Regulations on Disciplinary Sanctions Against Management Personnel of State-Owned Enterprises of China (the PRC)

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

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Adopted at the 31st Executive Meeting of the State Council on April 26, 2024, promulgated by Order No. 781 of the State Council of the People's Republic of China on May 21, 2024, and effective as of September 1, 2024

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Chapter I — General Provisions

Article 1 — These Regulations are formulated, in accordance with the Law of the People's Republic of China on Government Sanctions for Public Officials (hereinafter the "Law on Government Sanctions for Public Officials") and other laws, to standardize the disciplinary sanctions imposed on management personnel of state-owned enterprises and to strengthen the supervision of such personnel.

Article 2 — For the purposes of these Regulations, "management personnel of state-owned enterprises" means the following public officials in state-invested enterprises:

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(1) personnel performing organization, leadership, management and supervision duties in wholly state-owned and wholly state-funded companies and enterprises;

(2) personnel performing organization, leadership, management and supervision duties in state-controlled and state-participated companies and their branches, who have been nominated, recommended, appointed or approved by Party organizations or state organs, wholly state-owned or wholly state-funded companies or enterprises, or public institutions; and

(3) personnel who, upon approval or decision of organizations in state-invested enterprises that bear the duties of managing and supervising state-owned assets, engage in organization, leadership, management and supervision work on behalf of such organizations in state-controlled and state-participated companies and their branches.

Where the appointment and removal organs and units of management personnel of state-owned enterprises (hereinafter the "appointment and removal organs and units") impose disciplinary sanctions on such personnel for illegal acts, Chapter II and Chapter III of the Law on Government Sanctions for Public Officials and the provisions of these Regulations shall apply.

Article 3 — The work of imposing disciplinary sanctions on management personnel of state-owned enterprises shall uphold the leadership of the Communist Party of China, adhere to the principle of the Party supervising cadres, strengthen the building of the contingent of management personnel 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 management personnel of state-owned enterprises. In imposing disciplinary sanctions on such personnel, fairness and impartiality shall be upheld, and decisions shall be made through collective discussion; the combination of leniency and strictness, and of punishment and education, shall be upheld; the principle of rule of law shall be upheld, facts shall be the basis and law the criterion, and the lawful rights and interests of management personnel of state-owned enterprises and relevant personnel shall be protected in accordance with the law.

Article 5 — The institutions performing the duties of investors or the departments with cadre management authority shall, in accordance with laws, regulations and the relevant provisions of the State, guide state-owned enterprises in integrating and optimizing supervision resources, promote the coordination of investor supervision with discipline inspection and supervision, inspection supervision, audit supervision, financial and accounting supervision and social supervision, improve coordinated and efficient supervision mechanisms, establish internal supervision and administration systems of mutual cooperation and mutual restraint, and enhance the systematic, targeted and effective supervision of state-owned enterprises and their management personnel.

Article 6 — In imposing disciplinary sanctions on management personnel of state-owned enterprises, the facts shall be clear, the evidence conclusive, the characterization accurate, the handling appropriate, the procedures lawful and the formalities complete, and the sanctions shall correspond to the nature, circumstances and degree of harm of the illegal acts.

Chapter II — Types and Application of Disciplinary Sanctions

Article 7 — The types of disciplinary sanctions are:

(1) warning;

(2) recording of a demerit;

(3) recording of a major demerit;

(4) demotion;

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(5) removal from office; and

(6) expulsion.

Article 8 — The periods of disciplinary sanctions are:

(1) warning, six months;

(2) recording of a demerit, 12 months;

(3) recording of a major demerit, 18 months; and

(4) demotion and removal from office, 24 months.

A disciplinary sanction decision shall take effect from the date it is made, and the sanction period shall be calculated from the date the disciplinary sanction decision takes effect.

Article 9 — Where a person in management of a state-owned enterprise concurrently commits two or more illegal acts for which disciplinary sanctions should be imposed, the sanctions shall be determined separately. Where the types of sanctions that should be imposed differ, the most severe sanction shall be executed; where multiple sanctions of the same type below removal from office should be imposed, the sanction period may be determined between one sanction period and the sum of the multiple sanction periods, but shall not exceed 48 months in the aggregate.

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

Where two or more management personnel of a state-owned enterprise jointly commit an illegal act and disciplinary sanctions need to be imposed, corresponding sanctions shall be imposed separately according to the respective responsibilities each should bear.

Article 11 — Where a person in management of a state-owned enterprise falls under any of the following circumstances, the disciplinary sanction may be lighter or mitigated:

(1) voluntarily confessing his or her illegal acts that should be subject to disciplinary sanctions;

(2) cooperating with the investigation and truthfully stating his or her illegal facts;

(3) reporting the illegal acts of others, which are 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 surrendering or returning illegal gains;

(7) committing mistakes or errors arising from lack of experience or early and trial implementation in the course of promoting the reform of state-owned enterprises; or

(8) other circumstances of lighter or mitigated sanction prescribed by laws and regulations.

A lighter sanction means imposing a lighter sanction within the range of sanctions applicable to the illegal act prescribed by these Regulations.

A mitigated sanction means imposing a sanction one grade lower than the range of sanctions applicable to the illegal act prescribed by these Regulations.

Article 12 — Where the illegal act of a person in management of a state-owned enterprise is minor and he or she falls under any of the circumstances prescribed in Article 11, paragraph 1 of these Regulations, he or she may be given a reminder conversation, criticism and education, ordered to make a self-examination, or

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admonished, with the sanction exempted or not imposed.

Where a person in management of a state-owned enterprise participates in an illegal activity because he or she was coerced or duped due to ignorance of the truth, and genuinely shows repentance after criticism and education, the sanction may be mitigated, exempted or not imposed.

Article 13 — Where a person in management of a state-owned enterprise falls under any of the following circumstances, the disciplinary sanction shall be aggravated:

(1) again deliberately committing an illegal act during the sanction period, which should be subject to a disciplinary sanction;

(2) preventing others from reporting or providing evidence;

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

(4) shielding co-participants in the case;

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

(6) refusing to surrender or return illegal gains; or

(7) other aggravating circumstances prescribed by laws and regulations.

An aggravated sanction means imposing a more severe sanction within the range of sanctions applicable to the illegal act prescribed by these Regulations.

Article 14 — During the sanction period, a person in management of a state-owned enterprise shall not be promoted in position, post grade or professional title; where he or she is given a recording of a demerit, recording of a major demerit, demotion or removal from office, he or she shall not be promoted in remuneration grade. Where a person is removed from office, his or her position or post grade shall be lowered, and his or her remuneration shall be lowered simultaneously. Where a person is expelled, the employing unit shall terminate the labor contract in accordance with the law.

Article 15 — Property illegally obtained by a person in management of a state-owned enterprise and his or her personal property used for illegal acts shall, except where it should be confiscated, recovered or ordered to be returned by the relevant authorities in accordance with the law, be returned to the original owners or original holders.

With respect to other benefits such as positions, ranks, grades, posts and staff grades, professional titles, treatment, qualifications, academic degrees, honors and rewards obtained by a person in management of a state-owned enterprise through illegal acts, the appointment and removal organs and units shall correct them or suggest that the relevant organs, units or organizations correct them in accordance with the provisions.

Article 16 — Where a retired person in management of a state-owned enterprise committed, before or after retirement, an illegal act that should be subject to a disciplinary sanction, no disciplinary sanction decision shall be made, but an investigation may be filed against him or her; where a demotion, removal from office or expulsion should be imposed in accordance with the law, his or her benefits shall be adjusted accordingly in accordance with the provisions, and the property illegally obtained by him or her and his or her personal property used for illegal acts shall be handled in accordance with Article 15 of these Regulations.

Chapter III — Illegal Acts and the Disciplinary Sanctions Applicable

Article 17 — Where a person in management of a state-owned enterprise commits any of the following acts, a recording of a demerit or a recording of a major demerit shall be imposed in accordance with Article 28 of the Law on Government Sanctions for Public Officials; where the circumstances are relatively serious, a demotion or removal from office shall be imposed; where the circumstances are serious, expulsion shall be imposed:

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(1) disseminating remarks detrimental to upholding and improving the basic socialist economic system;

(2) refusing to implement, or implementing in disguised form a refusal of, the relevant decisions and arrangements on 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.

Where a person publicly publishes articles, speeches, declarations or statements opposing the state guiding ideology established by the Constitution, opposing the leadership of the Communist Party of China, opposing the socialist system, or opposing reform and opening up, expulsion shall be imposed.

Article 18 — Where a person in management of a state-owned enterprise commits any of the following acts, a warning, a recording of a demerit or a recording of a major demerit shall be imposed in accordance with Article 30 of the Law on Government Sanctions for Public Officials; where the circumstances are serious, a demotion or removal from office shall be imposed:

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

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

(3) refusing to implement, or altering without authorization, major decisions lawfully made collectively by the Party committee (Party group) meeting, shareholders' meeting, board of directors or workers' congress of the state-owned enterprise; or

(4) refusing to implement, or implementing in disguised form a refusal of or delaying the implementation of, decisions lawfully made by the institutions performing the duties of investors, industry administration departments and other relevant departments.

Article 19 — Where a person in management of a state-owned enterprise commits any of the following acts, a warning, a recording of a demerit or a recording of a major demerit shall be imposed in accordance with Article 33 of the Law on Government Sanctions for Public Officials; where the circumstances are relatively serious, a demotion or removal from office shall be imposed; where the circumstances are serious, expulsion shall be imposed:

(1) taking advantage of the convenience of his or her position to embezzle, steal, defraud or otherwise illegally possess or misappropriate the property or client assets of the enterprise or affiliated enterprises;

(2) taking advantage of the convenience of his or her position to extort property from others or illegally accept property from others in exchange for benefits for others;

(3) bribing state organs, state-invested enterprises, public institutions or people's organizations, or state functionaries, staff members of enterprises or other units, foreign public officials or officials of international public organizations, in order to seek illegitimate benefits;

(4) taking advantage of his or her authority or the influence of his or her position to seek private gain for himself or herself or others, in violation of the provisions, in major matters concerning the rights and interests of investors in state-owned assets and in activities such as project construction, asset disposal, publication and issuance, and bidding and tendering;

(5) conniving at or tacitly permitting specific related persons to take advantage of his or her authority or the influence of his or her position to seek private gain in major matters concerning the rights and interests of

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investors in state-owned assets and in enterprise operation and management activities; or

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

Where a person refuses to correct the holding of office, part-time employment or business activities by a specific related person in violation of the provisions, and refuses to accept post adjustment, removal from office shall be imposed.

Article 20 — Where a person in management of a state-owned enterprise commits any of the following acts, a warning, a recording of a demerit or a recording of a major demerit shall be imposed in accordance with Article 35 of the Law on Government Sanctions for Public Officials where the circumstances are relatively serious; where the circumstances are serious, a demotion or removal from office shall be imposed:

(1) over-raising the total wage bill or over-issuing wages, or setting and distributing wage-type income in other forms such as allowances, subsidies or bonuses outside the total wage bill;

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

(3) setting, in violation of the provisions, his or her own remuneration, rewards, allowances, subsidies and other welfare-type monetary income;

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

(5) traveling at public expense, or traveling at public expense in disguised form under the name of study and training, inspection and research, or employee recuperation.

Article 21 — Where a person in management of a state-owned enterprise commits any of the following acts, a warning, a recording of a demerit or a recording of a major demerit shall be imposed in accordance with Article 36 of the Law on Government Sanctions for Public Officials; where the circumstances are relatively serious, a demotion or removal from office shall be imposed; where the circumstances are serious, expulsion shall be imposed:

(1) engaging in profit-making activities in violation of the provisions, such as personally running a business or enterprise, holding shares or securities of a non-listed company (enterprise), engaging in paid intermediary activities, or registering a company or making equity investments outside the country;

(2) taking advantage of the convenience of his or her position to operate, for others, an enterprise of the same type of business as the enterprise where he or she works;

(3) concurrently holding a position, in violation of the provisions and without approval, in an enterprise invested by the enterprise where he or she works, or in another enterprise, public institution, social organization, intermediary institution or international organization;

(4) concurrently holding a position with approval but receiving remuneration or obtaining other income in violation of the provisions; or

(5) seeking private gain by using enterprise inside information or other undisclosed information, trade secrets, intangible assets and the like.

Article 22 — Where a person in management of a state-owned enterprise, in the course of performing the duty of providing social public services, infringes upon the lawful rights and interests of service recipients or the public interest, and is verified by the regulatory institution which proposes a disciplinary sanction, a warning, a recording of a demerit or a recording of a major demerit shall be imposed in accordance with Article 38 of the Law on Government Sanctions for Public Officials where the circumstances are relatively serious; where the circumstances are serious, a demotion or removal from office shall be imposed; where

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the circumstances are particularly serious, expulsion shall be imposed.

Article 23 — Where a person in management of a state-owned enterprise commits any of the following acts, causing losses to state-owned assets or other serious adverse consequences, a warning, a recording of a demerit or a recording of a major demerit shall be imposed in accordance with Article 39 of the Law on Government Sanctions for Public Officials; where the circumstances are relatively serious, a demotion or removal from office shall be imposed; where the circumstances are serious, expulsion shall be imposed:

(1) withholding, occupying, misappropriating or defaulting on budget revenue that should be turned over to the state treasury;

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

(3) conducting connected transactions, or carrying out financing trade, false transactions, false joint ventures, affiliated operations and other activities, in violation of the provisions;

(4) failing to handle, or not truthfully handling, the property rights registration of enterprise state-owned assets within the period prescribed by the State, or forging, altering, leasing, lending or selling the state-owned asset property rights registration certificate (form);

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

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

Article 24 — Where a person in management of a state-owned enterprise commits any of the following acts, a warning, a recording of a demerit or a recording of a major demerit shall be imposed in accordance with Article 39 of the Law on Government Sanctions for Public Officials; where the circumstances are relatively serious, a demotion or removal from office shall be imposed; where the circumstances are serious, expulsion shall be imposed:

(1) money laundering or participating in money laundering;

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

(3) issuing loans in violation of the provisions, or reducing, suspending interest on, reducing interest on, deferring or exempting interest on, or extending the term of loan principal, writing off bad debts, or disposing of non-performing assets;

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

(5) using client funds or other entrusted or trust assets without authorization in breach of fiduciary obligations;

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

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

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

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

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

Article 25 — Where a person in management of a state-owned enterprise commits any of the following acts, causing adverse consequences or effects, a warning, a recording of a demerit or a recording of a major demerit shall be imposed in accordance with Article 39 of the Law on Government Sanctions for Public Officials; where the circumstances are relatively serious, a demotion or removal from office shall be imposed; where the circumstances are serious, expulsion shall be imposed:

(1) disclosing enterprise inside information or trade secrets;

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

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

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

(5) failing to perform, or not performing in accordance with the law, work safety administration duties, resulting in a work safety accident;

(6) engaging in formalistic or bureaucratic conduct in work, such as perfunctory coping, shifting and shirking responsibility, or one-sided understanding or mechanical implementation of the Party's and the State's line, principles, policies and major decisions and arrangements;

(7) refusing, obstructing or delaying investor supervision, audit supervision or financial and accounting supervision carried out in accordance with the law, or refusing to rectify, evasively and perfunctorily handling, or falsely rectifying the problems found in investor supervision, audit supervision or 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 non-compliant acts;

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

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

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

Chapter IV — Procedures for Disciplinary Sanctions

Article 26 — The appointment and removal organs and units shall, in accordance with the cadre management authority, impose disciplinary sanctions on management personnel of state-owned enterprises who commit illegal acts under the Law on Government Sanctions for Public Officials and these Regulations, and protect the lawful rights and interests of such personnel and relevant personnel.

The appointment and removal organs and units shall, in light of the organizational form, organizational structure and other actual circumstances of state-owned enterprises, specify the internal department or institution undertaking the disciplinary sanction work (hereinafter the "undertaking department") and its duties, authorities and operating mechanisms.

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Article 27 — The investigation and handling of a person in management of a state-owned enterprise suspected of illegal acts shall be carried out by two or more staff members in accordance with the following procedures:

(1) with the consent of the person in charge of the appointment and removal organ or unit, the undertaking department conducts preliminary verification of the problem leads that need investigation and handling;

(2) after preliminary verification, where the undertaking department considers that the person is suspected of violating the Law on Government Sanctions for Public Officials and these Regulations and needs further verification, it files the case upon approval of the principal person in charge of the appointment and removal organ or unit, notifies in writing the investigated person (hereinafter the "investigated person") and his or her unit, and reports to the supervisory authority with management authority;

(3) the undertaking department is responsible for further investigating the illegal acts of the investigated person, collecting and verifying relevant evidence materials, understanding the circumstances from relevant units and personnel, forming a written investigation report, and reporting to the person in charge of the appointment and removal organ or unit; relevant units and individuals shall truthfully provide the circumstances;

(4) the undertaking department informs the investigated person of the facts determined by investigation and the basis for the proposed sanction, hears his or her statements and defense, verifies the facts, reasons and evidence put forward by him or her, and records them; where the facts, reasons and evidence put forward by the investigated person are established, they shall be adopted;

(5) the undertaking department, after review, puts forward a handling proposal and, in accordance with procedures, reports it to the leading members of the appointment and removal organ or unit for collective discussion, to make a decision to impose a sanction, exempt from sanction, not impose a sanction, or dismiss the case, and reports to the supervisory authority with management authority; and

(6) the appointment and removal organ or unit shall, within one month from the date the decision prescribed in item (5) of this paragraph is made, notify the investigated person and his or her unit in writing of the decision to impose a sanction, exempt from sanction, not impose a sanction, or dismiss 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 the relevant provisions of the State;

(7) the undertaking department shall place the relevant sanction decisions and execution materials in the personal file of the investigated person, and simultaneously compile the relevant materials to form the work file of the sanction case.

It is strictly prohibited to collect evidence by illegal means such as threats, inducement or deception. Evidence collected by illegal means shall not serve as the basis for imposing sanctions. Sanctions shall not be aggravated because of the investigated person's defense.

Article 28 — In the investigation of major illegal cases, where it is truly necessary, the supervisory authority with management authority may be consulted to provide necessary support.

Where the illegal circumstances are complex, wide-ranging or of major impact, and it is difficult for the appointment and removal organ or unit to investigate and verify, it may, with the consent of the person in charge of the appointment and removal organ or unit, consult the supervisory authority with management authority to handle the matter.

Article 29 — A decision on imposing a disciplinary sanction on a person in management 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.

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Article 30 — Where a decision is made to impose a sanction, a disciplinary sanction decision shall be prepared.

The disciplinary sanction decision shall state the following matters:

(1) the name, work unit and position of the person in management of the state-owned enterprise who is sanctioned (hereinafter the "sanctioned person");

(2) the illegal facts and evidence;

(3) the type and basis of the sanction;

(4) the channels and time limits for applying for review and appeal if dissatisfied with the sanction decision; and

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

The disciplinary sanction decision shall bear 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 of a person in management of a state-owned enterprise falls under any of the following circumstances, he or she shall recuse himself or herself on his or her own initiative, and the investigated person, the reporting person and other relevant personnel may request his or her recusal:

(1) being a close relative of the investigated person or the reporting person;

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

(3) he or she or his or her close relatives having an interest in the case under investigation; or

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

The recusal 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 recusal of other persons participating in the investigation and handling of the 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 sanction work has a circumstance requiring recusal, it may directly decide on the recusal of such person.

Article 32 — Where a person in management of a state-owned enterprise is pursued for criminal liability in accordance with the law, the appointment and removal organ or unit shall, based on the effective judgment, ruling or decision of the judicial organ and the facts and circumstances determined therein, impose a disciplinary sanction in accordance with the law.

Where a person in management of a state-owned enterprise is subject to an administrative penalty in accordance with the law and a disciplinary sanction should be imposed, the appointment and removal organ or unit may, based on the facts and circumstances determined in the effective administrative penalty decision, impose a disciplinary sanction in accordance with the law after verification.

Where, after the appointment and removal organ or unit makes a disciplinary sanction decision in accordance with paragraphs 1 and 2 of this Article, the judicial organ or administrative organ lawfully changes the original effective judgment, ruling or decision, and this affects the original sanction decision, the appointment and removal organ or unit shall make corresponding handling anew based on the changed judgment, ruling or decision.

Article 33 — Where the appointment and removal organ or unit imposes a disciplinary sanction on a person in management of a state-owned enterprise who serves as a deputy to a people's congress at any level or as a member of a committee of the Chinese People's Political Consultative Conference at any level, it shall report to the relevant standing committee of the people's congress, the presidium of the people's congress of

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a township, ethnic township or town, or the standing committee of the Chinese People's Political Consultative Conference committee.

Article 34 — Where a person in management of a state-owned enterprise is suspected of an illegal act and has been filed for investigation, and it is inappropriate for him or her to continue performing duties, the appointment and removal organ or unit may decide to suspend his or her performance of duties. During the period of investigation after filing, the person 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 organ or unit and the organ or unit at a higher level shall not exchange, promote, reward him or her or handle retirement procedures for him or her.

Article 35 — Where, in an investigation, it is found that a person in management of a state-owned enterprise has suffered false reporting, false accusation or framing, or insult or defamation due to the lawful performance of duties, causing adverse effects, the appointment and removal organ or unit shall promptly clarify the facts, restore his or her reputation and eliminate the adverse effects in accordance with the provisions.

Article 36 — Where a person in management of a state-owned enterprise is given a demotion, removal from office or expulsion, the relevant personnel department shall, within one month after the sanction decision is made, handle the procedures for changing his or her post, position, wage and other relevant treatment in accordance with the management authority, and change or terminate the labor contract in accordance with the law; under special circumstances, the period 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 aggregate.

Article 37 — Where a person in management of a state-owned enterprise is given a sanction other than expulsion, and shows repentance during the sanction period and has not again committed an illegal act that should be subject to a disciplinary sanction, the sanction shall be automatically lifted after the expiration of the sanction period.

After the sanction is lifted, the assessment and the promotion in position, rank, grade, post and staff grade, professional title, remuneration grade and the like shall no longer be affected by the original sanction. However, where a person was given a demotion or removal from office, the position, rank, grade, post and staff grade, professional title, remuneration grade and the like before the sanction shall not be restored.

The appointment and removal organs and units shall, in accordance with the relevant provisions of the State, correctly treat and reasonably use sanctioned management personnel of state-owned enterprises, attach equal importance to respect, incentives and supervision and restraint, and create a good environment for doing work and starting undertakings.

Chapter V — Review and Appeal

Article 38 — Where the sanctioned person is dissatisfied with the disciplinary sanction decision, he or she may, within one month from the date of receipt of the sanction decision, apply for review to the appointment and removal organ or unit that made the sanction decision (hereinafter the "original sanction decision unit"). The original sanction decision unit shall make a review decision within one month after receiving the review application.

Where the sanctioned person misses the review application period due to force majeure or other justifiable reasons, he or she may apply for an extension of the period within ten working days after the obstacle is removed; whether to grant the extension shall be decided by the original sanction decision unit.

Article 39 — Where the sanctioned person is still dissatisfied with the review decision, he or she may, within one month from the date of receipt of the review decision, appeal to the organ or unit at the next higher level

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in accordance with the management authority. The organ or unit accepting the appeal (hereinafter 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 aggregate.

Where the sanctioned person misses the appeal application period due to force majeure or other justifiable reasons, he or she may apply for an extension of the period within ten working days after the obstacle is removed; whether to grant the extension shall be decided by the appeal organ.

Article 40 — After the original sanction decision unit receives the review application or the appeal organ accepts the appeal, the relevant undertaking department shall establish a working group, retrieve the original case materials, conduct investigation where necessary, collect and verify relevant evidence materials, and understand the circumstances from relevant units and personnel. The working group shall conduct collective research, put forward a handling opinion, and report to the leading members of the original sanction decision unit or the appeal organ for collective discussion to make a review or appeal decision, and report to the supervisory authority with management authority. The review or appeal decision shall be notified in writing to the sanctioned person and his or her unit within one month from the date 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 the relevant provisions of the State.

During the period of review and appeal, the execution of the original sanction decision shall not be suspended.

A person in management of a state-owned enterprise shall not have his or her sanction aggravated because of filing a review or appeal.

Review and appeal shall be separated from the investigation of the original case, and the personnel investigating and undertaking the original case shall not participate in the review or appeal.

Article 41 — Where the appointment and removal organ or unit discovers that a sanction decision made by itself, its unit or an organ or unit at a lower level is indeed erroneous, it shall promptly correct it or order the organ or unit at the lower level to correct it promptly.

Where the supervisory authority discovers that the appointment and removal organ or unit should have imposed a sanction but failed to do so, or that the sanction imposed is illegal or inappropriate, and puts forward a supervisory proposal in accordance with the law, the appointment and removal organ or unit shall adopt it and inform the supervisory authority in writing of the execution; where it does not adopt it, it shall explain the reasons.

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

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

(2) the procedures prescribed by these Regulations are violated, affecting the impartial handling of the case; or

(3) the sanction decision is made beyond authority or by abusing authority.

Article 43 — Under any of the following circumstances, the original sanction decision unit or the appeal organ shall change the original sanction decision, or the appeal organ shall order the original sanction decision unit to change it:

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

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

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(3) the sanction is inappropriate.

Article 44 — Where the original sanction decision unit or the appeal organ considers that the facts determined by the sanction decision are clear and the application of law is correct, it shall uphold the decision.

Article 45 — Where the disciplinary sanction decision of a person in management of a state-owned enterprise is changed and his or her position, post grade, remuneration grade and the like need to be adjusted, they shall be adjusted in accordance with the provisions. Where the disciplinary sanction decision is revoked and his or her position, post grade, remuneration grade and the like need to be restored, the corresponding position and post shall be arranged according to the original position and post grade, and his or her reputation shall be restored within the scope of the publication of the original sanction decision.

Where a person in management of a state-owned enterprise has his or her sanction revoked or mitigated under the circumstances prescribed in Articles 42 and 43 of these Regulations, the losses suffered by him or her in remuneration and treatment shall be appropriately compensated in light of his or her actual performance of duties and contributions.

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

Chapter VI — Legal Liability

Article 46 — Where the appointment and removal organ or unit and its staff members fall under the circumstances prescribed in Articles 61 and 63 of the Law on Government Sanctions for Public Officials in the disciplinary sanction work concerning management personnel of state-owned enterprises, the responsible leading personnel and directly responsible personnel shall be dealt with in accordance with the Law on Government Sanctions for Public Officials.

Article 47 — Where a relevant organ, unit, organization or person refuses to execute a disciplinary sanction decision or falls under the circumstances prescribed in Article 62 of the Law on Government Sanctions for Public Officials, the organ at a higher level, the competent department, the institution performing the duties of investors, or the appointment and removal organ or unit shall deal with it in accordance with the Law on Government Sanctions for Public Officials.

Article 48 — Where a relevant unit or individual distorts or fabricates facts by means of reporting and falsely accuses or frames a person in management of a state-owned enterprise, he or she 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

Article 50 — Where the State provides otherwise on the pursuit of responsibility of management personnel of illegal financial and cultural state-owned enterprises, such provisions shall apply simultaneously.

Article 51 — For cases already closed before the implementation of these Regulations that require review or appeal, the provisions then in force shall apply. For cases not yet closed, where the provisions in force at the time of the act did not consider the act illegal, the provisions then in force shall apply; where the provisions in force at the time of the act considered the act illegal, the matter shall be handled in accordance with the provisions then in force, but where these Regulations do not consider the act illegal or handle it more leniently in accordance with these Regulations, these Regulations shall apply.

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

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