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Disposal of illegal fund raising regulations (draft)

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Chapter 1 General Provisions

Article 1 These Regulations are formulated for the prevention and disposal of illegal fund raising, the protection of the legitimate rights and interests of the public, the maintenance of economic and financial security and the social order.

Article 2 The term "illegal fund raising" as mentioned in these Regulations refers to the act of raising funds for non - specific objects or specific objects exceeding the prescribed number without the permission of the law or in violation of the relevant provisions of the State and promised to pay the principal and interest or pay the return. Financial management laws, administrative regulations, otherwise stipulated.

Article 3 An illegal fund-raising person and an illegal fund-raising facilitator shall be held responsible for the illegal act in accordance with the relevant laws and regulations and the provisions of these Regulations.

The term "illegal collectors" as mentioned in these Regulations refers to units and individuals that initiate, dominate or organize the illegal collection of funds.

The term "illegal fund-raising assistance" as mentioned in these Regulations refers to other units and individuals who provide assistance such as promotion and marketing for illegal fund-raising.

Article 4 An illegal fund-raising participant shall bear the losses suffered as a result of participation in illegal fund raising.

The term "illegal fund-raising participant" as mentioned in these Regulations refers to units and individuals who have invested funds for illegal fund-raising.

Article 5 The people's governments at the provincial level shall be fully responsible for the disposal of illegal fund-raising work within their respective administrative areas.

The local people's governments at or above the county level to deal with illegal fund-raising departments to perform illegal fund-raising prevention and control, administrative investigation and administrative penalties and other duties; other departments in accordance with the division of responsibilities to deal with illegal fund-raising related work.

In the process of disposing of illegal fund-raising, the local people's government concerned shall take effective measures to safeguard social stability.

Article 6 The State Council shall establish an inter-ministerial joint meeting on the illegal fund-raising (hereinafter referred to as the joint meeting) to guide, coordinate and supervise the joint members of the joint meeting and the people's governments of provinces, autonomous regions and municipalities directly under the Central

Government to carry out illegal fund-raising work.

Chapter II Prevention Monitoring

Article 7 The local people's governments at or above the county level and the member units of the joint meeting shall strengthen the prevention and promotion of illegal fund-raising propaganda work, educate the public about the illegality and harms of illegal fund-raising, and improve their ability to recognize and guard against illegal fund-raising.

Article 8 The local people's governments at or above the county level shall establish a mechanism for monitoring the illegal fund-raising and strengthen the information sharing, identify, monitor, control and resolve the risk of illegal fund-raising.

The members of the joint meeting shall strengthen the daily management and prevent the risk of illegal fund raising in the management industry, and instruct the relevant departments of the local people's government to carry out illegal fund-raising monitoring.

The joint meeting shall direct and coordinate the member units and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government to strengthen the sharing of information on illegal fund-raising and timely discover and notify relevant clues.

Article 9 The administrative department for industry and commerce shall strengthen the supervision and management of advertisements and improve the monitoring measures. Found that illegal advertising fund-raising, should be promptly transferred to the disposal of illegal fund-raising functional departments to be identified; for those who have been identified as illegal advertising, should be investigated and dealt with according to law.

The advertiser who publishes the financing advertisement shall obtain the relevant financial business qualification or other supporting documents. Advertising operators, advertising publishers should check the financial business qualification or proof documents, check the advertising content.

Article 10 The Internet administrative department shall, in accordance with the division of responsibilities, strengthen the supervision and administration of the Internet information dissemination and improve the monitoring measures. Found that suspected of illegal fund-raising of the Internet information should be promptly transferred to the disposal of illegal fund-raising functional departments to be identified; for those who have been identified as illegal fund-raising information should be investigated and dealt with according to law.

Article 11 The financial administrative department shall instruct and supervise the financial institutions and non-bank payment institutions to establish an early warning mechanism for illegal fund raising and strengthen the monitoring of suspicious funds. Financial institutions, non-bank payment agencies found suspected illegal fund-raising clues, should be timely reporting of financial management and disposal of illegal fund-raising functions.

Article 12 The local people's governments at or above the county level shall establish a system of reporting and encourage the public to report suspected illegal fund-raising activities.

Article 13 The local people 's governments at or above the county level **shall** dispose of the illegal fund - raising functional departments and shall promptly identify and cooperate with relevant departments to take corresponding measures for monitoring and discovering, the reports of the masses and the illegal transfer of funds collected by the

relevant departments according to law.

Chapter III Administrative Investigation

Article 14 The local people's governments at or above the county level shall be responsible for organizing the implementation of the illegal fund-raising administrative investigation work within their respective administrative areas.

Illegal fund-raising behavior across the administrative region, by the fund-raising registration of the illegal collection of funds to take the lead in the investigation; no place to register, by the fund-raiser often place to deal with illegal fund-raising functional departments lead survey. For the investigation of the responsibility of the lead investigation of the dispute, by the superior disposal of illegal fund-raising functional departments to determine the coordination; for inter-provincial, autonomous regions and municipalities led the investigation of the dispute is controversial, reported to the joint meeting to determine.

The member units of the joint meeting shall instruct and cooperate with the local people's government to dispose of the illegal fund-raising functional departments to carry out illegal fund-raising administrative investigation work.

Article 15 Where an illegal fund-raising functional department fails to raise funds without the permission of the law or violates the relevant provisions of the State and has any of the following circumstances, the administrative fund for illegal fund-raising shall be investigated and other relevant departments shall cooperate with each other:

- (1) internet financial firms, asset management companies, investment advisory companies, all types of trading venues or platform, farmer cooperatives, mutual funds and other organizations to raise funds;
- (ii) the issuance or transfer of shares to raise funds, sell insurance,
- (3) to raise funds in the name of selling goods, providing services, planting and breeding, project investment, sale and sale back to rent, etc., in the name of selling goods, providing services, planting and breeding, project investment, sale and rent funds;
- (iv) no substantial production and business activities, or fictional use of funds to raise capital;
- (e) a commitment to pay high returns in the form of money, in kind, such as to raise equity capital;
- (vi) through the press, TV, radio , Internet, live promotion, outdoors Advertising, leaflets, phone, instant messaging and other tools to raise funds dissemination of information;
- (7) other circumstances of illegal fund-raising.

Article 16 Disposal of illegal fund-raising functional departments shall conduct timely investigations into suspected clues to illegal fund-raising. Investigation, the investigators shall not be less than 2 people, and should be investigated units and individuals to produce law enforcement documents.

Article 17 Illegal fund-raising administrative investigation may take on-site inspection and off-site verification, etc., collect and fix relevant evidence according to law and establish investigation files.

Article 18 The following measures may be taken by the administrative investigation of illegal fund-raising:

- (1) to inquire about the relevant units and individuals and to require them to make a description of the relevant matters;
- (2) to carry out on-site inspection at the relevant business venues;
- (3) to inspect, related documents and materials;
- (iv) other relevant account information;
- (e) seizure-related business activities, seizure and seizure of property related;

other measures (VI) can be taken according to the law.

Article 19 The relevant units and individuals suspected of illegally raising funds shall cooperate with the disposal of the illegal fund-raising functional departments and shall not refuse to provide relevant information and information.

Article 20 After the commencement of the administrative investigation procedure for illegal fund-raising, the department that handles the illegal fund-raising shall notify the administrative department for industry and commerce to stop the registration of industrial and commercial registration matters such as the change of name, shareholder, place of registration and business scope for the relevant units suspected of illegally raising funds.

Chapter 4 Administrative Processing

Article 21 The illegal fund-raising functional departments shall order the illegal fund-raising personnel to immediately stop the fund-raising behavior and act in accordance with the laws and regulations and the provisions of these Regulations for the acts investigated and identified as illegal fund-raising.

Article 22 The illegal fund-raising fund-raising behavior of people do not stop, disposal of illegal fund-raising functions according to the law have the right to take the following measures:

- (a) seizure, detention-related property, documents, data, application-related funds frozen by the judiciary;
- (b) limit transfer its properties or setting other rights in the property;
- (c) notify the border authorities prevent illegal fund-raising personal or illegal fund-raising unit of the directors, supervisors, senior managers and other directly responsible personnel abroad;
- (d) can be taken according to the law Other measures.

Article 23 Where an illegal fund-raising function is disposed of as an illegal fund-raising, the illegal fund-raising person and the illegal fund-raising facilitator shall refund the funds to the illegal fund-raising participant.

Illegal fund-raising and illegal fund-raising participants to agree on the fund retreat program, by the illegal fund-raising themselves to retire.

Illegal fund-raising and illegal fund-raising participants did not agree on the fund retreat program, the disposal of illegal fund-raising functional departments responsible for coordinating the organization of funds to clear the work. Participants of illegal fund-raising should be declared within the prescribed time limit.

Article 24 The following assets shall be used as the source of funds for the repatriation:

- (1) the balance of funds for illegal fund raising;
- (2) the proceeds of illegal fund-raising funds, other assets converted and their gains;
- (3) illegal collectors hiding or asset side of the transfer;
- (iv) illegal fund-raising person's investors, key management, other directly responsible persons obtained from the illegal fund-raising in economic benefits;
- income (e) illegal fund-raising to help assist man illegally obtained, including counseling Fees, fees, fees, agency fees, commission, commission, etc .;
- (6) according to the law should be included in the other sources of funds.

Article 25 The department that handles the illegal fund raising shall carry out special account management of the funds for repatriation.

Article 26 When a fund is withdrawn from an illegal fund-raising participant, it shall be deducted from the physical and monetary returns obtained from participation in illegal fund raising.

Article 27 Where an act of illegal fund raising is suspected of committing a crime, it shall be transferred to the public security organ. Illegal fund raising cases involving the disposal of property in accordance with relevant laws and regulations and other provisions of the implementation of the disposal of illegal fund-raising departments should coordinate with the relevant work.

Chapter 5 Legal Liability

Article 28 Where a unit initiates, leads or organizes the illegal fund-raising, it shall be ordered to make corrections and make a warning within a prescribed time limit and may impose a fine of not less than 200,000 yuan but not more than 2 million yuan; if it fails to make corrections or if the circumstances are serious, The issuing authority shall revoke the license or the business license and impose a fine of not less than one time but not more than five times the amount raised. The person directly responsible for the person in charge and other directly responsible persons shall be fined not less than 100,000 yuan but not more than 1 million yuan and shall be prohibited from being a member of the company, directors, supervisors, senior management or other senior manager.

Article 29 Where an individual initiates, leads or organizes the illegal fund-raising, he shall be ordered to make corrections and make a warning within a prescribed time limit, and he may impose a fine of not less than 100,000 yuan but not more than 1,000 yuan; if he fails to make corrections or if the circumstances are serious, 5 times the fine, according to the severity of the circumstances can be prohibited for a certain period of time until the lifetime as a company, corporate directors, supervisors, senior management or other senior management of the organization.

Article 30 Those who assist in illegally raising funds shall be ordered to make corrections and make a warning within a prescribed time limit. If they fail to make corrections or have serious circumstances, they shall be fined not less than 50,000 yuan but not more than 500,000 yuan.

Article 31 Where a financial institution or a non-bank payment institution has illegally raised funds for use by an illegal fund-raising person due to the management of negligence, the financial management department shall confiscate the illegal gains and earn more than one time but not more than five times the illegal income The person in charge and other directly responsible persons shall be given a warning and shall be fined not less than 50,000 yuan but not more than 500,000 yuan, cancel their qualification or prohibit them from engaging in the relevant financial industry for a certain period of time.

The institutions other than those stipulated in the preceding paragraph shall be confiscated from the illegal gains by more than one time but not more than three times the illegal income of the places of operation, channels and platforms that are used by illegal collectors for illegal fund-raising; the persons directly responsible Other directly responsible persons shall be given a warning and shall be fined not less than 20,000 yuan but not more than 200,000 yuan.

Article 32 Where an advertising operator or advertisement publisher violates the provisions of the second paragraph of Article 9 of these Regulations and fails to perform the inspection and verification obligations, the administrative department for industry and commerce shall order it to make corrections and may impose a fine of not

more than 50,000 yuan.

Article 33 Whoever, in violation of the provisions of Article 19 of these Regulations, refuses to provide relevant documents, materials or provides false documents and materials shall be fined not less than 50,000 yuan but not more than 500,000 yuan.

Refuse to obstruct the law enforcement officers to investigate and deal with illegal fund-raising, according to the law to give security management punishment; constitute a crime, shall be held criminally responsible.

Article 34 Where a member of a State organ has any of the following acts, he shall be punished according to law; if a crime is constituted, he shall be investigated for criminal responsibility according to law:

(1) Knowingly or knowing that the institution or business applied by the unit or individual is suspected of illegally raising funds for handling the administrative licensing or registration formalities;

(b) knows or should know that the competent regulatory units are suspected of illegal fund-raising behavior, according to the law or not timely transfer of disposal of illegal fund raising functions;

(c) fails to perform preventive monitoring duties or refused to cooperate with the disposal of illegal fund-raising departments investigate and deal with illegal fund-raising behavior, causing serious consequences;

(d) investigate illegal fund-raising in the abuse of power, dereliction of duty; and

(v) other duties behavior by using his position to influence or to support help, condone illegal fund-raising;

(vi) responsible leaders to take advantage of professional staff convenience, reputation or units engaged in the workplace failed to take measures to stop the illegal fund-raising should be found but not found or discovered, resulting in serious consequences ;

(vii) refusal to implement higher-level decision-making Deployment;

(viii) involved in unauthorized disposal of property;

(ix) other acts should be given punishment according to law.

Article 35 The judicial organs shall, in handling criminal cases of illegal fund-raising, deal with matters requiring administrative treatment and handle the handling of illegal fund-raising functions in accordance with these Regulations.

Chapter VI Supplementary Provisions

Article 36 The people's governments of provinces, autonomous regions and municipalities directly under the Central Government may formulate detailed rules for the implementation of illegal fund-raising in accordance with these Regulations and relevant local laws and regulations.

Article 37 These Regulations shall enter into force as of the date.

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