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# 中华人民共和国刑法修正案（一）

# Amendment to the Criminal Law of the People's Republic of China

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《中华人民共和国刑法修正案》已由中华人民共和国第九届全国人民代表大会常务委员会第十三次会议于１９９９年１２月２５日通过，现予公布，自公布之日起施行。

The Amendment to the Criminal Law of the People's Republic of China, which was adopted at the 13th Meeting of the Standing Committee of the Ninth National People's Congress on December 25, 1999, is released hereby and shall take effect as of the date of promulgation.

中华人民共和国主席　江泽民

President of the PRC: Jiang Zemin

１９９９年１２月２５日

December 25, 1999

中华人民共和国刑法修正案（一）

Amendment to the Criminal Law of the People's Republic of China

（1999年12月25日第九届全国人民代表大会常务委员会第十三次会议通过 1999年12月25日中华人民共和国主席令第二十七号公布 自公布之日起施行）

(Adopted at the 13th Meeting of the Standing Committee of the Ninth National People's Congress on December 25, 1999 and promulgated by Order No. 27 of the President of the People's Republic of China on December 25, 1999)

为了惩治破坏社会主义市场经济秩序的犯罪，保障社会主义现代化建设的顺利进行，对刑法作如下补充修改：一、第一百六十二条后增加一条，作为第一百六十二条之一：“隐匿或者故意销毁依法应当保存的会计凭证、会计账簿、财务会计报告，情节严重的，处五年以下有期徒刑或者拘役，并处或者单处二万元以上二十万元以下罚金。“单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。”

In order to punish the crime of disrupting the order of the socialist market economy and ensure smooth progress of the socialist modernization drive, the following additional amendments are made to the Criminal Law: I. An article is added after Article 162 as Article 162 (I): "Whoever conceals or intentionally destroys accounting vouchers, account books or financial and accounting statements, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than 20,000 yuan but not more than 200,000 yuan. "Where an organization commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons directly in charge of the organization and other persons directly liable shall be punished in accordance with the provisions of the preceding paragraph."

二、将刑法第一百六十八条修改为：“国有公司、企业的工作人员，由于严重不负责任或者滥用职权，造成国有公司、企业破产或者严重损失，致使国家利益遭受重大损失的，处三年以下有期徒刑或者拘役；致使国家利益遭受特别重大损失的，处三年以上七年以下有期徒刑。“国有事业单位的工作人员有前款行为，致使国家利益遭受重大损失的，依照前款的规定处罚。

II、 Article 168 is amended as: "Where an employee of a State-owned company or enterprise, because of being seriously irresponsible or abuse of power, causes bankruptcy or heavy losses to the said company or enterprise, thus occasioning major losses to the interests of the State, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if especially major losses are occasioned to the interests of the State, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years. "Any employee of a State-owned institution commits any of the crimes mentioned in the preceding paragraph and causes major losses of the interests of the State, he shall be punished in accordance with the provisions in the preceding paragraph.

“国有公司、企业、事业单位的工作人员，徇私舞弊，犯前两款罪的，依照第一款的规定从重处罚。”

"Any employee of a State-owned company, enterprise or institution who engages in malpractices for personal gain and commits any of the crimes mentioned in the preceding two paragraphs shall be a given heavier punishment in accordance with the provisions in the first paragraph."

三、将刑法第一百七十四条修改为：“未经国家有关主管部门批准，擅自设立商业银行、证券交易所、期货交易所、证券公司、期货经纪公司、保险公司或者其他金融机构的，处三年以下有期徒刑或者拘役，并处或者单处二万元以上二十万元以下罚金；情节严重的，处三年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金。“伪造、变造、转让商业银行、证券交易所、期货交易所、证券公司、期货经纪公司、保险公司或者其他金融机构的经营许可证或者批准文件的，依照前款的规定处罚。

III、 Article 174 is amended as: "Whoever, without the approval of the relevant competent departments of the State, establishes a commercial bank, stock exchange, futures exchange, securities company, futures brokerage company, insurance company or any other financial institution shall be sentenced to imprisonment of not more than three years or criminal detention and/or a fine of not less than 20,000 yuan but not more than 200,000 yuan; or if the circumstances are serious, be sentenced to imprisonment of not less than three years but not more than 10 years and a fine of not less than 50,000 yuan but not more than 500,000 yuan. "Whoever forges, alters or transfers the business license or document of approval of a commercial bank, stock exchange, futures exchange, securities company, futures brokering company, insurance company or other financial institutions shall be punished in accordance with the provisions of the preceding paragraph.

“单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照第一款的规定处罚。”

"Where an entity commits a crime as provided for in the preceding two paragraphs, a fine shall be imposed on it, and its directly responsible person and other directly liable persons shall be punished according to the provision of 1st paragraph of this Article."

四、将刑法第一百八十条修改为：“证券、期货交易内幕信息的知情人员或者非法获取证券、期货交易内幕信息的人员，在涉及证券的发行，证券、期货交易或者其他对证券、期货交易价格有重大影响的信息尚未公开前，买入或者卖出该证券，或者从事与该内幕信息有关的期货交易，或者泄露该信息，情节严重的，处五年以下有期徒刑或者拘役，并处或者单处违法所得一倍以上五倍以下罚金；情节特别严重的，处五年以上十年以下有期徒刑，并处违法所得一倍以上五倍以下罚金。“单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

IV、 Article 180 of the Criminal Law is amended as: "Any person with knowledge of inside information on securities or futures trading or any person who illegally obtains such information, prior to the publication of the information that concerns security issue, securities or futures trading or that has a vital bearing on the trading prices of securities or futures, buys or sells the said securities, engages in the futures trading which the said inside information concerns, or divulges the said information shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than one time but not more than five times the illegal gains; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than one time but not more than five times the illegal gains. "Where an organization commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons directly in charge of the organization and other persons directly liable shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

“内幕信息、知情人员的范围，依照法律、行政法规的规定确定。”

The range of inside information and the insiders shall be determined in accordance with the laws and administrative regulations. "

五、将刑法第一百八十一条修改为：“编造并且传播影响证券、期货交易的虚假信息，扰乱证券、期货交易市场，造成严重后果的，处五年以下有期徒刑或者拘役，并处或者单处一万元以上十万元以下罚金。“证券交易所、期货交易所、证券公司、期货经纪公司的从业人员，证券业协会、期货业协会或者证券期货监督管理部门的工作人员，故意提供虚假信息或者伪造、变造、销毁交易记录，诱骗投资者买卖证券、期货合约，造成严重后果的，处五年以下有期徒刑或者拘役，并处或者单处一万元以上十万元以下罚金；情节特别恶劣的，处五年以上十年以下有期徒刑，并处二万元以上二十万元以下罚金。“单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。”

V、 Article 181 of the Criminal Law is amended as follows: "Any person who fabricates and spreads false information, thereby adversely affecting securities or futures market transactions and resulting in serious consequences, shall be sentenced to a fixed term of imprisonment of up to five years or criminal detention, and/or be fined between CNY10,000 and CNY100 ,000. "Any employee of a stock exchange, futures exchange, securities company or futures brokerage company or any staff member of the securities association, futures association or department for the supervision and administration of securities or futures who intentionally provides false information or forges, alters or destroys trading records in order to deceive investors into buying or selling securities or futures contracts and thus serious consequences are caused shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than 10,000 yuan but not more than 100,000 yuan; if the circumstances are especially flagrant, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan. "Where an entity commits a crime as provided for in the preceding two paragraphs, a fine shall be imposed on it, and its directly responsible person and other directly liable persons shall be sentenced to imprisonment of not more than 5 years or criminal detention."

六、将刑法第一百八十二条修改为：“有下列情形之一，操纵证券、期货交易价格，获取不正当利益或者转嫁风险，情节严重的，处五年以下有期徒刑或者拘役，并处或者单处违法所得一倍以上五倍以下罚金：（一）单独或者合谋，集中资金优势、持股或者持仓优势或者利用信息优势联合或者连续买卖，操纵证券、期货交易价格的；

VI、 Article 182 of the Criminal Law is amended as follows: "Any person who commits any of the following acts by manipulating securities or futures trading prices in order to obtain illegitimate benefits or shift risks to others shall, if the circumstances are serious, be sentenced to a fixed term of imprisonment of up to five years or criminal detention and shall also, or shall only, be fined between one and five times the value of illegal gains: (1) whether independently or in collusion with others, carrying out combined or successive purchases or sales by building up an advantage in the holding of funds, shares or futures positions or in the use of information to manipulate the trading prices of securities or futures;

（二）与他人串通，以事先约定的时间、价格和方式相互进行证券、期货交易，或者相互买卖并不持有的证券，影响证券、期货交易价格或者证券、期货交易量的；

(II) collaborating with another person to mutually trade securities or futures or to mutually buy or sell securities not held by them, at a prearranged time and price and in a prearranged manner, thereby affecting the price or the volume of the securities or futures traded;

（三）以自己为交易对象，进行不转移证券所有权的自买自卖，或者以自己为交易对象，自买自卖期货合约，影响证券、期货交易价格或者证券、期货交易量的；

(III) affecting the prices of securities or futures or the volume of trading in securities or futures by trading with himself as the counterparty to a securities transaction without transferring the ownership of the securities concerned or by trading with himself as the counterparty to a futures contract; or

（四）以其他方法操纵证券、期货交易价格的。

(IV) manipulating the prices of securities or futures by any other means.

“单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。”

"Where an organization commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons directly in charge of the organization and other persons directly liable shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention."

七、将刑法第一百八十五条修改为：“商业银行、证券交易所、期货交易所、证券公司、期货经纪公司、保险公司或者其他金融机构的工作人员利用职务上的便利，挪用本单位或者客户资金的，依照本法第二百七十二条的规定定罪处罚。“国有商业银行、证券交易所、期货交易所、证券公司、期货经纪公司、保险公司或者其他国有金融机构的工作人员和国有商业银行、证券交易所、期货交易所、证券公司、期货经纪公司、保险公司或者其他国有金融机构委派到前款规定中的非国有机构从事公务的人员有前款行为的，依照本法第三百八十四条的规定定罪处罚。”

VII、 Article 185 of the Criminal Law is amended as follows: "Any employee of a commercial bank, stock exchange, futures exchange, securities company, futures brokerage company, insurance company or other financial institution who, by taking advantage of his position, misappropriates money belonging to the entity or to any client, shall be convicted and punished in accordance with Article 272 of this Law. Where any employee of a State-owned commercial bank, stock exchange, futures exchange, securities company, futures brokering company, insurance company or other banking institutions, or any person who is assigned by a state-owned commercial bank, stock exchange, futures exchange, securities company, futures brokering company, insurance company or other banking institutions to an institution that is not owned by the state to engage in public service, commits the crime as mentioned in the preceding paragraph, he shall be convicted and punished according to the provisions in Article 384 of this Law. "

八、刑法第二百二十五条增加一项，作为第三项：“未经国家有关主管部门批准，非法经营证券、期货或者保险业务的；”原第三项改为第四项。

VIII、 One sub-paragraph is added to Article 225 as sub-paragraph (3): "without permission of the competent departments of the state, engaging in the business of securities, futures or insurance;" and the original third sub-paragraph is changed to be the fourth.

九、本修正案自公布之日起施行。

IX、 This Amendment shall come into force as of the date of promulgation.