



中华人民共和国证券法

Securities Law of the People's
Republic of China

中国法制出版社

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Securities Law of the People's Republic of China

(Adopted at the Sixth Meeting of the Standing Committee of the Ninth National People's Congress on December 29, 1998, and promulgated by Order No. 12 of the President of the People's Republic of China on December 29, 1998)

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第一章 总 则

第一条 为了规范证券发行和交易行为,保护投资者的合法权益,维护社会经济秩序和社会公共利益,促进社会主义市场经济的发展,制定本法。

第二条 在中国境内,股票、公司债券和国务院依法认定的其他证券的发行和交易,适用本法。本法未规定的,适用公司法和其他法律、行政法规的规定。

政府债券的发行和交易,由法律、行政法规另行规定。

第三条 证券的发行、交易活动,必须实行公开、公平、公正的原则。

第四条 证券发行、交易活动的当事人具有平等的法律地位,应当遵守自愿、有偿、诚实信用的原则。

第五条 证券发行、交易活动,必须遵守法律、行政法规,禁止欺诈、内幕交易和操纵证券交易市场的行为。

第六条 证券业和银行业、信托业、保险业分业经营、分业管理。证券公司与银行、信托、保险业务机构分别设立。

第七条 国务院证券监督管理机构依法对全国证券

Chapter I General Provisions

Article 1 This Law is enacted in order to standardize the issuing and trading of securities, protect the lawful rights and interests of investors, safeguard the economic order and public interests of society and promote the development of the socialist market economy.

Article 2 This Law is applicable to the issuing and trading in China of shares, corporate bonds and such other securities as are lawfully recognized by the State Council. Where their issuing and trading are not covered by this Law, the provisions of the Company Law and other laws and administrative regulations shall apply.

The issuing and trading of government bonds shall be separately provided for in laws and administrative regulations.

Article 3 Securities shall be issued and traded in line with the principles of openness, fairness and equitability.

Article 4 The parties involved in the issuing and trading of securities shall have equal legal status and adhere to the principles of voluntariness, compensation and good faith.

Article 5 Securities shall be issued and traded in accordance with laws and administrative regulations. Fraudulent and insider trading and manipulation of the securities trading market are prohibited.

Article 6 Securities business shall be engaged in and administered as a business separate from the banking business, trust business and insurance business. Securities companies shall be established separately from banks, trust companies and insurance companies.

Article 7 The securities regulatory authority under the State

市场实行集中统一监督管理。

国务院证券监督管理机构根据需要可以设立派出机构,按照授权履行监督管理职责。

第八条 在国家对证券发行、交易活动实行集中统一监督管理的前提下,依法设立证券业协会,实行自律性管理。

第九条 国家审计机关对证券交易所、证券公司、证券登记结算机构、证券监督管理机构,依法进行审计监督。

第二章 证券发行

第十条 公开发行证券,必须符合法律、行政法规规定的条件,并依法报经国务院证券监督管理机构或者国务院授权的部门核准或者审批;未经依法核准或者审批,任何单位和个人不得向社会公开发行证券。

第十一条 公开发行股票,必须依照公司法规定的条件,报经国务院证券监督管理机构核准。发行人必须向国务院证券监督管理机构提交公司法规定的申请文件和国务院证券监督管理机构规定的有关文件。

Council shall, in accordance with law, implement centralized and unified regulation of the securities market nationwide.

The securities regulatory authority under the State Council may, where necessary, establish offices which shall perform the regulatory functions as authorized.

Article 8 On condition that the State regulates the issuing and trading of securities on a centralized and unified basis, a Securities Industry Association shall, in accordance with law, be established for self – regulation.

Article 9 The State audit authority shall, in accordance with law and through auditing, supervise stock exchanges, securities companies, securities registration and clearing institutions and the securities regulatory authority.

Chapter II Issuing of Securities

Article 10 Public offers of securities shall meet the conditions prescribed in laws and administrative regulations and shall, in accordance with law, be reported to the securities regulatory authority under the State Council or the department authorized by the State Council for verification or examination and approval. No unit or individual may make a public offer of securities if the same has not been verified or examined and approved according to law.

Article 11 Public offers of shares shall, in compliance with the conditions provided for in the Company Law, be reported to the securities regulatory authority under the State Council for verification. The issuer shall submit to the said authority the application documents prescribed in the Company Law and the relevant documents specified by the authority.

发行公司债券,必须依照公司法规定的条件,报经国务院授权的部门审批。发行人必须向国务院授权的部门提交公司法规定的申请文件和国务院授权的部门规定的有关文件。

第十二条 发行人依法申请公开发行证券所提交的申请文件的格式、报送方式,由依法负责核准或者审批的机构或者部门规定。

第十三条 发行人向国务院证券监督管理机构或者国务院授权的部门提交的证券发行申请文件,必须真实、准确、完整。

为证券发行出具有关文件的专业机构和人员,必须严格履行法定职责,保证其所出具文件的真实性、准确性和完整性。

第十四条 国务院证券监督管理机构设发行审核委员会,依法审核股票发行申请。

发行审核委员会由国务院证券监督管理机构的专业人员和所聘请的该机构外的有关专家组成,以投票方式对股票发行申请进行表决,提出审核意见。

发行审核委员会的具体组成办法、组成人员任期、工

The issuing of corporate bonds shall, in compliance with the conditions provided for in the Company Law, be reported to the department authorized by the State Council for examination and approval. The issuer shall submit to the department authorized by the State Council the application documents prescribed in the Company Law and the relevant documents specified by the said department.

Article 12 The formats and ways of delivery of the application documents to be submitted by an issuer who applies, according to law, for public offer of securities shall be prescribed by the authority or department legally responsible for verification or examination and approval.

Article 13 The application documents for the issuing of securities submitted by an issuer to the securities regulatory authority under the State Council or the department authorized by the State Council shall be truthful, accurate and complete.

Professional institutions and individuals that produce relevant documents for the issuance of securities shall strictly perform their statutory duties and warrant the truthfulness, accuracy and completeness of the documents that they produce.

Article 14 In the securities regulatory authority under the State Council an issuance examination commission shall be established to examine according to law applications for issuance of shares.

The issuance examination commission shall be composed of professionals from the securities regulatory authority under the State Council and other relevant specialists engaged from outside the said authority, who shall vote on applications for issuance of shares and state their opinions after examination.

The specific measures for forming the issuance examination

作程序由国务院证券监督管理机构制订,报国务院批准。

第十五条 国务院证券监督管理机构依照法定条件负责核准股票发行申请。核准程序应当公开,依法接受监督。

参与核准股票发行申请的人员,不得与发行申请单位有利害关系;不得接受发行申请单位的馈赠;不得持有所核准的发行申请的股票;不得私下与发行申请单位进行接触。

国务院授权的部门对公司债券发行申请的审批,参照前二款的规定执行。

第十六条 国务院证券监督管理机构或者国务院授权的部门应当自受理证券发行申请文件之日起3个月内作出决定;不予核准或者审批的,应当作出说明。

第十七条 证券发行申请经核准或者经审批,发行人应当依照法律、行政法规的规定,在证券公开发行前,公告公开发行募集文件,并将该文件置备于指定场所供公众查阅。

发行证券的信息依法公开前,任何知情人不得公开

commission, the term of office of its members and its working procedures shall be formulated by the securities regulatory authority under the State Council and submitted to the State Council for approval.

Article 15 The securities regulatory authority under the State Council shall, in accordance with the statutory conditions, be responsible for verification of applications for issuance of shares. The verification procedures shall be made public and shall be subject to supervision according to law.

The persons involved in the verification of an application for issuance of shares may not have any interests to share with or accept gifts from the applicant, or hold shares the application for the issuance of which they have verified, or have any private contact with the applicant.

The department authorized by the State Council shall examine and approve applications for issuance of corporate bonds by reference to the provisions in the preceding two paragraphs.

Article 16 The securities regulatory authority under the State Council or the department authorized by the State Council shall make a decision on application documents for the issuing of securities within three months from the date of acceptance of the same. If it refuses to verify the application documents or to grant approval to the same upon examination, it shall state its reasons.

Article 17 Once an application for issuance of securities has been verified or approved upon examination, the issuer shall announce the public offer documents prior to the public issuing of the securities, as prescribed in laws and administrative regulations, and make the said documents available at the designated places for the public to consult.

Before information about the issuing of securities is announced according to law, no person in the know may make public or divulge such

或者泄露该信息。

发行人不得在公告公开发行募集文件之前发行证券。

第十八条 国务院证券监督管理机构或者国务院授权的部门对已作出的核准或者审批证券发行的决定,发现不符合法律、行政法规规定的,应当予以撤销;尚未发行证券的,停止发行;已经发行的,证券持有人可以按照发行价并加算银行同期存款利息,要求发行人返还。

第十九条 股票依法发行后,发行人经营与收益的变化,由发行人自行负责;由此变化引致的投资风险,由投资者自行负责。

第二十条 上市公司发行新股,应当符合公司法有关发行新股的条件,可以向社会公开募集,也可以向原股东配售。

上市公司对发行股票所募资金,必须按招股说明书所列资金用途使用。改变招股说明书所列资金用途,必须经股东大会批准。擅自改变用途而未作纠正的,或者未经股东大会认可的,不得发行新股。

第二十一条 证券公司应当依照法律、行政法规的

information.

No issuer may issue securities before announcing the public offer documents.

Article 18 If the securities regulatory authority under the State Council or the department authorized by the State Council discovers that a decision it has made to verify or approve upon examination the issuing of securities does not conform to the provisions of laws or administrative regulations, it shall revoke the decision. If the relevant securities have not yet been issued, they shall be kept from being issued; if they have already been issued, the holders of the securities may require the issuer to refund their money at the issue price plus bank deposit interest for the same period.

Article 19 After shares have been issued according to law, the issuer shall itself be responsible for any change in its operation or earnings; and the investors shall themselves be responsible for any investment risks caused by such change.

Article 20 To issue new shares, listed companies shall meet the conditions provided for in the Company Law for the issuance of new shares. Such shares may be issued in the form of a public offer or be rationed among existing shareholders.

The proceeds of a share issue by a listed company shall be used in adherence to the purpose of the funds as described in the share prospectus. Any change in the purpose of the funds described in the share prospectus shall be subject to approval by the shareholders' general meeting. If a change in the purpose is made without authorization and is not rectified, or if such a change is not subsequently ratified by the shareholders' general meeting, no new shares may be issued.

Article 21 Securities companies shall, in accordance with the

规定承销发行人向社会公开发行的证券。证券承销业务采取代销或者包销方式。

证券代销是指证券公司代发行人发售证券，在承销期结束时，将未售出的证券全部退还给发行人的承销方式。

证券包销是指证券公司将发行人的证券按照协议全部购入或者在承销期结束时将售后剩余证券全部自行购入的承销方式。

第二十二条 公开发行证券的发行人有权依法自主选择承销的证券公司。证券公司不得以不正当竞争手段招揽证券承销业务。

第二十三条 证券公司承销证券，应当同发行人签订代销或者包销协议，载明下列事项：

- (一) 当事人的名称、住所及法定代表人姓名；
- (二) 代销、包销证券的种类、数量、金额及发行价格；
- (三) 代销、包销的期限及起止日期；
- (四) 代销、包销的付款方式及日期；