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Order of the President of the People's Republic of China

No. 5

The Law of the People's Republic of China on State-Owned Assets in Enterprises, adopted at the 5th Meeting of the Standing Committee of the Eleventh National People's Congress of the People's Republic of China on October 28, 2008, is hereby promulgated and shall go into effect as of May 1, 2009.

Hu Jintao

President of the People's Republic of China

October 28, 2008

Law of the People's Republic of China on State-Owned Assets in Enterprises

(Adopted at the 5th Meeting of the Standing Committee of the Eleventh National People's Congress on October 28, 2008)

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Chapter I

General Provisions

Article 1 This Law is enacted for the purpose of safeguarding the basic economic system of China, consolidating and expanding the State-owned economic sector, strengthening protection of State-owned assets, giving play to the leading role of the State-owned economic sector in the national economy, and promoting the development of the socialist market economy.

Article 2 For the purposes of this Law, State-owned assets in enterprises (hereinafter referred to as State-owned assets) mean the rights and interests created by the various forms of State investment in enterprises.

Article 3 The State-owned assets belong to the State, that is, to the whole people. The State Council exercises the proprietary

rights of the State-owned assets on behalf of the State.

Article 4 The State Council and the local people's governments shall, in accordance with the provisions of laws and administrative regulations, perform the functions of a contributor in respect of State-invested enterprises and enjoy the contributor's rights and interests on behalf of the State.

The State Council shall, on behalf of the State, perform the functions of a contributor in respect of the large State-invested enterprises that have a bearing on the lifeline of the national economy and national security, determined as such by the State Council, and the State-invested enterprises in such realms as important infrastructures and natural resources. The local people's governments shall, on behalf of the State, perform the functions of a contributor in respect of the rest of the State-invested enterprises. Article 5 For the purposes of this Law, State-invested enterprises include wholly State-owned enterprises and companies, as well as State-owned-capital holding companies or State-owned-capital joint stock companies.

Article 6 The State Council and the local people's governments shall, according to law, perform the functions of a contributor, in adherence to the principles of separating government administration from enterprise management, separating the functions of public affairs administration from the functions of the State-owned assets contributor, and non-intervention in the lawful and independent business operations of enterprises.

Article 7 The State adopts measures to encourage greater investment of State capital in key industries and areas that have a bearing on the lifeline of the national economy and national security, optimize the geographical distribution and structure of

the State-owned economic sector, promote the reform and development of State-owned enterprises, improve the overall quality of the State-owned economic sector, and enhance its dominance and impact in respect of the national economy.

Article 8 The State shall establish a sound system for management and supervision of State-owned assets commensurate with the requirements for the development of the socialist market economy, as well as the evaluation and accountability system for value maintenance and increment of State-owned assets, in order to ensure the realization of the responsibilities for maintenance of and increment of the value of State-owned assets.

Article 9 The State shall establish a sound basic system for management of State-owned assets. The specific measures shall be formulated according to the regulations of the State Council.

Article 10 State-owned assets are protected by law, and no unit or individual may infringe upon them.

Chapter II

Institutions Performing the Functions of a Contributor

Article 11 The State-owned assets regulatory institution under the State Council and such institutions established by the local people's governments according to the regulations of the State Council shall, on authorization and on behalf of the people's governments at the corresponding level, perform the functions of a contributor in respect of State-invested enterprises.

The State Council and the local people's governments may, where necessary, authorize other departments or institutions to perform, on behalf of the people's governments at the

corresponding level, the functions of a contributor in respect of the State-invested enterprises.

All institutions and departments that perform the functions of a contributor on behalf of the people's governments at the corresponding level shall be referred to as the institutions performing the functions of a contributor hereinafter.

Article 12 The institution performing the functions of a contributor on behalf of the people's government at the corresponding level shall, according to law, enjoy the return on assets, participation in policy decisions on major issues, selection of managers and other rights of a contributor in respect of the State-invested enterprises.

The institution performing the functions of a contributor shall formulate, or participate in formulation of, the articles of association of the State-invested enterprises according to the provisions of laws and administrative regulations.

With respect to the major issues concerning the performance of the functions of a contributor that are subject to approval by the people's government at the corresponding level as prescribed by laws, administrative regulations and the regulations of the said people's government, the institution performing the functions of a contributor shall submit such issues to the said people's government for approval.

Article 13 When attending the meeting of shareholders or general assembly of shareholders convoked by a State-owned-capital holding company or State-owned-capital joint stock company, the shareholder representative sent by an institution performing the functions of a contributor shall put forward proposals, present opinions and exercise the right to vote according to the instructions of the institution that sends him,

and report the performance of his duties and results thereof to the said institution in a timely manner.

Article 14 Institutions performing the functions of a contributor shall perform such functions according to laws, administrative regulations and the articles of association of enterprises, safeguard the contributor's rights and interests, and prevent the loss of State-owned assets.

Institutions performing the functions of a contributor shall protect the rights legally enjoyed by the enterprises as the principal market participants, and they shall not intervene in the business activities of the enterprises, except to legally perform the functions of a contributor.

Article 15 The institution performing the functions of a contributor shall be accountable to the people's government at the corresponding level, report on its performance of the said functions to the said people's government, accept supervision and assessment by the government, and be responsible for maintaining and increasing the value of State-owned assets.

The institution performing the functions of a contributor shall, according to relevant State regulations, regularly report to the people's government at the corresponding level on the comprehensive analysis of the total volume and structure of the State-owned assets, the changes in and return on them, etc.

Chapter III

State-invested Enterprises

Article 16 The State-invested enterprises shall enjoy the rights to possess, use, benefit from and dispose of their movables, immovables and other property according to laws, administrative regulations and the articles of association of the enterprises.

The decision-making power on their business operations as well as other lawful rights and interests legally enjoyed by State-invested enterprises shall be protected by law.

Article 17 In business operations the State-invested enterprises shall observe laws and administrative regulations, strengthen business management, achieve better economic results, accept the administration and supervision legally exercised by the people's governments and the relevant departments and institutions under them, accept supervision of the general public, shoulder their social responsibilities, and be responsible to the contributors.

The State-invested enterprises shall establish a sound legal person governance structure according to law, as well as the systems for internal supervisory management and risk control.

Article 18 The State-invested enterprises shall, according to the provisions of laws and administrative regulations and of the regulations of the public finance department of the State Council, establish a sound financial and accounting system, keep account books and conduct accounting, and provide the contributors with truthful and complete financial and accounting information according to the provisions of laws and administrative regulations and of the articles of association of the enterprises.

The State-invested enterprises shall distribute profits to the contributors according to the provisions of laws and administrative regulations and of the articles of association.

Article 19 The wholly State-owned company, State-owned-capital holding company or State-owned-capital joint stock company shall set up a board of supervisors in accordance with the provisions of the Companies Law of the People's Republic

of China. The board of supervisors of a wholly State-owned enterprise shall be composed of the supervisors appointed in accordance with the regulations of the State Council by the institution performing the functions of a contributor.

The board of supervisors of a State-invested enterprise shall, according to the provisions of laws and administrative regulations and of the articles of association of the enterprise, supervise the performance of duties by the directors and senior managers, and supervise and inspect the financial status of the enterprise.

Article 20 A State-invested enterprise shall, according to law, administer democratic management through the congress of employees or other forms.

Article 21 A State-invested enterprise shall legally enjoy the return on assets, participation in policy decision on major issues, selection of managers and other contributor's rights in respect of enterprise in which it invests.

The State-invested enterprise shall, according to the provisions of laws and administrative regulations, safeguard its contributor's rights and interests in respect of the enterprise in which it invests, through formulating, or participating in the formulation of, the articles of association of the enterprise in which it invests and establishing the internal supervisory management and risk control systems of the enterprise whereby powers and responsibilities are clearly defined and effective check and balance are ensured.

Chapter IV

Selection and Appraisal of Managers of State-invested Enterprises

Article 22 The institution performing the functions of a contributor shall, according to the provisions of laws and administrative regulations and of the articles of association of the enterprise, appoint or remove, or suggest the appointment or removal of, the following personnel of a State-invested enterprise:

- (1) appointing or removing the president, vice-presidents, persons in charge of financial affairs and other senior managers of a wholly State-owned enterprise;
- (2) appointing or removing the chairman or vice-chairmen of the board of directors, directors, chairman of the board of supervisors, or supervisors of a wholly State-owned company; and
- (3) proposing candidate for the director or supervisor to the assembly or general assembly of shareholders of a State-owned-capital holding company or State-owned-capital joint stock company.

In a State-invested enterprise representatives of the employees shall serve as the directors or supervisors, who shall be elected democratically by the employees according to the relevant provisions of laws and administrative regulations.

Article 23 The directors, supervisors and senior managers appointed, or proposed for appointment, by the institution performing the functions of a contributor shall meet the following requirements:

- (1) being a person of good conduct;
- (2) having the expertise and work capability commensurate with the position;
- (3) being in a physical condition allowing him to perform his

duties normally; and

(4) meeting the other requirements stipulated by laws and administrative regulations.

Where a director, supervisor or senior manager, during his term of office, ceases to meet any of the aforesaid requirements or, according to the provisions of the Companies Law of the People's Republic of China, is not allowed to serve as a director, supervisor or senior manager of a company, the institution performing the functions of a contributor shall, according to law, remove him from office or propose his removal.

Article 24 The institution performing the functions of a contributor shall, according to the prescribed requirements and procedures, examine the candidate for the position of director, supervisor and senior manager it intends or proposes to appoint. If the candidate passes the examination, it shall make, or propose, the appointment within the prescribed limits of its power and in compliance with the prescribed procedures.

Article 25 Without approval of the institution performing the functions of a contributor, no director or senior manager of a wholly State-owned enterprise or company shall hold a position concurrently in any other enterprise. Without approval of the assembly or general assembly of shareholders, no director or senior manager of a State-owned-capital holding company or State-owned-capital joint stock company, shall hold a position concurrently in any other enterprise operating similar businesses.

Without approval of the institution performing the functions of a contributor, the chairman of the board of directors of a wholly State-owned company shall not serve as the president concurrently. Without approval of the assembly or general

assembly of shareholders, the chairman of the board of directors of a State-owned-capital holding company shall not serve as the president concurrently.

No director or senior manager may concurrently serve as a supervisor.

Article 26 The directors, supervisors and senior managers of a State-invested enterprise shall observe laws, administrative regulations and the articles of association of the enterprise, and are obligated to be loyal to the enterprise and work diligently; they shall not take or accept bribes or acquire other unlawful gains or illegitimate benefits by taking advantage of their positions; they shall not take illegal possession of or misappropriate the assets of the enterprise; they shall not make decisions on major issues of the enterprise ultra vires or in violation of procedures; and they shall not commit other acts jeopardizing the rights and interests of the State-owned assets contributor.

Article 27 The State shall establish the system for assessment of the performance of the managers of State-invested enterprises. The institution performing the functions of a contributor shall conduct annual and tenure appraisal of the enterprise managers appointed by it, and decide on whether to give them rewards or punishments on the basis of the results of appraisal.

The institution performing the functions of a contributor shall, pursuant to relevant State regulations, determine the rates of remuneration for the managers of State-invested enterprises appointed by it.

Article 28 During their tenure, the principal leading person of a wholly State-owned enterprise or company or a State-owned-

capital holding company shall be subject to audit in terms of their financial accountability conducted according to law.

Article 29 With respect to the enterprise managers, as provided for in Subparagraphs (1) and (2) of the first paragraph of Article 22 of this Law, who are to be appointed or removed by the people's government at the corresponding level as prescribed by the State Council and the local people's governments, they shall be so appointed or removed. The institution performing the functions of a contributor shall appraise, reward or punish the aforesaid enterprise managers, and decide on their rates of remuneration, in accordance with the provisions of this Chapter.

Chapter V

Major Issues Concerning the Rights and Interests of the State-owned Assets Contributors

Section 1

General Stipulations

Article 30 When dealing with major issues concerning merger, division, restructuring, listing, increase or reduction of registered capital, issuance of bonds, investment in major projects, provision of large sums of guarantee for others, transfer of essential property, large sums of donation, distribution of profits, dissolution, application for bankruptcy, etc., State-invested enterprises shall observe the provisions of laws and administrative regulations and of the articles of association of the enterprises, without prejudice to the rights and interests of the contributors and creditors.

Article 31 Issues concerning merger, division, increase or reduction of registered capital, issuance of bonds, distribution of profits, dissolution and application for bankruptcy of a wholly

State-owned enterprise or company shall be decided on by the institution performing the functions of a contributor.

Article 32 With respect to the issues specified in Article 30 of this Law, which are to be dealt with by a wholly State-owned enterprise or company, except for those to be subject to decision by the institution performing the functions of a contributor according to the provisions of Article 31 of this Law and of the relevant laws and administrative regulations and of the articles of association of the enterprise, they shall be subject to decision by the leading persons of the wholly State-owned enterprise through collective discussion or by the board of directors of the wholly State-owned company.

Article 33 With respect to the issues specified in Article 30 of this Law, which are to be dealt with by a State-owned-capital holding company or State-owned-capital joint stock company, they shall, according to the provisions of laws and administrative regulations and of the articles of association of the company, be subject to decision by the assembly or general assembly of shareholders or the board of directors of the company. Where issues are subject to decision by the assembly or general assembly of shareholders, the shareholder representative appointed by the institution performing the functions of a contributor shall exercise his rights according to the provisions of Article 13 of this Law.

Article 34 With respect to the issues of merger, division, dissolution or application for bankruptcy to be dealt with by an important wholly State-owned enterprise or company or State-owned-capital holding company, or other major issues which are to be submitted by the institution performing the functions of a contributor to the people's government at the corresponding level for approval, as prescribed by laws, administrative

regulations and the said people's government, the institution performing the functions of a contributor shall, before making a decision or giving instructions to the shareholder representative appointed by it to attend the meeting of the assembly or general assembly of shareholders of the State-owned-capital holding company, submit such issues to the said people's government for approval.

For the purposes of this Law, the important wholly State-owned enterprise, wholly State-owned company or State-owned-capital holding company shall be determined in accordance with the regulations of the State Council.

Article 35 Where such issues as issuance of bonds and investment by State-invested enterprises, which are subject to be submitted to the people's governments or the relevant departments or institutions of the people's governments for approval, for verification and approval or for the record, according to the provisions of relevant laws or administrative regulations, such provisions shall prevail.

Article 36 When making investment, a State-invested enterprise shall adhere to the industrial policies of the State, and conduct feasibility studies according to relevant State regulations; and it shall conduct transactions on a fair and paid basis, and gain reasonable consideration.

Article 37 When dealing with such major issues as merger, division, restructuring, dissolution and application for bankruptcy, a State-invested enterprise shall heed the opinions of the trade union of the enterprise, and the opinions and suggestions of the employees through the conference of the employees' representatives or other channels.

Article 38 With respect to the major issues of an enterprise in

which it invests, the wholly State-owned enterprise or company or State-owned-capital holding company shall perform the functions of a contributor in accordance with the provisions of this Chapter *mutatis mutandis*. The specific measures shall be formulated by the State Council.

Section 2

Enterprise Restructuring

Article 39 For the purposes of this Law, enterprise restructuring means:

- (1) restructuring a wholly State-owned enterprise into a wholly State-owned company;
- (2) restructuring a wholly State-owned enterprise or company into a State-owned-capital holding company or non-State-owned-capital holding company; and
- (3) restructuring a State-owned-capital holding company into a non-State-owned-capital holding company.

Article 40 Enterprise restructuring shall be subject to decision made by the institution performing the functions of a contributor or the assembly or general assembly of shareholders of a company under legal procedures.

For the restructuring of an important wholly State-owned enterprise or company or a State-owned-capital holding company, the institution performing the functions of a contributor shall, before making a decision on the issue or giving instructions to the shareholder representative appointed by it to attend the assembly or general assembly of shareholders of the State-owned-capital holding company, submit the restructuring scheme to the people's government at the corresponding level for approval.

Article 41 For the restructuring of an enterprise, a restructuring scheme shall be worked out in which shall be indicated the organizational form of the enterprise after restructuring, the plan for disposition of the assets, claims and debts of the enterprise, the plan for equity changes, operating procedures for restructuring, selection and engagement of such intermediaries as ones for assets assessment and financial auditing, etc.

Where enterprise restructuring involves replacement of enterprise employees, a plan for such replacement shall, in addition, be formulated and adopted upon deliberation at the conference of employee representatives or the congress of employees.

Article 42 For the restructuring of an enterprise, its property and capital shall be assessed and verified, its financial records audited and its assets assessed according to relevant regulations, its assets shall accurately be defined and verified and the value of the assets objectively and fairly be set.

Where restructuring plan of an enterprise involves the conversion of such non-monetary property of the enterprise as property in kind, intellectual property rights and land use rights into State-owned capital for investment or into State-owned shares, the property to be converted shall be assessed according to relevant regulations, and the amount of the State-owned capital investment or the amount of State-owned shares shall be determined on the basis of the price confirmed by such assessment. No property shall be converted into shares at a low price, and any other acts to the prejudice of the investor's rights and interests shall be prohibited.

Section 3

Transactions with an Affiliated Party

Article 43 The affiliated party to a State-invested enterprise shall not seek unlawful benefits and jeopardize the interests of the State-invested enterprise by taking advantage of any transaction with the State-invested enterprise.

For the purposes of this Law, an affiliated party means a director, supervisor or senior manager of an enterprise or the close relative thereof, or an enterprise owned or actually controlled by such a person.

Article 44 A wholly State-owned enterprise or company or a State-owned-capital holding company shall not provide an affiliated party with funds, commodities, services or other assets gratis, and shall not conduct a transaction with an affiliated party at an unfair price.

Article 45 Without approval of the institution performing the functions of a contributor, a wholly State-owned enterprise or company shall not commit any of the following acts:

- (1) entering into an agreement on property transfer or loan with an affiliated party;
- (2) providing a guarantee for an affiliated party; or
- (3) making joint investment with an affiliated party to form an enterprise, or making investment in an enterprise owned or actually controlled by a director, supervisor or senior manager or a close relative thereof.

Article 46 A transaction between a State-owned-capital holding company or a State-owned-capital joint stock company on the one hand and an affiliated party on the other shall be subject to decision by the assembly or general assembly of shareholders or the board of directors of the company according to the provisions of the Companies Law of the People's Republic of

China, relevant administrative regulations and the articles of association of the company. Where such transaction is subject to decision by the assembly or general assembly of shareholders of the company, the shareholder representative appointed by the institution performing the functions of a contributor shall exercise his rights according to the provisions of Article 13 of this Law.

When the board of directors of the company makes a resolution on a transaction with an affiliated party, the director involved in the transaction shall not exercise the right to vote or exercise such right on behalf of any other director either.

Section 4

Assets Assessment

Article 47 For merger, division, restructuring, transfer of essential property, investment of non-monetary property, or liquidation in respect of a wholly State-owned enterprise or company or State-owned-capital holding company, or in any other situation in which assets need to be assessed as is required by laws or administrative regulations or the articles of association of the enterprise or company, the assets involved shall be assessed according to relevant provisions.

Article 48 A wholly State-owned enterprise or company or a State-owned-capital holding company shall entrust a legally established and qualified assets assessment agency with the task of assessment; and where matters subject to decision by the institution performing the functions of a contributor are involved, information on the assets assessment agency entrusted shall be provided for the said institution.

Article 49 The wholly State-owned enterprise or company or the State-owned-capital holding company and its directors,

supervisors and senior managers shall truthfully provide the relevant information and data for the assets assessment agency, and shall not collude with the agency in pricing the assets.

Article 50 The assets assessment agency and its staff members entrusted with the assessment of the relevant assets shall abide by laws and administrative regulations and the norms for the practice of assessment and make the assessment independently, objectively and impartially. The assets assessment agency shall be accountable for the assessment report produced by it.

Section 5

Transfer of State-owned Assets

Article 51 For the purposes of this Law, transfer of State-owned assets means the transfer of the rights and interests accruing from the State's investment in an enterprise to any other unit or individual according to law, with the exception of the assets transferred gratis to State-ownership according to State regulations.

Article 52 The transfer of State-owned assets shall facilitate the strategic adjustment of the geographical distribution and structure of the State-owned economic sector, loss of State-owned assets shall be prevented, and the lawful rights and interests of all the parties to the transaction shall not be jeopardized.

Article 53 Transfer of State-owned assets shall be subject to decision by the institution performing the functions of a contributor. Where the said institution decides to transfer all of the State-owned assets, or transfer part of such assets to the extent that the State ceases to hold the controlling position over

the enterprise, the matter shall be submitted to the people's government at the corresponding level for approval.

Article 54 Transfer of State-owned assets shall be made in adherence to the principles of compensation at equal value, openness, fairness and impartiality.

Except where State-owned assets may be transferred directly by agreement in accordance with State regulations, the transfer of such assets shall be made openly at a legally established property-right exchange. The transferor shall truthfully disclose relevant information to invite transferees; where there are two or more persons who take up the invitation, open bidding shall be adopted as a means of transaction for the transfer.

Transfer of shares listed for trading shall be carried out according to the provisions of the Law of the People's Republic of China on Securities.

Article 55 For transfer of State-owned assets, a minimum transfer price shall reasonably be determined on the basis of the price which is legally assessed and confirmed by the institution performing the functions of a contributor or approved by the people's government at the corresponding level after being reported thereto by the said institution.

Article 56 Where according to the provisions of laws and administrative regulations or the regulations of the State-owned assets regulatory institution under the State Council, State-owned assets may be transferred to the directors, supervisors or senior managers of the enterprise, or their close relatives, or the enterprises owned or actually controlled by the said persons, the aforesaid persons or enterprises, being potential transferees, shall compete, on an equal footing, with the others for the assets to be transferred; the transferor shall truthfully disclose

the relevant information according to relevant State regulations; and the directors, supervisors or senior managers concerned shall not take part in the various tasks of formulating and organizing the implementation of the transfer plan.

Article 57 Where State-owned assets are to be transferred to any overseas investor, the relevant State provisions shall be observed, and the national security and public interests shall not be jeopardized.

Chapter VI

Budget for Management of State-owned Capital

Article 58 The State shall establish a sound budget system for management of State-owned capital whereby to manage the income and expenditures in respect of State-owned capital.

Article 59 For the following income generated by State-owned capital and obtained by the State and the expenditures paid with the following income, a budget for management of State-owned capital shall be formulated:

- (1) the profits distributed by the State-invested enterprises;
- (2) income generated from transfer of State-owned assets;
- (3) clearing income received by State-invested enterprises; and
- (4) other income generated by State-owned capital.

Article 60 The budget for management of State-owned capital shall be made annually and separately, and it shall be incorporated into the budget of the people's government at the corresponding level, and submitted to the people's congress at the corresponding level for approval.

The budgeted expenditure for management of State-owned capital shall be allocated in correspondence with the amount of

budgeted income of the year and the budget shall not contain any deficit.

Article 61 The departments of finance of the State Council and the relevant local people's governments shall be in charge of formulation of the draft budget for management of State-owned capital, and the institutions performing the functions of a contributor shall put forward draft proposals to the departments of finance for the budgets for management of State-owned capital with respect to which they perform the functions of a contributor.

Article 62 The specific measures for management of the budget for management of State-owned capital and the steps for implementing such measures shall be prescribed by the State Council and submitted to the Standing Committee of the National People's Congress for the record.

Chapter VII

Supervision of State-owned Assets

Article 63 The standing committee of the people's congress at every level shall legally exercise the powers of supervision, through hearing and examining the work reports specially on the performance of the functions of a contributor and on the supervision and management of State-owned assets by the people's government at the corresponding level, through organizing law-enforcement inspection in respect of the implementation of this Law, etc.

Article 64 The State Council and the local people's governments shall supervise the performance of the functions by the institutions authorized by them to perform the functions of a contributor.

Article 65 The audit departments of the State Council and the local people's governments shall, according to the Audit Law of the People's Republic of China, conduct supervision through auditing of the implementation of the budget for management of State-owned capital and of the State-invested enterprises that fall under supervision through auditing.

Article 66 The State Council and the local people's governments shall, according to law, make known to the public the status of State-owned assets and the information on supervision of the State-owned assets, thus accepting supervision by the general public.

All units and individuals shall have the right to report and made accusation against acts causing losses of State-owned assets.

Article 67 The institution performing the functions of a contributor may, where necessary, entrust a public accounting firm to audit the annual financial statement of a wholly State-owned enterprise or company, or upon resolution of the assembly or general assembly of shareholders of a State-owned-capital holding company, cause the company to engage a public accounting firm to audit its annual financial statement, thus to protect the rights and interests of the contributors.

Chapter VIII

Legal Responsibility

Article 68 Where an institution performing the functions of a contributor commits one of the following acts, the principal leading person directly in charge of the institution and the other persons directly responsible for the act shall be given sanctions according to law:

(1) appointing or proposing the appointment of the manager of a

State-invested enterprise at variance with the statutory qualifications for the office;

(2) taking illegal possession of, illegally withholding or misappropriating the funds of a State-invested enterprise or the income generated by State-owned capital to be turned in;

(3) making a decision on a major issue of a State-invested enterprise in violation of the statutory limits of power or procedure, thus causing losses of State-owned assets; or

(4) committing other acts at variance with law in performing the functions of a contributor, thus causing losses of State-owned assets.

Article 69 Where a staff member of the institution performing the functions of a contributor neglects his duties, abuses his powers or engages in malpractice for personal gain, which is not serious enough to constitute a crime, he shall be given a sanction according to law.

Article 70 Where a shareholder representative appointed by an institution performing the functions of a contributor fails to perform his duties according to the instructions of the appointing institution, thus causing losses of State-owned assets, he shall be liable for compensation according to law; if he is a State functionary, he shall be given a sanction according to law.

Article 71 Where a director, supervisor or senior manager of a State-invested enterprise commits one of the following acts, which has caused losses of State-owned assets, he shall be liable for compensation according to law; if he is a State functionary, he shall, in addition, be given a sanction according to law:

(1) taking or accepting bribes or obtaining other illegal income or

unlawful benefits by taking advantage of his position;

(2) taking illegal possession of or misappropriating enterprise assets;

(3) in the course of enterprise restructuring, property transfer, etc., transferring the enterprise property or converting such property into shares at a low price in violation of laws, administrative regulations or the rules of fair transaction;

(4) engaging transactions with the enterprise in violation of the provisions of this Law;

(5) failing to truthfully provide an assets assessment agency or public accounting firm with the relevant information or data, or colluding with such agency or firm in producing a false assets assessment report or audit report;

(6) making a decision on a major issue of the enterprise in violation of the procedures for policy decision as prescribed by laws, administrative regulations or the articles of association of the enterprise; or

(7) performing other duties in violation of laws, administrative regulations and the articles of association of the enterprise.

The unlawful gains obtained by a director, supervisor or senior manager of a State-invested enterprise as a result of the acts specified in the preceding paragraph shall be confiscated or be passed into ownership by the State-invested enterprise according to law.

Where a director, supervisor or senior manager appointed or proposed for appointment by an institution performing the functions of a contributor commits one of the acts specified in the first paragraph of this Article, which has caused great losses of State-owned assets, the said institution shall, according to

law, remove him or propose the removal of him.

Article 72 Where in the course of such transactions as one involving an affiliated party and the transfer of State-owned assets, the parties maliciously collude with each other, thus jeopardizing the rights and interests of State-owned assets, such transactions shall be invalid.

Article 73 Where a director, supervisor or senior manager of a wholly State-owned enterprise or company or State-owned-capital holding company is removed from office for violation of the provisions of this Law which causes great losses of State-owned assets, he shall not serve as a director, supervisor or senior manager of a wholly State-owned enterprise or company or a State-owned-capital holding company within five years from the date of his removal; if especially great losses of State-owned assets are caused or criminal punishment is imposed on him for graft, bribery, illegal possession of property, misappropriation of property or disruption of the socialist market economic order, he shall not serve as a director, supervisor or senior manager of a wholly State-owned enterprise or company or State-owned-capital holding company for the rest of his life.

Article 74 Where an assets assessment agency or a public accounting firm which is entrusted with the assets assessment or financial auditing of a State-invested enterprise produces a false assets assessment report or audit report in violation of the provisions of laws, administrative regulations and norms for practice, it shall be investigated for legal liability according to the provisions of relevant laws and administrative regulations.

Article 75 Where a violation of this Law constitutes a crime, criminal responsibility shall be investigated for according to law.

Chapter IX

Supplementary Provisions

Article 76 Where laws or administrative regulations provide otherwise in respect of the management and supervision of State-owned assets of financial enterprises, the provisions there shall prevail.

Article 77 This Law shall go into effect as of May 1, 2009.

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