

Order of the Stated-owned Assets Supervision and Administration Commission of the State Council

(No. 20)

The Interim Measures for the Liabilities of Central Enterprises for Asset Losses, which were deliberated and adopted at the 63rd director's executive meeting of the State-Owned Assets Supervision and Administration Commission of the State Council, are hereby promulgated and shall come into force on October 1, 2008.

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Interim Measures for the Liabilities of Central Enterprises for Asset Losses

#### Chapter I General Provisions

Article 1 For purposes of strengthening the protection of state-owned assets in enterprises, perfecting the accountability system for the asset administration of central enterprises, and regulating the investigation into the liabilities of the central enterprises for asset losses, these Measures are formulated according to the Property Law of the People's Republic of China and the Interim Measures for the Supervision and Administration of State-Owned Assets in Enterprises and other relevant laws and administrative regulations of the State.

Article 2 These Measures shall be applicable to the investigation into the liabilities for asset loss of the enterprises for which the State-Owned Assets Supervision and Administration Commission of the State Council (SASAC) performs the contributor's duties (hereinafter referred to as enterprises) and of the solely-owned or controlled subsidiaries thereof (hereinafter referred to as subsidiaries).

Article 3 In case any business management staff member or any other person of an enterprise or its subsidiary violates the relevant provisions of the State and the rules and regulations of the enterprise, and fails to perform or correctly perform his duties, which causes direct or indirect asset losses to the enterprise, he shall be subject to liabilities once it has been verified upon investigation and his liabilities determined.

## Chapter II Working Duties

Article 4 The main duties of the SASAC in the investigation of liabilities for asset losses include:

(1) Studying and formulating the relevant regulations and systems on investigation of the enterprises' liabilities for asset losses;

(2) Responsible for the investigation into liabilities of the relevant persons liable within their respective functions for the loss of assets;

(3) Responsible for the investigation into the liabilities for significant asset losses that are especially heavy or that happen frequently;

(4) Guiding and supervising the investigation of the enterprises' liabilities for asset losses;

(5) Accepting the appeals or applications for review by relevant persons liable who are punished directly by enterprises; and

(6) Other work relating to the investigation of liabilities for asset losses.

Article 5 The main duties for an enterprise in the investigation of liabilities for asset losses include:

- (1) Studying and formulating the enterprise' s working rules on the investigation of liabilities for asset losses;
- (2) Responsible for the investigation of the asset loss liabilities of the relevant persons liable within their functions;
- (3) Guiding and supervising the investigation of the subsidiaries' liabilities for asset losses;
- (4) Coordinating with the SASAC in the investigations of liabilities for significant asset losses that are especially heavy or that frequently happen;
- (5) Accepting the appeals or applications for review by relevant persons liable who are punished by the subsidiaries; and
- (6) Other work relating to the investigation of liabilities for asset losses as assigned by the SASAC.

As to the investigation of liabilities of the business management team of an enterprise with a board of directors, the board of directors shall be responsible for the organization and implementation of the investigation, and file with the SASAC for archival purpose unless the investigation shall be organized and implemented by the SASAC according to the provisions.

Article 6 An enterprise shall clarify the functions of departments of government supervision, auditing, finance, legal affairs and personnel, etc. in the investigation of liabilities for asset losses.

Article 7 In case an enterprise has incurred any asset loss, it shall timely take effective measures so as to reduce or retrieve the loss; in case it has incurred significant or particularly significant asset loss, it shall make a timely report to the SASAC.

Article 8 To conduct an investigation into the liabilities for an asset loss, the following procedures shall be followed:

- (1) Organizing the investigation and verifying the asset loss;
- (2) Clarifying the nature of the asset loss, determining the liabilities therefor, and listening to the statements of the relevant persons liable;
- (3) Studying and making a decision on the investigation for liabilities, or transferring the case to the relevant departments for disposal according to the relevant provisions;
- (4) Accepting the appeal of relevant persons liable and organizing a review; and
- (5) Organizing the implementation of the decision on disposal, and supervising and examining the implementation.

An entity at the lower level within an enterprise shall report the progress of the investigation to the entity at the next higher level, and the enterprise shall report the investigation progress to the SASAC.

Article 9 In case a person liable for the enterprise' s asset loss has any demurral to the disposal suggestion, he may make a written comment, and provide relevant evidentiary materials. If he has any demurral to the decision of disposal, he may apply to the entity of the next higher level for review within 30 working days from the decision of disposal is made. The review of the next-higher-level entity shall not affect the making and implementation of the decision of disposal.

Chapter III Determination of Asset Loss

Article 10 As to the asset loss incurred to an enterprise, the nature, circumstance and amount of the loss shall be determined on the basis of investigation and verification and according to the relevant provisions.

Article 11 All facts in the investigation of liabilities for an enterprise' s asset loss that could prove the actual situation of the asset loss may be taken as evidence for the determination of such loss. Such evidence mainly includes:

(1) The written documents relating to the asset loss of the enterprise lawfully issued by judicial organs, public security organs, administrative departments, and professional technical appraisal departments etc. ;

(2) The special economic appraisal certificates or letters of opinions issued by accounting firms, asset evaluation agencies, law firms, tax agents firms and other social intermediary agencies on certain economic matters of the enterprise;

(3) The accounting records, internal evidentiary materials or internal appraisal letters of opinions, etc. on the asset loss involving any special matters of the enterprise; and

(4) Other evidentiary materials that could determine the asset loss.

Article 12 The determination of amount of asset losses shall include the amount of direct losses and indirect losses. The direct loss amount is the amount of the asset losses which have direct causal relationship with the acts of relevant persons; the indirect loss amount is the amount of other asset losses incurred or caused by the acts of relevant persons, which is beyond the amount of direct losses but could be determined and measured.

Article 13 The amount of asset losses shall be respectively determined on the basis of relevant records of the account books and according to the classification of losses determined by accounting.

As to an asset that is not recorded in the account books or whose difference between the book value and fair value is relatively large, the amount of such asset losses shall be determined

according to the market value, replacement value and other fair values.

Article 14 Where the relevant transactions or matters have not incurred a factual loss yet, but evidence shows that the factual loss will happen in the foreseeable future, and the amount of loss could be measured, such loss shall be determined as asset loss.

Article 15 The asset losses shall, according to the actual situation of the enterprises, be divided into general asset losses, comparatively large asset losses, huge asset losses and extremely huge asset losses according to the amount and extent of impact:

(1) A general asset loss refers to the asset loss which is in small amount and causes relatively small effects;

(2) A comparatively large asset loss refers to one which is comparatively large in amount or causes certain bad effects to the enterprise;

(3) A huge asset loss is one which is huge in amount or causes serious bad effects to the enterprise and society; and

(4) An extremely huge asset loss is one which is extremely huge in amount and affects the continuous operation and development capacity of the enterprise, or causes serious bad effects in and out of China.

#### Chapter IV Scope of Investigation of Liabilities for Asset Losses

Article 16 In the purchase of products and services by an enterprise, where any business management staff of the enterprise is under any of the following circumstances and has caused any asset loss, the relevant persons liable shall be subject to liabilities:

(1) Failing to conclude any contract according to the provisions;

(2) Failing to invite bid according to the provisions;

(3) Making advance payments without conducting necessary credit investigation;

(4) The price of the subject matter of purchase is obviously higher than that of identical commodity in the market;

(5) The purchased subject matter is seriously inconsistent with the contractual agreement but no effective measure is taken;

(6) Making a false report of, or hide the truth in making report of, the purchase price of materials (labor);

(7) Inciting or instigating any other person to conduct purchases by violating any regulations or colluding with any other person in doing so; or

(8) Other circumstances causing asset losses due to unconformity with the provisions.

Article 17 In the course of selling products or providing services, where any business management staff of an enterprise is under any of the following circumstances and has caused any asset loss, the relevant persons liable shall be subject to liabilities:

(1) Failing to conclude a contract according to the provisions;

(2) Lowering the price to sell products or provide services without authorization;

(3) Making credit sales without authorization or beyond credit line and time limit;

(4) Failing to timely collect and check the accounts receivable, and failing to timely collect the abnormal accounts receivable or take effective protective measures;

(5) Concluding any false contract or providing any false product or service; or

(6) Other circumstances causing asset losses due to unconformity with the provisions.

Article 18 During the management and use of funds, where any business management staff of an enterprise is under any of the following circumstances and has caused any asset loss, the relevant persons liable shall be subject to liabilities:

(1) Failing to use and dispatch funds according to the provisions;

(2) Authorizing or approving the fund expenditure beyond his authority or in violation of the procedures;

(3) Lending funds in violation of regulations;

(4) Incurring any corruption, theft, or fleeing with money, etc. due to poor management of funds;

(5) Failing to timely take effective measures for the loss of cheques and other bills;

(6) Entrusting other institutions or individuals with the financing business in violation of relevant provisions;

(7) Failing to timely check the deposits in banks and clean up the outstanding items;

(8) Failing to timely enter cash into accounts, retaining cash beyond the approved amount or depositing or preserving funds in any personal account; or

(9) Other circumstances causing asset losses due to unconformity with the provisions.

Article 19 In the investment decision-making and investment management, where any business management staff of an enterprise is under any of the following circumstances and has caused any asset loss, the relevant persons liable shall be subject to liabilities:

(1) Failing to observe the specified procedures of investment decision-making;

(2) Failing to carry out necessary and sufficient feasibility study on any investment project;

(3) Unlawfully approving any project beyond his authority or establishing any project to enlarge the scale of investment, production or operation;

(4) Making investment beyond budget without observing the specified procedures;

(5) Failing to carry out effective supervision on investment projects and timely take effective measures when any loss occurs;

(6) Conducting non-main businesses not in accordance with provisions; or

(7) Other circumstances of asset losses incurred due to unconformity with the provisions.

Article 20 During the course of operating stocks, futures, foreign exchange, as well as financial derivatives and other investments, where any business management staff of an enterprise is under any of the following circumstances and has caused any asset loss, the relevant persons liable shall be subject to liabilities:

(1) Operating business in violation of regulations or by going beyond the scope of business;

(2) The risk control system has major defects;

(3) The sources of funds violate the relevant provisions of the State;

(4) Being engaged in any investment business with funds of the enterprise and under the name of individual;

(5) Purchasing or selling stocks and bonds of his own enterprise in violation of regulations;

(6) Making decisions without observing the specified procedures or without authorization; or

(7) Other circumstances of asset losses incurred due to unconformity with the provisions.

Article 21 In the course of providing guarantee, e.g., promises, mortgages, pledges, etc., where any business management staff of an enterprise is under any of the following circumstances and has caused any asset loss, the relevant persons liable shall be subject to liabilities:

(1) Providing any promise, mortgage and pledge in violation of regulations;

(2) Failing to carry out effective supervision on any guaranteed project and to timely take effective measures when any loss occurs;

(3) Providing guarantee for any other enterprise or individual without observing the specified procedures or without authorization; or

(4) Other circumstances of asset losses incurred due to unconformity with the provisions.

Article 22 During the asset transfer and acquisition as well as restructuring and reorganization, where any business management staff of an enterprise is under any of the following circumstances and has caused any asset loss, the relevant persons liable shall be subject to liabilities:

(1) In transferring (accepting) any asset or property right (stock right), the management team of the enterprise takes the lead in the formulation of restructuring programs, appointment of intermediary agencies, and determining the price of transfer and acquisition;

(2) Failing to carry out assets and capital verification, financial auditing and asset evaluation in accordance with the provisions;

(3) Intervening in or manipulating the assets and capital verification, financial auditing and asset evaluation so that any false authentication result has been caused;

(4) Providing false materials to the intermediary agencies so that any false audit or assessment result has been produced;

(5) Converting any state-owned assets into shares at low prices or distributing any state-owned assets to other entities or individuals for free;

(6) Failing to carry out floor trade in accordance with the provisions (except for those otherwise provided for by the State) or transferring any asset or property right (stock right) beyond the specified limit of authority;

(7) Leasing or issuing contracts at unreasonably low prices during the lease or contracting management of enterprise assets;

(8) Transferring assets and major businesses at an unreasonably low price or for free; or

(9) Other circumstances of asset losses incurred due to unconformity with the provisions.

Article 23 In case any physical asset, e.g., building or construction, machinery, equipment, transportation equipment, raw materials, products in process, finished products, etc., is not properly kept or maintained so that any abnormal damage is caused or the asset is discarded, lost or stolen, the relevant persons liable shall be subject to liabilities.

Article 24 In case any asset loss is incurred by failing to make an assessment or disclosure as required by the accounting rules or accounting standards so that the accounts are seriously inconsistent with the facts, and accounting information is distorted, the relevant persons liable shall be subject to liabilities.

Article 25 Where any asset loss has been incurred because of any material defect in the internal control system of the enterprise or poor execution of the internal control system, the relevant persons liable shall be subject to liabilities.

#### Chapter V Division of Liabilities for Asset Losses

Article 26 The liabilities for enterprise asset losses shall be divided into direct liabilities, superintendence liabilities, leader-in-charge liabilities, and important principal's liabilities.

(1) The direct liabilities refer to the liabilities that shall be taken by the relevant persons who failed to perform or correctly perform their duties within the scope of their functions, violated any of the laws, regulations, or relevant provisions and played a decisive role in

incurring asset losses.

(2) The superintendence liabilities refer to the liabilities that shall be taken by the competent persons in charge of the departments of enterprises, who failed to perform or correctly perform their working duties of superintendence within the scope of their functions, violated any of the laws, regulation or relevant provisions, which incurred asset losses.

(3) The leader-in-charge liabilities refer to the liabilities that shall be taken by the principals in charge of the enterprises who failed to perform or correctly perform the working duties of leader-in-charge within the scope of their functions, violated any of the laws, regulations or relevant provisions, which incurred asset losses.

(4) The important principal' s liabilities refer to the liabilities that shall be taken by the main principals of the enterprises, who failed to perform or correctly perform the duties of management within the scope of their functions, violated any of the laws, regulations or relevant provisions, which incurred asset losses.

Article 27 In case a huge or extremely huge asset loss is incurred to an enterprise because the enterprise has failed to set up an internal control management system or its internal control management system has any material defect, the principals in charge and the main principals of the enterprise shall take the leader-in-charge liabilities and important principal' s liabilities, respectively, and other persons liable shall be subjected to liability according to these Measures as well.

Article 28 In case any huge or extremely huge asset loss has been incurred to a subsidiary, the relevant persons liable of the parent enterprise shall take the corresponding leader-in-charge liabilities or important principal' s liabilities, and other persons liable shall be subjected to liability according to these Measures as well.

Article 29 In case an enterprise fails to perform or correctly perform its duties due to violation of the relevant provisions which leads to a wrong decision and caused huge or extremely huge asset losses as a result, the main principals of the enterprise shall assume direct liabilities, and other persons of the enterprise participating in the decision-making shall take corresponding responsibilities as well.

The persons who participated in the decision-making but raised objections in the decision-making, which is proved by the minutes of meeting, may be exempted from corresponding liabilities.

Article 30 In case an enterprise conceals any truth in reporting or under-reports any asset loss when a huge or extremely huge asset loss occurs, the chief accountant or person in charge of finance of the enterprise and the main principals of the enterprise shall take the leader-in-charge liabilities and important principal's liabilities, respectively, and other persons liable shall be subjected to liability according to these Measures as well.

Article 31 In case an enterprise has incurred any huge or extremely huge asset loss, but the relevant persons are not subjected to liabilities, once it is verified, the main principals of the enterprise shall be punished with reference to the persons directly responsible, and other persons liable shall be punished according to these Measures as well.

#### Chapter VI Penalties

Article 32 The punishment on the persons responsible for asset losses include economic punishment, administrative sanction and restriction on entry:

(1) An economic punishment refers to the deprivation of performance-based pay (bonuses), and no granting of new stock rights.

(2) An administrative sanction refers to an admonition, a demerit for record, degradation (demotion), order to resign, removal from office, dismissal, and disemployment, etc.

(3) The restriction on entry refers to that a person shall not be hired by an enterprise or hold the post of person-in-charge of the enterprise within one to five years or for life.

The aforesaid punishments may be applied either separately or concurrently.

Article 33 In case an enterprise has any asset loss, after the investigation and verification as well as determination of liabilities, it shall, on the basis of making compensations according to the requirement of relevant provisions of the state or the enterprise, impose the following punishments on the relevant persons liable according to the extent and impact of the loss:

(1) In case an enterprise has general asset loss, the person directly liable and the person subject to superintendence liability shall be given the economic punishment of deprivation of performance-based pay (bonus) of a certain proportion or such sanctions as admonition, demerit for record, or degradation (demotion) in the year when their liabilities are determined.

(2) In case an enterprise has incurred a relatively large asset loss, the person who's held to be directly liable and the person subject to superintendence liability shall be given the economic punishment of deprivation of performance-based pay (bonus) of a certain proportion and such sanctions as degradation (demotion), order to resign, removal, dismissal, or disemployment in the year when the liabilities are determined; the person subject to the leader-in-charge liability shall be given the economic punishment of deprivation of performance-based pay (bonus) of a certain proportion and such sanctions as demerit for the record, degradation (demotion), order to resign, or removal.

(3) In case an enterprise has incurred a huge asset loss, the person who's held to be directly liable and the person subject to superintendence liability shall be given the economic punishment of deprivation of performance-based pay (bonus) of a certain proportion and no granting of new stock rights within a certain time period and such sanctions as removal, dismissal or disemployment in the year when the liabilities are determined. The persons subject to the leader-in-charge liability and important principal's liability shall be given the economic punishment of deprivation of performance-based pay (bonus) of a certain proportion and no granting of new stock rights within a certain time period and such sanctions as degradation (demotion), order to resign, or removal.

(4) In case an enterprise has incurred an extremely huge asset loss, the person who's held to be directly liable and the person subject to superintendence liability shall be given the economic punishment of deprivation of performance-based pay (bonus) of a certain proportion and no granting of new stock rights within a certain time period and such sanctions as dismissal or disemployment in the year when the liabilities are determined. The persons subject to the leader-in-charge liability and important principal's liability shall be given the economic punishment of deprivation of performance-based pay (bonus) of a certain proportion and no granting of new stock rights within a certain time period and such sanctions as removal, dismissal, or disemployment.

Article 34 In case extremely huge asset losses occur or frequently occur in an enterprise, the relevant persons liable shall be simultaneously imposed the sanction of restriction on entry besides the economic punishments and administrative sanctions.

Article 35 A heavier punishment shall be imposed on the relevant person liable for an asset loss if he is under any of the following circumstances:

- (1) Having conducted very badly or caused asset losses for two or more times;
- (2) Failing to take timely measures when an asset loss occurs, or the measures taken are ineffective, resulting in the exacerbation of the asset loss;
- (3) Interfering with or resisting the investigation of liabilities for an asset loss;
- (4) Concealing the truth in reporting, making a false report or failing to report the asset losses of an enterprise;
- (5) Forcing or inciting any other person to violate the laws or disciplines which incurred an asset loss;
- (6) Forging, destroying, or concealing any evidence, or preventing any other person from making a tip-off, whistle-blowing or providing evidential materials; or
- (7) Other circumstances subject to a heavier punishment.

Article 36 The punishment on a person who' s held to be liable may be mitigated or exempted if he is under any of the following circumstances:

- (1) Having taken timely measures to reduce or redeem the loss;
- (2) Actively reporting the situation of asset loss;
- (3) Offering to tip off other relevant personnel, which is found to be true; or
- (4) Having other major meritorious deeds.

Article 37 A person liable for an asset loss, who has been removed from the post or has retired, shall be given the economic punishment, administrative sanction and restriction on entry in accordance with the relevant provisions of these Measures.

For a person who is given an economic punishment, if his salary has not been fully paid upon retirement, his salary shall be deprived correspondingly; for a person who's still holding the post in a central enterprise, his salary in the following years shall be deprived; for a person who is kicked out of the central enterprise, a punishment suggestion shall be put forward to his new employer.

Article 38 As to an enterprise with a board of directors (including the pilot enterprises with a board of directors), if any director has failed to perform or correctly perform his duties, which resulted in any asset loss to the enterprise, the SASAC shall punish the director it has designated according to these Measures and the relevant procedures of the Company Law besides subjecting him to compensation according to law.

Article 39 A person liable for asset loss shall, besides being subjected to liabilities according to these Measures, assume corresponding legal liabilities according to law if he has violated the relevant laws and regulations of the State. If any crime is constituted, he shall be brought to justice.

If a person liable for any asset loss has violated the relevant provisions of the Disciplinary Punishment Regulations of the Communist Party of China, etc., a suggestion shall be proposed to

the Party organization for treatment.

Article 40 Where any person responsible for the investigation of liabilities for asset loss of the SASAC or an enterprise accepts any bribe, practices favoritism, divulges any work secret or helps the persons liable for any asset loss escape their liabilities, he shall be subject to corresponding punishment in light of circumstances; if any crime is constituted, he shall be brought to justice.

#### Chapter VII Supplementary Provisions

Article 41 The detailed rules for the implementation of the present Measures for the investigation of liabilities for the asset losses of central enterprises shall be promulgated separately.

Article 42 The enterprises shall formulate their specific working standards for the investigation of liabilities for the asset losses of their subsidiaries in accordance with these Measures and by take into consideration the actual situation of their enterprises.

Article 43 The state-owned assets supervision and administration institutions in all regions may formulate measures for the investigation of liabilities for the asset losses of enterprises in which they have invested by referring to these Measures.

Article 44 These Measures shall come into force on October 1, 2008.