

## Administration of the Finance Companies of Enterprises Groups Procedures

(Promulgated by the China Banking Regulatory Commission on 27 July 2004 and effective as of 1<sup>st</sup> September 2004)

### PART ONE GENERAL PROVISIONS

Article 1 These Procedures have been formulated in accordance with the relevant laws and administrative regulations such as the PRC, Company Law and the PRC, Banking Regulation Law in order to standardize the activities of the finance companies of enterprise groups (hereafter referred to as “finance companies”), to prevent financial risk, and to facilitate the stable and sound operation and healthy development of finance companies.

Article 2 For the purposes of the Procedures, the term “finance companies” shall refer to non-banking financial institutions providing financial management services to member work units of enterprise groups (hereafter referred to as “member work units”) with the aim of strengthening centralized management of the funds of enterprise groups and increasing the efficiency of utilization of the funds of enterprise groups.

The relevant provisions of these Procedures shall apply to finance companies established by foreign companies with an investment nature to provide financial management services to their investment enterprises within China.

Article 3 For the purposes of these Procedures, the term “enterprise groups” shall refer to enterprise legal person association comprised of a parent company, subsidiaries, equity participation companies and other member enterprises or institutions registered in accordance with the law within the PRC tied by capital, the parent company and subsidiaries being the main entities, and whose activities are standardized according to the enterprise group’s articles of association.

For the purposes of these Procedures, the term “member work units” shall include the parent company and subsidiaries in which the parent company holds over 51% of the shares (hereafter referred to as “subsidiaries”); companies in which the parent company holds or subsidiaries separately or jointly hold over 20% of the shares, or companies in which such shareholding is less than 20% but represents the controlling share; and work unit legal persons or social organization legal persons under the parent company or subsidiaries.

For the purposes of these Procedures, the term “foreign companies with an investment nature” shall refer to companies that engage in direct investment within China in the form of wholly-owned companies by foreign investors. Investment enterprises shall include foreign companies with an investment nature and enterprises registered in China in which the foreign company with an investment nature holds over 25% of shares, either independently or jointly with

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its investors, and where the foreign company with an investment nature holds over 10% of shares. The relevant provisions of these Procedures on the parent company shall apply to foreign companies with an investment nature. Those on member work units shall apply to investment enterprises.

Article 4 Finance companies shall operate in compliance with laws and regulations. They shall not harm national, public and social interests.

Article 5 Finance companies shall be subject to supervision and administration by the China Banking Regulatory Commission in accordance with the law.

## PART TWO ESTABLISHMENT OF AND CHANGES TO ORGANIZATIONS

Article 6 The establishment of a finance company shall be reported to the China Banking Regulatory Commission for examination and approval.

The name of a finance company shall be verified and approved by the industry and commerce registration authorities and shall include the words “finance limited company” or “finance limited liability company”. The name shall include the full name or abbreviated name of the enterprise group to which the company belongs. No work unit shall use the words “finance company” in its name without the approval of the China Banking Regulatory Commission.

Article 7 Enterprise groups applying to set up finance companies shall fulfill the following criteria:

1. they shall follow the industrial policy of the State;
2. the registered capital fund of the parent company shall have been no less than RMB 800 million for the year before the application is made;
3. total assets of the member work units consolidated in accordance with regulations shall have been no less than RMB 5 billion, with net asset ratio of no less than 30%, for the year before the application is made;
4. total business income of the member work units consolidated in accordance with regulations shall have been no less than RMB 4 billion per annum, and pre-tax profits no less than RMB 200 million per annum, for the two consecutive years before the application is made;
5. cash flow shall be stable and of a relatively large quantity;
6. the parent company shall have been established for at least two years and have experience in internal financial management and fund management of enterprise groups;
7. the parent company shall have a sound governance structure of corporate legal person, it shall not have violated laws or regulations, and shall not have had a bad credit record for the previous three years;
8. the parent company shall have a core area of business; and

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9. the parent company shall not have engaged in improper affiliated transactions. Apart from complying with Items (1), (2), (5), (6), (7), (8) and (9) of this Article, foreign companies with an investment nature shall also have had net assets of no less than RMB 2 billion for the year before the application is made and total pre-tax profits of no less than RMB 200 million for the two consecutive years before the application is made.

Article 8 When applying to set up a finance company, the board of directors of the parent company shall give a written undertaking that it will increase capital fund as appropriate in line with actual need if the finance company is in a critical situation of making payment, and this shall be spelt out in the finance company's articles of association.

Article 9 To establish a finance company, the following criteria shall be fulfilled:

1. it shall fulfill the requirement of centralized management of enterprise funds and shall reasonably anticipate business operation at a certain scale;
2. it shall have articles of association in compliance with the PRC, Company Law and these Procedures;
3. it shall have a minimum registered capital fund as stipulated in these Procedures;
4. it shall have qualified directors and senior management personnel and a stipulated ratio of working personnel as set out by the China Banking Regulatory Commission and qualified specialists in key posts such as risk management and intensive management of funds;
5. it shall have sound systems for legal person governance, internal control, business operation and risk prevention, etc;
6. it shall have the required business premises, security preventive measures and other facilities; and
7. other conditions as stipulated by the China Banking Regulatory Commission.

Article 10 The registered capital fund for setting up a finance company shall be not less than RMB 100 million. A finance company's registered capital fund shall be paid up in RMB or equivalent in a freely convertible currency.

The registered capital fund of a finance company that engages in foreign exchange business shall include no less than US\$5 million or equivalent in a freely convertible currency.

The China Banking Regulatory Commission may adjust the minimum requirement of registered capital fund of finance companies in accordance with the requirements of company development and prudent regulation.

Article 11 A finance company's registered capital fund shall principally be raised from member work units. It may also absorb the shares of qualified institutional investors other than the member work units.

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Qualified institutional investors as referred to in this Article shall be external strategic investors which in principle shall not transfer their shares of the finance company within five years and which have profound industry management experience.

Qualifications of shareholders in finance companies shall be in compliance with the relevant regulations of the China Banking Regulatory Commission.

Article 12 The registered capital fund of a finance company set up by a foreign company with an investment nature may come from the foreign company with an investment nature alone or in conjunction with its investors.

Article 13 There shall be at least two-thirds of working personnel in finance companies that have engaged in financial or finance work for three years or more. Among them at least one-third shall have at least five years of experience in such work.

Auditors who have worked in well-known international accounting firms, programmers and system analysts who have worked in computer companies, and professionals who have engaged in related business operation of and held management posts in well-known international asset management companies, fund companies, investment banks or securities companies, shall be regarded as having at least three years of experience in financial or finance work if they have at least two years of experience and have had related business and policy training in China.

Article 14 The establishment of a finance company shall go through two stages: preparation and business commencement. Applications to make preparation for a finance company shall be submitted by the parent company to the China Banking Regulatory Commission and shall be accompanied by the following documents and information:

1. The application form which shall include the name, location, registered capital, shareholders, equity structure, scope of business, etc of the finance company to be established.
2. A feasibility study report which shall include:
  - (1) a complete account of production and business operation and an analysis of their cash flow, their position in the industry, and medium and long-term development plans of the parent company and the member work units;
  - (2) the aim and purpose of the finance company to be established and an estimate of its volume of business; and
  - (3) consolidated balance sheet, profit and loss account and cash flow statement for the most recent two years audited by a qualified accounting firm.
3. The register of the member work units and related supporting information issued by an authorized department.
4. The Enterprise Groups Registration Certificate, a copy of the business licenses of the applicant and other investors, and investment guarantees.
5. When setting up a foreign-invested finance company, the certificate of approval for

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foreign-invested enterprise of the foreign company with an investment nature and its investment enterprises shall be provided.

6. A supporting document signed by the parent company's legal representative affirming the authenticity of the aforementioned information.
7. Other documents and information required for submission by the China Banking Regulatory Commission.

Article 15 Where an application for the preparation of a finance company has been examined and approved by the China Banking Regulatory Commission, the applicant shall complete the preparatory work for the finance company within three months of receiving the approval document and shall submit an application for business commencement to the China Banking Regulatory Commission accompanied by the following documents:

1. draft articles of association for the finance company;
2. operation policy and plan for the finance company;
3. register of shareholders in the finance company and the amount and ratio of their investment;
4. capital verification certificate for shareholders' investment in the finance company issued by the statutory capital verification institution;
5. name list of the proposed directors and senior management personnel, their detailed résumés and supporting materials of their employment qualifications;
6. name list and detailed résumés of proposed working personnel to be engaged in risk management and centralized fund management;
7. supporting materials of the relevant personnel having been engaged in financial or finance work for five years or more;
8. the finance company's business rules and risk prevention systems;
9. information on the finance company's business premises and other facilities that are related to the business operation; and
10. other documents and information required for submission by the China Banking Regulatory Commission.

Article 16 Once an application for business commencement of a finance company has been approved by the China Banking Regulatory Commission, the China Banking Regulatory Commission shall issue a Financial Permit and make an announcement thereof. The finance company shall, on the strength of the Financial Permit, complete registration with the industry and commerce administration authorities and obtain an Enterprise Legal Person Business License before business commencement.

Article 17 Finance companies may, after examination and approval by the China Banking Regulatory Commission, set up branches in areas where member work units are concentrated and business volume is relatively large according to business needs.

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Branches of finance companies shall not have legal person status. Their launch of business activities shall be authorized by the finance company in accordance with the provisions of these Procedures and their civil liabilities shall be undertaken by the finance company.

Article 18 Finance companies may, in accordance with their needs of business management, set up representative offices in areas where member work units are relatively concentrated, and report thereof to the China Regulatory Banking Commission for record filing.

Representative offices of finance companies shall not engage in business but shall be limited to work such as business promotion, customer services, debt collection, collection of information and feedback.

Article 19 Finance companies applying to set up branches shall fulfill the following criteria:

1. they have a genuine requirement to develop business and provide financial management service to member work units;
2. they shall have been established for at least two years with registered capital fund of no less than RMB 300 million and capital adequacy ratio of no lower than 10%;
3. the branch to be established shall provide services to no fewer than ten member work units, which shall have assets totaling no less than RMB 1 billion. If the number of member work units is less than ten, they shall have assets totaling no less than RMB 2 billion; and
4. the finance company shall be in good operating condition and shall not have violated laws or regulations in its business operation within two years.

Article 20 Branches of finance companies shall fulfill the following criteria:

1. they shall have the minimum operating funds as stipulated in these Procedures;
2. they shall have the employment qualification of senior management personnel as stipulated by the China Banking Regulatory Commission;
3. they shall have sound business operation, internal control, risk management and accountability systems;
4. they shall have business premises, security preventive measures and other business-related facilities in compliance with requirements; and
5. other criteria as stipulated by the China Banking Regulatory Commission.

Article 21 The operating funds of branches of a finance company shall not be less than RMB 50 million. The total operating funds disbursed by finance companies to branches shall not be more than 50% of their registered capital fund.

Article 22 Finance companies applying to set up branches shall submit to the China Banking Regulatory Commission the following documents and information:

1. the application form which shall include the name, location, operating funds, scope of business and service target, etc of the branch to be established;

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2. a feasibility study report, which shall include estimated volume of business of the branch, situation regarding production and business of the local member work units, cash flow analysis and medium and long-term development plans, etc;
3. the relevant supporting documents as stipulated in Article 20;
4. the resolution passed by the finance company's board of directors to set up the branch and the draft resolution on the authorized scope of business of the branch; and
5. other documents and information as required for submission by the China Banking Regulatory Commission.

Article 23 When approval is given to set up a finance company branch, the China Banking Regulatory Commission shall issue a Financial Permit and shall make an announcement thereof. Registration shall be completed on the strength of the Financial Permit with the department administering industry and commerce and a business license shall be obtained before business commencement.

Article 24 Where finance companies and their branches established with approval which without a proper reason have not commenced business for six months from the date the business license was issued, or which have suspended operations for six consecutive months or more without a proper reason, the China Banking Regulatory Commission shall have their Financial Permit revoked and make an announcement thereof.

Article 25 Finance companies shall use their Financial Permits in accordance with laws, administrative regulations and the provisions of the China Banking Regulatory Commission. It is forbidden to forge, alter, transfer, lease or lend a Financial Permit.

Article 26 The company nature, organization mode, and organizational structure of a finance company shall be in accordance with the PRC, Company Law and the provisions of other relevant laws and regulations, and shall be set out clearly in the company's articles of association.

Article 27 Any of the following changes made to a finance company shall be reported to the China Banking Regulatory Commission for approval:

1. change of name;
2. adjustment to business scope;
3. change in registered capital fund;
4. change in shareholders or adjustment to equity structure;
5. amendment of articles of association;
6. changes of directors and senior management personnel;
7. change in business premises; or
8. other changes as stipulated by the China Banking Regulatory Commission.

Changes in the name, operating funds, business premises or senior management personnel of

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finance company branches shall be reported by the finance company to the China Banking Regulatory Commission for approval.

### PART THREE SCOPE OF BUSINESS

Article 28 Finance companies may conduct part or all of the following types of business:

1. finance and financing consultancy, credit verification and related consultancy and agency business for member work units;
2. assistance to member work units in effecting receipt and payment of money for transactions;
3. approved insurance agency business;
4. provision of guarantees to member work units;
5. commissioning of loans and investment between member work units;
6. acceptance and discounting of bills for member work units;
7. settlement of internal transfer between member work units and design of plans for related settlements and clearances;
8. acceptance of deposits from member work units;
9. dealing with loans and lease financing for member work units;
10. interbank loans; and
11. other businesses as approved by the China Banking Regulatory Commission.

Article 29 Finance companies which fulfill the criteria may apply to the China Banking Regulatory Commission to conduct the following types of business:

1. issue of finance company bonds with approval;
2. underwriting enterprise bonds of member work units;
3. equity investment in financial institutions;
4. investment in negotiable securities; and
5. consumer credits, buyer credits and lease financing for the products of member work units.

Article 30 Finance companies engaging in the types of business listed in Article 29 hereof shall abide strictly by the relevant State regulations and relevant requirement of prudent supervision of the China Banking Regulatory Commission, and shall fulfill the following criteria:

1. the finance company shall have been established for at least one year and be in good operating condition;
2. it shall have a registered capital fund of no less than RMB 300 million, or registered capital fund of no less than RMB 500 million for finance companies conducting consumer credits, buyer credits and lease financing for member work units' products;
3. approval shall be given by the shareholders' general meeting and authorization by the board of directors;
4. it shall have comparatively comprehensive investment decision mechanisms, risk control systems, operating procedures and the corresponding management information systems;

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5. it shall have the corresponding qualified personnel; and
6. other criteria stipulated by the China Banking Regulatory Commission.

Article 31 Finance companies shall not engage in offshore business, or in any kind of cross-border fund business except for those businesses stated in Item (2) of Article 28 hereof.

Article 32 Once the scope of business of a finance company has been approved by the China Banking Regulatory Commission, it shall be set out in the finance company's articles of association. Finance companies shall not engage in non-financial businesses such as industrial investment and trade.

Classification of the business products of a finance company within its approved scope of business shall be reported to the China Banking Regulatory Commission for record filing, except for intermediary business not involving credit and debt.

Article 33 The scope of business of branches of finance companies shall be authorized by the finance company within the scope of its own business on the principle of prudent operation, and shall be reported to the China Banking Regulatory Commission for record filing. Branches of finance companies shall not provide guarantees, interbank loans or the business listed in Article 29 hereof.

#### PART FOUR SUPERVISION, ADMINISTRATION AND RISK CONTROL

Article 34 The business operation of finance companies shall abide by the following requirements on ratio of assets and liabilities:

1. capital adequacy ratio shall not be lower than 10%;
2. balance of borrowed funds shall not be greater than total capital;
3. balance of guarantees provided shall not be greater than total capital;
4. the ratio of short-term securities investment to total capital shall not be greater than 40%;
5. the ratio of long-term investment to total capital shall not be greater than 30%; and
6. the ratio of fixed assets owned by the company to total capital shall be not greater than 20%.

The China Banking Regulatory Commission may adjust the aforementioned ratios in accordance with requirements of business development and prudent regulation of the finance company.

Article 35 Finance companies shall formulate various business rules and procedures in accordance with the principle of prudent operation to establish and improve their internal control systems.

Article 36 Finance companies shall respectively set up risk management and business auditing departments accountable to the board of directors. They shall formulate risk control and business

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auditing systems for all types of business and report their work to the board of directors at regular intervals every year. They shall also report to the China Banking Regulatory Commission.

Article 37 The board of directors of finance companies shall each year appoint a qualified intermediary organization to audit the business activities of the company of the previous year and shall before 15 April each year submit the annual audit report signed and confirmed by the chairman of the board of directors to the China Banking Regulatory Commission.

Article 38 Finance companies shall, in line with the relevant provisions of the State, establish and improve the company's financial and accounting systems.

Finance companies shall abide by the principle of prudent accounting and accurately record and completely reflect their business activities and financial situation.

Article 39 Finance companies shall, according to law, report to the China Banking Regulatory Commission their balance sheets, profit and loss accounts, cash flow statements and off-site regulatory index assessment forms, as well as other reports required by the China Banking Regulatory Commission, and shall within one month of the end of every accounting year submit the previous year's financial statement and relevant information.

The legal representatives of finance companies shall be accountable to the truthfulness of the aforementioned statements signed by them.

Article 40 Finance companies shall, before the end of April each year, report the register of member work units of the enterprise groups to which they belong to the China Banking Regulatory Commission and shall provide information on the business status of the enterprise groups to which they belong for the preceding year accompanied with related data.

Finance companies shall, before they launch business with new member work units, file a record in a timely manner with the China Banking Regulatory Commission and shall provide the relevant information on these member work units. If a member work unit that has a business relationship with a finance company detached from the enterprise group because of changes in equity, the finance company shall file a record in a timely manner with the China Banking Regulatory Commission. If there is outstanding business, the finance company shall at the same time submit a disposal plan for handling the outstanding business.

Article 41 The China Banking Regulatory Commission has the right to require finance companies to submit reports and information on their business and financial situation any time.

Article 42 If significant events such as a run on deposits, inability to pay overdue debts, having a large amount of overdue loans or advanced guarantees, severe breakdown in the computer system,

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having been robbed or defrauded, directors or senior management personnel having been involved in major violations of disciplinary or criminal cases occur in finance companies, they shall immediately adopt emergency measures and shall report thereof in a timely manner to the China Banking Regulatory Commission.

If there are major structural changes, equity transactions, or operation risks to the enterprise group and its member work units, which may affect the normal operation of finance companies, the finance company shall report thereof in a timely manner to the China Banking Regulatory Commission.

Article 43 Finance companies shall pay and bank in deposit provisions in accordance with provisions of the People's Bank of China and shall, in accordance with the relevant regulations, withdraw loss reserves and verify and write off losses.

Article 44 Finance companies shall abide by the provisions on administration of interest rates of the People's Bank of China. Finance companies conducting foreign exchange business shall abide by the relevant State provisions on foreign exchange control.

Article 45 The China Banking Regulatory Commission has the right to implement the following measures in accordance with the relevant procedures and regulations for on-site inspection of finance companies pursuant to the requirement of prudent regulation:

1. enter the finance company to conduct investigations;
2. inquire the working personnel of the finance company and require them to make an explanation of the matters under investigation;
3. inspect and copy the finance company's documents and information relevant to the investigation and to seal documents and information that may be moved, concealed or destroyed; and
4. inspect the finance company's computer business data management system.

Article 46 If the balance of a loan issued by a finance company to a single shareholder exceeds 50% of the finance company's registered capital fund, or the capital contribution of the shareholder to the finance company, this shall be reported in a timely manner to the China Banking Regulatory Commission.

Article 47 If the debt owed by a shareholder of a finance company has not been repaid one year or more after due, the China Banking Regulatory Commission may instruct the finance company's shareholders' meeting to transfer that shareholder's investment and his rights and interests to be used to repay the debt owed to the finance company.

Article 48 The China Banking Regulatory Commission may, in the light of the needs of performing its responsibilities and problems detected in the course of daily regulation, hold

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supervisory and administrative discussions with the directors and senior management personnel of a finance company and require them to explain major issues such as the finance company's business activities and risk management.

Article 49 The directors and senior management personnel of a finance company shall have experience in centralized management of finance company funds.

Prior to appointment, directors and senior management personnel shall report in accordance with regulations to the China Banking Regulatory Commission which shall examine their qualifications. Persons that have not had their qualifications examined, or are found to be unqualified after examination, shall not be appointed as directors or senior management personnel of finance companies. Specific procedures for the administration of qualifications shall be stipulated separately.

When directors or senior management personnel of finance companies vacate their posts, they shall be audited by the parent company for vacation of office in accordance with the relevant regulations and an audit report thereof shall be submitted to the China Banking Regulatory Commission.

Article 50 If finance companies violate the principle of prudent operation, the China Banking Regulatory Commission shall order rectification within a prescribed period in accordance with procedures. If there is no rectification within the prescribed period, or these acts have seriously endangered the stable and sound operation of the finance company or harmed the lawful rights and interests of depositors or other customers, the China Banking Regulatory Commission may, according to the relevant procedures, adopt the following measures:

1. order a temporary halt to part of the business, or cease approving the establishment of new business;
2. impose restrictions on the distribution of dividends and other income;
3. impose restrictions on the transfer of assets;
4. order the transfer of shares by the controlling shareholder, or restrict the rights of the relevant shareholders;
5. order the regulation of directors and senior management personnel, or impose restrictions on their rights;
6. cease approving the establishment of additional branches.

Article 51 Finance companies may set up self-regulated industry organizations. The China Banking Regulatory Commission shall provide business guidance to such organizations.

## PART FIVE RECTIFICATION, TAKEOVER AND TERMINATION

Article 52 In any of the following circumstances, the China Banking Regulatory Commission may

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order rectification of a finance company:

1. serious payment crises;
2. losses for that year are in excess of 30% of registered capital fund, or losses for three consecutive years in excess of 10% of registered capital fund; or
3. serious violations of State laws, administrative regulations or related rules.

The period for rectification shall not exceed one year.

Article 53 During the period of rectification, finance companies shall suspend part or all of their business operations.

Article 54 After rectification, finance companies may resume normal operations if they fulfill the following criteria:

1. they have recovered the ability to make payments;
2. their losses have been recouped; and
3. their acts in violation of laws and regulations have been rectified.

Article 55 If a finance company already has, or may provoke, payment crises which seriously affect the interests of its creditors and the stability of the financial order, the China Banking Regulatory Commission may, in accordance with the law, implement a takeover of the finance company or enable a restructuring.

Takeover and restructuring shall be decided on, organized and implemented by the China Banking Regulatory Commission.

Article 56 In any of the following circumstances, a finance company shall be dissolved after being verified and approved by the China Banking Regulatory Commission:

1. if the enterprise group which sets up the finance company is dissolved and the finance company is unable to realize a merger or reorganization;
2. if a situation that requires dissolution as stipulated in the articles of association occurs;
3. if the shareholders' meeting decides to dissolve the company; or
4. it is not necessary for the finance company to continue to exist due to division or merger.

Article 57 If a finance company conducts illegal operations or maladministration, and it would seriously disturb the financial order and harm public interests if not shut down, the China Banking Regulatory Commission has the right to shut down the finance company.

Article 58 If a finance company is taken over, restructured or shut down, the China Banking Regulatory Commission has the right to require the finance company's directors, senior management personnel and other personnel to carry out their duties as required by the China Banking Regulatory Commission.

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Article 59 When a finance company is dissolved or shut down, the parent company shall, in accordance with the law, set up a liquidation committee to implement liquidation in accordance with the statutory procedures and the China Banking Regulatory Commission shall make an announcement thereof.

The China Banking Regulatory Commission may directly appoint the personnel of the liquidation committee and oversee the liquidation process.

Article 60 If, in the course of liquidation, the liquidation group discovers that the finance company's assets are not sufficient to settle its debts, it shall immediately halt liquidation and report to the China Banking Regulatory Commission. After verification and approval by the China Banking Regulatory Commission, an application shall be made in accordance with the law to the people's court to declare the bankruptcy of the finance company.

#### PART SIX SUPPLEMENTARY PROVISIONS

Article 61 Any violation of provisions hereof shall be handled by the China Banking Regulatory Commission in accordance with the PRC, Banking Regulation Law and other relevant regulations.

If a finance company opposes the decision of the China Banking Regulatory Commission, it may, in accordance with the law, apply for an administrative review or initiate administrative proceedings at the people's court.

Article 62 Finance companies established before the promulgation of these Procedures which are not in compliance with the relevant provisions hereof shall rectify within the prescribed period. Within the rectification period, they shall abide by the provisions hereof on prudent regulation regarding minimum paid-up capital fund, capital adequacy ratio, etc. The specific requirements shall be stipulated separately by the China Banking Regulatory Commission.

Article 63 The China Banking Regulatory Commission shall be responsible for the interpretation of these Procedures.

Article 64 These Procedures shall be effective as of 1 September 2004.

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