implement, or delaying the implementation of, decisions made in accordance with the law by the institutions performing the duties of a capital contributor, industry administrative departments, or other relevant departments.

Article 19 — Where a manager of a state-owned enterprise commits any of the following acts, the person shall, in accordance with Article 33 of the Government Sanctions Law, be given a warning, a demerit, or a major demerit; where the circumstances are relatively serious, be demoted or removed from office; and where the circumstances are serious, be expelled:

(1) taking advantage of the conveniences of office to embezzle, steal, fraudulently obtain, or otherwise illegally possess or misappropriate the property, customer assets, and the like of the enterprise or of affiliated enterprises;

(2) taking advantage of the conveniences of office to demand property from others or illegally accept property from others so as to seek benefits for others;

(3) giving bribes to state organs, state-funded enterprises, public institutions, people's organizations, or to state functionaries, staff members of enterprises or other entities, foreign public officials, or officials of international public organizations, for the purpose of seeking improper benefits;

(4) taking advantage of power or the influence of office to seek private gains for the person or others in violation of the provisions in major matters concerning the rights and interests of the capital contributor of state-owned assets of an enterprise, and in activities such as engineering construction, asset disposal, publication and distribution, and tendering and bidding;

(5) conniving at or acquiescing in specific related persons taking advantage of the person's power or the influence of office to seek private gains in major matters concerning the rights and interests of the capital contributor of state-owned assets of an enterprise and in enterprise operation and management activities; or

(6) distributing state-owned assets collectively and privately to individuals in the name of the entity in violation of the provisions.

A person who refuses to correct a specific related person's holding of a post, part-time job, or engagement in business activities in violation of the provisions, and who does not submit to post adjustment, shall be removed from office.

Article 20 — Where a manager of a state-owned enterprise commits any of the following acts, the person shall, in accordance with Article 35 of the Government Sanctions Law, be given a warning, a demerit, or a major demerit where the circumstances are relatively serious; and be demoted or removed from office where the circumstances are serious:

(1) over-mentioning the total wage amount or over-issuing wages, or setting and issuing wage-related income in the form of allowances, subsidies, bonuses, or otherwise outside the total wage amount;

(2) failing to implement budget management of the total wage amount, or failing to perform the filing or approval procedures for the total wage amount in accordance with the provisions;

(3) setting one's own remuneration, rewards, allowances, subsidies, and other welfare monetary income in violation of the provisions;

(4) exceeding the prescribed standards and scope in training activities, office premises, official vehicles, business entertainment, travel expenses, and other aspects; or

(5) traveling at public expense, or traveling at public expense in disguised form under the name of study and training, investigation and research, or staff and workers' recuperation.

Article 21 — Where a manager of a state-owned enterprise commits any of the following acts, the person shall, in accordance with Article 36 of the Government Sanctions Law, be given a warning, a demerit, or a major demerit; where the circumstances are relatively serious, be demoted or removed from office; and where the circumstances are serious, be expelled:

(1) engaging in business or running an enterprise as an individual, holding shares or securities of non-listed companies (enterprises), engaging in paid intermediary activities, registering a company abroad (outside the territory) or making investments or taking equity interests, or conducting other profit-making activities, in violation of the provisions;

(2) taking advantage of the conveniences of office to run for others enterprises of the same type of business as the enterprise where the person holds a post;

(3) concurrently holding a post in enterprises funded by the enterprise where the person works or in other enterprises, public institutions, social organizations, intermediary institutions, or international organizations without approval, in violation of the provisions;

(4) holding a part-time post with approval but receiving remuneration or obtaining other income in violation of the provisions; or

(5) taking advantage of inside information of the enterprise or other non-public information, trade secrets, intangible assets, or the like to seek private gains.

Article 22 — Where, in the course of performing the duty of providing social public services, a manager of a state-owned enterprise infringes upon the lawful rights and interests of service recipients or the public interest, and the matter is verified by a regulatory institution and a disciplinary action is proposed, the person shall, in accordance with Article 38 of the Government Sanctions Law, be given a warning, a demerit, or a

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major demerit where the circumstances are relatively serious; be demoted or removed from office where the circumstances are serious; and be expelled where the circumstances are especially serious.

Article 23 — Where a manager of a state-owned enterprise commits any of the following acts, causing losses to state-owned assets or other serious adverse consequences, the person shall, in accordance with Article 39 of the Government Sanctions Law, be given a warning, a demerit, or a major demerit; where the circumstances are relatively serious, be demoted or removed from office; and where the circumstances are serious, be expelled:

(1) intercepting, occupying, misappropriating, or delaying budget revenue that should be turned over to the state treasury;

(2) failing to perform, or failing to correctly perform, operation and investment duties in violation of the provisions;

(3) conducting connected transactions, or carrying out financing-oriented trade, false transactions, false joint ventures, affiliation-based operation, or other activities, in violation of the provisions;

(4) failing to handle, or failing to truthfully handle, the registration of property rights of state-owned assets of enterprises within the period prescribed by the state, or forging, altering, leasing, lending, or selling the property rights registration certificates (forms) of state-owned assets;

(5) refusing to provide relevant information and materials or fabricating false data and information, thereby causing the performance evaluation results of state-owned enterprises to be distorted; or

(6) concealing the true situation of the enterprise, failing to truthfully provide relevant information and materials to intermediary service institutions such as accounting firms, law firms, and asset appraisal institutions, or colluding with intermediary service institutions such as accounting firms, law firms, and asset appraisal institutions to commit fraud.

Article 24 — Where a manager of a state-owned enterprise commits any of the following acts, the person shall, in accordance with Article 39 of the Government Sanctions Law, be given a warning, a demerit, or a major demerit; where the circumstances are relatively serious, be demoted or removed from office; and where the circumstances are serious, be expelled:

(1) laundering money or participating in money laundering;

(2) absorbing customers' funds without recording them in the accounts, illegally absorbing public deposits or absorbing public deposits in disguised form, or participating in, or participating in disguised form in, private lending in violation of the provisions;

(3) granting loans in violation of the provisions, or reducing or exempting the principal of loans, or stopping, reducing, deferring, or exempting interest on loans, or extending the term of loans, or writing off non-performing loans or disposing of non-performing assets;

(4) issuing financial instruments or providing guarantees in violation of the provisions, or accepting, paying, or guaranteeing illegal negotiable instruments;

(5) breaching fiduciary obligations and arbitrarily using customers' funds or other entrusted or trust assets;

(6) forging or altering currency, precious metals, financial instruments, or negotiable securities issued by the state;

(7) forging, altering, transferring, leasing, or lending the business licenses or approval documents of financial institutions, or establishing financial institutions or issuing stocks or bonds without approval and without authorization;

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(8) fabricating and disseminating false information that affects securities or futures trading, manipulating the securities or futures market, providing false information or forging, altering, or destroying transaction records, or inducing or deceiving investors to buy or sell securities or futures contracts;

(9) making false insurance claims or participating in insurance fraud activities; or

(10) stealing, buying, or illegally providing the credit card information of others and other personal information of citizens.

Article 25 — Where a manager of a state-owned enterprise commits any of the following acts, causing adverse consequences or effects, the person shall, in accordance with Article 39 of the Government Sanctions Law, be given a warning, a demerit, or a major demerit; where the circumstances are relatively serious, be demoted or removed from office; and where the circumstances are serious, be expelled:

(1) disclosing inside information or trade secrets of the enterprise;

(2) forging, altering, transferring, leasing, or lending administrative license certificates or qualification certification documents, or leasing or lending the name of a state-owned enterprise or the trade name in the enterprise name;

(3) borrowing, or borrowing in disguised form, local government debts in violation of the provisions;

(4) causing major engineering quality problems, causing major labor disputes, or causing other serious consequences in violation of the provisions outside the territory of the People's Republic of China;

(5) failing to perform, or failing to perform in accordance with the law, the duties of production safety management, thereby causing production safety accidents;

(6) engaging in formalism or bureaucratism in work, such as perfunctory handling, shirking responsibility, or one-sided understanding or mechanical implementation of the Party's and the state's lines, principles, policies, and major decisions and arrangements;

(7) refusing, obstructing, or delaying supervision by the contributor, audit supervision, and financial and accounting supervision carried out in accordance with the law, or refusing to rectify, perfunctorily handling, or falsely rectifying problems discovered in supervision by the contributor, audit supervision, and financial and accounting supervision;

(8) failing to provide relevant information, submit relevant reports, or perform information disclosure obligations in accordance with the law, or cooperating with other entities in illegal or irregular acts;

(9) failing to perform statutory duties or illegally exercising power, thereby infringing upon the lawful rights and interests of workers;

(10) refusing or delaying payment of amounts owed to small and medium-sized enterprises, wages of rural migrant workers, or the like in violation of the provisions; or

(11) instigating, directing, ordering, conniving at, or shielding subordinate personnel in violating laws and regulations.

Chapter IV — Procedures for Disciplinary Actions

Article 26 — The appointment and removal organs and units shall, in accordance with their cadre management authority, impose disciplinary actions in accordance with the law on managers of state-owned enterprises who have committed illegal acts provided for in the Government Sanctions Law and these Regulations, and protect the lawful rights and interests of the managers of state-owned enterprises and other relevant persons.

The appointment and removal organs and units shall, in light of the actual circumstances such as the organizational form and organizational structure of the state-owned enterprise, specify the internal

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department or institution undertaking the work of imposing disciplinary actions on managers of state-owned enterprises (hereinafter referred to as the handling department), as well as its duties, authority, and operational mechanism.

Article 27 — The investigation and handling of a manager of a state-owned enterprise suspected of violating the law shall be conducted by two or more staff members, and shall be handled in accordance with the following procedures:

(1) with the consent of the person in charge of the appointment and removal organ or unit, the handling department shall conduct a preliminary verification of the clues of the problem that need to be investigated and handled;

(2) where, upon preliminary verification, the handling department believes that the manager of the state-owned enterprise is suspected of violating the provisions of the Government Sanctions Law and these Regulations and further verification is needed, it shall file the case upon approval of the principal person in charge of the appointment and removal organ or unit, notify in writing the manager of the state-owned enterprise under investigation (hereinafter referred to as the person under investigation) and the unit where the person works, and report to the supervisory organ with management authority;

(3) the handling department shall be responsible for further investigating the illegal act of the person under investigation, collecting and verifying relevant evidence and materials, learning the relevant information from the relevant units and persons, forming a written investigation report, and reporting to the person in charge of the appointment and removal organ or unit; the relevant units and persons shall truthfully provide information;

(4) the handling department shall inform the person under investigation of the facts found in the investigation and the basis for the disciplinary action to be imposed, hear the person's statements and defense, verify the facts, reasons, and evidence raised by the person, and record them in the case file; where the facts, reasons, and evidence raised by the person under investigation are established, they shall be adopted;

(5) the handling department shall, upon review, put forward a handling recommendation, and report it to the leading members of the appointment and removal organ or unit for collective discussion in accordance with the procedures, to make a decision to impose a disciplinary action on, exempt from disciplinary action, not give a disciplinary action to, or withdraw the case against the person under investigation, and report to the supervisory organ with management authority;

(6) the appointment and removal organ or unit shall, within one month from the date on which the decision under item (5) of paragraph 1 of this Article is made, notify the person under investigation and the unit where the person works in writing of the decision to impose a disciplinary action, exempt from disciplinary action, not give a disciplinary action, or withdraw the case, and announce it within a certain scope; where state secrets, trade secrets, or personal privacy are involved, the matter shall be handled in accordance with relevant state provisions; and

(7) the handling department shall place the relevant decisions on the disciplinary action and the execution materials in the personal file of the person under investigation, and at the same time collect the relevant materials to form the work file of the disciplinary action case.

It is strictly prohibited to collect evidence by threats, inducement, deception, or other illegal means. Evidence collected by illegal means shall not be used as the basis for imposing a disciplinary action. A disciplinary action shall not be aggravated because of the defense of the person under investigation.

Article 28 — Where, in the course of investigating a major illegal case, there is a genuine need, the support of the supervisory organ with management authority may be requested through consultation.

Where the illegal circumstances are complex, involve a wide range, or have caused a major impact, and it is difficult for the appointment and removal organ or unit to investigate and verify, the matter may, with the

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consent of the person in charge of the appointment and removal organ or unit, be handled by requesting, through consultation, the supervisory organ with management authority.

Article 29 — A decision to impose a disciplinary action on a manager of a state-owned enterprise shall be made within six months from the date of filing the case; where the case is complex or there are other special circumstances, the period may be appropriately extended upon approval of the principal person in charge of the appointment and removal organ or unit, but the extended period shall not exceed six months.

Article 30 — Where it is decided to impose a disciplinary action, a disciplinary action decision shall be made.

A disciplinary action decision shall specify the following matters:

(1) the name, work unit, and post of the manager of the state-owned enterprise who receives the disciplinary action (hereinafter referred to as the disciplined person);

(2) the illegal facts and evidence;

(3) the type and basis of the disciplinary action;

(4) the channels and time limits for applying for review and appeal if the person refuses to accept the disciplinary action decision; and

(5) the name and date of the organ or unit making the disciplinary action decision.

The disciplinary action decision shall be affixed with the seal of the organ or unit making the decision.

Article 31 — Where a person participating in the investigation and handling of an illegal case involving a manager of a state-owned enterprise has any of the following circumstances, the person shall withdraw of the person's own accord, and the person under investigation, the reporter, and other relevant persons may request the person's withdrawal:

(1) being a close relative of the person under investigation or the reporter;

(2) having served as a witness in the case;

(3) having an interest in the case under investigation, personally or through a close relative; or

(4) other circumstances that may affect the fair investigation and handling of the case.

The withdrawal of the principal person in charge of the appointment and removal organ or unit shall be decided by the person in charge of the organ or unit at the next higher level; the withdrawal of other persons participating in the investigation and handling of an illegal case shall be decided by the person in charge of the appointment and removal organ or unit.

Where the appointment and removal organ or unit discovers that a person participating in the disciplinary action work has circumstances requiring withdrawal, it may directly decide on the person's withdrawal.

Article 32 — Where a manager of a state-owned enterprise is pursued for criminal liability in accordance with the law, the appointment and removal organs and units shall, in accordance with the effective judgment, ruling, or decision of the judicial organ and the facts and circumstances found therein, impose a disciplinary action in accordance with the law.

Where a manager of a state-owned enterprise is given an administrative penalty in accordance with the law and a disciplinary action should be imposed, the appointment and removal organs and units may, based on the facts and circumstances found in the effective administrative penalty decision, impose a disciplinary action in accordance with the law after verification.

Where, after the appointment and removal organs and units have made a disciplinary action decision in accordance with paragraphs 1 and 2 of this Article, the judicial organ or administrative organ changes the original effective judgment, ruling, decision, or the like in accordance with the law, and this affects the

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original disciplinary action decision, the appointment and removal organs and units shall make a corresponding new handling in accordance with the changed judgment, ruling, decision, or the like.

Article 33 — Where the appointment and removal organs and units impose a disciplinary action on a manager of a state-owned enterprise who serves as a deputy to a people's congress at any level or a member of a committee of the Chinese People's Political Consultative Conference at any level, they shall report to the standing committee of the relevant people's congress, the presidium of the people's congress of the township, ethnic township, or town, or the standing committee of the committee of the Chinese People's Political Consultative Conference.

Article 34 — Where a manager of a state-owned enterprise is suspected of violating the law and a case has been filed for investigation, and it is inappropriate for the person to continue performing duties, the appointment and removal organs and units may decide to suspend the person's performance of duties. During the period of investigation after the case is filed, a manager of a state-owned enterprise shall not leave the country or resign from public office without the consent of the appointment and removal organ or unit that decided to file the case; the appointment and removal organs and units and the organs and units at higher levels shall not transfer, promote, reward, or handle retirement formalities for the person.

Article 35 — Where, in the course of investigation, it is discovered that a manager of a state-owned enterprise has, in the course of performing duties in accordance with the law, been subject to false reports, false accusations, or insult or defamation, causing adverse effects, the appointment and removal organs and units shall promptly clarify the facts, restore the person's reputation, and eliminate the adverse effects in accordance with the provisions.

Article 36 — Where a manager of a state-owned enterprise receives a disciplinary action of demotion, removal from office, or expulsion, the corresponding personnel department or the like shall, within one month after the disciplinary action decision is made, handle the formalities for changing the post, position, wages, and other relevant treatment in accordance with its management authority, and change or terminate the labor contract in accordance with the law; under special circumstances, the time limit for handling may be appropriately extended upon approval of the principal person in charge of the appointment and removal organ or unit, but shall not exceed six months in the longest case.

Article 37 — Where a manager of a state-owned enterprise receives a disciplinary action other than expulsion and shows repentance during the period of the disciplinary action, and no new illegal circumstances requiring a disciplinary action have occurred, the disciplinary action shall be automatically lifted upon the expiration of the period of the disciplinary action.

After the disciplinary action is lifted, the assessment and promotion in post, position level, rank, post and staff grade, professional title, remuneration and benefits grade, and the like shall no longer be affected by the original disciplinary action. However, where the person has received a disciplinary action of demotion or removal from office, the post, position level, rank, post and staff grade, professional title, remuneration and benefits grade, and the like that existed before the disciplinary action shall not be restored.

The appointment and removal organs and units shall, in accordance with relevant state provisions, correctly treat and rationally use managers of state-owned enterprises who have received disciplinary actions, attach equal importance to respect, encouragement, supervision, and restraint, and create a favorable environment for undertaking work and starting undertakings.

Chapter V — Review and Appeal

Article 38 — Where a disciplined person refuses to accept a disciplinary action decision, the person may, within one month from the date of receiving the disciplinary action decision, apply for review to the appointment and removal organ or unit that made the disciplinary action decision (hereinafter referred to as the original disciplinary action decision unit). The original disciplinary action decision unit shall make a review

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decision within one month after receiving the review application.

Where a disciplined person fails to meet the time limit for applying for review due to force majeure or other legitimate reasons, the person may, within ten working days after the obstacle is removed, apply for an extension of the time limit; whether the application is granted shall be decided by the original disciplinary action decision unit.

Article 39 — Where a disciplined person still refuses to accept the review decision, the person may, within one month from the date of receiving the review decision, appeal to the organ or unit at the next higher level in accordance with the management authority. The organ or unit accepting the appeal (hereinafter referred to as the appeal organ) shall make a handling decision within two months from the date of acceptance; where the case is complex, the period may be appropriately extended, but the extended period shall not exceed one month in the longest case.

Where a disciplined person fails to meet the time limit for applying for appeal due to force majeure or other legitimate reasons, the person may, within ten working days after the obstacle is removed, apply for an extension of the time limit; whether the application is granted shall be decided by the appeal organ.

Article 40 — After the original disciplinary action decision unit receives a review application and the appeal organ accepts an appeal, the relevant handling department shall set up a working group, review the original case materials, and, when necessary, conduct an investigation, collect and verify relevant evidence and materials, and learn the relevant information from the relevant units and persons. The working group shall conduct collective research and put forward handling opinions, and report them to the leading members of the original disciplinary action decision unit and the appeal organ for collective discussion in accordance with the procedures to make a review or appeal decision, and report to the supervisory organ with management authority. The review or appeal decision shall be notified in writing to the disciplined person and the unit where the person works within one month from the date on which it is made, and announced within a certain scope; where state secrets, trade secrets, or personal privacy are involved, the matter shall be handled in accordance with relevant state provisions.

During the review and appeal, the execution of the original disciplinary action decision shall not be suspended.

A manager of a state-owned enterprise shall not be given a heavier disciplinary action because the person has applied for review or appeal.

The review and appeal shall be separated from the investigation of the original case, and the personnel who investigated and handled the original case shall not participate in the review or appeal.

Article 41 — Where the appointment and removal organs and units discover that a disciplinary action decision made by the organ or unit itself or by a lower-level organ or unit is indeed erroneous, they shall promptly correct it or order the lower-level organ or unit to promptly correct it.

Where a supervisory organ discovers that an appointment and removal organ or unit has failed to impose a disciplinary action that should have been imposed, or that the disciplinary action imposed is illegal or improper, and puts forward a supervisory recommendation in accordance with the law, the appointment and removal organ or unit shall adopt it and inform the supervisory organ in writing of the implementation; where it does not adopt the recommendation, it shall explain the reasons.

Article 42 — Under any of the following circumstances, the original disciplinary action decision unit and the appeal organ shall revoke the original disciplinary action decision and make a new decision, or the appeal organ shall order the original disciplinary action decision unit to make a new decision:

(1) the illegal facts on which the disciplinary action is based are unclear or the evidence is insufficient;

(2) the procedures provided for in these Regulations are violated, thereby affecting the fair handling of the case; or

(3) the disciplinary action decision is made by exceeding or abusing authority.

Article 43 — Under any of the following circumstances, the original disciplinary action decision unit and the appeal organ shall modify the original disciplinary action decision, or the appeal organ shall order the original disciplinary action decision unit to modify it:

(1) the application of laws and regulations is indeed erroneous;

(2) the characterization of the circumstances of the illegal act is indeed erroneous; or

(3) the disciplinary action is improper.

Article 44 — Where the original disciplinary action decision unit and the appeal organ believe that the facts found in the disciplinary action decision are clear and the law is correctly applied, the decision shall be upheld.

Article 45 — Where the disciplinary action decision of a manager of a state-owned enterprise is modified, and the post, post grade, remuneration and benefits grade, or the like of the manager of the state-owned enterprise needs to be adjusted, it shall be adjusted in accordance with the provisions. Where the disciplinary action decision of a manager of a state-owned enterprise is revoked, and the post, post grade, remuneration and benefits grade, or the like of the manager of the state-owned enterprise needs to be restored, the corresponding post and grade shall be arranged in accordance with the original post and grade, and the person's reputation shall be restored within the scope of the announcement of the original disciplinary action decision.

Where the disciplinary action against a manager of a state-owned enterprise is revoked or mitigated due to the circumstances set out in Articles 42 and 43 of these Regulations, the losses suffered by the person in remuneration and benefits shall be appropriately compensated in light of the person's actual performance of duties, performance and contribution, and other circumstances.

The decision to uphold, modify, or revoke a disciplinary action shall, within one month after it is made, be served and announced in accordance with item (6) of paragraph 1 of Article 27 of these Regulations, and be placed in the personal file of the disciplined person.

Chapter VI — Legal Liability

Article 46 — Where the appointment and removal organs and units and their staff members have circumstances provided for in Articles 61 and 63 of the Government Sanctions Law in the work of imposing disciplinary actions on managers of state-owned enterprises, the responsible leading personnel and directly responsible personnel shall be handled in accordance with the provisions of the Government Sanctions Law.

Article 47 — Where the relevant organs, units, organizations, or personnel refuse to execute a disciplinary action decision, or have circumstances provided for in Article 62 of the Government Sanctions Law, they shall be handled by the organs at a higher level, the competent departments, the institutions performing the duties of a capital contributor, or the appointment and removal organs and units in accordance with the provisions of the Government Sanctions Law.

Article 48 — Where the relevant units or individuals distort or fabricate facts or falsely accuse a manager of a state-owned enterprise by means such as reporting, they shall bear legal liability in accordance with the law.

Article 49 — Where a violation of these Regulations constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter VII — Supplementary Provisions

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Article 50 — Where the state has separate provisions on pursuing liability for managers of financial or cultural state-owned enterprises who violate the law, those provisions shall apply at the same time.

Article 51 — Where a case concluded before the implementation of these Regulations needs to be reviewed or appealed, the provisions in effect at that time shall apply. For a case not yet concluded, where the provisions in effect at the time of the act did not regard the act as illegal, the provisions in effect at that time shall apply; where the provisions in effect at the time of the act regarded the act as illegal, the matter shall be handled in accordance with the provisions in effect at that time, but where these Regulations do not regard the act as illegal or provide for lighter handling, these Regulations shall apply.

Article 52 — These Regulations shall come into force on September 1, 2024.

Disclaimer: This is an unofficial translation of the Regulations on Disciplinary Actions against Managers of State-Owned Enterprises of the People's Republic of China, provided for reference only. In the event of any discrepancy, the official Chinese text shall prevail. This translation is provided for informational purposes only and does not constitute legal advice.