

Implementation Measures for the Party Commitment System in Securities and Futures Administrative Law Enforcement

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Article 1 — These Measures are formulated in accordance with the Securities Law of the People's Republic of China (hereinafter referred to as the "Securities Law") and other laws to regulate the implementation of the party commitment system in administrative law enforcement in the field of securities and futures, protect the lawful rights and interests of investors, maintain market order, and improve the effectiveness of administrative law enforcement.

Article 2 — For the purposes of these Measures, "party commitment in administrative law enforcement" means an administrative law enforcement method whereby, during the investigation by the securities regulatory authority of the State Council into a unit or individual suspected of violating the law in the field of securities and futures, the party under investigation undertakes to correct the suspected illegal act, compensate the losses of the relevant investors, and eliminate the damage or adverse effects, and such undertaking is accepted by the securities regulatory authority of the State Council, after which the securities regulatory authority of the State Council terminates the case investigation upon the party's performance of the undertaking.

Article 3 — The implementation of the party commitment system in administrative law enforcement shall follow the principles of fairness, voluntariness and good faith, and shall not harm the interests of the state, the public interest of society, or the lawful rights and interests of others.

Article 4 — The securities regulatory authority of the State Council shall designate a special internal department to be responsible for the party commitment work in administrative law enforcement, and shall set up this internal department separately from the internal department responsible for case investigation. The securities regulatory authority of the State Council shall establish and improve internal supervision and social supervision systems, and strengthen supervision over the internal department responsible for the party commitment work in administrative law enforcement and the relevant personnel in their implementation of laws and administrative regulations and their compliance with discipline.

Article 5 — A party may, from the date of receipt of the legal document on case investigation from the securities regulatory authority of the State Council until the securities regulatory authority of the State Council makes an administrative penalty decision, apply for the application of party commitment in administrative law enforcement in accordance with the Securities Law and other laws and these Measures. The securities regulatory authority of the State Council shall, in the legal document on case investigation served on the party, inform the party of its right to apply for the application of party commitment in administrative law enforcement in accordance with law.

Article 6 — A party applying for the application of party commitment in administrative law enforcement shall submit a written application and the relevant application materials. The written application shall state the following matters: (1) the basic information of the party; (2) the main facts and reasons for the application; (3) the measures that the party has taken or undertakes to take to correct the suspected illegal act, compensate the losses of the relevant investors, and eliminate the damage or adverse effects; (4) other matters

prescribed by the securities regulatory authority of the State Council. The party shall be responsible for the truthfulness, accuracy and completeness of the materials submitted by it.

Article 7 — Where any of the following circumstances exists, the securities regulatory authority of the State Council shall not accept the application for the application of party commitment in administrative law enforcement: (1) the party has been sentenced to a penalty for a securities or futures crime, and less than three years have elapsed since the completion of the execution of the penalty, or has been subject to an administrative penalty for an illegal act in securities or futures, and less than one year has elapsed since the completion of the execution of the administrative penalty; (2) the party is suspected of a securities or futures crime and shall be transferred to the judicial authorities for handling in accordance with law; (3) the suspected illegal act of the party in securities or futures is serious in circumstances and has a bad social impact; (4) the party has previously filed an application for the application of party commitment in administrative law enforcement which was not accepted, or whose undertaking was not accepted by the securities regulatory authority of the State Council although the application was accepted, and files another application in respect of the same case without new facts or new reasons; (5) the party fails, due to its own reasons, to perform or fully perform the undertaking accepted by the securities regulatory authority of the State Council, and files another application in respect of the same case; (6) other circumstances in which the securities regulatory authority of the State Council considers, based on the principle of prudential regulation, that the party commitment in administrative law enforcement should not be applied.

Article 8 — The securities regulatory authority of the State Council shall, within 20 working days from the date of receipt of the complete application materials of the party, make a decision on acceptance or non-acceptance. Where it decides to accept the application, it shall issue an acceptance notice; where it decides not to accept the application, it shall notify the party in writing and state the reasons.

Article 9 — After accepting the application, the securities regulatory authority of the State Council shall not suspend the investigation of the facts of the case before signing the commitment acceptance agreement with the party.

Article 10 — The securities regulatory authority of the State Council may, from the date of acceptance of the application, communicate and negotiate with the party on matters related to the application of party commitment in administrative law enforcement in light of the losses, damage or adverse effects caused by the suspected illegal act of the party. The materials submitted by the party and the statements made during communication and negotiation may only be used for the implementation of party commitment in administrative law enforcement.

Article 11 — The period for communication and negotiation between the securities regulatory authority of the State Council and the party shall be six months. The period for communication and negotiation may be extended upon approval by the principal responsible person of the securities regulatory authority of the State Council or another responsible person authorized by it, but the extended period shall not exceed six months. The communication and negotiation between the securities regulatory authority of the State Council and the party shall be conducted in person, and minutes shall be made. There shall be no fewer than two staff members communicating and negotiating with the party, and they shall present their law-enforcement credentials to the party. The staff members communicating and negotiating with the party shall not meet the party or its entrusted persons in violation of provisions.

Article 12 — Where the relevant staff members of the securities regulatory authority of the State Council have a direct interest in the case or have other relationships that may affect fair law enforcement, they shall withdraw. Where a party considers that the relevant staff members of the securities regulatory authority of the State Council have the circumstances prescribed in the preceding paragraph, it has the right to apply for their withdrawal. A party applying for withdrawal shall state the reasons. The securities regulatory authority of the State Council shall make a decision within three days from the date on which the party files the withdrawal application, and notify the party in writing. Before the decision is made, the personnel whose

withdrawal is applied for shall not suspend the relevant work.

Article 13 — Where the securities regulatory authority of the State Council accepts the undertaking made by the party through communication and negotiation, it shall sign a commitment acceptance agreement with the party. The commitment acceptance agreement shall state the following matters: (1) the cause for applying for the application of party commitment in administrative law enforcement; (2) the main facts of the suspected illegal act of the party; (3) the specific measures that the party undertakes to take to correct the suspected illegal act, compensate the losses of the relevant investors, and eliminate the damage or adverse effects; (4) the amount of the commitment fund and the method of payment; (5) the period for the party to perform the undertaking; (6) the measures to protect the party's commercial secrets, personal privacy and other rights; (7) other matters that need to be stated. For the purposes of these Measures, "commitment fund" means the funds paid by the party for the application of party commitment in administrative law enforcement.

Article 14 — In determining the amount of the commitment fund, the securities regulatory authority of the State Council shall comprehensively consider the following factors: (1) the benefits that the party may obtain or the losses that the party may avoid as a result of the suspected illegal act; (2) the amount of fines and confiscation of illegal gains that the party may be subject to in accordance with law for the suspected illegal act; (3) the losses suffered by investors as a result of the suspected illegal act of the party; (4) the stage of law enforcement at which the case is when the commitment acceptance agreement is signed; (5) other factors that need to be considered. The securities regulatory authority of the State Council may seek the opinions of securities and futures trading venues, securities registration and settlement institutions, investor protection institutions and other relevant institutions or experts and scholars on professional issues involved in the application of party commitment in administrative law enforcement.

Article 15 — After signing the commitment acceptance agreement with the party, the securities regulatory authority of the State Council shall suspend the case investigation, issue a decision on suspension of investigation to the party, and make a public announcement. After the party fully performs the commitment acceptance agreement, the securities regulatory authority of the State Council shall terminate the case investigation, issue a decision on termination of investigation to the party, and make a public announcement. After the securities regulatory authority of the State Council issues the decision on termination of investigation, it shall not re-investigate the same illegal act allegedly committed by the party. Where a party applying for the application of party commitment in administrative law enforcement is an information disclosure obligor prescribed by the Securities Law and other laws and administrative regulations and the securities regulatory authority of the State Council, it shall perform its information disclosure obligations in accordance with law.

Article 16 — Where any of the following circumstances exists, the securities regulatory authority of the State Council shall terminate the application of party commitment in administrative law enforcement: (1) the party withdraws the application for the application of party commitment in administrative law enforcement before signing the commitment acceptance agreement; (2) the commitment acceptance agreement cannot be signed within the period prescribed in Article 11 of these Measures; (3) after the signing of the commitment acceptance agreement, the party fails, due to its own reasons, to perform or fully perform the undertaking; (4) before the completion of the performance of the commitment acceptance agreement, it is discovered that the materials submitted by the party contain false records or major omissions; (5) before the completion of the performance of the commitment acceptance agreement, the party is placed on file for investigation in accordance with law on suspicion of a securities or futures crime. Where the circumstances prescribed in the preceding paragraph occur, the securities regulatory authority of the State Council shall issue a notice of termination of the application of party commitment in administrative law enforcement to the party; where the circumstances prescribed in items (1) through (4) of the preceding paragraph occur, it shall also promptly resume the case investigation. Before deciding to terminate the application of party commitment in

administrative law enforcement, the securities regulatory authority of the State Council shall hear the opinions of the party.

Article 17 — The securities regulatory authority of the State Council shall establish a collective decision-making system to discuss and decide major matters in the implementation of party commitment in administrative law enforcement, such as acceptance of applications, signing of commitment acceptance agreements, and suspension or termination of case investigation, which shall be implemented upon approval by the principal responsible person of the securities regulatory authority of the State Council or another responsible person authorized by it.

Article 18 — Where investors suffer losses as a result of the suspected illegal act of a party, they may apply to the commitment fund management institution for reasonable compensation, or obtain compensation through other channels such as filing a civil compensation lawsuit against the party in accordance with law. The total amount of compensation paid by the commitment fund management institution to investors shall not exceed the total amount of the commitment fund actually paid by the party involved in the case and used for compensation. Where investors have already obtained compensation through other channels, they shall not apply to the commitment fund management institution for compensation for the portion for which they have already been compensated. The specific measures for the management and use of the commitment fund shall be separately formulated by the securities regulatory authority of the State Council together with the financial department of the State Council.

Article 19 — Where a party has any of the following circumstances, the securities regulatory authority of the State Council shall record it in the integrity archives database of the securities and futures market, incorporate it into the national credit information sharing platform, and implement joint disciplinary action in accordance with state provisions: (1) failing, due to its own reasons, to perform or fully perform the undertaking; (2) the materials submitted contain false records or major omissions; (3) other circumstances that violate the principle of good faith.

Article 20 — Where staff members of the securities regulatory authority of the State Council apply party commitment in administrative law enforcement in violation of provisions, or disclose commercial secrets or personal privacy that they come to know in the performance of their duties, sanctions shall be imposed in accordance with law; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 21 — These Measures shall take effect on January 1, 2022.

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