Regulations on the Administration of Enterprise Bonds of China (the PRC)

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

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Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purpose of strengthening the administration of enterprise bonds, guiding the rational flow of funds, making effective use of idle funds in society, and protecting the lawful rights and interests of investors.

Article 2 — These Regulations apply to bonds issued within the territory by enterprises with legal person status within the territory of the People's Republic of China (hereinafter referred to as "enterprises"). However, financial bonds and foreign currency bonds are excluded.

Except for the enterprises specified in the preceding paragraph, no unit or individual may issue enterprise bonds.

Article 3 — When an enterprise conducts activities to raise funds for consideration, it must do so in the form of publicly issuing enterprise bonds. However, where laws and the State Council provide otherwise, those provisions shall prevail.

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Article 4 — The issuance and purchase of enterprise bonds shall follow the principles of voluntariness, mutual benefit, and consideration.

Chapter II — Enterprise Bonds

Article 5 — “Enterprise bonds” as used in these Regulations means negotiable securities issued by enterprises in accordance with statutory procedures, under which repayment of principal and payment of interest within a certain period are agreed.

Article 6 — The face of an enterprise bond shall set out the following contents:

(1) the name and domicile of the enterprise;

(2) the face value of the enterprise bond;

(3) the interest rate of the enterprise bond;

(4) the term and method of repayment of principal;

(5) the method of payment of interest;

(6) the issuance date and serial number of the enterprise bond;

(7) the seal of the enterprise and the signature of the legal representative of the enterprise; and

(8) the document number and date of the approval of issuance by the approving organ.

Article 7 — A holder of enterprise bonds has the right to receive interest and recover the principal in accordance with the agreed term, but has no right to participate in the business management of the enterprise.

Article 8 — A holder of enterprise bonds does not bear responsibility for the operating condition of the enterprise.

Article 9 — Enterprise bonds may be transferred, mortgaged, and inherited.

Chapter III — Administration of Enterprise Bonds

Article 10 — The State Planning Commission, in conjunction with the People’s Bank of China, the Ministry of Finance, and the Securities Commission of the State Council, shall formulate the annual scale of enterprise bond issuance nationwide and the various indicators within the scale, and, after reporting to the State Council for approval, issue them to the people’s governments of all provinces, autonomous regions, municipalities directly under the Central Government, and cities under separate state planning, and the relevant departments of the State Council for implementation.

Without the consent of the State Council, no locality or department may exceed the annual scale of enterprise bond issuance on its own, or adjust the various indicators within the annual scale on its own.

Article 11 — An enterprise that issues enterprise bonds must undergo examination and approval in accordance with these Regulations; without approval, it shall not issue enterprise bonds on its own or in disguised form.

Enterprise bonds issued by central enterprises shall be examined and approved by the People’s Bank of China in conjunction with the State Planning Commission; enterprise bonds issued by local enterprises shall be examined and approved by the branches of the People’s Bank of China in provinces, autonomous regions, municipalities directly under the Central Government, and cities under separate state planning, in conjunction with the planning departments at the same level.

Article 12 — An enterprise that issues enterprise bonds must satisfy the following conditions:

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(1) the enterprise's scale meets the requirements specified by the state;

(2) the enterprise's financial and accounting system conforms to state provisions;

(3) the enterprise has the ability to repay debts;

(4) the enterprise has good economic benefits and has been profitable for three consecutive years before the issuance of enterprise bonds; and

(5) the use of the funds raised conforms to the state's industrial policy.

Article 13 — An enterprise that issues enterprise bonds shall formulate issuance articles.

The issuance articles shall include the following contents:

(1) the name, domicile, business scope, and legal representative of the enterprise;

(2) the production and operation situation of the enterprise over the past three years and the basic situation of the development of its relevant business;

(3) the financial report;

(4) the net value of the enterprise's own assets;

(5) the use of the funds raised;

(6) the benefit forecast;

(7) the targets, time, term, and method of issuance;

(8) the types and terms of the bonds;

(9) the interest rate of the bonds;

(10) the total face value of the bonds;

(11) the method of repayment of principal and payment of interest; and

(12) other matters required by the approving organ to be set out.

Article 14 — An enterprise applying to issue enterprise bonds shall submit the following documents to the approving organ:

(1) the application for issuance of enterprise bonds;

(2) the business license;

(3) the issuance articles;

(4) the enterprise's financial reports for the past three years audited by an accounting firm; and

(5) other materials required by the approving organ.

Where enterprise bonds issued by an enterprise are used for fixed asset investment and approval by the relevant departments is required in accordance with the relevant state provisions, the approval documents of the relevant departments shall also be submitted.

Article 15 — An enterprise that issues enterprise bonds shall publish the issuance articles approved by the approving organ.

An enterprise that issues enterprise bonds may apply to a recognized bond credit rating institution for a credit rating.

Article 16 — The total face value of enterprise bonds issued by an enterprise shall not exceed the net value of the enterprise's own assets.

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Article 17 — Where an enterprise issues enterprise bonds for fixed asset investment, it shall handle the matter in accordance with the relevant state provisions on fixed asset investment.

Article 18 — The interest rate of enterprise bonds shall not be higher than 40% of the interest rate of resident time savings deposits of the same term at banks.

Article 19 — No unit may use the following funds to purchase enterprise bonds:

(1) budgetary allocations;

(2) bank loans; or

(3) other funds that the state provides shall not be used to purchase enterprise bonds.

Institutions handling savings business shall not use the savings deposits they have absorbed to purchase enterprise bonds.

Article 20 — Funds raised from the issuance of enterprise bonds by an enterprise shall be used, in accordance with the use approved by the approving organ, for the production and operation of the enterprise.

Funds raised from the issuance of enterprise bonds by an enterprise shall not be used for risky investments unrelated to the production and operation of the enterprise, such as the purchase and sale of real estate, the purchase and sale of stocks, and futures trading.

Article 21 — Enterprise bonds issued by an enterprise shall be underwritten by a securities business institution.

A securities business institution underwriting enterprise bonds shall verify the authenticity, accuracy, and completeness of the issuance articles and other relevant documents of the enterprise issuing the bonds.

Article 22 — Enterprise bonds shall be transferred at approved places where bond trading may be conducted.

Article 23 — Non-securities business institutions and individuals shall not conduct the underwriting and transfer business of enterprise bonds.

Article 24 — Interest income from enterprise bonds obtained by units and individuals shall be taxed in accordance with state provisions.

Article 25 — The People’s Bank of China and its branches and the state securities regulatory institutions shall, in accordance with their prescribed duties, supervise and inspect the issuance and trading activities of enterprise bonds.

Chapter IV — Legal Liability

Article 26 — Whoever issues enterprise bonds without approval or in disguised form, and whoever issues enterprise bonds not through a securities business institution, shall be ordered to cease the issuance activities, refund the illegally raised funds, and be fined not more than 5% of the amount of the illegally raised funds.

Article 27 — Whoever issues enterprise bonds in excess of the approved amount shall be ordered to refund the excess portion or have the loan quota reduced by an amount equivalent to the excess amount, and shall be fined not more than 5% of the excess portion.

Article 28 — Whoever issues enterprise bonds at an interest rate exceeding the maximum interest rate specified in Article 18 of these Regulations shall be ordered to make corrections and be fined not more than 5% of the amount of the funds raised.

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Article 29 — Whoever uses budgetary allocations, bank loans, or other funds that the state provides shall not be used to purchase enterprise bonds to purchase enterprise bonds, and any institution handling savings business that uses the savings deposits it has absorbed to purchase enterprise bonds, shall be ordered to recover the funds and be fined not more than 5% of the amount of the enterprise bonds purchased.

Article 30 — Whoever fails to use funds raised from the issuance of enterprise bonds in accordance with the approved use shall be ordered to make corrections, have the gains obtained from using the funds in violation of the approved use confiscated, and be fined not more than 5% of the amount of the funds used in violation of the regulations.

Article 31 — A non-securities business institution or individual that conducts the underwriting or transfer business of enterprise bonds shall be ordered to cease the illegal operations, have the illegal income confiscated, and be fined not more than 5% of the amount of the enterprise bonds underwritten or transferred.

Article 32 — The penalties provided for in Articles 26, 27, 28, 29, 30, and 31 of these Regulations shall be decided by the People's Bank of China and its branches.

Article 33 — The legal representatives and directly responsible personnel of units that commit the illegal acts listed in Articles 26, 27, 28, 29, 30, and 31 of these Regulations shall be given warnings or fined not less than RMB 10,000 and not more than RMB 100,000 by the People's Bank of China and its branches; where the act constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 34 — A local approving organ that approves the issuance of enterprise bonds in violation of these Regulations shall be ordered to make corrections, be given a notice of criticism, and, as appropriate, have the issuance scale of enterprise bonds of that locality reduced accordingly.

Article 35 — Where a staff member of an enterprise bond supervisory and administration organ neglects his or her duties or practices favoritism and engages in fraud, administrative sanctions shall be imposed; where the act constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 36 — An enterprise issuing enterprise bonds that violates these Regulations and causes losses to others shall bear civil liability for compensation in accordance with the law.

Chapter V — Supplementary Provisions

Article 37 — The issuance of short-term financing bonds by enterprises shall be handled in accordance with the relevant provisions of the People's Bank of China.

Article 38 — These Regulations shall be interpreted by the People's Bank of China in conjunction with the State Planning Commission.

Article 39 — These Regulations shall come into force on the date of promulgation. The Interim Regulations on the Administration of Enterprise Bonds promulgated by the State Council on March 27, 1987 shall be repealed simultaneously.

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