

Regulations on the Prevention and Handling of Illegal Fund-Raising

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Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Prevention	2
Chapter III — Handling	4
Chapter IV — Legal Liability	6
Chapter V — Supplementary Provisions	7

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Prevention
- Chapter III — Handling
- Chapter IV — Legal Liability
- Chapter V — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are formulated to prevent and handle illegal fund-raising, protect the lawful rights and interests of the public, prevent and defuse financial risks, and maintain economic order and social stability.

Article 2 — For the purposes of these Regulations, "illegal fund-raising" means the act of absorbing funds from unspecified objects without permission granted in accordance with law by the financial regulatory authorities of the State Council, or in violation of the state's financial regulations, by means of promising to repay principal with interest or granting other investment returns. The prevention of illegal fund-raising and the handling of illegal fund-raising by administrative organs shall be governed by these Regulations. Where laws or administrative regulations provide otherwise for illegally engaging in financial business activities such as banking, securities, insurance and foreign exchange, such provisions shall prevail. For the purposes of these Regulations, "financial regulatory authorities of the State Council" means the People's Bank of China, the financial regulatory institution of the State Council and the foreign exchange regulatory authority of the State Council.

Article 3 — For the purposes of these Regulations, "illegal fund-raisers" means the units and individuals that initiate, lead or organize the implementation of illegal fund-raising; "assistants to illegal fund-raising" means the units and individuals that, knowing that the activities constitute illegal fund-raising, provide assistance thereto and obtain economic benefits.

Article 4 — The state prohibits illegal fund-raising in any form, and adheres to the principles of giving priority to prevention, combating it at an early stage and on a small scale, comprehensive governance, and prudent handling.

Article 5 — The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall bear overall responsibility for the prevention and handling of illegal fund-raising within their respective administrative regions, and local people's governments at all levels shall establish and improve a working mechanism for the prevention and handling of illegal fund-raising under the unified leadership of the government. Local people's governments at or above the county level shall designate the leading department of the working mechanism for the prevention and handling of illegal fund-raising (hereinafter referred to as the "leading department for handling illegal fund-raising"), with the relevant departments and the branches and dispatched offices of the financial regulatory authorities of the State Council participating in the working mechanism; township people's governments shall designate the personnel responsible for leading the prevention and handling of illegal fund-raising. Higher-level local people's governments shall supervise and guide lower-level local people's governments in the prevention and handling of illegal fund-raising within their respective administrative regions. Industry authorities and regulatory authorities shall, in accordance with the division of duties, be responsible for the prevention of, and cooperation in the handling of, illegal fund-raising in their respective industries and fields.

Article 6 — The State Council shall establish an inter-ministerial joint meeting system for the handling of illegal fund-raising (hereinafter referred to as the "joint meeting"). The joint meeting shall be led by the banking and insurance regulatory institution of the State Council, with the relevant departments participating, and shall be responsible for supervising and guiding the relevant departments and localities in carrying out the prevention and handling of illegal fund-raising, and for coordinating the resolution of major issues in the prevention and handling of illegal fund-raising.

Article 7 — People's governments at all levels shall reasonably guarantee the funds for work related to the prevention and handling of illegal fund-raising and include them in their respective budgets.

Chapter II — Prevention

Article 8 — Local people's governments at all levels shall establish a monitoring and early-warning mechanism for illegal fund-raising, incorporate it into the comprehensive governance system for public security, give play to the role of grid-based management and grassroots self-governing organizations, and use big data and other modern information technology to strengthen the monitoring and early warning of illegal fund-raising. Industry authorities and regulatory authorities shall strengthen routine supervision and administration, and be responsible for the risk screening and the monitoring and early warning of illegal fund-raising in their respective industries and fields. The joint meeting shall establish and improve a national monitoring and early-warning system for illegal fund-raising, promote the construction of a national monitoring and early-warning platform, facilitate information sharing between localities and departments, strengthen the analysis and assessment of illegal fund-raising risks, and issue early warnings in a timely manner.

Article 9 — The market regulatory authorities shall strengthen the administration of commercial registration such as the names and business scopes of enterprises and individual industrial and commercial households. Unless otherwise provided by laws, administrative regulations and the state, the names and business scopes of enterprises and individual industrial and commercial households shall not contain words or content such as "finance", "exchange", "trading center", "financial management", "wealth management" or "equity

crowdfunding". The leading department for handling illegal fund-raising of local people's governments at or above the county level, the market regulatory authorities and other relevant departments shall establish a consultation mechanism, and shall promptly pay special attention when discovering that the name or business scope of an enterprise or individual industrial and commercial household contains words or content related to fund-raising other than those prescribed in the preceding paragraph.

Article 10 — The leading department for handling illegal fund-raising shall, together with the internet information content regulatory authorities and the telecommunications authorities, strengthen the monitoring of internet information, websites, mobile applications and other internet applications suspected of illegal fund-raising. Where, upon organization and determination by the leading department for handling illegal fund-raising, they are determined to be used for illegal fund-raising, the internet information content regulatory authorities and the telecommunications authorities shall promptly handle the matter in accordance with law. Internet information service providers shall strengthen the administration of information published by users, and shall not produce, reproduce, publish or disseminate information suspected of illegal fund-raising. Upon discovering information suspected of illegal fund-raising, they shall preserve the relevant records and report to the leading department for handling illegal fund-raising.

Article 11 — Unless otherwise provided by the state, no unit or individual may publish advertisements containing fund-raising content or otherwise publicize fund-raising to the public. The market regulatory authorities shall, together with the leading department for handling illegal fund-raising, strengthen the monitoring of advertisements suspected of illegal fund-raising. Where, upon organization and determination by the leading department for handling illegal fund-raising, the activities are determined to constitute illegal fund-raising, the market regulatory authorities shall promptly investigate and deal with the relevant illegal fund-raising advertisements in accordance with law. Advertising operators and advertisement publishers shall, in accordance with laws and administrative regulations, examine the relevant supporting documents and verify the advertisement content. For advertisements without the relevant supporting documents that contain fund-raising content, advertising operators shall not provide design, production or agency services, and advertisement publishers shall not publish them.

Article 12 — The leading department for handling illegal fund-raising shall, together with the branches and dispatched offices of the financial regulatory authorities of the State Council at its locality, establish a monitoring mechanism for suspicious funds related to illegal fund-raising. The financial regulatory authorities of the State Council and their branches and dispatched offices shall, in accordance with the division of duties, supervise and guide financial institutions and non-bank payment institutions in strengthening the monitoring of abnormal capital flows and other suspicious funds suspected of illegal fund-raising.

Article 13 — Financial institutions and non-bank payment institutions shall perform the following obligations to prevent illegal fund-raising: (1) establishing and improving internal management systems, prohibiting branches and employees from participating in illegal fund-raising, and preventing others from using their business premises and sales channels to engage in illegal fund-raising; (2) strengthening publicity and education for the public on preventing illegal fund-raising, and setting up warning signs at conspicuous locations in business premises; (3) strictly implementing the reporting system for large-value transactions and suspicious transactions in accordance with law, analyzing and identifying the relevant accounts with abnormal flows of funds suspected of illegal fund-raising, and promptly reporting the relevant information to the branches and dispatched offices of the financial regulatory authorities of the State Council at their locality and to the leading department for handling illegal fund-raising.

Article 14 — Industry associations and chambers of commerce shall strengthen self-discipline management and self-restraint within their industries, and urge and guide their members to actively prevent illegal fund-raising and not to organize, assist in, or participate in illegal fund-raising.

Article 15 — The joint meeting shall establish a publicity and education mechanism for preventing illegal fund-raising with vertical linkage between the central and local levels, and promote publicity and education

on preventing illegal fund-raising nationwide. Local people's governments at all levels shall carry out routine publicity and education on preventing illegal fund-raising, fully utilize various media and carriers, and, by means such as interpretation of laws and policies, analysis of typical cases and investment risk education, publicize to the public the illegality, harmfulness and manifestations of illegal fund-raising, so as to enhance the public's awareness of prevention and ability to identify illegal fund-raising. Industry authorities, regulatory authorities, industry associations and chambers of commerce shall, in light of the risk characteristics of illegal fund-raising in their respective industries and fields, carry out targeted publicity and education activities on preventing illegal fund-raising. News media shall carry out public-interest publicity on preventing illegal fund-raising and exercise public-opinion supervision over illegal fund-raising in accordance with law.

Article 16 — Any unit or individual has the right to report suspected illegal fund-raising to the leading department for handling illegal fund-raising or other relevant departments. The state encourages the reporting of suspected illegal fund-raising. The leading department for handling illegal fund-raising and other relevant departments shall disclose reporting methods such as reporting telephone numbers and mailboxes, set up reporting columns on government websites, accept reports, promptly handle them in accordance with law, and keep the information of the reporters confidential.

Article 17 — Where residents' committees or villagers' committees discover suspected illegal fund-raising in their areas, they shall report it to the local people's governments, the leading department for handling illegal fund-raising or other relevant departments.

Article 18 — Where the leading department for handling illegal fund-raising and the industry authorities and regulatory authorities discover that there may be a risk of illegal fund-raising in their respective administrative regions or industries and fields, they have the right to conduct warnings and admonition talks with the relevant units and individuals, and order rectification.

Chapter III — Handling

Article 19 — For the following acts within their respective administrative regions that are suspected of illegal fund-raising, the leading department for handling illegal fund-raising shall promptly organize the relevant industry authorities, regulatory authorities and the branches and dispatched offices of the financial regulatory authorities of the State Council to conduct investigation and determination: (1) establishing internet enterprises, investment and investment-consulting enterprises, various trading venues or platforms, specialized farmers' cooperatives, mutual-aid fund organizations and other organizations to absorb funds; (2) absorbing funds by issuing or transferring equity or creditor's rights, raising funds, selling insurance products, or in the name of engaging in various types of asset management, virtual currency, financial leasing and other businesses; (3) absorbing funds in commercial activities such as the sale of goods, the provision of services and investment projects, in the form of promising to give monetary, equity or in-kind returns; (4) publicly disseminating fund-absorbing information through mass media, instant messaging tools or other means in violation of laws, administrative regulations or the relevant provisions of the state; (5) other acts suspected of illegal fund-raising.

Article 20 — For suspected illegal fund-raising across administrative regions, where the illegal fund-raiser is a unit, the leading department for handling illegal fund-raising at its place of registration shall organize investigation and determination; where the illegal fund-raiser is an individual, the leading department for handling illegal fund-raising at his or her place of domicile or habitual residence shall organize investigation and determination. The leading departments for handling illegal fund-raising at the place where the illegal fund-raising occurred, the place where the fund-raising assets are located and the place where the fund-raising participants are located shall cooperate in the investigation and determination. Where there is a dispute over the duty to organize investigation and determination among leading departments for handling illegal fund-raising, the matter shall be determined by their common superior leading department for handling illegal fund-raising; where there is a dispute over the duty to organize investigation and determination across

provinces, autonomous regions or municipalities directly under the Central Government, the matter shall be determined by the joint meeting.

Article 21 — The leading department for handling illegal fund-raising may take the following measures in organizing the investigation of suspected illegal fund-raising: (1) entering the premises suspected of illegal fund-raising to conduct investigation and collect evidence; (2) questioning the units and individuals related to the matter under investigation, and requiring them to give explanations on the relevant matters; (3) consulting and reproducing documents, materials, electronic data and the like related to the matter under investigation, and sealing up documents, materials and electronic equipment that may be transferred, concealed or damaged; (4) upon approval by the principal responsible person of the leading department for handling illegal fund-raising, inquiring, in accordance with law, about the relevant accounts suspected of illegal fund-raising. There shall be no fewer than two investigators, who shall present their law-enforcement credentials. The units and individuals related to the matter under investigation shall cooperate with the investigation and shall not refuse or obstruct it.

Article 22 — The leading department for handling illegal fund-raising organizing an investigation into suspected illegal fund-raising has the right to require the suspension of fund-raising activities, and to notify the market regulatory authorities or other relevant departments to suspend the handling of registration for establishment, modification or cancellation for the relevant units suspected of illegal fund-raising.

Article 23 — Where, upon investigation and determination, the activities are determined to constitute illegal fund-raising, the leading department for handling illegal fund-raising shall order the illegal fund-raisers and the assistants to illegal fund-raising to immediately stop the relevant illegal activities; where a suspected crime is discovered, the case shall be promptly transferred to the public security organs in accordance with provisions, and cooperation shall be provided in the relevant work. The investigation and determination of illegal fund-raising by administrative organs is not a necessary procedure for pursuing criminal liability in accordance with law.

Article 24 — According to the needs of handling illegal fund-raising, the leading department for handling illegal fund-raising may take the following measures: (1) sealing up the relevant business premises, and sealing up and seizing the relevant assets; (2) ordering the illegal fund-raisers and the assistants to illegal fund-raising to recover the relevant assets or sell them at a converted price for the refund of fund-raising funds; (3) upon decision by the leading department for handling illegal fund-raising of the people's government at or above the level of a city divided into districts, notifying, in accordance with provisions, the exit-entry border inspection authorities to restrict the exit of individuals engaged in illegal fund-raising or the controlling shareholders, actual controllers, directors, supervisors, senior managers and other directly responsible personnel of units engaged in illegal fund-raising. The measures prescribed in items (1) and (2) of the preceding paragraph shall be taken upon approval by the principal responsible person of the leading department for handling illegal fund-raising.

Article 25 — The illegal fund-raisers and the assistants to illegal fund-raising shall refund the fund-raising funds to the fund-raising participants. The refund process shall be subject to the supervision of the leading department for handling illegal fund-raising. No unit or individual may obtain economic benefits from illegal fund-raising. Losses incurred as a result of participating in illegal fund-raising shall be borne by the fund-raising participants themselves.

Article 26 — The sources of funds for the refund of fund-raising funds include: (1) the balance of illegal fund-raising funds; (2) the returns from illegal fund-raising funds or other assets converted therefrom and the returns therefrom; (3) the economic benefits obtained by the illegal fund-raisers and their shareholders, actual controllers, directors, supervisors, senior managers and other relevant personnel from illegal fund-raising; (4) the illegal fund-raising funds or relevant assets concealed or transferred by the illegal fund-raisers; (5) economic benefits such as advertising fees, endorsement fees, agency fees, service fees, rebate fees, commissions and kickbacks obtained from illegal fund-raising; (6) other assets that may be used

for the refund of fund-raising funds.

Article 27 — The business licenses of enterprises, individual industrial and commercial households and specialized farmers' cooperatives established for illegal fund-raising shall be revoked by the market regulatory authorities. The websites, developed mobile applications and other internet applications established for illegal fund-raising shall be shut down by the telecommunications authorities in accordance with law.

Article 28 — The financial regulatory authorities of the State Council and their branches and dispatched offices, the relevant departments of local people's governments and other relevant units and individuals shall give support and cooperation to the work of handling illegal fund-raising. No unit or individual may obstruct or hinder the work of handling illegal fund-raising.

Article 29 — In the process of handling illegal fund-raising, the relevant local people's governments shall take effective measures to maintain social stability.

Chapter IV — Legal Liability

Article 30 — Illegal fund-raisers shall be fined by the leading department for handling illegal fund-raising at not less than 20% and not more than one time the amount of funds raised. Where the illegal fund-raiser is a unit, it may also be ordered to suspend production or business according to the seriousness of the circumstances, and its permits, business licenses or registration certificates shall be revoked by the relevant authorities in accordance with law; its legal representative or principal responsible person, the directly responsible person in charge and other directly responsible personnel shall be given a warning and fined not less than 500,000 yuan and not more than 5 million yuan. Where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 31 — Assistants to illegal fund-raising shall be given a warning by the leading department for handling illegal fund-raising and fined not less than one time and not more than three times the illegal gains; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 32 — Where illegal fund-raisers and assistants to illegal fund-raising cannot simultaneously perform the obligations of refunding fund-raising funds and paying fines, the fund-raising funds shall be refunded first.

Article 33 — Credit records shall be established by the relevant departments for illegal fund-raisers and assistants to illegal fund-raising that have been subject to administrative penalties in accordance with these Regulations, and their credit records shall be incorporated into the national credit information sharing platform in accordance with provisions.

Article 34 — Where internet information service providers fail to perform their obligations to prevent and handle information suspected of illegal fund-raising, the relevant authorities shall order them to make corrections, give them a warning and confiscate their illegal gains; where they refuse to make corrections or the circumstances are serious, they shall be fined not less than 100,000 yuan and not more than 500,000 yuan, and may, according to the seriousness of the circumstances, be ordered to suspend the relevant business, suspend business for rectification, shut down their websites, revoke the relevant business permits or revoke their business licenses, and the directly responsible person in charge and other directly responsible personnel shall be fined not less than 10,000 yuan and not more than 100,000 yuan. Where advertising operators and advertisement publishers fail to examine the relevant supporting documents or verify the advertisement content in accordance with provisions, the market regulatory authorities shall order them to make corrections and impose penalties in accordance with the Advertising Law of the People's Republic of China.

Article 35 — Where financial institutions and non-bank payment institutions fail to perform their obligations to prevent illegal fund-raising, the financial regulatory authorities of the State Council or their branches and

dispatched offices shall, in accordance with the division of duties, order them to make corrections, give them a warning and confiscate their illegal gains; where serious consequences are caused, they shall be fined not less than 1 million yuan and not more than 5 million yuan, and the directly responsible person in charge and other directly responsible personnel shall be given a warning and fined not less than 100,000 yuan and not more than 500,000 yuan.

Article 36 — Where units and individuals related to the matter under investigation fail to cooperate with the investigation, refuse to provide the relevant documents, materials, electronic data and the like, or provide false documents, materials or electronic data, the leading department for handling illegal fund-raising shall order them to make corrections, give them a warning and fine them not less than 50,000 yuan and not more than 500,000 yuan. Where obstructing investigators in performing their duties in accordance with law constitutes a violation of public security administration, the public security organs shall impose public security administrative penalties in accordance with law; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 37 — Where state organ functionaries commit any of the following acts, sanctions shall be imposed in accordance with law: (1) knowing that units under their supervision or regulation have acts suspected of illegal fund-raising but failing to handle them in a timely manner in accordance with law; (2) failing to perform their duties of preventing illegal fund-raising in a timely manner in accordance with provisions, or failing to cooperate in the handling of illegal fund-raising, causing serious consequences; (3) abusing power, neglecting duties or practicing favoritism and fraud in the process of preventing and handling illegal fund-raising; (4) supporting, shielding or conniving at illegal fund-raising through official acts or by taking advantage of official influence. Where the acts prescribed in the preceding paragraph constitute a crime, criminal liability shall be pursued in accordance with law.

Chapter V — Supplementary Provisions

Article 38 — Provinces, autonomous regions and municipalities directly under the Central Government may formulate detailed implementation rules for the prevention and handling of illegal fund-raising in accordance with these Regulations.

Article 39 — Where anyone engages, without permission granted in accordance with law or in violation of the state's financial regulations, in financial business activities such as the granting of loans, payment and settlement, and bill discounting, the financial regulatory authorities of the State Council or the local financial regulatory authorities shall handle the matter in accordance with the division of supervision and administration duties. Where laws and administrative regulations have no clear provisions on the prevention and handling of other illegal financial business activities, the relevant provisions of these Regulations shall apply mutatis mutandis. The specific types of other illegal financial business activities shall be determined by the financial regulatory authorities of the State Council.

Article 40 — These Regulations shall take effect on May 1, 2021. The Measures for Banning Illegal Financial Institutions and Illegal Financial Business Activities promulgated by the State Council on July 13, 1998 shall be repealed simultaneously.

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