Measures for the Investigation and Punishment of Unlicensed and Unregistered Business Operations of China (the PRC)

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

Promulgated by Decree No. 684 of the State Council of the People's Republic of China on August 6, 2017.
Effective: October 1, 2017.

Article 1 — These Measures are formulated for the purpose of maintaining the socialist market economic order, promoting fair competition, and protecting the lawful rights and interests of business operators and consumers.

Article 2 — No unit or individual may, in violation of the provisions of laws, regulations, or decisions of the State Council, engage in unlicensed and unregistered business operations.

Article 3 — The following business activities are not unlicensed and unregistered business operations:

(1) selling agricultural and sideline products or daily necessities at the places and times designated by the local people's government at or above the county level, or individuals using their own skills to engage in convenience labor service activities for which no permit is required by law; and

(2) engaging in business activities for which no permit is required or no registration is required, in accordance with the provisions of laws, administrative regulations, or decisions of the State Council.

Article 4 — The local people's government at or above the county level shall be responsible for organizing and coordinating the investigation and punishment of unlicensed and unregistered business operations within its administrative region, and shall establish a working mechanism for the investigation and punishment of unlicensed and unregistered business operations featuring division of responsibilities and coordination among the relevant departments.

Article 5 — Where a business operator engages in business activities without lawfully obtaining a permit, the department specified by laws, regulations, or decisions of the State Council shall investigate and punish the operator; where no department is specified by laws, regulations, or decisions of the State Council, or where the specification is unclear, the department designated by the people's government of the province, autonomous region, or municipality directly under the Central Government shall investigate and punish the operator.

Article 6 — Where a business operator engages in business activities without lawfully obtaining a business license, the department performing the duties of industry and commerce administration (hereinafter referred to as the "industry and commerce administration department") shall investigate and punish the operator.

Article 7 — Where a business operator engages in business activities without lawfully obtaining a permit and without lawfully obtaining a business license, the operator shall be investigated and punished in accordance with Article 5 of these Measures.

Article 8 — The industry and commerce administration department, the departments specified by laws, regulations, or decisions of the State Council, and the departments designated by the people's government of the province, autonomous region, or municipality directly under the Central Government (collectively referred to as the "investigating and punishing departments") shall perform their duties in accordance with the law, cooperate closely and in a coordinated manner, and make use of information network platforms to strengthen information sharing; where unlicensed and unregistered business operations are found that do not fall within the investigating and punishing duties of their own department, the department shall report

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them to the relevant departments in a timely manner.

Article 9 — Any unit or individual has the right to report unlicensed and unregistered business operations to the investigating and punishing departments.

The investigating and punishing departments shall make public to society the telephone numbers, mailboxes, or email addresses for accepting reports, assign personnel to accept reports, and handle them in accordance with the law. For reports made with real names, the investigating and punishing departments shall inform the reporter of the handling result and keep the reporter's identity confidential.

Article 10 — In investigating and punishing unlicensed and unregistered business operations in accordance with the law, the investigating and punishing departments shall adhere to the principles of combining investigation with guidance and combining punishment with education; where the operator has the statutory conditions for obtaining the permits or licenses and intends to continue business operations, the departments shall urge and guide the operator to obtain the corresponding permits or licenses in accordance with the law.

Article 11 — In investigating and punishing suspected unregistered business operations, the industry and commerce administration department of the people's government at or above the county level may exercise the following powers:

(1) ordering the cessation of the relevant business activities;

(2) investigating and obtaining information from units and individuals related to the suspected unregistered business operations;

(3) entering the places where unregistered business operations are suspected to be conducted to carry out on-site inspection; and

(4) consulting and reproducing contracts, negotiable instruments, account books, and other relevant materials related to the suspected unregistered business operations.

Places where unregistered business operations are suspected to be conducted may be sealed up; tools, equipment, raw materials, products (goods), and other articles suspected of being used for unregistered business operations may be sealed up or distrained.

In investigating and punishing suspected unlicensed business operations, measures shall be taken in accordance with the provisions of the relevant laws and regulations.

Article 12 — Those engaging in unlicensed business operations shall be punished by the investigating and punishing departments in accordance with the provisions of the relevant laws and regulations.

Article 13 — Those engaging in unregistered business operations shall be punished by the industry and commerce administration department in accordance with the provisions of the relevant laws and administrative regulations. Where laws and administrative regulations do not clearly provide for penalties for unregistered business operations, the industry and commerce administration department shall order the cessation of the illegal acts, confiscate the illegal income, and impose a fine of not more than RMB 10,000.

Article 14 — Whoever, knowing that business operations are unregistered, provides business premises, or provides transport, safekeeping, warehousing, or other conditions for the operator, shall be ordered by the industry and commerce administration department to cease the illegal acts, have the illegal income confiscated, and may be fined not more than RMB 5,000.

Article 15 — Where any unit or individual engages in unlicensed and unregistered business operations, the investigating and punishing departments shall record it in the credit record and make it public in accordance with the provisions of the relevant laws and regulations.

Article 16 — Whoever obstructs the investigating and punishing departments from investigating and punishing unlicensed and unregistered business operations, constituting a violation of public security

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administration, shall be punished by the public security organs in accordance with the provisions of the Public Security Administration Punishments Law of the People's Republic of China.

Article 17 — Where the investigating and punishing departments or their staff abuse their powers, neglect their duties, or practice favoritism and engage in fraud, the responsible leading personnel and directly responsible personnel shall be given sanctions in accordance with the law.

Article 18 — Where a violation of these Measures constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 19 — These Measures shall come into force on October 1, 2017. The Measures for the Investigation, Punishment, and Banning of Unlicensed Business Operations promulgated by the State Council on January 6, 2003 shall be repealed simultaneously.

Disclaimer: This translation is provided for reference and informational purposes only. In the event of any discrepancy, the official Chinese text issued by the State Council of the People's Republic of China shall prevail. This translation does not constitute legal advice.