

Decree No. 737 of the State Council of the People's Republic of China

Regulations on Prevention and Handling of Illegal Fundraising, adopted at the 119th executive meeting of the State Council on December 21, 2020, is hereby promulgated and shall come into force as of May 1, 2021.

Premier Li Keqiang

January 26, 2021

Regulations on Prevention and Handling of Illegal Fundraising

Chapter I General Provisions

Article 1 The *Regulations on Prevention and Handling of Illegal Fundraising* (hereinafter referred to as the *Regulations*) is formulated to prevent and handle illegal fundraising, protect the legitimate rights and interests of the public, prevent and resolve financial risks, and safeguard economic order and social stability.

Article 2 For the purpose of the *Regulations*, “illegal fundraising” refers to the act of attracting funds from unspecific targets with the promise of interest or other investment returns, without lawful permission of the financial administration departments under the State Council or in violation of national financial regulations.

The *Regulations* applies to the prevention of illegal fundraising activities and their handling by administrative authorities. Where laws and administrative regulations provide otherwise on illegal banking, securities, insurance, foreign exchange, and other financial activities, such provisions shall prevail.

For the purpose of the *Regulations*, “financial administration departments under the State Council” refer to the People's Bank of China, the financial regulatory authorities and the foreign exchange authority under the State Council.

Article 3 For the purpose of the *Regulations*, “illegal fundraiser” refers to an organization or individual that initiates, leads, or organizes illegal fundraising

activities; “illegal fundraising accessory” refers to an organization or individual that knowingly aids such activities and receives economic benefits therefrom.

Article 4 The nation prohibits all forms of illegal fundraising, prioritizes prevention, and aims to curb them early and handle them under a comprehensive framework in a prudent manner.

Article 5 The people’s government of each province, autonomous region, and municipality directly under the Central Government shall assume primary responsibility for the prevention and handling of illegal fundraising in its administrative region; local people’s governments at each level shall develop sound mechanisms for preventing and handling illegal fundraising under the government’s centralized leadership. Each local people’s government at or above the county level shall designate a department in charge of those mechanisms (hereinafter referred to as “leading department”), while relevant government departments and the branches and agencies of the financial administration departments under the State Council shall participate in the mechanisms; each people’s government at the township level shall designate individuals in charge of the prevention and handling of illegal fundraising. Each local people’s government shall supervise and guide the local people’s governments at lower levels in ensuring effective prevention and handling of illegal fundraising activities within their administrative regions.

Competent authority and regulatory authority for each industry shall, in accordance with the division of responsibilities, prevent illegal fundraising within its industry or field and assist in the handling process.

Article 6 The State Council establishes an inter-ministerial joint conference (hereinafter referred to as “Joint Conference”) for handling illegal fundraising activities. The Joint Conference is led by the banking and insurance regulatory authority under the State Council and participated by relevant government departments, and shall supervise and advise government departments and local governments in the prevention and handling of illegal fundraising, as well as coordinate efforts to resolve major issues arising therefrom.

Article 7 The people’s governments at each level shall ensure a reasonable level of funding for the prevention and handling of illegal fundraising and include it in the budget.

Chapter II Prevention of Illegal Fundraising

Article 8 The local people’s government at each level shall put in place a monitoring and early warning mechanism for illegal fundraising, integrate it into its comprehensive public security framework, and harness the potentials of grid-based management system and community-level self-governing organizations. Local

people's governments shall leverage modern information technologies such as big data to enhance monitoring and early warning.

Competent authority and regulatory authority for an industry shall strengthen daily supervision and administration and be responsible for the risk screening, monitoring, and early warning of illegal fundraising within its industry or field.

The Joint Conference shall establish a sound national framework for the monitoring and early warning of illegal fundraising and facilitate the creation of a national monitoring and early warning platform, in order to promote cross-regional and cross-departmental information sharing, enhance the study and identification of illegal fundraising risks, and provide prompt early warnings.

Article 9 Market regulatory departments shall more rigorously manage the registration of such business information as the names and business scopes of enterprises and individually owned businesses. Unless otherwise provided by laws, administrative regulations, or other state regulations, no enterprise or individually owned business shall in its name or business scope use such words or wording as “finance/financial,” “exchange,” “trading center,” “investment management,” “wealth management,” or “equity crowdfunding.”

The leading department, market regulatory departments and other relevant departments of a local people's government at or above the county level shall set up a consultation mechanism, with the aim of closely monitoring any case involving an enterprise or individual business that uses a name or business scope containing fundraising-related words or wording other than those specified in the preceding paragraph.

Article 10 A leading department shall, together with the internet information administration department and the competent telecommunications department, strengthen the monitoring of any internet content, website, mobile application, and other internet applications that may involve illegal fundraising. If illegal fundraising is confirmed by the leading department, the internet information administration department and the competent telecommunications department shall promptly handle the case in accordance with the law.

Internet content service providers shall strengthen the management of user-generated content and shall not produce, copy, publish, or disseminate any information that may involve illegal fundraising. If they identify any content that may involve illegal fundraising, they shall preserve relevant evidence and report to the leading department.

Article 11 Unless otherwise provided by the nation, no organization or individual may release any advertisement for fundraising or otherwise publicizing fundraising activities.

A market regulatory department shall, together with the leading department, strengthen the monitoring of any advertisement that may involve illegal fundraising. If illegal fundraising is confirmed by the leading department, the market regulatory department shall promptly investigate and handle the case in accordance with the law.

Advertising agencies and advertisement publishers shall examine the documentations for and content of each advertisement in accordance with laws and administrative regulations. If an advertisement contains fundraising contents but is without accompanying documentation, the advertising agency shall not provide relevant services in its design, production or management, and the advertisement publisher shall not publish it.

Article 12 A leading department and the local branches and regional offices of the financial administration departments under the State Council shall establish a mechanism for monitoring funds that may be involved in illegal fundraising. Financial administration departments under the State Council and their branches and regional offices shall, in accordance with the division of responsibilities, supervise and advise financial institutions and non-bank payment institutions to strengthen the monitoring of abnormal fund flows and of other funds that may be involved in illegal fundraising.

Article 13 Each financial institution and non-bank payment institution shall fulfill the following obligations of illegal fundraising prevention:

- (1) Establish and improve internal management systems, prohibit its branches and employees from participating in illegal fundraising, and prevent others from engaging in illegal fundraising through its business premise or sales channels;
- (2) Enhance public awareness programs on illegal fundraising and set up warning signs at conspicuous locations in its business premise; and
- (3) Strictly enforce large-value or suspicious transaction reporting mechanism in accordance with the law, analyze and identify accounts with abnormal fund flows that may indicate illegal fundraising, and promptly report relevant information to local branches and regional offices of the financial administration departments under the State Council and the leading department.

Article 14 Industry associations and chambers of commerce shall enhance industry self-regulation and self-discipline, supervise and advise their members to proactively prevent illegal fundraising, and shall not organize, assist, or participate in illegal fundraising.

Article 15 The Joint Conference shall develop a framework for enhancing public awareness on illegal fundraising that links central and local efforts to promote public education for illegal fundraising prevention nationwide.

Local people's governments at various levels shall make public awareness campaign on illegal fundraising a regular program and inform the public of the unlawfulness, perils, and forms of illegal fundraising through legal and policy interpretation, case studies, and investment risk education delivered through various media and vehicles, so as to raise the public's awareness for, and capacity to identify illegal fundraising activities.

In terms of a specific industry, competent authorities, regulatory authorities, industry associations, and chambers of commerce shall launch public awareness programs based on the specific features of potential illegal fundraising activities in the industry or field.

News media shall make public service announcements on illegal fundraising prevention and monitor activities involving illegal fundraising through public opinions in accordance with the law.

Article 16 All organizations and individuals have the right to report any suspected illegal fundraising activity to the leading department or other relevant government departments.

The state encourages the reporting of suspected illegal fundraising activities. A leading department and other relevant departments shall publish the channels for reporting such as telephone number and email address, set up a dedicated report column on government website, accept reports and handle them in a timely manner in accordance with the law, and maintain the confidentiality of informants.

Article 17 If a resident committee or a villager committee discovers any suspected illegal fundraising activity in its region, it shall report the activity to the local people's government, leading department, or other relevant government departments.

Article 18 If a leading department or a competent authority or regulatory authority for an industry discovers any potential risk of illegal fundraising in its administrative region, industry, or field, it has the power to hold warning meetings with the relevant organizations and individuals to order them to make corrections.

Chapter III Handling

Article 19 If any activity listed below within an administrative region may involve illegal fundraising, the leading department shall promptly organize the competent authority and regulatory authority for the industry as well as branches and regional

offices of the financial administration departments under the State Council to investigate and determine if such activity involves illegal fundraising:

(1) raising funds through the establishment of internet enterprises, investment enterprises and investment advisory enterprises, various types of trading venues or platforms, specialized farmers' cooperatives, mutual-financial-aid organizations, or other organizations;

(2) raising funds through the issuance or transfer of equity or debt, fundraising, sale of insurance products, or in the name of asset management, virtual currency, and finance leasing services in any form;

(3) raising funds by promising to pay money, equity, tangibles, or other returns during such business activities as sale of goods, provision of services, or project investment;

(4) publicly disseminating fundraising information through mass media, instant messaging tools or other methods in violation of laws, administrative regulations, or state policies;

(5) engaging in other activities that may involve illegal fundraising.

Article 20 Where a suspected illegal fundraising activity takes place in more than one administrative region, if the illegal fundraiser is an organization, the investigation and determination shall be organized by the leading department of that organization's place of registration; if the illegal fundraiser is an individual, the investigation and determination shall be organized by the leading department of that individual's domicile or habitual residence. The leading departments of the places where the illegal fundraising activity took place, where the raised funds are kept, and where fundraising participants are located, shall provide assistance during the investigation and determination.

Where the leading departments disagree on the assignment of responsibilities in the investigation and determination, the assignment shall be made by their joint superior leading department; where they disagree on the assignment of responsibilities in a cross-provincial, cross-autonomous regional, or cross-municipal investigation and determination, the assignment shall be made by the Joint Conference.

Article 21 When organizing investigations of suspected illegal fundraising activities, the leading department for handling illegal fundraising may:

(1) enter the place suspected of illegal fundraising for investigation and evidence collection;

(2) interview the organizations and individuals related to the matter under investigation and require them to explain relevant matters;

(3) review and copy such information as documents, materials, and electronic data related to the matter under investigation, and seal such articles as documents, materials, and electronic equipment that have the potential to be transferred, concealed, or destroyed; and

(4) with the approval of the principal person-in-charge of the leading department, analyze the accounts that may be involved in illegal fundraising in accordance with the law.

Investigation shall be carried out by no fewer than two investigators, who shall present their credentials during the process.

Organizations and individuals related to the matter under investigation shall provide cooperation and shall not reject or obstruct the investigation.

Article 22 When organizing an investigation into a suspected illegal fundraising activity, the leading department has the power to require the suspension of the fundraising activity and notify the market regulatory department or other relevant government departments to suspend registering the establishment, change, or cancellation of the organizations related to the suspected illegal fundraising activity.

Article 23 If following investigation an activity is determined to constitute illegal fundraising, the leading department shall order the illegal fundraisers and illegal fundraising accessories to immediately stop the illegal act and, if a crime is suspected, promptly refer the case to public security authorities in accordance with relevant rules and provide the necessary assistance.

Administrative authorities' investigation and determination of illegal fundraising activities are not mandatory procedures for the prosecution of criminal liabilities.

Article 24 The leading department may take the following measures as needed to handle illegal fundraising:

(1) closing down relevant business premises and sealing or seizing relevant assets;

(2) demanding that illegal fundraisers and their accessories retrieve or sell relevant assets to return the raised funds;

(3) upon decision by the leading department in a local government that is above the level of cities with subordinate districts, notifying the entry-exit border inspection authorities in accordance with relevant rules to impose outbound travel restrictions on

illegal fundraisers as well as the controlling shareholders, actual controllers, directors, supervisors, senior executives, and others directly responsible in an illegal fundraising entity.

To take the measures prescribed under Items (1) and (2) of this Article shall require the approval by the principal person in charge of the leading department.

Article 25 Illegal fundraisers and their accessories shall return the raised funds to fundraising participants. The return process shall be supervised by the leading department.

No entity or individual shall be allowed to benefit economically from illegal fundraising.

Participants in illegal fundraising shall bear on their own the losses incurred by their participation.

Article 26 Funds for returning the raised money shall come from:

- (1) remainder of the funds illegally raised;
- (2) earnings from the illegally raised funds or other assets converted from such funds and the earnings generated therefrom;
- (3) economic benefits obtained via illegal fundraising by illegal fundraisers as well as their shareholders, actual controllers, directors, supervisors, senior executives, and other related persons;
- (4) illegally raised funds or other related assets hidden or transferred by illegal fundraisers;
- (5) economic benefits obtained from illegal fundraising, such as advertising income, endorsements, agency income, tips, rebates, commissions, and bonuses; and
- (6) other assets that can be used to repay the raised funds.

Article 27 Market regulatory authorities shall revoke the business license of any enterprise, self-employed trader, or farmers' cooperative established for illegal fundraising. Telecommunications regulatory authorities shall shut down, in accordance with the law, the websites, mobile applications, and other Internet applications developed for illegal fundraising.

Article 28 Financial regulatory agencies under the State Council, their branches and regional offices, relevant departments of local governments, and other relevant

organizations and persons shall be supportive and cooperative in the handling of illegal fundraising.

No entity or individual shall be allowed to hinder or interfere with the handling of illegal fundraising.

Article 29 In handling illegal fundraising, local governments shall take effective measures to maintain social stability.

Chapter IV Legal Liability

Article 30 An illegal fundraiser shall be fined not less than 20 percent and not more than 100 percent of the raised funds by the leading department. If the illegal fundraiser is an organization, then depending on the severity of the offense, it may be ordered to suspend business and have its permits, business license, or registration certificates revoked by authorities in accordance with the law; and its legal representative or persons with major responsibilities, persons with direct supervisory responsibilities, and other persons with direct responsibilities shall each be given a warning and fined not less than RMB500,000 but not more than RMB5,000,000. If the offense constitutes a crime, the relevant parties shall be held accountable for criminal liabilities.

Article 31 An illegal fundraising accessory shall be given a warning by the leading department and fined not less than one but not more than three times the illegal gains, and, if the offense constitutes a crime, be held accountable for criminal liabilities.

Article 32 Where an illegal fundraisers or illegal fundraising accessory is not able to both return the raised funds in the amount required and pay the fines, it shall return the raised funds first.

Article 33 The relevant government departments shall record illegal fundraisers and illegal fundraising accessories that have received administrative sanctions pursuant to the *Regulations* into the National Credit Information Sharing Platform in accordance with relevant rules.

Article 34 Any internet content service provider that fails to perform its obligations on the prevention and handling of illegal-fundraising information shall be ordered to make corrections, be given a warning, and have its unlawful gains confiscated by the competent authorities. Any of those who refuse to make corrections or are involved in a serious offense shall be fined not less than RMB100,000 but not more than RMB500,000 and, depending on the severity of the offense, be ordered to suspend the corresponding business activity, suspend business to make corrections, shut down the relevant websites, or have its relevant permits or business license revoked; and the persons with direct supervisory responsibilities and other persons with direct

responsibilities shall each be fined not less than RMB10,000 but not more than RMB100,000.

Any advertising agent or advertisement publisher that fails to examine the documentations for and content of an advertisement as required shall be ordered by the market administration departments to make corrections and be penalized in accordance with the *Advertisement Law of the People's Republic of China*.

Article 35 Any financial institution or non-bank payment agency that fails to perform its obligations on the prevention and handling of illegal fundraising shall be ordered to make corrections, be given a warning, and have its unlawful gains confiscated by the financial regulators under the State Council or their branches or regional offices in accordance with the division of responsibilities; and, if the offense has led to severe consequences, be fined not less than RMB1,000,000 and not more than RMB5,000,000, and the persons with direct supervisory responsibilities and other persons with direct responsibilities shall each be given a warning and fined not less than RMB100,000 but not more than RMB500,000.

Article 36 Any organization or individual involved in a matter under investigation that does not cooperate with the investigation by refusing to provide relevant documents, materials, electronic data, or other information, or providing that which are false, shall be ordered to make corrections, given a warning, and fined not less than RMB50,000 and not more than RMB500,000 by the leading department.

Whoever violates the regulations on the administration of public security by obstructing investigators from performing their lawful duties shall be given public-security-administration penalties by public security authorities and, if the offense constitutes a crime, be held accountable for criminal liabilities.

Article 37 A civil servant shall be penalized if the civil servant:

- (1) having known that an organization under his administrative or supervisory scope may have engaged in illegal fundraising, fails to promptly handle the situation in accordance with the law;
- (2) fails to perform the obligations of preventing illegal fundraising promptly and in accordance with relevant rules, or to cooperate with the handling of illegal fundraising activities, which has led to severe consequences;
- (3) abuses power, neglects duties, or commits fraud for personal gains during the prevention and handling of illegal fundraising activities; or
- (4) aids and abets, shelters, or condones illegal fundraising through an official act or the influence of his official position.

If any of the offenses in the preceding paragraph constitutes a crime, the civil servant shall be held accountable for criminal liabilities.

Chapter V Ancillary Provisions

Article 38 Each province, autonomous region, or municipality may, on the basis of the *Regulations*, develop detailed implementing rules for the prevention and handling of illegal fundraising activities.

Article 39 Whoever engages in such financial services as lending, payment & settlement, and note discount without lawful approval or in violation of financial regulatory rules shall be sanctioned by the financial regulators under the State Council or local financial regulators in accordance with their division of responsibilities.

To the extent that the prevention and handling of other illegal financial activities is not expressly covered by laws and administrative regulations, the *Regulations* shall govern *mutatis mutandis*. The specific forms of such other illegal financial activities shall be determined by the financial regulators under the State Council.

Article 40 The *Regulations* come into effect on May 1, 2021. The *Measures for Banning Illegal Financial Institutions and Illegal Financial Activities*, promulgated by the State Council on July 13, 1998, expires on the same date.