

## Interim Measures for the Administration of Overseas Securities Offering and Listing by Domestic Enterprises

中国证券监督管理委员会公告

Announcement of the China Securities Regulatory Commission

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经国务院批准，现公布《境内企业境外发行证券和上市管理试行办法》，自2023年3月31日起施行。

With approval of the State Council, the Interim Measures for the Administration of Overseas Securities Offering and Listing by Domestic Enterprises are hereby issued, and shall come into force on the March 31, 2023.

中国证监会

China Securities Regulatory Commission

2023年2月17日

February 17, 2023

附件1：境内企业境外发行证券和上市管理试行办法

Annex 1: Interim Measures for the Administration of Overseas Securities Offering and Listing by Domestic Enterprises

附件2：关于《境内企业境外发行证券和上市管理试行办法》的说明

Annex 2: Notes on the Interim Measures for the Administration of Overseas Securities Offering and Listing by Domestic Enterprises

境内企业境外发行证券和上市管理试行办法

Interim Measures for the Administration of Overseas Securities Offering and Listing by Domestic Enterprises

### 第一章 总则

#### Chapter I General Provisions

**第一条** 为规范中华人民共和国境内企业直接或者间接到境外发行证券或者将其证券在境外上市交易（以下简称境外发行上市）相关活动，促进境内企业依法合规利用境外资本市场实现规范健康发展，根据《中华人民共和国证券法》等法律，制定本办法。

**Article 1** These Measures are developed in accordance with the [Securities Law of the People's Republic of China](#) and other laws for the purposes of regulating the relevant activities of direct or indirect overseas securities offering and listing by enterprises in the territory of the People's Republic of China (hereinafter referred to as “overseas offering and listing”), and promoting the standardized and sound development of domestic enterprises by utilizing overseas capital markets in accordance with laws and regulations.

**第二条** 境内企业直接境外发行上市，是指在境内登记设立的股份有限公司境外发行上市。

**Article 2** Direct overseas offering and listing by a domestic enterprise refers to overseas offering and listing by a joint-stock company registered and formed in China.

境内企业间接境外发行上市，是指主要经营活动在境内的企业，以在境外注册的企业的名义，基于境内企业的股权、资产、收益或其他类似权益境外发行上市。

Indirect overseas offering and listing by a domestic enterprise refers to overseas offering and listing by an enterprise in the name of an overseas registered company, whereas the enterprise's main business activities are in China and such offering and listing is based on the equity, assets, earnings or other similar rights and interests of a domestic enterprise.

本办法所称证券，是指境内企业直接或者间接在境外发行上市的股票、存托凭证、可转换为股票的公司债券或者其他具有股权性质的证券。

For the purposes of these Measures, the term “securities” refers to the stocks, depositary receipts, corporate bonds convertible into stocks or other equity securities that are directly or indirectly offered and listed overseas by domestic enterprises.

**第三条** 境内企业境外发行上市活动，应当遵守外商投资、国有资产管理、行业监管、境外投资等法律、行政法规和国家有关规定，不得扰乱境内市场秩序，不得损害国家利益、社会公共利益和境内投资者合法权益。

**Article 3** Domestic enterprises shall comply with laws, administrative regulations and relevant rules of the state on foreign investment, state-owned asset management, industrial regulation, and overseas investment in their overseas offering and listing activities, and shall not disturb the

domestic market order, or harm state or public interest or the legitimate rights and interests of domestic investors.

**第四条** 境内企业境外发行上市活动的监督管理，应当贯彻党和国家路线方针政策、决策部署，统筹发展和安全。

**Article 4** The supervision and administration of overseas offering and listing activities of domestic enterprises shall comply with the lines, principles, policies, decisions and arrangements of the Party and the state, and coordinate the development and security.

中国证券监督管理委员会（以下简称中国证监会）依法对境内企业境外发行上市活动实施监督管理。中国证监会、国务院有关主管部门依法在各自职责范围内，对境外发行上市的境内企业以及在境内为其提供相应服务的证券公司、证券服务机构实施监督管理。

The China Securities Regulatory Commission (“CSRC”) shall, in accordance with law, exercise supervision and administration over the overseas offering and listing activities of domestic enterprises. The CSRC and the relevant competent department under the State Council shall, within the scope of their respective functions and duties and according to the law, exercise supervision and administration over domestic enterprises conducting overseas offering and listing as well as securities companies and securities service institutions that provide corresponding domestic services for them.

中国证监会会同国务院有关主管部门建立境内企业境外发行上市监督管理协调机制，加强政策规则衔接、监督管理协调和信息共享。

The CSRC shall, in conjunction with the relevant competent department under the State Council, establish a supervision and administration coordination mechanism for overseas offering and listing by domestic enterprises, to strengthen the coherence between policies and rules, supervision and administration coordination and information sharing.

**第五条** 中国证监会、国务院有关主管部门按照对等互惠原则，加强与境外证券监督管理机构、有关主管部门的监督管理合作，实施跨境监督管理。

**Article 5** The CSRC and the relevant competent department under the State Council shall, under the principle of reciprocity, strengthen cooperation in supervision and administration with overseas securities regulatory institutions and relevant competent departments to implement cross-border supervision and administration.

## 第二章 境外发行上市

## Chapter II Overseas Offering and Listing

**第六条** 境外发行上市的境内企业应当依照《中华人民共和国公司法》《中华人民共和国会计法》等法律、行政法规和国家有关规定制定章程，完善内部控制制度，规范公司治理和财务、会计行为。

**Article 6** Domestic enterprises conducting overseas offering and listing shall, in accordance with the [Company Law of the People's Republic of China](#), the [Accounting Law of the People's Republic of China](#) and other laws, administrative regulations and relevant rules of the state, develop bylaws, improve the internal control system, and standardize corporate governance and financial and accounting behaviors.

**第七条** 境外发行上市的境内企业应当遵守国家保密法律制度，采取必要措施落实保密责任，不得泄露国家秘密和国家机关工作秘密。

**Article 7** Domestic enterprises conducting overseas offering and listing shall comply with the legal system of the state for confidentiality, and take necessary measures to fulfill the confidentiality responsibility, and shall not disclose state secrets or work secrets of state organs.

境内企业境外发行上市涉及向境外提供个人信息和重要数据等的，应当符合法律、行政法规和国家有关规定。Where a domestic enterprise's overseas offering and listing involves provision of personal information and important data to overseas parties, it shall comply with the laws, administrative regulations and relevant rules of the state.

**第八条** 存在下列情形之一的，不得境外发行上市：

**Article 8** No overseas offering and listing shall be conducted under any of the following circumstances:

- (一) 法律、行政法规或者国家有关规定明确禁止上市融资的；  
(1) Financing through listing is expressly prohibited by laws, administrative regulations or relevant rules of the state.
- (二) 经国务院有关主管部门依法审查认定，境外发行上市可能危害国家安全的；  
(2) The overseas offering and listing may endanger national security as determined by the relevant competent department under the State Council after examination according to the law.

(三) 境内企业或者其控股股东、实际控制人最近3年内存在贪污、贿赂、侵占财产、挪用财产或者破坏社会主义市场经济秩序的刑事犯罪的;

(3) A domestic enterprise or its controlling shareholder or actual controller has committed a criminal crime of corruption, bribery, embezzlement, misappropriation of property or disrupting the economic order of the socialist market in the last three years.

(四) 境内企业因涉嫌犯罪或者重大违法违规行为正在被依法立案调查, 尚未有明确结论意见的;

(4) A domestic enterprise is under formal investigation according to the law for being suspected of any crime or major violation of laws and regulations, but no clear conclusions have been made.

(五) 控股股东或者受控股股东、实际控制人支配的股东持有的股权存在重大权属纠纷的。

(5) There is a major dispute over ownership of the equity held by the controlling shareholder or a shareholder controlled by the controlling shareholder or the actual controller.

**第九条** 境内企业境外发行上市活动, 应当严格遵守外商投资、网络安全、数据安全等国家安全法律、行政法规和有关规定, 切实履行维护国家安全的义务。涉及安全审查的, 应当在向境外证券监督管理机构、交易场所等提交发行上市申请前依法履行相关安全审查程序。

**Article 9** In the overseas offering and listing activities, domestic enterprises shall strictly comply with the laws, administrative regulations and relevant rules of the state on national security in such aspects as foreign investment, network security, and data security, and effectively fulfill the obligation of safeguarding national security. Where safety review is involved, relevant safety review procedures shall be undergone according to the law before an application for offering and listing is filed with an overseas securities regulatory institution or trading venue.

境外发行上市的境内企业应当根据国务院有关主管部门要求, 采取及时整改、作出承诺、剥离业务资产等措施, 消除或者避免境外发行上市对国家安全的影响。

Domestic enterprises conducting overseas offering and listing shall, in accordance with the requirements of the relevant competent department under the State Council, take such measures as timely rectification, undertaking and divestiture of business assets to eliminate or avoid the impact of overseas offering and listing on national security.

**第十条** 境内企业境外发行上市的发行对象应当为境外投资者, 但符合本条第二款规定或者国家另有规定的除外。

**Article 10** Target investors of overseas offering and listing by a domestic enterprise shall be overseas investors, except as compliance with the provisions of paragraph 2 of this article or otherwise prescribed by the state.

直接境外发行上市的境内企业实施股权激励或者发行证券购买资产的，可以向符合中国证监会规定的境内特定对象发行证券。

A domestic enterprise directly conducting overseas offering and listing that implements equity incentive or purchases assets by offering securities may offer securities to specific domestic investors that meet the requirements of the CSRC.

境内国有企业依照前款规定向境内特定对象发行证券的，应当同时符合国有资产管理的相关规定。

A domestic state-owned enterprise offering securities to specific domestic investors in accordance with the provisions of the preceding paragraph shall comply with the relevant provisions on the administration of state-owned assets.

**第十一条** 境内企业境外发行上市的，可以以外币或者人民币募集资金、进行分红派息。

**Article 11** A domestic enterprise conducting overseas offering and listing may raise funds and pay dividends in a foreign currency or RMB.

境内企业境外发行证券所募资金的用途和投向，应当符合法律、行政法规和国家有关规定。

The use and investment of the funds raised by a domestic enterprise by offering securities overseas shall comply with laws, administrative regulations and relevant rules of the state.

境内企业境外发行上市相关资金的汇兑及跨境流动，应当符合国家跨境投融资、外汇管理和跨境人民币管理等规定。

The exchange and cross-border flow of funds related to overseas offering and listing by domestic enterprises shall comply with the rules of the state on cross-border investment and financing, foreign exchange administration and cross-border RMB administration, among others.

**第十二条** 从事境内企业境外发行上市业务的证券公司、证券服务机构和人员，应当遵守法律、行政法规和国家有关规定，遵循行业公认的业务标准和道德规范，严格履行法定职责，保证所制作、出具文件的真实性、准确性和完整性，不得以对国家法律政策、营商环境、司法状况等进行歪曲、贬损的方式在所制作、出具的文件中发表意见。

**Article 12** Securities companies, securities service institutions and personnel engaged in the

business of overseas offering and listing by domestic enterprises shall comply with the laws, administrative regulations and relevant rules of the state, follow the business standards and ethical norms recognized in the industry, strictly perform legal duties, and ensure the authenticity, accuracy and completeness of the documents they produce and issue, and shall not, in the documents they produce or issue, make any comments in a manner that distorts or derogates the laws and policies of the state, the business environment and the judicial situation, among others.

### 第三章 备案要求

#### Chapter III Requirements for Recordation

**第十三条** 境外发行上市的境内企业，应当依照本办法向中国证监会备案，报送备案报告、法律意见书等有关材料，真实、准确、完整地说明股东信息等情况。

**Article 13** A domestic enterprise conducting overseas offering and listing shall, in accordance with these Measures, undergo the recordation formalities with the CSRC, submit the recordation report, legal opinions and other relevant materials, and truthfully, accurately and completely explain the information on shareholders.

**第十四条** 境内企业直接境外发行上市的，由发行人向中国证监会备案。

**Article 14** Where a domestic enterprise directly conducts overseas offering and listing, the issuer shall undergo the recordation formalities with the CSRC.

境内企业间接境外发行上市的，发行人应当指定一家主要境内运营实体为境内责任人，向中国证监会备案。  
Where a domestic enterprise indirectly conducts overseas offering and listing, the issuer shall designate a major domestic operating entity as the domestic responsible person who shall undergo the recordation formalities with the CSRC.

**第十五条** 发行人同时符合下列情形的，认定为境内企业间接境外发行上市：

**Article 15** Any overseas offering and listing conducted by an issuer that concurrently meets the following conditions shall be determined as indirect overseas offering and listing by a domestic enterprise:

（一）境内企业最近一个会计年度的营业收入、利润总额、总资产或者净资产，任一指标占发行人同期经审计合并财务报表相关数据的比例超过50%；



(1) Among the operating revenue, total profits, total assets or net assets of the domestic enterprise in the most recent fiscal year, any index accounts for over 50% of the relevant data in the audited consolidated financial statements of the issuer for the same period.

(二) 经营活动的主要环节在境内开展或者主要场所位于境内，或者负责经营管理的高级管理人员多数为中国公民或者经常居住地位于境内。

(2) The main parts of the business activities of the issuer are carried out in China or the main business places are located in China, or most of the senior executives in charge of business operation are Chinese citizens, or their habitual residences are located in China.

境内企业间接境外发行上市的认定，遵循实质重于形式的原则。

The determination of indirect overseas offering and listing by domestic enterprises shall follow the principle of substance over form.

**第十六条** 发行人境外首次公开发行或者上市的，应当在境外提交发行上市申请文件后3个工作日内向中国证监会备案。

**Article 16** An issuer conducting overseas initial public offering or listing shall undergo the recordation formalities with the CSRC within three working days after the application documents for offering and listing are submitted overseas.

发行人境外发行上市后，在同一境外市场发行证券的，应当在发行完成后3个工作日内向中国证监会备案。

Where an issuer offers securities in the same overseas market after overseas offering and listing, it shall undergo the recordation formalities with the CSRC within three working days after completion of offering.

发行人境外发行上市后，在其他境外市场发行上市的，应当按照本条第一款规定备案。

An issuer that conducts offering and listing in other overseas markets after conducting overseas offering and listing shall undergo the recordation formalities in accordance with the provisions of paragraph 1 of this article.

**第十七条** 通过一次或者多次收购、换股、划转以及其他交易安排实现境内企业资产直接或者间接境外上市，境内企业应当按照第十六条第一款规定备案，不涉及在境外提交申请文件的，应当在上市公司首次公告交易具体安排之日起3个工作日内备案。

**Article 17** Where assets of a domestic enterprise are directly or indirectly listed overseas through



single or multiple acquisitions, stock swaps, transfers and other transaction arrangements, the domestic enterprise shall undergo the recordation formalities in accordance with the provisions of paragraph 1 of Article 16. If submission of application documents overseas is not involved, it shall undergo the recordation formalities within three working days from the date when the listed company announces the specific transaction arrangements for the first time.

**第十八条** 境内企业直接境外发行上市的，持有其境内未上市股份的股东申请将其持有的境内未上市股份转换为境外上市股份并到境外交易场所上市流通，应当符合中国证监会有关规定，并委托境内企业向中国证监会备案。

**Article 18** Where a domestic enterprise directly conducts overseas offering and listing, a shareholder holding its domestic unlisted shares that applies for conversion of such shares into overseas listed shares for listing and circulation on overseas trading venues shall comply with the relevant rules of the CSRC and authorize the domestic enterprise to undergo recordation with the CSRC on its behalf.

前款所称境内未上市股份，是指境内企业已发行但未在境内交易场所上市或者挂牌交易的股份。境内未上市股份应当在境内证券登记结算机构集中登记存管。境外上市股份的登记结算安排等适用境外上市地的规定。

For the purposes of the preceding paragraph, the term “domestic unlisted shares” means shares issued by a domestic enterprise but not listed or quoted for trading on any domestic trading venues. Domestic unlisted shares shall be centrally registered and deposited at domestic securities registration and clearing institutions. The registration and clearing arrangement of overseas listed shares shall be governed by the rules of overseas listing places.

**第十九条** 备案材料完备、符合规定的，中国证监会自收到备案材料之日起20个工作日内办结备案，并通过网站公示备案信息。

**Article 19** Where the recordation materials are complete and in compliance with the provisions, the CSRC shall complete recordation within 20 working days from the date of receiving the recordation materials, and publicize the recordation information on its website.

备案材料不完备或者不符合规定的，中国证监会在收到备案材料后5个工作日内告知发行人需要补充的材料。发行人应当在30个工作日内补充材料。在备案过程中，发行人可能存在本办法第八条规定情形的，中国证监会可以征求国务院有关主管部门意见。补充材料和征求意见的时间均不计算在备案时限内。

Where the recordation materials are incomplete or do not satisfy the requirements, the CSRC shall, within five working days upon receipt of the recordation materials, notify the issuer of the supplements. An issuer shall supplement the materials within 30 working days. If, during the

process of recordation, an issuer may fall under any of the circumstances as prescribed in Article 8 of these Measures, the CSRC may request opinions of the relevant competent department under the State Council. The time for supplementing materials and requesting opinions shall not be counted in the time limit for recordation.

中国证监会依据本办法制定备案指引，明确备案操作要求、备案材料内容、格式和应当附具的文件等。

The CSRC shall, in accordance with these Measures, develop the guidelines for recordation, specifying the requirements for recordation operation, the content and format of recordation materials and the documents to be attached.

**第二十条** 境内企业境外发行上市的备案材料应当真实、准确、完整，不得有虚假记载、误导性陈述或者重大遗漏。境内企业及其控股股东、实际控制人、董事、监事、高级管理人员应当依法履行信息披露义务，诚实守信、勤勉尽责，保证备案材料真实、准确、完整。

**Article 20** The recordation materials for overseas offering and listing by domestic enterprises shall be authentic, accurate and complete, without any false record, misleading statement or major omission. Domestic enterprises and their controlling shareholders, actual controllers, directors, supervisors and senior executives shall fulfill the obligations of information disclosure in accordance with the law, act in good faith and perform duties with due diligence, and ensure that the recordation materials are authentic, accurate and complete.

证券公司、律师事务所应当对备案材料进行充分核查验证，不得存在下列情形：

Securities companies and law firms shall fully check and verify the recordation materials, and ensure that none of the following circumstances occurs:

- (一) 备案材料内容存在相互矛盾或者同一事实表述不一致且有实质性差异；
- (1) The recordation materials contain conflicting contents or the descriptions of the same fact are inconsistent and materially different.
- (二) 备案材料内容表述不清、逻辑混乱，严重影响理解；
- (2) The contents of the recordation materials are unclear in expression or confusing in logic, which seriously affects understanding.
- (三) 未对企业是否符合本办法第十五条认定标准进行充分论证；
- (3) The recordation materials fail to fully demonstrate whether the enterprise meets the

determination standards of Article 15 of these Measures.

(四) 未及时报告或者说明重大事项。

(4) Major events fail to be reported or specified in a timely manner.

**第二十一条** 境外证券公司担任境内企业境外发行上市业务保荐人或者主承销商的，应当自首次签订业务协议之日起10个工作日内向中国证监会备案，并应当于每年1月31日前向中国证监会报送上年度从事境内企业境外发行上市业务情况的报告。

**Article 21** Where an overseas securities company acts as the sponsor or lead underwriter for overseas offering and listing by domestic enterprises, it shall undergo the recordation formalities with the CSRC within 10 working days from the date of signing the business agreement for the first time, and submit the report on its business activities in the previous year in relation to overseas offering and listing by domestic enterprises to the CSRC before January 31 of each year.

境外证券公司在本办法施行前已经签订业务协议，正在担任境内企业境外发行上市业务保荐人或者主承销商的，应当自本办法施行之日起30个工作日内进行备案。

Where an overseas securities company has entered into a business agreement before these Measures come into force and is acting as the sponsor or the lead underwriter for overseas offering and listing by domestic enterprises, it shall undergo the recordation formalities within 30 working days from the date when these Measures come into force.

#### 第四章 监督管理

#### Chapter IV Supervision and Administration

**第二十二条** 发行人境外发行上市后发生下列重大事项，应当自相关事项发生并公告之日起3个工作日内向中国证监会报告具体情况：

**Article 22** An issuer shall report the specific circumstances of the following major events after overseas offering and listing, if any, to the CSRC within three working days after the occurrence and announcement of the relevant event:

(一) 控制权变更；

(1) Change of control.

(二) 被境外证券监督管理机构或者有关主管部门采取调查、处罚等措施；

(2) Investigation, punishment and other measures adopted by an overseas securities regulatory institution or relevant competent department.

(三) 转换上市地位或者上市板块;

(3) Change of the listing status or transfer of listing market.

(四) 主动终止上市或者强制终止上市。

(4) Voluntary or mandatory delisting.

发行人境外发行上市后主要业务经营活动发生重大变化, 不再属于备案范围的, 应当自相关变化发生之日起3个工作日内, 向中国证监会提交专项报告及境内律师事务所出具的法律意见书, 说明有关情况。

Where an issuer has major changes in its major business operations after its overseas offering and listing and no longer falls under the scope of recordation, it shall, within three working days from the occurrence of the relevant changes, submit a special report and a legal opinion issued by a domestic law firm to the CSRC to explain the relevant circumstances.

**第二十三条** 中国证监会、国务院有关主管部门按照职责分工, 依法对境外发行上市的境内企业, 以及证券公司、证券服务机构在境内开展的境内企业境外发行上市业务进行监督检查或者调查。

**Article 23** The CSRC and relevant competent department under the State Council shall, according to the division of functions and duties, conduct supervisory inspections or investigations of domestic enterprises conducting overseas offering and listing, as well as the business activities carried out in China by securities companies and securities service institutions in relation to overseas offering and listing by domestic enterprises.

**第二十四条** 为维护市场秩序, 中国证监会、国务院有关主管部门可以按照职责分工, 视情节轻重, 对违反本办法的境外发行上市的境内企业以及在境内为其提供相应服务的证券公司、证券服务机构及其相关执业人员采取责令改正、监管谈话、出具警示函等措施。

**Article 24** For the purpose of maintaining the market order, the CSRC and the relevant competent department under the State Council may, according to the division of duties and depending on the seriousness of the circumstances, adopt measures such as ordering corrective action, holding regulatory talks and issuing warning letters against domestic enterprises conducting overseas offering and listing in violation of these Measures, as well as securities companies, securities service institutions and their relevant practitioners providing services to such overseas offering and listing from China.

**第二十五条** 境内企业境外发行上市前存在本办法第八条所列情形的，应当暂缓或者终止境外发行上市，并及时向中国证监会、国务院有关主管部门报告。

**Article 25** Where a domestic enterprise falls under any of the circumstances listed in Article 8 of these Measures before its overseas offering and listing, it shall suspend or terminate its overseas offering and listing and report to the CSRC and the relevant competent department under the State Council in a timely manner.

**第二十六条** 境内企业境外发行上市违反本办法，或者境外证券公司违反本办法第二十一条规定的，中国证监会可以通过跨境监督管理合作机制通报境外证券监督管理机构。

**Article 26** Where a domestic enterprise violates these Measures in overseas offering and listing, or an overseas securities company violates the provisions of Article 21 of these Measures, the CSRC may notify the overseas securities regulatory institution through the cross-border supervision and administration cooperation mechanism.

境外证券监督管理机构对境内企业境外发行上市及相关活动进行调查取证，根据跨境监督管理合作机制向中国证监会提出协查请求的，中国证监会可以依法提供必要协助。境内单位和个人按照境外证券监督管理机构调查取证要求提供相关文件和资料的，应当经中国证监会和国务院有关主管部门同意。

Where an overseas securities regulatory institution carries out investigation and evidence collection regarding overseas offering and listing by a domestic enterprise and relevant activities, and makes a request to the CSRC for assistance in investigation under the cross-border supervision and administration cooperation mechanism, the CSRC may provide necessary assistance according to the law. A domestic entity or individual providing relevant documents and materials in accordance with the requirements of the overseas securities regulatory institution for investigation and collection of evidence shall obtain the consent of the CSRC and the relevant competent department under the State Council.

## 第五章 法律责任

### Chapter V Legal Liability

**第二十七条** 境内企业违反本办法第十三条规定未履行备案程序，或者违反本办法第八条、第二十五条规定境外发行上市的，由中国证监会责令改正，给予警告，并处以100万元以上1000万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以50万元以上500万元以下的罚款。

**Article 27** Where a domestic enterprise fails to undergo the recordation procedures in violation of the provisions of Article 13 of these Measures, or conducts overseas offering and listing in violation of the provisions of Articles 8 and 25 of these Measures, the CSRC shall order it to take corrective action, give a warning to it, and impose a fine of not less than 1 million yuan nor more than 10 million yuan. A warning shall be given to and a fine of not less than 500,000 yuan nor more than 5 million yuan shall be imposed upon the directly liable person in charge and other directly liable persons.

境内企业的控股股东、实际控制人组织、指使从事前款违法行为的，处以100万元以上1000万元以下的罚款。对直接负责的主管人员和其他直接责任人员，处以50万元以上500万元以下的罚款。

Where the controlling shareholder or actual controller of a domestic enterprise organizes or instigates the aforesaid illegal acts, a fine of not less than 1 million yuan nor more than 10 million yuan shall be imposed thereupon. A fine of not less than 500,000 yuan nor more than 5 million yuan shall be imposed upon the directly liable person in charge and other directly liable persons.

证券公司、证券服务机构未按照职责督促企业遵守本办法第八条、第十三条、第二十五条规定的，给予警告，并处以50万元以上500万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以20万元以上200万元以下的罚款。

Where a securities company or securities service institution fails to urge an enterprise to comply with the provisions of Articles 8, 13 and 25 of these Measures according to its duties, it shall be given a warning and be subject to a fine of not less than 500,000 yuan nor more than 5 million yuan. A warning shall be given to and a fine of not less than 200,000 yuan nor more than 2 million yuan shall be imposed upon the directly liable person in charge and other directly liable persons.

**第二十八条** 境内企业的备案材料存在虚假记载、误导性陈述或者重大遗漏的，由中国证监会责令改正，给予警告，并处以100万元以上1000万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以50万元以上500万元以下的罚款。

**Article 28** Where there are false records, misleading statements or major omissions in the recordation materials of a domestic enterprise, the CSRC shall order it to take corrective action, give a warning to it, and impose a fine of not less than 1 million yuan nor more than 10 million yuan upon it. A warning shall be given to and a fine of not less than 500,000 yuan nor more than 5 million yuan shall be imposed upon the directly liable person in charge and other directly liable persons.

境内企业的控股股东、实际控制人组织、指使从事前款违法行为，或者隐瞒相关事项导致发生前款情形的，处以100万元以上1000万元以下的罚款。对直接负责的主管人员和其他直接责任人员，处以50万元以上500万元以下的罚款。

Where the controlling shareholder or actual controller of a domestic enterprise organizes or instigates the illegal acts as prescribed in the preceding paragraph, or conceals relevant matters and causes the circumstances as prescribed in the preceding paragraph, a fine of not less than 1 million yuan nor more than 10 million yuan shall be imposed thereupon. A fine of not less than 500,000 yuan nor more than 5 million yuan shall be imposed upon the directly liable person in charge and other directly liable persons.

**第二十九条** 证券公司、证券服务机构未勤勉尽责，依据境内法律、行政法规和国家有关规定制作、出具的文件存在虚假记载、误导性陈述或者重大遗漏，或者依据境外上市地规则制作、出具的文件存在虚假记载、误导性陈述或者重大遗漏扰乱境内市场秩序，损害境内投资者合法权益的，由中国证监会、国务院有关主管部门责令改正，给予警告，并处以业务收入1倍以上10倍以下的罚款；没有业务收入或者业务收入不足50万元的，处以50万元以上500万元以下的罚款。对直接负责的主管人员和其他直接责任人员给予警告，并处以20万元以上200万元以下的罚款。

**Article 29** Where a securities company or securities service institution fails to perform duties with due diligence, and there are false records, misleading statements or major omissions in the documents produced and issued according to the laws, administrative regulations and relevant rules of the state, or there are false records, misleading statements or major omissions in the documents produced and issued according to the rules of the overseas listing places, which disturbs the domestic market order and impairs the lawful rights and interests of domestic investors, the CSRC or the relevant competent department under the State Council shall order it to take corrective action, give a warning to it, and impose a fine of not less than one time nor more than 10 times the business income upon it; and where there is no business income or the business income is less than 500,000 yuan, a fine of not less than 500,000 yuan nor more than 5 million yuan shall be imposed upon it. A warning shall be given to and a fine of not less than 200,000 yuan nor more than 2 million yuan shall be imposed upon the directly liable person in charge and other directly liable persons.

**第三十条** 违反本办法的其他有关规定，有关法律、行政法规有处罚规定的，依照其规定给予处罚。

**Article 30** Whoever violates other relevant provisions of these Measures shall be subject to punishment according to the provisions on punishment in the relevant laws and administrative regulations, if any.



**第三十一条** 违反本办法或者其他法律、行政法规，情节严重的，中国证监会可以对有关责任人员采取证券市场禁入的措施。构成犯罪的，依法追究刑事责任。

**Article 31** In the case of serious violation of these Measures or other laws and administrative regulations, the CSRC may impose a ban on access to the securities market upon relevant responsible persons. If such violation constitutes a crime, the violator shall be held criminally liable in accordance with the law.

**第三十二条** 中国证监会依法将有关市场主体遵守本办法的情况纳入证券市场诚信档案并共享至全国信用信息共享平台，会同有关部门加强信息共享，依法依规实施惩戒。

**Article 32** The CSRC shall, in accordance with the law, incorporate relevant market entities' compliance with these Measures into the integrity archives of the securities market and share them on the national credit information sharing platform, strengthen information sharing in conjunction with relevant departments, and impose punishments according to the law and regulations.

## 第六章 附则

### Chapter VI Supplementary Provisions

**第三十三条** 境内上市公司控股或者实际控制的境内企业境外发行上市，以及境内上市公司以境内证券为基础在境外发行可转换为境内证券的存托凭证等证券品种，应当同时符合中国证监会的其他相关规定，并按照本办法备案。

**Article 33** Where a domestic enterprise held or actually controlled by a domestic listed company conducts overseas offering and listing or a domestic listed company offers depositary receipts convertible into domestic securities overseas on the basis of domestic securities, it shall concurrently comply with other relevant rules of the CSRC and undergo the recordation formalities in accordance with these Measures.

**第三十四条** 本办法所称境内企业，是指在中华人民共和国境内登记设立的企业，包括直接境外发行上市的境内股份有限公司和间接境外发行上市主体的境内运营实体。

**Article 34** For the purposes of these Measures, the term “domestic enterprises” refers to enterprises registered and formed in the territory of the People's Republic of China, including domestic joint-stock companies directly conducting overseas offering and listing and domestic

operating entities of entities indirectly conducting overseas offering and listing.

本办法所称证券公司、证券服务机构，是指从事境内企业境外发行上市业务的境内外证券公司、证券服务机构。

For the purposes of these Measures, the term “securities companies and securities service institutions” refers to domestic and foreign securities companies and securities service institutions that are engaged in the business in relation to overseas offering and listing by domestic enterprises.

**第三十五条** 本办法自2023年3月31日起施行。《关于执行〈到境外上市公司章程必备条款〉的通知》同时废止。

**Article 35** These Measures shall come into force on March 31, 2023, upon which the [Notice of Implementing the Essential Clauses of Bylaws of Companies to Be Listed Overseas](#) shall be repealed.

关于《境内企业境外发行证券和上市管理试行办法》的说明

Notes on the Interim Measures for the Administration of Overseas Securities Offering and Listing by Domestic Enterprises

为贯彻实施新修订的《[中华人民共和国证券法](#)》，做好境内企业赴境外发行上市监管工作，根据党中央、国务院决策部署，证监会起草形成了《境内企业境外发行证券和上市管理试行办法》（以下简称《管理试行办法》）。现说明如下：

For the purposes of implementing the newly revised [Securities Law of the People's Republic of China](#) and effectively supervising the overseas offering and listing by domestic enterprises, the China Securities Regulatory Commission (“CSRC”) has drafted and formed the Interim Measures for the Administration of Overseas Securities Offering and Listing by Domestic Enterprises (hereinafter referred to as the “Interim Measures for Administration”) in accordance with the decisions and arrangements of the CPC Central Committee and the State Council. The following notes are hereby given:

## 一、基本情况

### I. Basic Information

我国境内企业境外发行上市的制度依据主要是1994年发布施行的《国务院关于股份有限公司境外募集股份及上市的特别规定》（以下简称《特别规定》）和1997年发布施行的《[国务院进一步加强在境外发行股票和上市管](#)

理的通知》（国发〔1997〕21号，以下简称《通知》）。《特别规定》和《通知》在规范境内企业境外发行上市活动、支持企业有效利用外资、提高公司治理水平、促进资本市场对外开放等方面发挥了积极作用。近年来，随着我国资本市场对外开放不断深化，境内企业境外发行上市也出现一些新情况、新问题，如有的境外发行上市企业财务造假造成恶劣影响；有的境内企业故意绕过监管到境外发行上市，违反国家产业政策甚至危害国家安全等等。

《特别规定》和《通知》的有关制度设计，一方面已不符合上位法规定，另一方面也落后于客观实践，不能适应高水平对外开放和企业“走出去”的需要，亟需对现行境内企业境外发行上市监管制度进行调整。

The institutional basis for overseas offering and listing by domestic enterprises is mainly the Special Provisions of the State Council on the Overseas Offering and Listing by Joint-Stock Companies (hereinafter referred to as the “Special Provisions”) issued and came into force in 1994 and the [Notice by the State Council of Further Strengthening the Administration of Overseas Stock Offering and Listing](#) (No. 21 [1997], State Council, hereinafter referred to as the “Notice”) issued and came into force in 1997. The Special Provisions and the Notice have played a positive role in regulating the overseas offering and listing activities of domestic enterprises, supporting enterprises in effectively utilizing foreign capital, improving corporate governance level, promoting the opening up of the capital market, and other respects. In recent years, with the deepening of the opening up of the capital market, some new conditions and new problems appear in the overseas offering and listing by domestic enterprises, for example, some enterprises conducting overseas offering and listing caused bad impact by committing financial frauds, and some domestic enterprises deliberately circumvented the regulation to conduct overseas offering and listing, which violated national industrial policies and even endangered national security. On one hand, the relevant institutional design of the Special Provisions and the Notice has not been in compliance with the provisions of the superordinate law; on the other hand, it lags behind objective practice and cannot meet the needs of high-level opening-up and enterprises' “going abroad,” therefore it is urgent to adjust the regulatory system for overseas offering and listing by domestic enterprises currently in force.

2021年3月，中办、国办印发的《关于依法严厉打击证券违法活动的意见》提出，修改[国务院关于股份有限公司境外募集股份及上市的特别规定](#)，明确境内行业主管和监管部门职责，加强跨部门监管协同。

In March 2021, the Opinions on Strictly Cracking Down on Illegal Securities Activities in Accordance with Law issued by the General Office of the CPC Central Committee and the General Office of the State Council proposed to amend the special rules of the State Council on overseas share offering and listing by joint-stock companies, specify the responsibilities of domestic competent industry departments and regulators, and strengthen cross-departmental regulatory coordination.

为贯彻落实党中央、国务院决策部署和《证券法》要求，证监会在全面总结实践经验、深入调查研究和公开征求社会意见的基础上，会同有关部门反复研究起草形成了《管理暂行办法》。

For the purpose of implementing the decisions and arrangements of the CPC Central Committee and the State Council and the requirements of the [Securities Law](#), on the basis of comprehensive summary of practical experience, in-depth investigation and research, and requesting public opinions, the CSRC has repeatedly studied and drafted the Interim Measures for Administration in conjunction with the relevant departments.

## 二、总体考虑

### II. Overall Consideration

《管理暂行办法》坚持以习近平新时代中国特色社会主义思想为指导，全面贯彻落实党中央、国务院关于完善企业境外上市监管制度的决策部署，统筹发展和安全，增强系统观念，以合规监管为主线，以备案管理为抓手，以监管协同为保障，促进企业依法合规利用两个市场、两种资源实现规范健康发展。起草的总体考虑：一是坚持监管全覆盖。补齐境外发行上市制度短板空白，对境内企业直接和间接境外发行上市活动统一实施监管，压实市场主体责任；以负面清单形式明确境内企业境外发行上市的禁止情形，并与行业监管要求有效衔接。二是坚持落实“放管服”改革要求。将许可管理改为备案管理，强化事中事后监管，创造更加透明、更可预期的制度环境，支持企业利用境外资本市场规范发展。三是坚持深化对外开放。进一步放宽境内企业境外发行上市在投资者、存量股流通、币种等方面限制，保障境外融资渠道畅通，提升企业整体合规水平，推进制度型高水平对外开放。

The Interim Measures for Administration insist on guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, comprehensively implement the decisions and arrangements of the CPC Central Committee and the State Council on improving the regulatory system for overseas offering and listing by enterprises, coordinate development and security, enhance the system concept, take compliance regulation as the main line, regard recordation-based administration as the starting point and regulatory coordination as the guarantee, and urge enterprises to utilize the two markets and two kinds of resources in accordance with laws and regulations to achieve standardized and sound development. Overall considerations in drafting are as follows: First, insisting on the full coverage of regulation. The Interim Measures for Administration aim at strengthening weak links and filling in the blanks in the current overseas offering and listing system, conducting unified regulation of the direct and indirect overseas offering and listing activities of domestic enterprises, and ensuring that market entities fulfill their responsibilities; and the circumstances under which overseas offering and listing by domestic enterprises is prohibited are specified in the form of a negative list and the alignment with the regulatory requirements of the industry is ensured. Second, insisting on implementing the

requirements for reform of “simplifying procedures, decentralizing powers, combining decentralization with appropriate control, and optimizing services.” The Interim Measures for Administration adopt recordation-based administration instead of licensing-based administration, and aim at strengthening interim and ex post regulation, so as to create a more transparent and predictable institutional environment and support enterprises in using overseas capital markets to develop business in a standardized manner. Third, insisting on deepening opening up. The Interim Measures for Administration seek to further relax restrictions on overseas offering and listing by domestic enterprises in terms of investors, circulation of stock shares, and currency, ensure smooth access to overseas financing channels, improve the overall compliance level of enterprises, and promote high-level institutional opening up.

### 三、主要内容

#### III. Main Contents

《管理暂行办法》共6章35条，主要规定了以下内容：

The Interim Measures for Administration consist of six chapters and 35 articles, mainly stipulating the following contents:

（一）完善境外发行上市制度，落实改革要求。一是明确范围标准。统一将境内企业直接和间接境外发行上市活动纳入管理，明确境内企业直接和间接境外发行上市证券的适用情形（第二条、第十五条）。二是境外发行上市的境内企业依法规范公司治理和财务、会计行为，遵守国家保密法律制度等（第六条、第七条）。三是建立负面清单等制度。对于法律、行政法规或者国家有关规定明确禁止上市融资，可能危害国家安全，存在违法犯罪行为，涉嫌犯罪或者重大违法违规行为正在被依法立案调查且尚未有明确结论意见，存在重大权属纠纷等情形，规定不得赴境外发行上市（第八条）。涉及安全审查的，企业应当在向境外证券监督管理机构、交易场所等提交发行上市申请前依法履行相关安全审查程序（第九条）。四是明确备案要求。规定境外发行上市的境内企业应当在规定时间内备案，报送有关材料。明确备案主体、备案时点、备案程序等要求（第三章）。规定备案材料应当真实、准确、完整，为境内企业境外发行上市提供服务的证券公司、证券服务机构和人员应当保证所制作、出具文件的真实性、准确性和完整性（第十二条、第二十条）。

1. Improving the system for overseas offering and listing and implementing the reform requirements. First, the scope of application is specified. The direct and indirect overseas offering and listing activities of domestic enterprises are uniformly incorporated into the administration, and the applicable circumstances of the direct and indirect overseas securities offering and listing by domestic enterprises are specified (Articles 2 and 15). Second, it is stipulated that domestic enterprises conducting overseas offering and listing shall regulate corporate governance and

financial and accounting behaviors in accordance with the law, and comply with the legal system of the state on confidentiality (Articles 6 and 7). Third, the negative list system is established. It is stipulated that overseas offering and listing is prohibited in any case where financing through listing is clearly prohibited by laws, administrative regulations or relevant rules of the state, national security may be endangered, illegal and criminal acts have been committed, a domestic enterprise is under formal investigation for being suspected of a crime or major violation of laws and regulations and no clear conclusion has been reached, or there are major disputes over ownership (Article 8). Where safety review is involved, the enterprise shall undergo relevant safety review procedures according to the law before filing an application for offering and listing with the overseas securities regulatory institution, trading venue, etc. (Article 9). Fourth, the recordation requirements are specified. It is stipulated that domestic enterprises conducting overseas offering and listing shall undergo the recordation formalities and submit the relevant materials within the prescribed time limit. The requirements such as the entities, time and procedures of recordation are specified (Chapter III). It is stipulated that the recordation materials shall be authentic, accurate and complete, and the securities companies, securities service institutions and personnel providing services for overseas offering and listing by domestic enterprises shall guarantee the authenticity, accuracy and completeness of the documents produced and issued (Articles 12 and 20).

（二）完善监管制度，加强监管协同。一是明确监管职责。中国证监会依法对境内企业境外发行上市活动实施监督管理；中国证监会、国务院有关主管部门对相关企业和证券公司、证券服务机构实施监督管理；建立境内企业境外发行上市监管协调机制，加强政策规则衔接、监管协调和信息共享（第四条）。二是健全监管手段、措施和法律责任。明确境外发行上市后重大事项报告要求（第二十二条）。明确中国证监会、国务院有关主管部门可以进行监督检查或者调查，对相关违法主体采取责令改正、监管谈话、出具警示函等措施（第二十三条、第二十四条）。明确未经备案擅自境外发行上市等违法行为的法律责任，通过行政处罚和纳入诚信档案等措施予以追责，提高违法成本（第五章）。三是完善跨境证券监管合作安排。按照对等互惠原则，与境外证券监督管理机构、有关主管部门加强跨境证券监管执法合作；建立备案信息通报机制，明确跨境调查取证要求，共同打击跨境违法违规行为（第五条、第二十六条）。

2. Improving the regulatory system and strengthening regulatory coordination. First, the regulatory responsibilities are specified. The CSRC shall exercise supervision and administration over the overseas offering and listing activities of domestic enterprises in accordance with law; the CSRC and relevant competent departments under the State Council shall exercise supervision and administration over relevant enterprises, securities companies and securities service institutions; a regulatory coordination mechanism for overseas offering and listing by domestic enterprises shall be established to strengthen coherence between policies and rules, regulatory coordination and



information sharing (Article 4). Second, the means, measures and legal responsibilities of regulation are improved. The requirements for reporting major events after overseas offering and listing are specified (Article 22). It is specified that the CSRC and the relevant competent department under the State Council may conduct supervisory inspections or investigations, and adopt measures such as ordering corrective action, holding regulatory talks and issuing warning letters against relevant entities in violation of the law (Articles 23 and 24). The legal liability for illegal acts such as overseas offering and listing without recordation is specified, and the cost of violation is increased by holding violators liable through administrative punishment and incorporation of compliance status into integrity archives (Chapter V). Third, arrangements for cross-border securities regulation cooperation are improved. Under the principle of reciprocity, cooperation with overseas securities regulatory institutions and relevant competent departments in strengthening cross-border securities regulation and law enforcement shall be strengthened; and an information notification mechanism for recordation shall be established, and requirements for cross-border investigation and collection of evidence are specified, so as to jointly crack down on cross-border violations of laws and regulations (Articles 5 and 26).

（三）增强制度包容性，深化对外开放。一是放宽发行对象限制。结合资本市场扩大对外开放实际和市场需求，在股权激励、发行证券购买资产等特定情形下，允许境内企业直接境外发行上市时可以向境内特定对象发行证券（第十条）。二是明确“全流通”安排。境内企业直接境外发行上市的，允许持有其境内未上市股份的股东在备案后，依法将上述股份转换为境外上市股份并到境外交易场所上市流通（第十八条）。三是放宽币种限制。允许境内企业境外发行上市通过人民币募集资金、分红派息，满足企业在境外募集人民币的需求，助力人民币国际化（第十一条）。

3. Enhancing institutional inclusiveness and deepening opening up. First, restrictions on target investors are relaxed. In consideration of the reality of opening up of the capital market and the needs of the market, domestic enterprises are allowed to offer securities to specific domestic investors at the time of direct overseas offering and listing under specific circumstances such as equity incentive and offering securities for asset purchase (Article 10). Second, the arrangements for “full circulation” are specified. Where a domestic enterprise directly conducts overseas offering and listing, shareholders holding its domestic unlisted shares are allowed to convert the aforesaid shares into overseas listed shares for listing and circulation on overseas trading venues according to the law after undergoing the recordation formalities (Article 18). Third, currency restrictions are relaxed. Domestic enterprises conducting overseas offering and listing are allowed to raise funds and pay dividends in RMB, in order to meet the needs of enterprises in raising RMB overseas and assist in the internationalization of RMB (Article 11).



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