

Legal and Regulatory Framework

A. Legal Tradition

Viet Nam's legal system is based on the civil law tradition. Many of the relevant laws and regulations for the securities market have been in place since the late 1990s and continue to be revised and adjusted to the requirements of modern financial and capital markets, with significant revisions and additions, particularly since 2010.

B. English Translation

1. Translation of Legislation into English

Viet Nam does not have an official requirement to translate legislation into English. Instead, the respective regulatory authorities (MOJ, MOF, and SSC), the key exchange (HNX) and market associations, such as VBMA, take it upon themselves to provide an unofficial English version of applicable laws and regulations to the market at large. This may sometimes lead to differences in interpretation of the original Vietnamese version.

As an example, on the HNX website, consideration is given to inquiries from other markets by allowing to search for documents in English by type, document number, content, issuer, issue date, and effective date.⁴ Similarly, HNX provides easily accessible reference list pages for English translations in each category of official documents like laws, decrees, circulars, decisions, and rules. The English language translations accessible on the HNX website are consistent with the translated version of the documents shown on the website of the Ministry of Justice.⁵ However, it usually takes a few months from the time the related laws and regulations are promulgated until the English translation is posted on the above sites.

As such, the unofficial translations by governmental bodies and regulatory authorities are practical resources for the study of the securities market. Although these unofficial translations typically state that every effort has been made to convey the meaning and effect of each provision of the original language version as accurately as possible, these English translations do not carry any legal authority. Only the original text has legal force and, hence, the English translation and the citations in the Viet Nam Bond Market Guide are strictly for reference only.

2. Promotion of Information Disclosure in English

As part of the efforts to further attract foreign investors and raise the profile of the securities market, HNX promotes information disclosure in both Vietnamese and

⁴ See <https://www.hnx.vn/en-gb/van-ban-phap-ly.html>

⁵ See <http://vbpl.vn/TW/Pages/vbpqen.aspx>

English, applicable for information to be disclosed by HNX and by the enterprises via HNX.

On its own website, HOSE displays all publicly accessible information in two languages, Vietnamese and English, providing foreign investors more opportunities to analyze the performance of the Vietnamese securities market.

The HNX encourages enterprises to actively improve the information disclosure in English, step by step, in the spirit of the Circular Providing Guidelines for Information Disclosure on the Securities Market (No. 155/2015/TT/BTC). This circular led to the HNX Investors Corner's reference system being supplemented, upgraded, and updated on an annual basis.

The new disclosure rule provided detailed guidance on the information disclosure regulations in the aforementioned circular in that companies registered with the Unlisted Public Company Market, listed companies, and member securities firms were encouraged to make information disclosure in English.

C. Legislative Structure

Like many ASEAN+3 economies, Viet Nam features a multitiered legislative and regulatory system structure to govern the financial and capital markets.

The Constitution of the Socialist Republic of Viet Nam (adopted on 28 November 2013 by the 13th National Assembly and effective on 1 January 2014), which is also referred to as the 2013 Constitution, is the basis for the legislative and regulatory structure of Viet Nam:

- [1st tier] Constitution of the Socialist Republic of Viet Nam
- [2nd tier] Laws (key legislation issued by the National Assembly)
- [3rd tier] Decrees (issued by the Prime Minister on behalf of the Government)
- [4th tier] Circulars (issued by regulators)
- [5th tier] Decisions (issued by the Prime Minister, regulators, or market institutions like HNX, and approved by regulators)
- [6th tier] Rules (issued by market institutions like HNX, and approved by regulators)

Table 2.1 applies the prevalent legislation and regulations to the individual tiers of the legislative structure for the financial and capital markets. For a full list of laws, decrees, circulars, and other regulations with a direct relevance for the bond market in Viet Nam, please refer to Appendix 3 in the Viet Nam Bond Market Guide.

1. Fundamental Legislation

Fundamental legislation refers to laws and decrees that establish roles and responsibilities of organizations in society and define the organs and functions of such organizations. The best example in this context is the Law on Enterprises.

The 2014 Law on Enterprises (often referred to as the LOE) simplified the procedures for the establishment of enterprises and introduced new management structures for companies. According to the Law on Enterprises, enterprises include limited liability companies, joint-stock companies (shareholding companies), partnerships, private companies, and groups of enterprises. In general, enterprises fall into the following three categories:

- i. limited liability company with one member,
- ii. limited liability company with two members or more, or
- iii. joint-stock companies or shareholding companies.

Table 2.1: Examples of Securities Market Legislation by Legislative Tier

Legislative Tier	Content or Significant Examples
2013 Constitution	Political System, Rights, and Duties
Laws (fundamental or key legislation)	<ul style="list-style-type: none"> • Law on Enterprises (No. 68/2014/QH13) • Law on Securities (No. 70/2006/QH11) • Law Amending, Supplementing a Number of Articles of Law on Securities (No. 62/2010/QH12)
Decrees (providing detailed guidelines on the implementation of the law)	<ul style="list-style-type: none"> • Decree on Issuance of Government Bonds, Government-Guaranteed Bonds and Local Government Bonds (No. 01/2011/ND-CP) • Decree on Issuance of Corporate Bonds (No. 90/2011/ND-CP) • Decree Stipulating in Detail and Guiding the Implementation of a Number of Articles of the Securities Law and the Law Amending and Supplementing a Number of Articles of Securities Law (No. 58/2012/ND-CP) • Decree Providing for the Sanctioning of Administrative Violations in the Domains of Securities and Securities Market (No. 108/2013/ND-CP) • Decree Amending, Supplementing Several Articles of the Government's Decree No. 58/2012/ND-CP on Providing Specific Provisions for the Implementation of Certain Articles of the Law on Securities and the Law on Amending and Supplementing a Number of Articles of the Law on Securities (No. 60/2015/ND-CP) • Decree on Requirements for Investment and Trading in Securities (No. 86/2016/ND-CP) • Decree Providing for Issuance, Registration, Depositing, Listing and Trading of Government Debt Instruments on Securities Market (No. 95/2018/ND-CP)
Circulars, guiding circulars, and circulars providing guidelines	<ul style="list-style-type: none"> • Circular Providing Guidelines on Issuance of Government Bonds in Domestic Market (No. 111/2015/TT-BTC) • Circular Providing Guidelines on Issuance of Government-Guaranteed Bonds (No. 99/2015/TT-BTC) • Circular Providing Guidelines on Issuance of Municipal Bonds in Domestic Market (No. 100/2015/TT-BTC) • Circular Providing Guidelines on the Trading of Government Bonds, Government-Guaranteed Bonds and Municipal Bonds (No. 234/2012/TT-BTC) • Circular Amending, Supplementing a Number of Articles of Circular No. 234/2012/TT-BTC (No. 10/2017/TT-BTC) • Circular Guiding Implementation of a Number of Articles of the Government's Decree No. 90/2011/ND-CP on Issuance of Corporate Bonds (No. 211/2012/TT-BTC) • Circular Guiding Operation of Foreign Investors on Vietnamese Securities Market (No. 123/2015/TT-BTC) • Circular Guiding in Details a Number of Articles about Securities Listing on the Decree No. 58/2012/ND-CP Stipulating in Details and Guiding the Implementation of a Number of Articles of the Securities Law and the Law Amending and Supplementing a Number of Articles of Securities Law (No. 73/2013/TT-BTC) • Circular Providing Guidelines for Information Disclosure on Securities Market (No. 155/2015/TT-BTC) • Circular Providing Guideline for Listing of Securities on Stock

	<p>Exchanges (No. 202/2015/TT-BTC)</p> <ul style="list-style-type: none"> • Circular Providing Guidelines for Trading on Securities Market (No. 203/2015/TT-BTC)
Decisions (by the State President, Prime Minister, or People's Committee; or a guideline from the Vietnam Securities Depository Center)	<ul style="list-style-type: none"> • Decision on Approving the Strategy for Development of Vietnam's Securities Market During 2011–2020 (No. 252/2012/QD-TTg) • Decision Approving the Roadmap for Developing the Bond Market, 2017–2020 and Vision Toward 2030 (No. 1191/2017/QD-TTg) • Decision Promulgating the Regulation on Registration of Securities Trading Codes of Foreign Investors at the Vietnam Securities Depository Center (No. No 47/2013/QD-VSD)
Rules (of the Exchange)	<ul style="list-style-type: none"> • Regulation on Information Disclosure of Hanoi Stock Exchange (No. 606/QD-SGDHN)

Source: Adapted by ADB consultants for ABMF SF1 from Hanoi Stock Exchange. <https://www.hnx.vn/en-gb/van-ban-phap-ly.html>

Among the features of a limited liability company, shareholders, referred to as members, can include corporations or individuals, with the maximum number of members limited to 50 parties. Having a single investor is described as a limited liability company with one member, and two or more investors create a limited liability company with two members or more.

A limited liability company cannot issue shares. Members are responsible for corporate debt and any other obligations to pay within the range of their respective investment amounts into the company.

Under the Law on Enterprises, foreign investors can also establish a company in Viet Nam. The law also added a new definition relating to the ownership ratio of foreign investor(s). As a result, many foreign companies have increasingly been establishing Vietnamese domestic companies. Foreign companies entering the Viet Nam market typically choose the form of a limited liability company or a joint-stock company. The limited liability company is the most common company form in Viet Nam.

The Law on Enterprises also facilitated the means for a shareholding company to issue debt by stating their rights to issue corporate bonds, convertible bonds, and other types of bonds as an extract from Article 127 on the Issue of Bonds describes:

- (1) A shareholding company may issue bonds, convertible bonds and other classes of bonds in accordance with law and the charter of the company.
- (2) A company which fails to pay in full for the principal and interest of issued bonds or fails to pay or fails to pay in full for due debts in [3] consecutive preceding years shall not have the right to issue bonds, unless otherwise stipulated in the law on securities.
- (3) The issue of bonds to creditors being selected financial institutions is not restricted by clause 2 of this article.

2. Key Legislation

Key legislation in this context refers to laws specific to the bond market or the securities market at large.

The key function of regulating securities and the securities market falls to the Law on Securities, which was first promulgated in January 2007 as Law No. 70/2006/QH11 and amended in July 2011 by Law No. 62/2010/QH12.

The Law on Securities is the highest regulatory document governing the offering, listing, and trading of corporate bonds. The scope of this law covers public offers in detail and nonpublic offers (private placements) of securities in part, and contains provisions for listing and trading securities, conducting business related to and investing in securities, providing securities services, and the securities market at large.

It is applicable to all Vietnamese and foreign institutional and retail investors, and covers all organizations and individuals involved in securities activities and the securities market. The English text of the law is available from the HNX, MOF, and SSC websites.

In Article 6, the law defines the activities and participants in the securities market and states that investors mean domestic or foreign institutions and individuals participating in investment in the securities market, and provides a definition for institutional securities investors as being commercial banks, financial companies, financial leasing companies, insurance organizations, and securities trading organizations. This definition constitutes, to date, the professional investor category in the Vietnamese securities market.

The law regulates the issuance of securities via a public offering, defined as an offering of securities via mass media, including the Internet, an offering to 100 or more investors, excluding institutional (professional) investors, or an offering to an unspecified number of investors.

Consequently, the law also stipulates the requirements for nonpublic offers of securities (private placements), which are defined as offers of securities to less than 100 investors, not including institutional (professional) securities investors, and that do not use mass media or the Internet. For more information on the issuance methods for bonds in the Viet Nam market, please refer to Chapter III.E.

The law stipulates that an issuer who wishes to make a public offering of bonds must prepare certain documents and disclosure information prior to a formal approval by the SSC. It stipulates the issuer's responsibilities to maintain a healthy financial condition to meet its financial obligations to bondholders. The law clearly mentions an outline of disclosure rules and practices for issuers.

The law also contains the unique definition of public company in Viet Nam, described earlier, under which companies that have more than 100 shareholders will become public companies even if their shares are not listed on an exchange. At the same time, the more common definitions of a public company continue to coexist in the law, i.e., as a company that has made a public offer of shares or a company that has shares listed on an exchange. The importance of being considered a public company is stated in Article 27 of the law, in that public companies have the obligation to disclose information relating to the company, to comply with the principles on corporate management, and to carry out the registration and safekeeping of its shares at VSD.

As part of the comprehensive review of the bond market and its legislative and regulatory framework by Viet Nam's policy bodies and regulatory authorities, it is expected that the Law on Securities and several related decrees will be completely overhauled and a second-generation securities law will be promulgated in the course of 2018.

3. Legal Frameworks Specific to the Bond Market

The legal framework specific to the bond market in Viet Nam—presented here as of the end of 2017—is supplemented by a number of key decrees. Decrees provide detailed prescriptions and guidelines on the implementation of a law.

a. Legal Framework for Government Bonds

Decree No. 01/2011/ND-CP (superseded in parts only)

Decree No. 01/2011/ND-CP regulates the issuance of government bonds, government-guaranteed bonds, and municipal bonds. It is the legal basis for the standardization of activities in the primary government bond market and contains provisions on the formation of an effective bond market in accordance with standard international practices.

This decree includes significant changes such as linking government bond issuance with public debt management under the Law on Public Debt Management, which came into effect in 2010. The decree also unifies both international and local government bond issuance in a single decree, and allows government bond issuance to be used to restructure debts and debt portfolios. It also allows bond swapping and the buying back of government bonds before the due date.

In addition, Decree No. 01/2011/ND-CP requires the MOF to gradually set up a market-maker system to improve bond market liquidity. Membership conditions are prescribed by the MOF and are outlined in the decree. Participants in bidding and bond underwriting practices specified in the decree will be considered and recognized as system members, provided they satisfy the stated conditions.

In contrast to preceding decrees, Decree No. 01/2011/ND-CP provides clearer and stricter regulations regarding bond issuance and buying, which allow for more effective control of capital usage from the issuance of government bonds. The decree allows government bond issuance not only to compensate for temporary budget deficits and be used as budget expenditure for developing investment, but also to restructure government debts by lending to other organizations, and to ensure national financial security. Instead of replacing Decree No. 01/2011/ND-CP in full, the Government of Viet Nam decided to revise a number of its provisions through the issuance of Decrees No. 91/2018/ND-CP, No. 93/2018/ND-CP, and No. 95/2018/ND-CP (see below).

Decree No. 95/2018/ND-CP

Decree No. 95/2018/ND-CP, effective from 1 July 2018, superseded a number of provisions in Decree No. 01/2011/ND-CP and added new provisions for the issuance and trading of government bonds. The decree formalized the market-maker concept, the eligibility and requalification criteria, and the process of accreditation by the MOF. The provisions on market makers, however, only apply from 2019 onward.

The decree also includes a 50-year tenor for government bonds and references issuance qualifications and processes for green bonds.

b. Legal Framework for Corporate Bonds

The legal framework for corporate bonds consists of the Law on Securities (see above), as well as Decree No. 58/2012/ND-CP amended by No. 60/2015/ND-CP and Decree No. 90/2011/ND-CP. Decree No. 52/2006/ND-CP, while superseded, is also mentioned, due to its significance in the development of bond market practices during its validity.

Decree No. 52/2006/ND-CP (superseded)

Decree No. 52/2006/ND-CP was eventually replaced by Decree No. 90/2011/ND-CP, but is historically important because it facilitated the commencement of the corporate bond market at large in Viet Nam.

Under Decree No. 52/2006/ND-CP, joint-stock companies, SOEs being restructured into limited liability companies, and foreign-invested companies operating in Viet Nam became eligible to issue corporate bonds. The decree provided for the separate issuance type of private placement of bonds by enterprises of different types, including joint-stock companies, state companies in the course of transformation into limited liability companies, or joint-stock companies under the provisions of the Law on Enterprises and foreign-invested enterprises within the territory of Viet Nam. It stipulated that enterprises will be fully responsible for issuing bonds and making subsequent bond payments, and will commit that capital raised from bonds will only be used for investment projects, resettlement of long- and medium-term loans, and raising operational capital. Bond issuances must also be executed in a transparent manner, guaranteeing the rights of investors. To be eligible, companies had to be operating for at least 1 year, file an audited financial report demonstrating profitable operations in the previous year, and seek approval from relevant authorities for their issuance plan.

Decree No. 58/2012/ND-CP (later amended by Decree No. 60/2015/ND-CP)

Following the amendments to the Law on Securities in 2011, Decree No. 58/2012/ND-CP was issued, containing further specific regulations on the securities market and public companies acting in the securities market. The decree included prescriptions on the rate of foreign ownership in Viet Nam securities on the exchange market, general provisions on the public offering of securities and the different forms of public offers of securities (Article 10), the conditions for a (public) offer of secured bonds (Article 16) (including the need to appoint a representative of bondholders), the conditions for a public offer of securities via a number of offer tranches (Article 17), the conditions for a public offer of securities in Viet Nam by foreign organizations (Article 19), the conditions for offers for sale of securities offshore by Vietnamese enterprises (the need for registration of an offer for sale of securities offshore and its governing practices) (Articles 27, 30–32), as well as the conditions and procedures for listing securities on HNX and HOSE (Articles 53–60), including for Foreign Issuing Organizations (Articles 61–63) and securities listing by Vietnamese issuers on foreign exchanges (Article 64–68).

Decree No. 90/2011/ND-CP

Decree No. 90/2011/ND-CP regulates the issuance of corporate bonds by private placement, including the issuance of international bonds. It replaced both Decree No. 52/2006/ND-CP and the provisions on issuance of corporate bonds in the international capital market in Decree No. 53/2009/ND-CP.

Accordingly, SBV must certify that the value of an international bond issue is within the annual quota on foreign commercial borrowing approved by the Prime Minister.

In addition, Decree No. 90/2011/ND-CP stipulates that the issuer shall send a notification and registration of a bond issuance—domestically or in the international market—to the MOF in writing. It also requires the issuer to submit bond issuance plans, including business information and financial condition, to be approved by the supervisory and/or regulatory authority of the issuer as a prerequisite condition for issuing private placement bonds.

With its promulgation in 2011, Decree No. 90/2011/ND-CP strengthened the information disclosure obligations by issuers, particularly for SOEs, even in the event of issuance via private placement.

4. Circulars

Circulars are regulatory instruments issued by ministers or the head of minister-level agencies in Viet Nam and provide detailed guidelines on the implementation of laws and decrees. For the bond and securities market, the promulgator of circulars is typically the MOF.

a. For Government Bonds

A number of significant circulars for the government bond market are mentioned below.

- Circular No. 111/2015/TT-BTC issued by the MOF provides guidelines for government bond issuance in the domestic market;
- Circular No. 99/2015/TT-BTC issued by the MOF provides guidelines on the issuance of government-guaranteed bonds;
- Circular No. 100/2015/TT-BTC issued by the MOF provides guidelines on the issuance of municipal bonds;
- Circular No. 92/2016/TTLT-BTC-NHNN issued by the MOF and SBV provides guidelines for T-bill auctions via SBV;
- Circular No. 234/2012/TT-BTC issued by the MOF provides guidelines for the trading regime applicable to government bonds, government-guaranteed bonds, and municipal bonds; and
- Circular No. 10/2017/TT-BTC Amending, Supplementing a Number of Articles of Circular No. 234/2012/TT-BTC.

Of particular significance is Circular No. 19/2017/TT-NHNN, which took effect from 12 February 2018, because it contains a provision for financial institutions, including foreign banks who wish to buy government bonds and government-guaranteed bonds.

In Article 17a, the circular defines the ratio of purchase and investment in government bonds and bonds guaranteed by the Government of Viet Nam as follows:

Credit institutions and foreign bank branches shall be entitled to buy and invest in government bonds and government-guaranteed bonds in comparison with the average liabilities of the preceding month at the maximum rate as after:

- i. banks, branches of foreign banks: 30%; and
- ii. non-bank credit institutions: 10%.

Under this definition, government bonds include Treasury bills (T-bills), Treasury bonds, national bonds for national construction; while bonds guaranteed by the government include bonds issued by the government that are guaranteed by the government, bonds issued by a policy bank that are guaranteed by the government, and bonds issued by financial institutions and credit institutions that shall be guaranteed by the government.

According to Article 17, credit institutions and foreign bank branches are entitled to purchase and invest in government bonds (including those entrusted to other organizations to buy or invest in government bonds but not including purchases or investment of government bonds with funds entrusted from other organizations) in proportion to the short-term funds as follows:

- i. state-run commercial banks: 15%;
- ii. joint-stock commercial banks, joint-venture banks, banks with 100% foreign capital: 35%;
- iii. foreign bank branches: 15%;
- iv. non-bank credit institutions: 5%; and
- v. cooperative banks: 40%.

b. For Corporate Bonds

Important among the circulars issued for the corporate bond market is Circular No. 211/2012/TT-BTC, which guides the implementation of a number of articles in Decree No. 90/2011/ND-CP in relation to the issuance of corporate bonds by private placement.

Article 4 of this circular stipulates the conditions under which enterprises may issue bonds repeatedly (e.g., in several tranches); the bond-issuing enterprises may do so if they meet the set conditions of issuance specified in clause 1 of this article but must do so within 12 months using the same application and approval process. In cases where such multiple issuances occur in more than 1 financial year, the bond-issuing enterprises must apply and seek approval for new issuances in each financial year. This limitation may lead to the introduction of a self-registration concept and the ability to use medium-term note programs, under policy objectives stated in the 2017 Roadmap.

Article 6 of Circular No. 211/2012/TT-BTC stipulates the regulatory process for bond issuance, detailing the requirements for the notification for registration of bond issuance in international and domestic markets.

As prescribed in Article 30 of Decree No. 90/2011/ND-CP, the bond-issuing enterprises must send a notification for registration to the MOF. The content of the bond issuance notice is to be made in accordance with Annex No. 1 to the circular. When sending the bond issuance notification to the MOF, enterprises are responsible for sending the bond issuance notification to the competent authorities for approval and acceptance of the bond issuance project.

The implementation of the bond issuance notification obligation for enterprises in Circular No. 211/2012/TT-BTC only serves for the MOF to review and monitor corporate bond issuance and does not constitute acceptance of the plan on bond issuance of the enterprises by the MOF, or a confirmation that the enterprises are eligible to issue bonds.

Other important recent bond market related circulars include

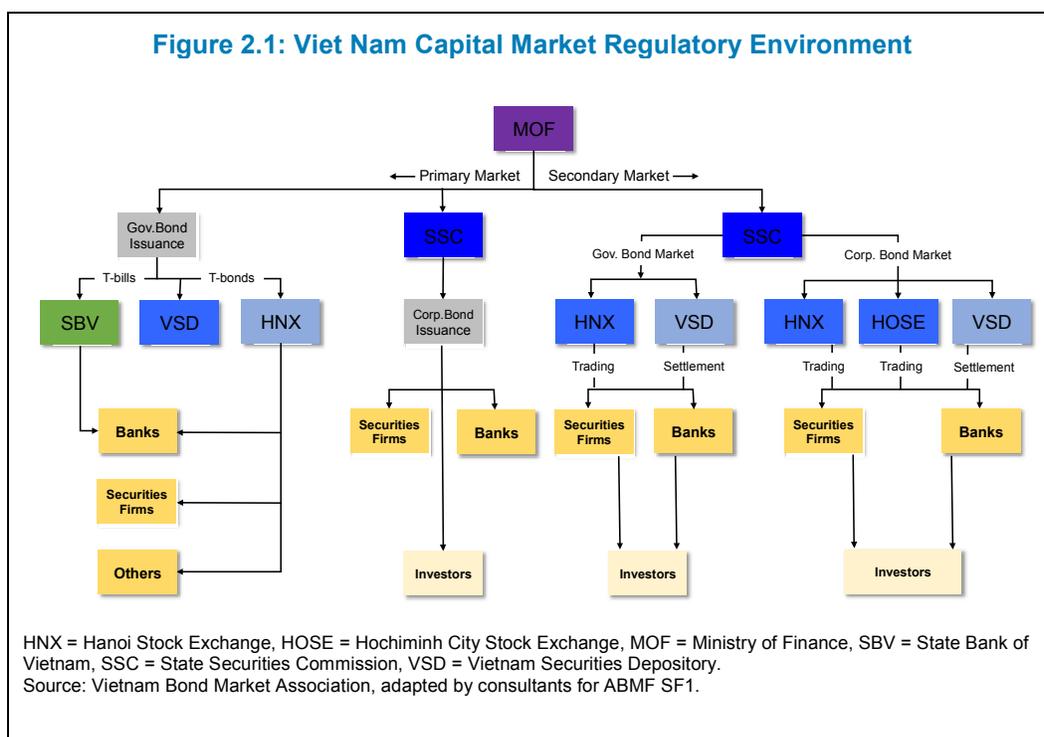
- i. Circular No. 155/2015/TT-BTC on Disclosure of Information on the Securities Market, which compels the following entities to disclose information: public companies, issuing organizations (except in case of bonds guaranteed by the government), securities companies, fund management companies, the stock exchanges, VSD, and affiliated persons;
- ii. Circular No. 204/2012/TT-BTC Guiding the Dossier and Procedure for Public Offering of Securities;
- iii. Circular No. 155/2015/TT-BTC Providing Guidelines for Information Disclosure on Securities Market;
- iv. Circular No. 202/2015/TT-BTC Providing Guideline for Listing of Securities on Stock Exchanges; and
- v. Circular No. 203/2015/TT-BTC Providing Guidelines for Trading on Securities Market.

The 2017 Roadmap (see Chapter I.E) includes a number of legislative and regulatory objectives, some of which are expected to lead to the amendment of laws and decrees to improve the legal framework for the bond market; some of these expected developments are listed in Chapter X.

D. Viet Nam Capital Market Regulatory Structure

The key policy body for legislation, regulations, and the development of the financial and capital markets, and the securities market at large, has traditionally been the MOF. In addition, the SSC, as the specific regulatory authority for the securities market within the MOF, governs the activities of the participants in the bond market, as also detailed in this section.

Figure 2.1: Viet Nam Capital Market Regulatory Environment



1. Regulatory Environment

The MOF and SBV jointly regulate the financial and capital markets. SBV is the central bank and chief regulatory body for all issues affecting the banking industry and credit institutions. It administers monetary, credit, and banking regulations, and issues regulations on matters such as foreign exchange controls, interest rates, and banking license application procedures.

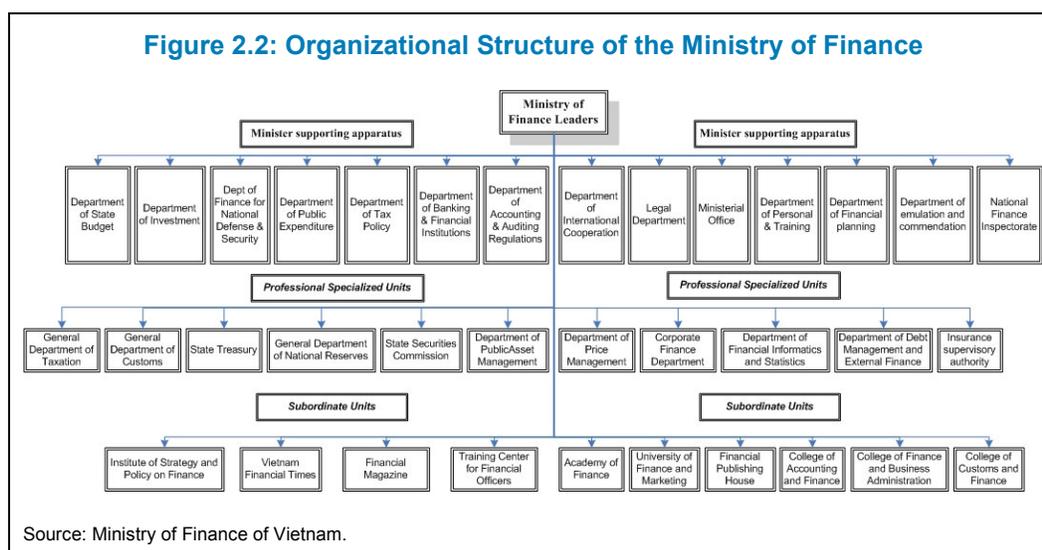
The SSC, which reports to the Minister of Finance, regulates the securities market. HOSE, HNX, and VSD are under SSC supervision, and are required to adhere to regulations relating to accounting, auditing, and statistical reporting. Figure 2.1 provides an overview of the regulatory environment for the capital market in Viet Nam.

2. Ministry of Finance

The MOF is a government agency, which has the function of implementing the state's management of finances. The main tasks and duties of the MOF as a government agency are based on Decree No. 118/2008/ND-CP and include

- i. managing the State Budget;
- ii. managing the collection of tax, fees, and other revenues under the State Budget;
- iii. managing the budget fund, the State reserve fund, and other State financial funds;
- iv. managing the national reserves and State assets by conducting the ownership rights to the State's investment capital in enterprises according to regulations of the law;
- v. managing domestic and foreign government borrowing and debt servicing, as well as international grants; and
- vi. issuing government bonds.

Figure 2.2: Organizational Structure of the Ministry of Finance



In addition, the MOF is also responsible for the regulation of banks and non-bank institutions as issuers of securities and securities market participants; it also participates in the management of the securities exchange market.

Under the 2017 Roadmap (see Chapter I.E), the MOF was assigned the role to organize a periodic dialogue through meetings between the MOF, SBV, and market

members to exchange information and agree on solutions to further develop the bond market. Figure 2.2 illustrates the organizational structure of the MOF.

3. State Securities Commission

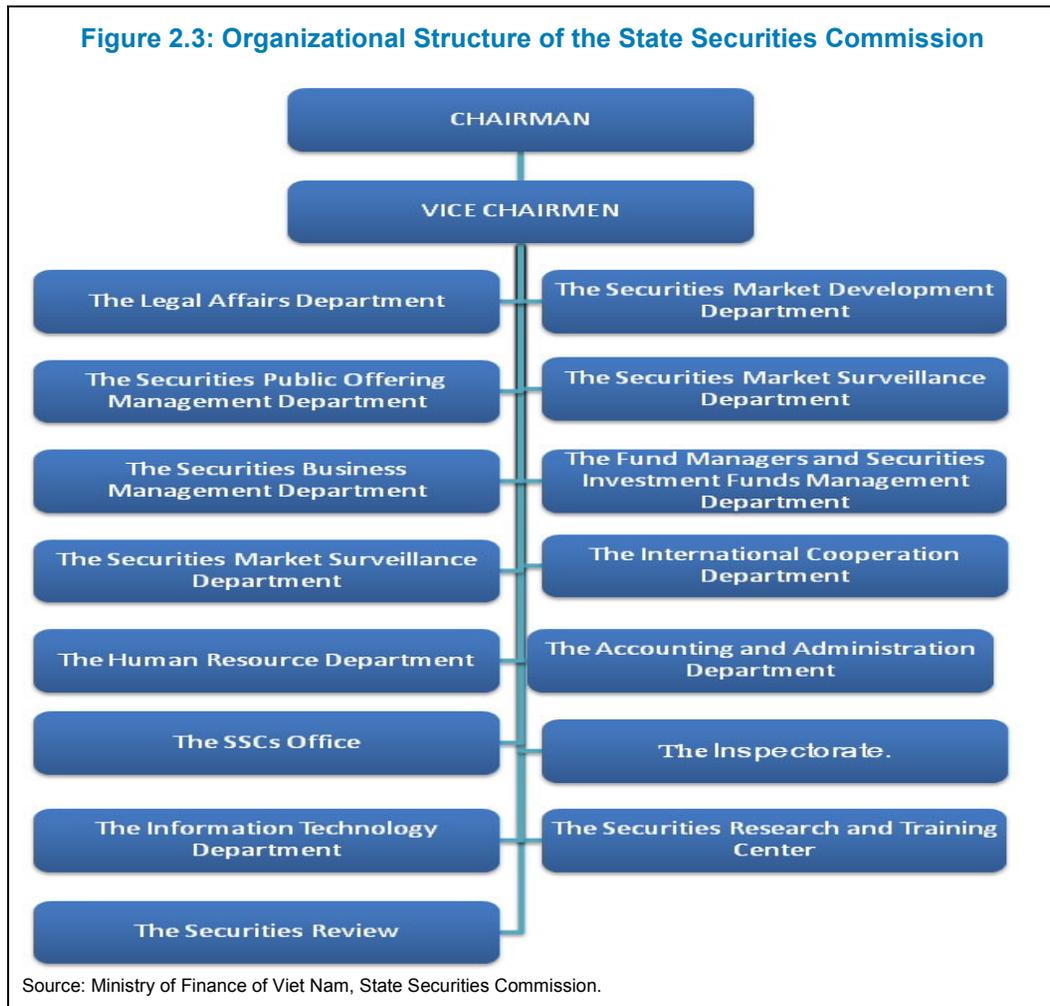
The SSC is one of the professional and specialized ministerial units of the MOF and regulates and acts as the supervisory agency for the securities market, including for HOSE and HNX. All exchange regulations are authorized by the SSC, which has the power to grant or revoke licenses relating to securities issuance, brokerage, and custody services, suspend trading in securities, and delete listings of companies to protect investors' interests. The SSC came under the jurisdiction of the MOF with effect from March 2004, and exercises the state's regulation of securities and the securities market as stipulated by applicable laws and other duties and powers. Among the key functions of the SSC are

- i. report to the MOF legal documentation relating to securities and securities markets, its strategies, matrixes, and long-term and annual plans;
- ii. implement the legal documents, strategies, matrixes, and plans on securities and the securities market after their ratification;
- iii. advise the MOF to set up, suspend, or disperse the operations of the stock exchanges, VSD, and other institutions related to the securities market;
- iv. ensure that proper reporting by participants is done;
- v. set standard procedures and processes to be applied in organizations under its management;
- vi. issue, suspend, or revoke certificates of registration of securities, registration of securities trading, certificates of securities listing, certificates of securities business, and certificates of securities practices and services;
- vii. organize and manage the stock exchanges, other regulated securities markets, and the central securities depository, registration, and clearing and settlement functions;
- viii. supervise the compliance of rules and regulations;
- ix. implement regular inspections and provide guidelines on securities and securities markets;
- x. provide guidelines and create favorable conditions for securities associations to abide by their objectives, missions, and charters; supervise the compliance of these associations with regulations of securities and the securities market; apply sanctions or propose authorized agencies to apply sanctions for violations of laws by these associations;
- xi. organize scientific research on and analyses of securities and the securities market;
- xii. manage the modernization of the securities market as stipulated by law;
- xiii. carry out international cooperation programs in the fields of securities and the securities market; and
- xiv. provide training programs to market participants.

In addition to the above, the SSC also performs other duties and functions assigned by the MOF.

In the context of the bond market, the SSC approves applications (referred to in market terms as "dossiers") for the issuance of debt securities via a public offering and prescribes initial and continuous disclosure and reporting requirements for issuers and securities market participants. The SSC also approves exchange rules and regulations prior to publication. Figure 2.3 displays the organizational structure of the SSC.

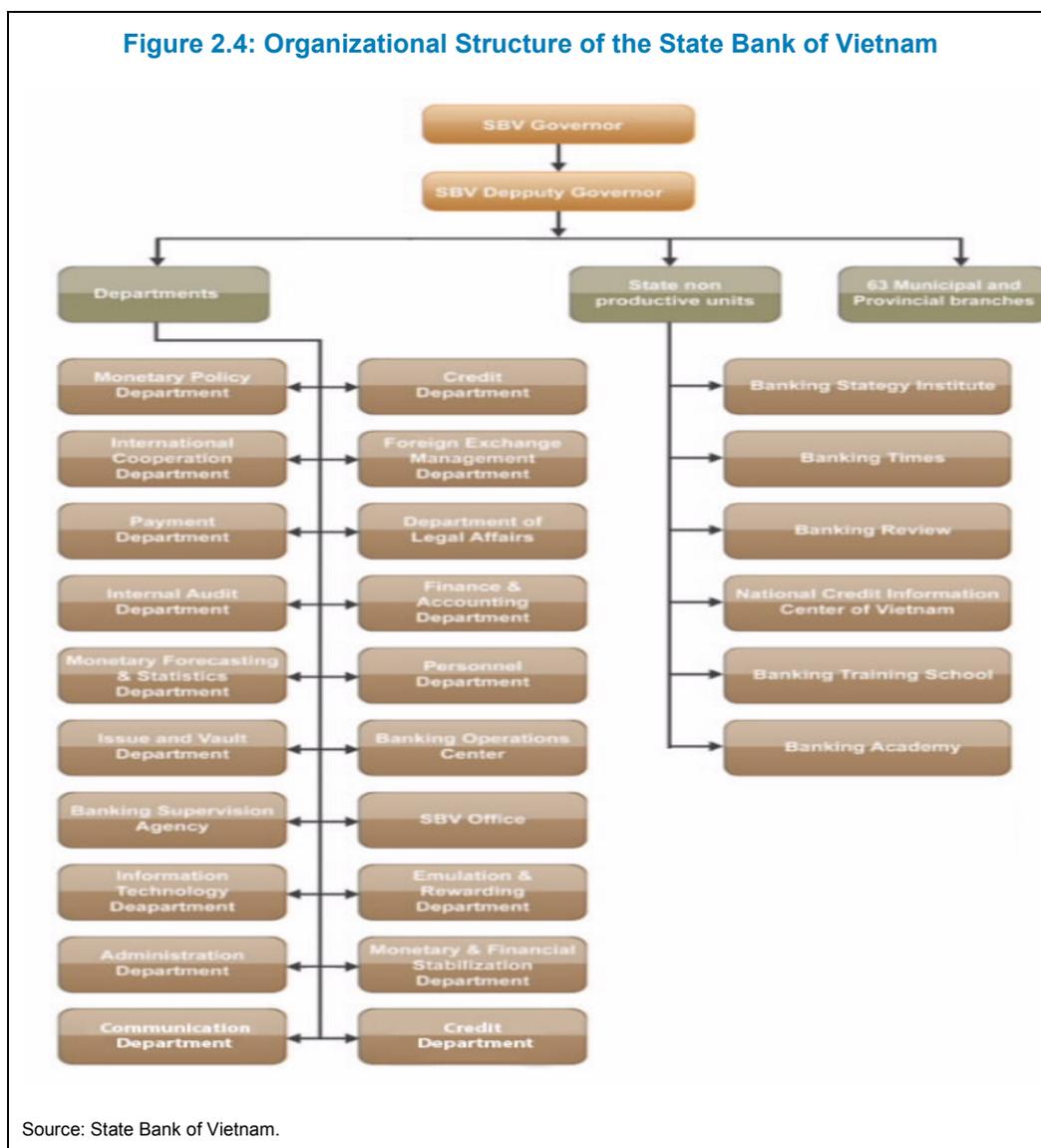
Figure 2.3: Organizational Structure of the State Securities Commission



4. State Bank of Vietnam

SBV is a ministerial agency of the government and the central bank of Viet Nam. Its main functions are to formulate and implement national monetary policy, stabilize the currency, control inflation, and improve socioeconomic development, as well as manage currency, banking, and credit institution activities and contribute to the development of the market structure. SBV also regulates foreign exchange controls for securities market activities.

Figure 2.4: Organizational Structure of the State Bank of Vietnam



The functions, roles and responsibilities, and structure of SBV continue to be supplemented and completed in line with the Law on State Bank of Vietnam, 2010; the Law on Credit Institutions, 2010; and applicable decrees. According to Decree No. 16/2017/ND-CP on Defining the Functions, Tasks, Powers and Organizational Structure of State Bank of Vietnam, dated 17 February 2017, SBV consists of 27 entities, of which 20 entities advise and assist the SBV Governor to perform the state management of central bank functions. The SBV Governor has promulgated several decisions to further define the tasks, mandates, and organizational structure of the SBV functional entities in the following manner:

- i. Monetary Policy Department: advising and assisting the Governor in formulating national monetary policy and utilizing monetary policy tools in line with laws;
- ii. Foreign Exchange Management Department: advising and assisting the Governor in conducting the state management of foreign exchange and foreign exchange operations in line with law;
- iii. Payment Department: advising and assisting the Governor in conducting the state management of payment sector in line with law;

- iv. Credit Department: advising and assisting the Governor in conducting the state management of banking credit operations and managing money market in line with laws;
- v. Monetary Forecasting and Statistics Department: advising and assisting the Governor in conducting monetary forecasts and statistics in line with laws;
- vi. International Cooperation Department: advising and assisting the Governor in conducting the state management of international cooperation and integration under the SBV jurisdiction in line with laws;
- vii. Monetary and Financial Stabilization Department; advising and assisting the Governor in analyzing, assessing, and implementing macroprudential policies for the financial system and formulate measures to prevent financial risks;
- viii. Internal Audit Department: advising and assisting the Governor in conducting an internal audit of the SBV entities' operations;
- ix. Legal Department: advising and assisting the Governor in conducting state legal management and enhancing the socialist legal framework for the banking sector; and
- x. Finance and Accounting Department: advising and assisting the Governor in operating SBV finance, accounting, and basic infrastructure investment, and conducting state management of accounting and basic infrastructure investment of banking sector in line with laws.

In the context of the bond market, SBV undertakes the function of paying agent for government bonds and government-guaranteed bonds. At the same time, SBV also serves as the place of cash settlement for bond transactions in the Viet Nam market, a task that was previously undertaken by commercial banks. This function, started in 2017, is in line with international best practice and acts as a safeguard for the securities settlement system in Viet Nam. SBV also supports the settlement obligations for government bond transactions through the mechanism of overdraft and overnight lending to constituents, using the interbank electronic payment system.

To improve the liquidity and attractiveness of T-bills, the MOF and SBV mutually agreed to have T-bills listed and traded on HNX's bond trading system (see also next section). Figure 2.4 displays the organizational structure of SBV.

5. Hanoi Stock Exchange

HNX, formerly the Hanoi Securities Trading Center, is located in Ha Noi and was launched in March 2005 as an internal organization of the SSC. It handles the auction and trading of stocks, bonds, and derivatives. The Hanoi Securities Trading Center was renamed the Hanoi Stock Exchange in 2009. It was the second securities trading center to open in Viet Nam after the Ho Chi Minh City Securities Trading Center, now HOSE.

HNX is a government-owned limited liability company with single member (for an explanation of this company form see Chapter II.C.1) and operates under the oversight of the SSC. The exchange offers trading membership to domestic market participants qualified under prevailing regulations.

In relation to the bond market, HNX is authorized by the MOF to facilitate the secondary market in government bonds and acts as the only issuing agency for government bonds issued to the market via auction. HNX is also responsible for running a platform to facilitate corporate bond trading, including reviewing and approving the listing of corporate bonds on the trading platform. For more information on HNX and its bond trading platforms and activities, please see Chapter IV. Details on the listing of bonds on HNX can be found in Chapter III.J.

6. Hochiminh Stock Exchange

HOSE, located in Ho Chi Minh City, is the largest exchange in Viet Nam. Established in 2000 as the Ho Chi Minh City Securities Trading Center (HoSTC), it is an administrative agency of the SSC, along with HNX. On 8 August 2007, HoSTC was renamed and upgraded to the Hochiminh Stock Exchange, or HOSE.

Similarly to HNX, HOSE is a government-owned company under the governance of the SSC and operates securities trading platforms for its trading members, admits and administers securities listings, and organizes and monitors the trading members' activities.

Traditionally, large-sized corporations have listed their corporate bonds on HOSE. HOSE administers these listings and its trading members under listing and trading rules approved by the SSC. Please see section I in this chapter for details on the listing and trading rules of the exchanges in Viet Nam.

E. Regulatory Framework for Debt Securities

The SSC is the supervisory authority (in law and regulations often referred to as competent state authority) for the exchanges, VSD, securities companies, securities investment, and fund management companies. The MOF acts as supervisory authority of insurance companies under the provisions of the Law on Insurance Business (as amended). Banks and non-bank financial institutions are supervised by the SBV, pursuant to the Law on Credit Institutions.

Corporate bonds issued by nonpublic offerings and in international markets are under the jurisdiction of the MOF. In addition, the MOF certifies business operators wanting to conduct underwriting of government bonds and private placement bonds.

In the primary market, the issuance of and practices for government securities are regulated by the MOF. Nongovernment securities, including publicly offered corporate bonds, are regulated by the SSC. The issuance of (publicly offered) bonds by banks and other credit institutions is subject to SBV approval, in addition to supervision by the SSC.

In the secondary market, both government securities and corporate bonds are regulated by the SSC. SSC's oversight includes transactions of securities issued by public companies (including listed and unlisted companies), securities companies, fund management companies, securities investment companies, securities exchanges, and VSD. The SSC also promulgates the regulations for the trading, clearing, and settlement of debt securities in the Viet Nam bond market. This includes any revisions to HNX and HOSE rules, and VSD regulations.

The listing of corporate bonds is governed by HNX and HOSE, pursuant to Decree No. 58/2012/ND-CP Providing Detailed Regulations for Implementation of a Number of Articles of the Law on Securities (as amended by Decree No. 60/2015/ND-CP).

Possible imminent changes to the regulatory framework for the issuance of debt securities, as a result of the ongoing review and development plans under the 2017 Roadmap (see Chapters I and X for details), will be reflected in an updated version of the Viet Nam Bond Market Guide.

F. Debt Securities Issuance Regulatory Processes

This description of the regulatory process for debt securities issuance is based on the status of legislation and regulations at the end of June 2018. The potential changes to regulatory processes as a result of the ongoing regulatory review of the bond market will be reflected in an updated version of the Viet Nam Bond Market Guide.

1. Regulatory Processes by Issuer Type

Viet Nam regulations distinguish between domestic and foreign issuers, but there is generally no distinction between general corporate issuers and financial institutions, unless a financial institution intends to issue bonds to satisfy capital requirements, which would require SBV consent. Foreign issuers are subject to the same approval processes for issuance and listing, but have to satisfy additional eligibility and documentation requirements.

Table 2.2: Authorities Involved in Regulatory Processes by Issuer Type

Type of Issuer	SSC Registration (public offers)	MOF (notification to the MOF for private placement)	SBV (financial institutions and nonresidents)	HNX (listing and including profile listing for private placement)
Resident issuer				
Resident nonfinancial institution	X	O		X ^c
Resident financial institution ^{a,b}	X	O	X	
Resident issuing FCY-denominated bonds and notes	N/A	N/A	N/A	N/A
Nonresident issuer^d				
Nonresident nonfinancial institution	X	O	(X)	X ^c
Nonresident financial institution	X	O	X	
Nonresident issuing FCY-denominated bonds and notes	N/A	N/A	N/A	N/A

FCY = foreign currency, HNX = Hanoi Stock Exchange, MOF = Ministry of Finance, N/A = not applicable, SBV = State Bank of Vietnam, SSC = State Securities Commission.

^a Financial institutions (credit institutions) may issue bonds and notes, subject to SBV regulations.

^b Resident financial institutions in Viet Nam include branches of nonresident financial institutions that fall under the supervision of SBV.

^c HNX requires that all necessary approvals from the SSC are to be obtained prior to a listing of bonds or notes. Written consent should be required from SBV in the case of a shareholding credit institution.

^d All matters related to nonresidents should abide by SBV.

Notes: O indicates the requirement in principle to file a report or notification to the MOF in writing for registration; X indicates approval required.

Source: ADB consultants for SF1.

Similarly, a planned bond issuance by an insurance company requires the consent of the MOF as the insurance regulator, and those from a securities business provider may require the consent of the SSC.

Additional approvals from SBV and specific reporting are needed by issuers planning to issue bonds or notes in a foreign currency in the international market. In the domestic bond market in Viet Nam, corporate bonds can only be issued in Vietnamese dong. Only the government sector may issue bonds denominated in foreign currency.

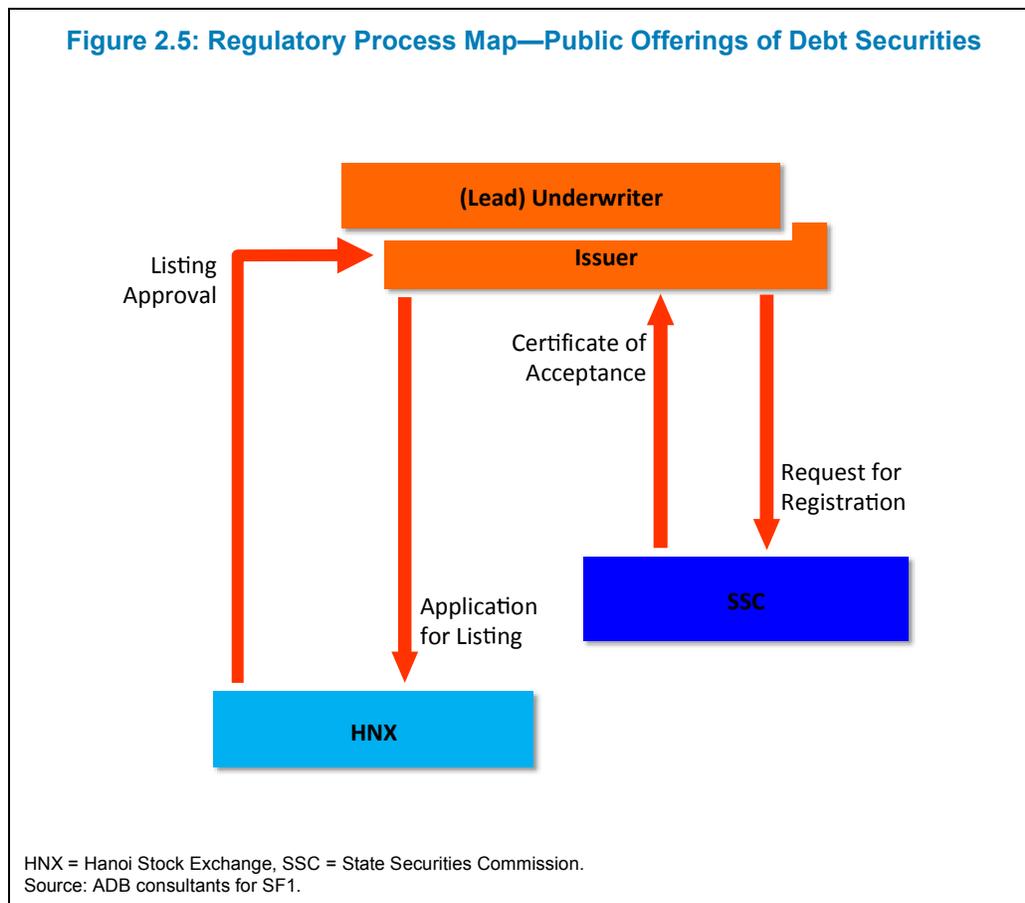
Table 2.2 provides an overview of these regulatory processes by issuer type and identifies which regulatory authority or market institution will be involved in this process. In order to make the issuance processes by issuer type more comparable across ASEAN+3 markets, the table features common issuer type distinctions that are evident in regional markets. Not all markets will distinguish all such issuer types or prescribe approvals. Sovereign issuers are typically exempt from corporate bond issuance approvals but, at the same time, may be subject to different regulatory processes.

The implementation of the bond issuance notification obligation for enterprises to the MOF (as prescribed in Circular No. 211/2012) only serves for the MOF to review and monitor corporate bond issuance and does not constitute an acceptance of the plan on bond issuance of the enterprises by the MOF, or a confirmation that the enterprises are eligible to issue bonds. SBV's involvement depends on whether the bonds are denominated in a foreign currency or the issuer is a domestic credit institution.

2. Regulatory Process Overview

In the case of a public offer, the issuer must appoint an underwriter licensed by the SSC. There is no requirement for the use of an underwriter for a bond or note offering using a private placement to Institutional Investors. However, in cases when an issuer wants to appoint an underwriter, such an underwriter must be licensed by the SSC.

The regulatory process map shown in Figure 2.5 provides an overview of the regulatory processes applicable for public offers of debt securities in Viet Nam; these processes are explained in greater detail in section 4. The regulatory process for private placements differs substantially, in terms of regulatory authorities or market institutions and also in that an approval is not required. Details are provided in section 5.

Figure 2.5: Regulatory Process Map—Public Offerings of Debt Securities

3. Regulatory Process in Case of a Nonresident Issuer

The Law on Securities and related Decree No. 58/2012/ND-CP (amended by Decree No. 60/2015/ND-CP) make it possible for nonresident issuers to offer their debt securities to investors publicly in the Viet Nam market and list the securities on a domestic exchange to raise funds for their business and/or investment in Viet Nam.

The nonresident issuer should also fulfill the applicable conditions under Circular No. 204/2012/TT-BTC on the Dossier of Application for Public Bond Offering in Vietnam of an Enterprise Established and Operated in Accordance with Foreign Law.

Other than these special provisions (please see Chapter II.L.3 for more details), the regulatory processes for debt securities to be issued by nonresidents follow the typical regulatory process for domestic issuers that are explained in sections 4 and 5, even if additional eligibility criteria may have to be met and documentation submitted.

4. Regulatory Process for Public Offers

The provisions for a public offer of debt securities are contained in the Law on Securities (amended by Law No. 62/2010/QH12) and have been augmented through Decree No. 58/2012/ND-CP (amended by Decree No. 60/2015/ND-CP), as well as Circular No. 204/2012/TT-BTC.

In the laws and regulations, an issuer of debt securities is variously referred to as an issuing organization, offering enterprise, or applicant, as the context may demand—all of the terms have the same meaning and may be used interchangeably.

According to the Law on Securities, as specified in Article 12, an enterprise wishing to issue debt securities via a public offer must meet the following eligibility criteria before seeking approval for the issuance:

- i. The enterprise must have, at the time of registration of the offer, a minimum amount of paid-up charter capital of VND10 billion, calculated at the value recorded in the accounting books.
- ii. Business operations in the year immediately preceding the year of registration of the offer must have been profitable, and there must not be accumulated losses calculated up to the year of registration of the offer; there must not be more than [100] overdue debts payable.
- iii. There must be an issue plan and a plan for utilization of and repayment of the proceeds earned from the offer tranche, passed by the board of management, the members' council, or the company owner.
- iv. There must be an undertaking from the issuing organization to discharge obligations to investors regarding conditions of the issue and conditions for payment, ensuring the lawful rights and interests of investors and ensuring other conditions.

Pursuant to the Law on Securities, an issuing organization conducting a public offer of securities, including debt securities, must seek the approval of the SSC; the term used in law and regulations is to “register the public offer of securities” with the SSC.

Exempt from the registration requirement with the SSC are

- i. an offer of bonds by the Government of Viet Nam;
- ii. an offer of an international financial institution's bonds approved by the Government of Viet Nam;
- iii. a public offer of bonds by an SOE converting to a shareholding company; and
- iv. the sale of securities pursuant to a verdict or decision of a court, or the sale of securities by the manager or receiver of assets in a case of bankruptcy or insolvency.

The process for the registration of the public offer is explained on a step-by-step basis below. The illustrated process is for a public offer of debt securities of a domestic enterprise, such as a public company.

The MOF also provides specific regulations on the application for registration of public offers of securities by SOEs, enterprises with foreign-owned capital that convert to become a shareholding company, and newly established enterprises in the infrastructure or high-tech sectors; and for public offers of securities overseas and other particular cases. These other cases are not specifically mentioned here but can be found in the relevant regulations.

Step 1—Application for Registration to the State Securities Commission

For a public offer of debt securities, the issuer must appoint an underwriter licensed by the SSC. The underwriter is expected to support the creation and submission of the application file (registration dossier) to the SSC. The responsibility for the submission of the registration dossier and the information contained therein continues to lie with the issuer.

Article 14.2 of the Law on Securities prescribes the general content of the application file (registration dossier) for the registration of a public offer of bonds, being

- i. a written request for registration of the public offer of bonds (as prescribed further in Annex 01E of Circular No. 204/2012/TT-BTC);
- ii. a prospectus (as prescribed further in Annex 02D of Circular No. 204/2012/TT-BTC);
- iii. the charter of the issuing organization;
- iv. a decision of the board of management, the members' council, or the company owner approving the issue plan and the plan for utilization of and repayment of the proceeds earned from the bond offer tranche;
- v. an undertaking from the issuing organization to discharge obligations to investors regarding conditions of the issue and conditions for payment, ensuring the lawful rights and interests of investors and ensuring other conditions;
- vi. an undertaking to underwrite the issue (if any, according to the form in Annex 03B of Circular No. 204/2012/TT-BTC); and
- vii. the contract for consultancy on the dossier of application for a public bond offering with the securities company, unless the issuer is a securities company.

Pursuant to Article 15 of the Law on Securities, the prospectus for a public offer of bonds shall include the following particulars:

- i. summarized information about the issuing organization including the scale of its managerial organization; its business operations, assets, and financial status; the board of management or members' council or company owner; the director or general director; the deputy director or deputy general director; and the shareholding structure (if any);
- ii. information about the offer tranche and the securities which are the subject of the offer, including conditions of the offer, risk elements, proposed plan on profit and dividends for the next year after the issue of the securities, the issue plan, and the plan for utilization of the proceeds earned from the offer tranche;
- iii. audited financial statements of the issuing organization for the last 2 years, each with an auditor's report; and
- iv. other information as stipulated in the sample form for a prospectus (contained in Annex 02D of Circular 204/2012).

The prospectus for a public offer of bonds must be signed by the chairman of the board of management, or of the members' council, or the company chairman, the director or general director, the financial director, or the accountant of the issuing organization and the legal representative of the underwriter or leading underwriter (if any). There must be a power of attorney if the prospectus is signed on behalf of another person.

As for the contents and treatment of the financial statements required under Article 15, and stipulated in Article 16 of the Law on Securities:

- i. Financial statements shall comprise the accounting balance sheet, a report on results of production and business activities, a cash flow report, and an explanation of the financial statements.
- ii. An issuing organization that is a parent company must lodge consolidated financial statements in accordance with the Law on Enterprise Accounting.
- iii. Annual financial statements must be audited by an approved auditing organization.

- iv. In a case where an application file is lodged prior to 1 March in any 1 year, the annual financial statements of the previous year in an initial application file may be unaudited, but there must also be audited financial statements for the previous 2 consecutive years.
- v. Where a valid application file for registration of a public offer of securities is lodged with the SSC in excess [90] days after the last date of the accounting period of the most recent financial statements submitted with the application file, the issuing organization must prepare additional financial statements up until the most recent month or quarter.

In cases when capital is used for investment, trading, or developing real estate projects, the dossier must contain legal documents relevant to the land tenancy, the investment certificate, the information about the land clearance and compensation, the decision on approving the plan for using the capital from the offering, and the detailed plan for capital use (as stated in Circular No. 204/2012/TT-BTC).

An application file for registration of a public offer of bonds must include a decision of the board of management, the members' council, or the company owner approving the application file.

In the case of a public offer of securities by a credit institution, the application file must include a letter of approval from the SBV.

If a part of or an entire application file for registration of a public offer of securities has been certified by an affiliated organization or individual, then the issuing organization must forward such written certification to the SSC. Issuance consultancy organizations, issuance-underwriting organizations, accredited audit organizations, persons who sign audit reports and any organizations and individuals that certify dossiers of registration of public offerings of securities shall take responsibility for matters related to such dossiers.

The information in an application file must be accurate and truthful, not cause misunderstanding, and must include all the important items that would influence a decision by investors.

If an issuer wishes to issue debt securities that are guaranteed, convertible, or attached with warrants, additional requirements may apply, as stipulated in Articles 12 and 13 of Circular No. 204/2012/TT-BTC.

If an issuer would like to offer debt securities via a public offer in multiple tranches, the prospectus should contain, in addition to the items listed above, the following information (according to Article 14 of Circular No. 204/2012/TT-BTC):

- i. the project or plan for using the capital; and
- ii. the sale plan specifying the anticipated subjects, quantity, and time of each offering; the anticipated offering period must not exceed 90 days.

Before each issue, the issuer must add the documents about the company's condition, the use of money raised from the previous issues if the latter issue is at least 6 months after the previous issue from the day of finishing the previous issuing.

Step 2—Review of Registration Application File by the State Securities Commission

The SSC shall consider the application file within 30 days from the date of receipt of a valid application file (dossier) and, if it approves, issue a certificate of acceptance (of registration) of the public offer of securities. In a case of refusal, the SSC shall provide a written notice specifying its reasons for the refusal.

A certificate of acceptance (of registration) of a public offer of securities from the SSC shall be deemed to be written confirmation that the application file for registration of the offer satisfies all the conditions and procedures stipulated by law.

Step 3—Announcement and Actual Offer

Within 7 days from the date of effectiveness of a certificate of acceptance (of registration) of a public offer of securities, the issuing organization shall be obliged to make an issue announcement in three consecutive editions of a written or electronic newspaper.

Securities may only be offered to the public after these announcements have been made.

Step 4—Securities Distribution

Pursuant to Article 21 of the Law on Securities, the debt securities issued via a public offer may only be distributed after the issuing organization has ensured that securities purchasers have accessed the prospectus in the application file for registration of the public issue of securities announced at locations set out in the issue announcement.

The issuing organization, underwriters, or agency organizations must distribute securities in a fair and public manner and must ensure that the time limit within which investors may register to purchase securities shall be a minimum of 20 days; this time limit must be set out in the issue announcement. In a case where the volume of securities registered to be purchased exceeds the permitted volume for the issue, the issuing organization or underwriter must distribute all of the number of securities permitted for the issue to the investors in the proportion in which each investor registered to purchase.

Purchase monies for securities must be paid into an escrow bank account and retained until completion of the offer tranche and until a report has been made to the SSC.

The issuing organization must complete distribution of the securities within 90 days from the date of effectiveness of the certificate of acceptance (of registration) of the public offer of securities. If the issuing organization is unable to complete the public distribution of securities within this time, then the SSC may consider an extension of the time for the securities distribution but shall not grant an extension beyond 30 days.

The issuing organization or underwriter shall, within a time limit of 10 days from the end of an offer tranche, report the results of the offer tranche to the SSC, enclosing a letter of confirmation from the bank where the escrow account was opened and stipulating the amount of the proceeds received from the offer tranche.

The issuing organization, underwriters, or agency organizations must deliver the securities or certificates of ownership of the securities to purchasers within 30 days from the date of the end of an offer tranche.

Step 6—Listing of Debt Securities (Optional)

The issuer may wish to list their corporate bonds on either HNX or HOSE. If so, the issuer and the issued bonds will need to fulfill eligibility criteria stipulated in Chapter 5 (Listing, Registration for Trading, and Prohibited Transactions) of Decree No.

58/2012/ND-CP (amended by Decree No. 60/2015/ND-CP), and observe the listing rules issued by the respective exchange.

Please see details on the listing eligibility and listing rules in section I of this chapter and in Chapter III.J for a complete description of the listing process for debt securities.

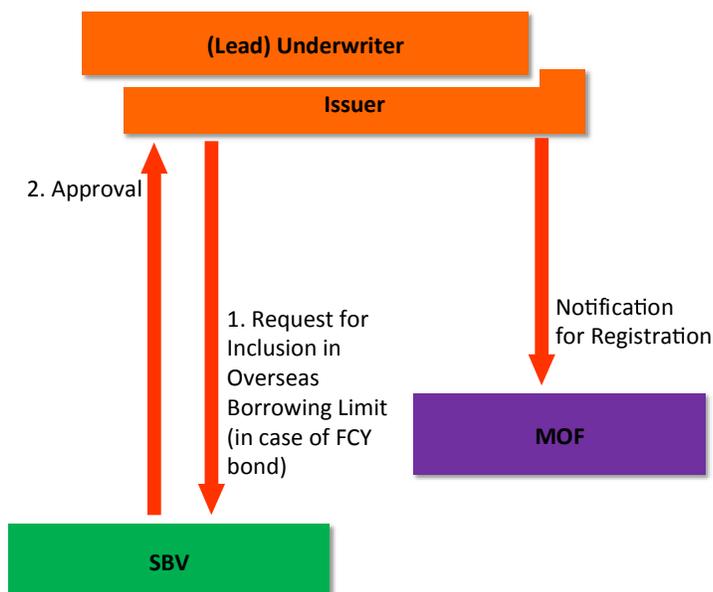
5. Regulatory Process for Private Placements

In contrast to the issuance of debt securities via a public offering, offers via private placement do not require the approval of the SSC. Instead, the issuer needs to notify the MOF of its intention to issue a private placement. Figure 2.6 provides an overview of the regulatory processes required for straight bonds and individual steps are explained hereafter.

The appointment of an underwriter is not mandated for an issuance via private placements, but should the issuer decide to appoint an underwriter, this firm will have to be licensed by the SSC.

Decree No. 90/2011/ND-CP contains the detailed prescriptions for the issuance of bonds and notes via private placement. As mentioned previously, the descriptions in the Viet Nam Bond Market Guide follow the regulatory requirements present at the time of its compilation. The comprehensive review of the regulatory framework, in particular for bonds and notes issued via private placement, is expected to result in a number of changes, which will be reflected in a subsequent version of the Viet Nam Bond Market Guide.

Figure 2.6: Regulatory Process for Private Placements of Bonds



FCY = foreign currency, MOF = Ministry of Finance, SBV = State Bank of Vietnam.

Note: Bonds in this context refer to straight bonds only. Additional approvals may be required for Issuance of convertible bonds or those with warrants (see text).

Source: ADB consultants for SF1.

Step 1—Submission of Notification to the Ministry of Finance

Pursuant to Article 30 of Decree No. 90/2011/ND-CP, when planning to issue straight corporate bonds by private placement, the bond-issuing enterprises must send a notification in writing for registration to the MOF at least 3 working days prior to the commencement of the bond issuance. The MOF provides specific guidance on the contents of the notification in Annex 1 of the decree.

In contrast, bond-issuing businesses that are public companies shall register plans on any issuance of convertible bonds or bonds accompanied with warrants only after they are approved and accepted by the competent authorities and may issue bonds only upon obtaining written opinions of the SSC. In general, while sending the bond issuance notification to the MOF, enterprises are responsible for sending the bond issuance notification to the competent authorities for any approval and acceptance of the bond issuance that may be required.

Step 2—Disclosure of Information to Investors

For a domestic bond or note issuance, Article 31 of Decree No. 90/2011/ND-CP stipulates that an issuing business is required to disclose information to investors registering for the bond or note purchase. Information to be disclosed must not contain advertisements and offers, and must not be publicized in the mass media, except in the case of information disclosure under the Law on Securities and relevant legal documents. Information to be disclosed covers the following:

- i. total value and term of bond or note;
- ii. financial status of the business at the time of issuance;
- iii. bond issuance plan, plan on use of money raised through the bond or note issuance, and plan on payment of principal and interest approved by the competent authorities (if so applicable); and
- iv. result of a rating by a credit rating agency (if any).

Clause 2, Article 31 of Decree No. 90/2011/ND-CP also states that enterprises wishing to issue bonds or notes in the international market shall disclose information under the prevailing regulations of the issuance markets.

Apart from complying with this decree, issuing businesses that are public companies shall disclose information under prevailing provisions of the Law on Securities.

6. Obligations after Approval and after Issuance

Enterprises issuing bonds or notes in the Viet Nam market are subject to a number of specific reporting requirements following the issuance of the bonds or notes. The applicable laws or decrees differ depending on the method of issuance, as explained below.

a. Public Offers

Pursuant to Article 31 of Decree No. 58/2012/ND-CP (amended by Decree No. 60/2015/ND-CP), the issuing business shall disclose information on the result of the issuance to the SCC within 10 days after completing the bond or note issuance via public offer and, at the same time, publish information about the results of the offer tranche in the mass media in accordance with regulations.

The report on the results of the offer for sale sent to the SSC shall at the same time be sent to VSD and the stock exchange in the country where shares of the issuing organization are currently listed, as well as to other bodies in accordance with specialized law.

The MOF provides specific regulations on the form of such reports and items of information to be published.

Issuing organizations making a public offer of bonds or notes are also subject to the periodic disclosure of information and must commit to carry out extraordinary disclosure under specific circumstances under the law. Reporting obligations after approval and after issuance for public offers are stipulated in Articles 101 and 102 of the Law on Securities. Please see section G in this chapter for details on the continuous disclosure requirements for public offers and by public companies, respectively.

b. Private Placements

Pursuant to Article 32 of Decree No. 90/2011/ND-CP, the issuing business shall disclose information on the result of the issuance to the authorities having approved and accepted the bond issuance plan and concurrently to the MOF within 15 days after completing the bond or note issuance via private placement, and containing the following principal details:

- i. the successfully issued bond volume; and
- ii. bond or note terms and interest rates.

For the issuance of bonds to the international market, issuing businesses shall send reports on issuance results to SBV.

7. Issuance Process for a Domestic Financial Institution (Credit Institution)

The issuance process for public offer of bonds and private placements of bonds by a financial institution, domestically referred to as a credit institution in law and regulations, largely follows the processes described under sections 4 and 5, respectively. However, the SBV may impose specific disclosure prior to issuance, and approvals of such issuance for its constituents.

8. Regulatory Process for Foreign-Currency-Denominated Debt Instruments

Under prevailing laws and regulations, the issuance of foreign-currency-denominated bonds or notes in the domestic bond market in Viet Nam may only be undertaken by government entities. Domestically issued corporate bonds may only be denominated in Vietnamese dong. As such, there is no separate process for such issuance.

The currency of a corporate bond issue in the international market can be a freely convertible foreign currency. Pursuant to Article 7 of Decree No. 90/2011/ND-CP, the currency used to pay bond principal and interest must be the same type of currency used in issuance.

G. Continuous Disclosure Requirements in the Viet Nam Bond Market

1. Summary of Continuous Disclosure for Viet Nam Companies

In Viet Nam, both the private company and the public company (joint-stock company or shareholding company) are required to disclose four types of basic financial statements: (i) balance sheet, (ii) income statement, (iii) cash flow statement, and (iv) notes attached schedule. There is no need to include a separate statement of changes in shareholders' equity as one of the basic financial statements since it should be included in the notes.

Companies are required to submit the audited financial statements to the Investment Certificate Issuing Authority, the MOF, and the Municipal Bureau of Statistics within 90 days after the closing date, according to the Law on Enterprise Accounting.

In addition, it is necessary to disclose the financial statements within 120 days after the closing date by way of publication, an announcement in letter form, or similar means.

In the case of a public company (joint-stock company or shareholding company), it is necessary to disclose the financial statements in accordance with the Law on Securities, in addition to the Law on Enterprise Accounting. According to the latter law, it is necessary to complete the audit within 90 days from the closing date and disclose within 10 days from the end date of the audit.

For listed companies, provisions of the exchanges are added, and the disclosure of interim financial statements or quarterly financial statements is required. Quarterly financial statements must be disclosed within 20 days after the quarterly closing date.

2. Disclosure for Public Offers and Listing of Corporate Bonds

a. Law on Securities

Reporting obligations after approval and after issuance for public offers are stipulated in Articles 101 and 102 of the Law on Securities. Accordingly, an issuing organization that completes a public offer of bonds or notes must comply with the obligation to disclose information under Article 102 of the Law on Securities. The period disclosure requirements are stated in Article 101.

Notably, an issuing organization making a public offer of bonds must make an extraordinary disclosure of information within 72 hours of the occurrence of one of the events stipulated in sub clauses (a), (b), and (c) of Clause 2, and in Clause 3, Article 101 of the Law on Securities.

b. Circular No. 155/2015/TT-BTC

Circular No. 155/2015/TT-BTC stipulates information disclosure of organizations issuing and/or listing corporate bonds. The salient points are summarized below.

Public companies (joint-stock company or shareholding company) are required to disclose information as follows:

- i. Each public company must disclose the annual financial statement that is audited by an accredited audit organization following the rules stated in Article 8 of the circular.

- ii. Each public company must prepare an annual report and disclose it within 20 days from the disclosing date of the audited annual financial statement provided that it does not exceed 120 days from the end date of the financial year.
- iii. Information disclosure of offering and report on use of funds:
 - a) Each public company conducting a separate securities offering or public securities offering must perform the information disclosure as prescribed in the Law on Securities.
 - b) In case of a capital mobilization for the execution of an investment project, every 6 months from the closing of the offering until the completion of the project, or until full disbursement of the raised funds, the public company must send a report on the use of the raised funds to the SSC. If there are changes to the plan for the use of funds or purposes of the use of funds, within 10 days from the date on which the decision on changes is made, the issuer must send a report to the SSC and disclose the changes on its website. Every change must be reported in the latest general meeting of shareholders, or a detailed description of the use of raised funds must be made in the audited annual financial statement.

An organization listing corporate bonds that is a public company shall also disclose information as prescribed in Articles 11 (Periodic Information Disclosure), 12 (Irregular Information Disclosure), and 13 (Information Disclosure on Request) of Circular No. 155/2015/TT-BTC. Please also see section I.2 in this chapter for details on disclosure for companies with debt securities listed on HNX.

3. Disclosure Requirement in Case of Private Placement of Corporate Bonds

Public companies (joint-stock company or shareholding company) are required to disclose information based on Article 8 (Periodic Information Disclosure for Public Companies) of Circular No. 155/2015/TT-BTC.

In addition, organizations issuing corporate bonds via private placement should fulfill the disclosure requirements described in Decree No. 90/2011/ND-CP. If the privately placed corporate bonds are listed on HNX, the issuing organization should also fulfill the requirements of Article 11 (Periodic Information Disclosure for Listed Organizations) in Circular No. 155/2015/TT-BTC and the related HNX rules. For a description of the disclosure requirements imposed by HNX, please see section I.2 in this chapter.

Articles 31 (Disclosure of Information) and 32 (Reporting Regime) of Decree No. 90/2011/ND-CP on Issuance of Corporate Bonds contain specific provisions on the initial and continuous disclosure requirements for private placements, as summarized below.

a. Initial Disclosure Requirements

For a domestic bond issuance, the issuing business shall disclose information to investors registering for bond purchase. Information to be disclosed must not contain advertisements and offers and must not be publicized in the mass media, except the case of information disclosure under the Law on Securities and relevant legal documents. Information to be disclosed covers:

- i. total value and term of bonds;
- ii. financial status of the business at the time of issuance;
- iii. bond issuance plan, plan on the use of money raised through the bond issuance, and plan on payment of bond principal and interest approved by competent authorities; and
- iv. results of rating by a credit rating agency (if any).

Within 15 days after completing a bond issuance, the issuing business shall disclose information on the results of the issuance and containing the following principal details:

- i. the successfully issued bond volume; and
- ii. bond terms and interest rate.

Within 15 days after completing the issuance of bonds, an issuing business shall report issuance results to the authorities who approved and accepted the bond issuance plan and concurrently to the MOF.

For the issuance of bonds in the international market, issuing businesses shall send reports on issuance results to SBV.

b. Continuous Disclosure Requirements

The issuer of a corporate bond issued via private placement also needs to carry out continuous disclosure, such as on the payment of bond principal and interest and the use of capital raised through bond issuance.

Annually, before the deadline for payment of the entire bond principal and interest, issuing businesses shall report on the payment of bond principal and interest and the use of capital raised through the bond issuance to the authorities who approved and accepted the bond issuance plans, and concurrently to the MOF and SBV for issuance of bonds to the international market.

Within 15 days after the deadline for payment of bond principal and interest, issuing businesses shall report on the payment of bond principal and interest and the use of capital raised through the bond issuance to the authorities who approved and accepted bond issuance plans, and concurrently to the MOF and SBV for issuance of bonds to the international market.

c. Disclosure Requirements upon Conversion

For convertible bonds or bonds accompanied with warrants, within 10 days after completing the conversion of convertible bonds into stocks or exercising the right of holders of bonds accompanied with warrants to purchase stocks, an issuing business shall send a report to the authorities who approved and accepted the bond issuance, plan and concurrently to the MOF and SBV for issuance of bonds to the international market. Such a report contains the following information:

- i. total value of issued bonds and total value of converted bonds;
- ii. code and volume of converted bonds and distribution of bonds among investors; and
- iii. projected time of depositing, listing, and trading in convertible bonds and written requests for depositing, listing, and trading (if any).

H. Self-Regulatory Organizations and Market Participant Organizations

While there may be no self-regulatory organizations (SROs) in the bond market at present, the legal and regulatory framework in Viet Nam recognizes the concept of a market participant organization as market infrastructure, market participant, or market body with a specific mandate.

1. Self-Regulatory Organizations in the Viet Nam Bond Market

At present, there are no SROs in the Viet Nam bond market.

Both HNX and HOSE are government-owned, single member limited liability companies (see Chapter II.C for details) and operate under the oversight of the SSC. As such, the exchanges cannot be classified as SROs. Similarly, VSD is also a government-owned limited liability company with single member and, hence, is not considered an SRO.

At the same time, the exchanges and VSD set rules for their constituents and specific practices for their listing, trading, and settlement functions under their mandate as a market or settlement system operator. These rules and practices have to be approved by the SSC before being issued but are monitored and administered by the exchanges and VSD.

2. Market Participant Organizations

HNX, HOSE, VSD, securities companies, and fund management companies are considered market participant organizations under the law in Viet Nam.

Market participant organizations in the Viet Nam capital market do not have the legal basis comparable to an SRO. Instead, these organizations function within their mandate, either conferred by the regulatory authorities or market participants.

a. Vietnam Securities Depository

VSD is the single central securities depository in Viet Nam and provides securities registration, depository, and derivatives market-related services and post-trade supporting services to local market participants. Settlement for transactions in both government and corporate bonds listed on the exchanges are conducted via VSD.

VSD was established in accordance with Decision No. 189/2005/QĐ-TTg, dated 27 July 2005, by the Government of Viet Nam, and came into operation in July 2006. VSD changed its company form to a limited liability company with single member owned by the government in 2009 pursuant to Decision No. 171/2008/QĐ-TTg of the Prime Minister on Establishment of Vietnam Securities Depository Based on the Conversion and Reorganization of VSD into a Single Member Wholly State Owned Limited Liability Company as Governed by Securities Law, dated 18 December 2008.

VSD's roles and functions in the Viet Nam bond market include the following: (i) provide services of registration, depository, and clearing and settlement for listed bonds on the exchanges; (ii) provide corporate-actions-related services; (iii) issue the local securities code for bonds and issue their International Securities Identification Number; (iv) organize rights implementation for bondholders on behalf of bond issuers; (v) serve as the paying agent for bond

interest and dividends; (vi) serve as the agency for the transfer and carry out the ownership transfer for bonds traded on the exchanges; (vii) securities borrowing and lending related services; and (viii) derivatives related businesses.

As of 31 December 2017, the number of investor accounts managed by VSD was 1,921,554, an increase of 12% over 2016. There were 1,898,993 domestic investor accounts and 22,561 foreign investor accounts, with the following breakdown:

Domestic investors	
- Individuals	1,890,521
- Institutions	8,472
- Total	1,898,993

Foreign investors	
- Individuals	19,696
- Institutions	2,865
- Total	22,561

Article 52 of the Law on Securities requires all public companies to register their securities with VSD, the transfer of ownership is affected by VSD not only for transactions done on the exchange platforms but also for special cases such as a merger between enterprises and off-exchange transactions. Some specific exceptions exist, such as for ownership transfers as a result of inheritance or court orders.

As for bonds and bills, as of 31 December 2017, 1,623 issuers with 2,226 securities codes were registered at VSD, including 618 bond codes and T-bill codes, of which 594 were government bond and T-bill codes, and 20 were corporate bond codes.

As of 31 December 2017, the total number of registered securities units at VSD was nearly 117 billion, an increase of 23% over 2016; the number of registered bonds and T-bills at VSD was approximately 10.2 billion securities units (about 9% of the total registered number).

b. Vietnam Association of Securities Business

The Vietnam Association of Securities Business (VASB) is an industry organization established in May 2004. VASB comprises 14 members, including 13 licensed securities companies and an investment fund management company. The association facilitates relations among its members and acts as a link among market participants, securities trading agencies, state entities, financial organizations, and investors.

Among its work, VASB has created the Ethics Guidelines for Securities Companies, which define best practices for its industry but do not have a legally binding character. Enforcement of ethics and other practices pursuant to the Law on Securities and relevant decrees remains within the remit of the SSC.

c. Vietnam Bond Market Association

The VBMA is a nonprofit organization dedicated to promoting the professional and effective development of the Viet Nam bond market, guaranteeing the legitimate rights and interests of members and, at the same time, ensuring the national interest.

The VBMA has created and maintains a number of industry best practices, including the standard repo agreement.

Since its creation in December 2009, the VBMA has become an important market facilitator. This is evident through a number of mentions in the 2017 Roadmap, which stipulated the VBMA's objectives going forward:

- i. reinforce communication with market participants and enhance the market's operational efficiency;
- ii. organize dialogue and networking periodically between the MOF, SBV, and market participants to discuss and agree on solutions to develop the bond market;
- iii. train and require market participants to comply with regulations while participating in the bond market; and
- iv. complete and promulgate standards for market development as ethical standards, trading standards, standards for methods of corporate bond issuance, sampling prospectus on a consistent basis with the legal framework in order to unify methods of calculation, quotation, and how to conduct transactions in the secondary market.

Given the objectives set for the VBMA by the regulatory authorities, its role and function already come close to what is expected of an SRO.

d. Vietnam Association of Financial Investors

The Vietnam Association of Financial Investors acts as an organization with the protection of investors in mind, but is based on voluntary participation and its work and recommendations have no legally binding character. The Vietnam Association of Financial Investors is a nonprofit organization established under Decision No. 74/2003/QD-BNV of the Ministry of Interior in November 2003. Its purpose is to bring together investors, policymakers, and financial advisers to strengthen and enhance Viet Nam's capital markets.

I. Hanoi Stock Exchange Rules Related to Listing, Disclosure, and Trading of Debt Securities

HNX, here used as an example to demonstrate the exchange rules in the Viet Nam market, publishes its listing, disclosure, and trading rules in the form of HNX decisions or regulations, which are available from its website.⁶ The decisions and regulations need to be approved by the SSC prior to publication.

1. Debt Securities Listing Rules

HNX governs the listing of debt securities pursuant to Decision 639/QD-SGDHN on Promulgating Securities Listing Regulation of Hanoi Stock Exchange, issued on 13 October 2016. The decision contains listing eligibility criteria and stipulates the listing application documentation and process, the obligations of listed organizations, and delisting processes.

This decision, as well as other regulatory instruments, refer to the process of listing as the "registration for listing" or "listing registration."

⁶ See <https://hnx.vn/en-gb/van-ban-phap-ly.html>

Please see Chapter III.J for a complete description of the listing process applicable to debt securities on HNX.

2. Debt Securities-Related Disclosure Requirements

The basis for information disclosure by listed organizations was set through the publication of Circular No. 155/2015/TT-BTC Providing Guidelines for Information Disclosure on Securities Market, issued by the MOF on 6 October 2015 and effective 1 January 2016.

Disclosure rules and obligations for listed organizations on HNX are defined in Decision No. 606/QĐ-SGDHN on Regulation on Information Disclosure, dated 29 September 2016. Some of the pertinent provisions of the circular and regulation are listed below for easy reference. Please also see section G in this chapter for a description of the generic continuous disclosure requirements for public companies and listed organizations in Viet Nam.

Circular No. 155/2015/TT-BTC defines the means of information disclosure to include (i) websites of disclosers, (ii) information disclosure system of the SSC, (iii) the website of the exchange, and (iv) the website of VSD; as well as other means of mass media as prescribed, such as print newspapers or online newspapers. Listed organizations and registered organizations; affiliated securities companies; listed public funds, and public investment companies shall disclose information using at least the means prescribed in points (i), (ii), and (iii) above.

Article 2 of the regulation includes a good definition of the HNX Corporate Information Management System (CIMS). It defines CIMS as the system receiving reports and disclosure information on HNX from listed organizations, trading registration organizations, member securities companies, and fund management companies.

According to Article 7, the information allowed to be sent by users via CIMS include annual financial statements, audited semiannual financial statements (applied for listed organization, large-scale trading registration organization, and member securities company), and financial adequacy ratio report reviewed on 30 June and audited on 31 December (applied for member securities company).

In contrast, organizations and individuals not registered for CIMS need to send disclosure information simultaneously in written form through dispatch or directly at HNX, and send electronic data to the e-mail address of HNX published on the HNX website.

a. Information Disclosure of Listed Organizations and Large-Scale Trading Registration Organization

Pursuant to Article 11 of Decision No. 606, the principal information disclosure of listed and large-scale organizations consists of periodic or continuous information disclosure, extraordinary information disclosure, and information disclosure on request. The individual disclosure categories reference provisions in Circular No. 155/2015/TT-BTC are as follows:

1) Periodic (continuous) information disclosure

Listed organizations and large-scale trading registration organizations shall disclose information, such as the annual financial statements that are audited by an accredited audit organization, biannual financial statements that are reviewed by an accredited audit organization, quarterly financial

statement or the reviewed quarterly financial statement (if any) periodically as prescribed in Article 11, Circular No. 155/2015/TT-BTC; Clause 1, Article 10 in this regulation and according to the following provisions:

- a) Explanation of difference of at least 5% in business result as prescribed in points c and d of Clause 4, Article 11 of Circular No. 155/2015/TT-BTC is applied to net revenue and profit after tax in the income statement of listed organizations and large-scale trading registration organization.
- b) For corporate governance reports as prescribed in Clause 6, Article 11 of Circular No. 155/2015/TT-BTC, the due date for disclosing the 6-month corporate governance report is no later than 30 July and the due date for disclosing the annual corporate governance report is no later than 30 January of the following year.

In addition to conducting a corporate governance report according to Appendix 5 of Circular No. 155/2015/TT-BTC, the listed organization shall send electronic data of the disclosure information on corporate governance according to Form 09_CBTT/SGDHN issued herewith in Excel format to HNX.

2) Extraordinary information disclosure

Listed organizations and large-scale trading registration organizations must perform extraordinary information disclosure in accordance with Article 12 of Circular No. 155/2015/TT-BTC and Clause 2, Article 10 of this regulation.

3) Information disclosure on request

The listed organization or the large-scale trading registration organization shall perform information disclosure upon request as prescribed in Article 13 of Circular No. 155/2015/TT-BTC.

The beginning and ending time of information disclosure of large-scale trading registration organizations is determined as follows:

- a) The trading registration organization shall begin to perform the information disclosure duty of large-cap trading registration organization when named as a large-cap trading registration organization in a list issued by VSD.
- b) For 1 year from the date of no longer being a large-scale trading registration organization in the list issued by VSD, the trading registration organization shall continue to disclose information as a large-scale trading registration organization as prescribed hereunder.
- c) Within 5 working days before the due date of disclosure for a large-scale trading registration organization, the trading registration organization shall send an announcement to HNX on the termination of information disclosure for a large-scale trading registration organization according to Form 10_CBTT/SGDHN issued herewith.

b. Information disclosure of organizations listing corporate bonds (Article 12 of Decision No. 606)

Organizations listing corporate bonds on HNX need to observe the information disclosure requirements as prescribed in Article 15 of Circular No. 155/2015/TT-BTC (Information Disclosure of Organizations Listing Corporate Bonds) and Clause 2 of Article 10 (Extraordinary Information Disclosure) of the regulation.

1) Extraordinary information disclosure

The organization listing corporate bonds on HNX must perform extraordinary information disclosure within 24 hours according to Article 9 of Circular No. 155/2015/TT-BTC.

Extraordinary information disclosure includes (i) the replacement, appointment, reappointment, or resignation of insiders; (ii) change in related person of insiders; (iii) change in certificate of enterprise registration, certificate of establishment or operation license (e.g., name of the organization, address, charter capital, business line, and legal representative, among others); and (iv) change in enterprise model (contributing capital to establish a company or buying stakes of a company leading such company to become a subsidiary, a joint venture company, or an associate; or the decision on selling stakes of its subsidiary, joint venture company, or associate leading such company to be no longer its subsidiary, joint venture company or an associate; or the decision on dissolution of a subsidiary, a joint venture company, or an associate), apart from information disclosure as prescribed in relevant law.

3. Debt Securities Trading Rules and Conventions

Table 2.3 indicates some of the trading rules and conventions followed at HNX. The trading rules and conventions for the government bond market are governed by the Regulation on Transaction of Government Bonds, Government-Guaranteed Bonds and Municipal Government Bonds, last issued by HNX on 5 July 2017. These and other applicable regulations are available for download from the HNX website.⁷

⁷ See <https://hnx.vn/en-gb/van-ban-phap-ly.html>

Table 2.3: Hanoi Stock Exchange Trading Rules and Market Conventions

Items	Contents
Market Participants in the Trading System	Registered members including commercial banks and securities firms
Trading System Infrastructure	Bond Trading System developed by a local software firm
Securities Traded	Government bonds, government-guaranteed bonds, municipal bonds, T-bills
Quoting Convention	For bonds: quotes in clean price For T-bills: quotes in settlement price
Volume Convention	Bond amount
Minimum Trading Size	For electronic negotiation: 100 bond units For reporting (OTC trade): 100 bond units
Minimum Increment	VND1
Day Count Convention	Short-term instruments: actual/365 Bonds: actual/actual
Standard Settlement Cycle	T+1 or the next business day following the trade date
Closed Period	No closed period applies in the market. Trading and settlement is allowed in the period between the record date up to the coupon payment date, but trading is carried out on an ex-coupon basis. For trading close to the maturity date, the last trading date is 1 working day prior to the last record date.
CCP	There is no CCP for the fixed-income market.

CCP = central counterparty, OTC = over-the-counter, T = trade date, VND = Vietnamese dong.

Note: A bond unit is VND100,000.

Source: Hanoi Stock Exchange.

J. Market Entry Requirements (Nonresidents)

1. Nonresident Issuers

Nonresident issuers may issue bonds and notes in the Viet Nam market, under explicit permission given in the Law on Securities, related decrees, and relevant circulars. The nonresident issuers will have to observe a number of specific provisions for issuance application and documentation, as explained in Chapter II.L.3.

While principally possible, nonresident-issuer, publicly offered corporate bonds have not been issued to date. At the same time, it has not been confirmed yet whether nonresident issuers have issued private placement bonds in Viet Nam.

2. Foreign Investors

The Vietnamese bond market is open to local and foreign investors. Currently, there is no regulation that limits foreign ownership in debt securities. Foreign investors can invest without restrictions in government bonds, government-backed bonds, local government bonds, and corporate bonds, unless otherwise stipulated by the issuing organization.

Foreign investors wishing to invest in listed or unlisted securities issued by a public company have to complete a number of steps before they are able to invest, as mentioned below and explained in the following sections.

Foreign investors need to

- i. obtain a securities trading code (STC) from VSD,
- ii. open a securities account with a domestic custodian,
- iii. have the custodian open a corresponding securities account in the foreign investor's name with VSD,
- iv. open an indirect investment capital account in Vietnamese dong at an authorized bank in Viet Nam, and
- v. have the authorized bank report this investment capital account to the SBV.

3. Allocation of Securities Trading Code for Foreign Investors

Foreign investors (both institutional and individual) shall apply for an STC with VSD when planning to invest in the Viet Nam securities market. This application is typically processed via the custodian appointed by the foreign investor, being a depository member of VSD.

Each foreign investor will be granted one securities trading code. A foreign securities company will be granted two securities trading codes: one for the proprietary trading account and one for the brokerage account.

Foreign investment funds, a multiple investment managers fund, foreign governmental investment organizations, and international intergovernmental investment organizations may apply for multiple trading codes, according to the following principles:

- i. each investment portfolio of foreign government investment organizations or international intergovernmental investment organizations deposited at a custodian bank is granted one trading code; and
- ii. each investment portfolio of multiple investment managers funds managed by a fund manager is granted one trading code; any investment portfolio managed by a fund itself is also granted one trading code.

If changes to the information on the foreign investor occur, the foreign investor, via the depository member, shall report the following to VSD within 30 days of such changes of information:

- i. change of custodian bank where they open their indirect investment accounts;
- ii. change of name, head office, contact address of investors, or trading representative (if any);
- iii. change of passport number or other valid personal certificate (for foreign individual investors), number of business registration certificate or other relevant identifying documents issued by foreign authorities (for foreign institutional investors); and

- iv. change due to a split, merger, or acquisition of the foreign investor.

Changes reported by foreign investors have to be confirmed in writing by VSD.

Detailed procedures of applying for a securities trading code are specified in (i) Circular No. 123/2015/TT-BTC Guiding Investment Activities of Foreign Investors in Vietnam Securities Market, issued 18 August 2015 by the MOF; and (ii) Decision No. 213/QD-VSD Updated Guideline on Registration Securities Trading Code of Foreign Investor, issued by VSD on 18 December 2015. Please see section L.1 for details on the procedures and the components of the STC application.

K. Market Exit Requirements (Nonresidents)

1. Nonresident Issuers

There are no specific market exit requirements for nonresident (foreign) issuers.

The remittance of foreign currency for the purchase of Vietnamese dong to support interest payments and the redemption of debt securities is possible through an indirectly-invested capital account, typically referred to as a capital contribution account (CCA).

2. Foreign Investors

There are no specific market exit requirements for nonresident investors. Upon the sale of debt securities, foreign investors are free to repatriate proceeds, including interest and investment gains, using their CCA.

The disposal of debt securities is subject to applicable taxation on a transaction. Foreign investors must complete the declaration and payment of personal income tax (regardless of whether profit arises or not under point c of Clause 4, Article 26 of Circular No. 111/2013/TT-BTC), using standard Form 12/KK-TNCN (in connection with Circular No. 156/2013/TT-BTC).⁸

L. Regulations and Limitations Relevant for Nonresidents

The Viet Nam bond market is open to foreign (nonresident) investors. Foreign investors can invest without restrictions in government bonds, government-guaranteed bonds, and local government (municipal) bonds. Certain limits apply to investment in corporate bonds, most notably convertible bonds, in particular those issued by commercial banks.

Nonresidents need to apply for an STC, but while the STC is required for all investors, including domestic individual and institutions, there are added requirements in the application for nonresidents (see section 1 for details).

Nonresidents will need to open an indirectly-invested capital account, typically referred to as a CCA, in Vietnamese dong. Using the CCA, nonresident investors are able to freely execute foreign exchange transactions; details are explained in section 2.

⁸ The exact language from the aforementioned circular is as follows: "If the company changes the list of capital contributors when transferring capital without documents proving that the capital transferor has fulfilled the tax obligations, the transferee company shall declare and pay tax on the person's behalf."

Overall, Vietnamese authorities have been trying to ease any applicable limitations or restrictions on nonresident investors with regard to bond transactions, including the buying and selling of foreign currencies.

1. Securities Trading Code

According to Articles 3 and 4 of Circular No. 123/2015/TT-BTC, foreign investors who wish to invest in Viet Nam must first apply to VSD to obtain an STC before establishing an account and trading in listed and/or unlisted securities in Viet Nam. The application is submitted via the investor's custodian or other depository member. VSD uses the STC to monitor foreign ownership limits in the equity market.

According to Decree No. 58/2012/ND-CP, amended by Decree No. 60/2015/ND-CP and Circular No. 123/2015/TT-BTC, foreign investors are

- i. individuals with foreign nationalities residing in foreign jurisdictions;
- ii. organizations established and operated under foreign laws and the branches of such organizations, including branches in Viet Nam; and
- iii. 51% or more foreign-owned organizations set up and operated under Vietnamese laws and the branches of such organizations.

The investor must complete VSD's Securities Trading Code Application Form for Offshore Foreign Institutional Investors to invest in Viet Nam's securities markets. The form must be signed by an authorized signatory of the applicant's office. Foreign funds are classified as foreign organizations and shall apply for a trading code as mentioned in under ii above. If the investor is under a fund-sub-fund structure when applying for an STC, the account must be named either the

- i. name of the sub-fund, or
- ii. name of the fund—name of the sub-fund.

The investor—usually assisted by their custodian or another market intermediary, who are depository members—must provide supporting documents to prove the legal status of the applicant. Investors must also ensure that the names are consistent between supporting documents and they exactly match the name used on the application form. If the names do not match, documentation showing the change in name must also be submitted.

Compared to past requirements, the present application process has been simplified. The application comprises only the following documents:

- i. the Application for Registration of Securities Trading Code Form, which is a standard form (an authorized signatory of the foreign investor must sign this form); and
- ii. a power of attorney to authorize a VSD depository member to submit the application to VSD (the power of attorney form is typically provided by the depository member).

Where a foreign investor is an investment fund, the application should also include a valid copy of the certificate registering the establishment of the fund or equivalent data certifying the legal basis for the establishment of the foreign institution, issued by the competent authority of the country of domicile. If those documents are not available, the investor can instead submit one of the following documents: (i) website excerpts of the competent authority of the country of domicile about the fund; (ii) a copy of the fund articles; (iii) a trust deed; or (iv) the fund's tax code, which must be notarized or verified by a notary public.

Documents in English do not need to be translated into Vietnamese. Only documents not in English shall be translated into Vietnamese.

Depository members will update VSD on account opening and closing on a daily basis via the electronic linkage system by 4 p.m. The VSD will verify the provided information and send confirmations at 8:30 a.m., 11:30 a.m., and 4:30 p.m. via the electronic linkage system or via email.

In case of a change of depository member, VSD will only process the update upon completion of the assets transfer. The timeframe to correct information discrepancies is 1 business day.

With a view to gradually enhance the competitiveness of the Viet Nam securities market and attract more foreign investors to the market, the MOF issued Circular No. 123/2015/TT-BTC on 18 August 2015, which allows the online application for, and allocation of, STCs for foreign investors. Accordingly, VSD developed the online STC registration system for foreign investors and officially launched it on 1 January 2016.

As a result, the time for allocating an STC was shortened to 1 day (from 3–5 days previously), owing to a simplified process for the STC registration. Foreign investors can now open securities trading accounts and make investments right after VSD allocates and certifies the STC electronically.

In the more than 2 years since its launch, the online STC registration for investors has been running smoothly, contributing significantly to the attractiveness of the Viet Nam securities market as one of the many measures that have been applied to attract more foreign investors to participate in the market.

In 2017, VSD allocated 3,277 STCs to foreign investors, up 87.3% in comparison to 2016; among these STCs were 421 STCs for institutions and 2,856 STCs for individuals. As of 31 December 2017, the total number of STC was 23,506, of which there were 19,956 STCs for individuals and 3,550 STCs for institutions.

2. Capital Contribution Account (Indirect Investment Capital Account)

Circular No. 05/2014/TT-NHNN on the Implementation of Indirect Investment Activities in Viet Nam, issued by SBV, governs indirect foreign investors and their activities.

Foreign investors must open an indirectly-invested capital account, typically referred to as a CCA, in Vietnamese dong for capital contributions and securities purchase and sale at an authorized domestic bank (only one bank may be used). The CCA is to be used for all transactions by the investor, including the execution of foreign exchange activities and investment activities, and the receipt of interest and overseas remittances.

To support securities transactions, foreign investors can freely make payments for foreign currency purchases from licensed credit institutions in order to transfer capital, interest, and other incomes overseas through this account. Profits derived from all indirect investment activities must also be remitted to the foreign investor via its CCA.

3. Issuance Requirements for Nonresidents

The Law on Securities and the related Decree No. 58/2012/ND-CP (amended by Decree No. 60/2015/ND-CP) are making it possible for nonresident issuers to publicly offer their securities to Vietnamese investors and list the securities on HOSE or HNX to raise funds for their business and/or investment in Viet Nam.

The nonresident corporate bond issuer must also fulfill the special dossier conditions stipulated in Circular No. 204/2012/TT-BTC, in addition to the general dossier condition stipulated in the same circular (see also section J. in this chapter).

The key points from the relevant laws and regulations are detailed below for easy reference.

a. Law on Securities

Article 40 of the Law on Securities stipulates that the government shall provide regulations on the conditions, application file, and procedures for Vietnamese issuing organizations and foreign issuing organizations to list securities on the exchanges in Viet Nam.

b. Decree No. 58/2012/ND-CP amended by Decree No. 60/2015/ND-CP

Article 19 of Decree No. 58/2012/ND-CP (amended by Decree No. 60/2015/ND-CP) stipulates the conditions for a public offer of securities in Viet Nam by foreign organizations:

- i. The business and production operation in the year immediately prior to the year of registration of the public offer was profitable in accordance with international accounting standards.
- ii. There is an investment project in Viet Nam that is approved by the authority of Viet Nam, and a plan for issue and utilization of proceeds earned from the public offer of securities for investment in the project in Viet Nam.
- iii. The total amount of money raised from the offer tranche in Viet Nam shall not exceed 30% of the total investment capital of the project.
- iv. There is an undertaking to underwrite the issue in the form of a firm commitment with [from] at least one securities company that is authorized to underwrite an issue of securities in Viet Nam.
- v. There is a bank supervising the utilization of proceeds earned from the offer tranche.
- vi. The foreign issuing organization must undertake that it will not remit raised capital offshore nor withdraw the portion of its own capital during the licensed duration of the project, and shall fully perform its obligations in accordance with the laws of Viet Nam and comply with the law on foreign exchange control in respect of issue of securities in Viet Nam.
- vii. There is an undertaking from the general meeting of shareholders in the case of public offers of shares and convertible bonds or an undertaking from the board of management or the members' council in the case of public offers of bonds to bring securities into trading in the formal market within 1 year from the selling tranche completion date.

c. Decree No. 70/2014/ND-CP

Article 11 of Decree No. 70/2014/ND-CP Nonresidents as Securities Offering Organizations in Vietnam states that nonresidents as issuing organizations are

only allowed to release Vietnamese dong securities in the territory of Viet Nam on the condition that they must adhere to the Law on Securities and other relevant regulations. Whenever their securities offerings are licensed in Viet Nam, nonresidents issuers must open a Vietnamese dong account (the aforementioned CCA) at one authorized credit institution to perform the transactions of Vietnamese dong receipts and expenditures regarding the securities offering through this account, as stipulated by SBV.

d. Circular No. 204/2012/TT-BTC

Article 11 of Circular No. 204/2012/TT-BTC describes the dossier of a general application for a public offering of securities. For details, please see II.F.4.

Article 16 of the circular prescribes the contents and qualification for the dossier of application for a public bond offering in Viet Nam of an enterprise established and operated in accordance with foreign law:

- i. the documents prescribed in Clauses 1, 3, 5, 6, 7, 8, and 9 of Article 11 of this circular;
- ii. the financial statements in the prospectus prescribed in Clause 2 of Article 11 of this circular must be made in accordance with the international accounting standards, and audited by an audit organization accredited by the competent state agency of the home country;
- iii. the documents about the project of investment in Viet Nam approved by competent agencies;
- iv. the decision of the board of directors, member assembly, or company's owner on approving the issuing plan, the plan for using and repaying the capital raised from the public offering of securities;
- v. the commitment of the issuer to execute the project in Viet Nam, and the commitment not to transfer the raised capital abroad and to not withdraw the private reciprocal capital within the licensed period of the project;
- vi. the commitment of the issuer to fulfill all the responsibilities according to the regulations on foreign currency management of bond issue in Viet Nam and other regulations in Vietnamese law;
- vii. the commitment on securities underwriting in the form of an absolute commitment with a securities company established and operated in Viet Nam, according to the Annex No. 03B enclosed with this circular; if there is a group of securities underwriters, the commitment on securities underwriting must be enclosed with the contract signed by the securities underwriters; and
- viii. the written appointment of a bank to supervise the use of capital raised from the offering.

4. Requirements for Listing of Debt Securities by Nonresident Issuers

In addition to specific requirements for the issuance of debt securities by nonresidents, laws and regulations also contain a number of specific prescriptions for cases when nonresidents wish to list their debt securities on an exchange in Viet Nam. Some of the relevant provisions are detailed below for easy reference.

a. Law on Securities

Article 40 of the Law on Securities stipulates that the government shall provide regulations on the conditions, application file, and procedures for Vietnamese issuing organizations and foreign issuing organizations to list securities on the exchanges in Viet Nam.

b. Decree No. 58/2012/ND-CP (amended by Decree No. 60/2015/ND-CP)

Articles 61 and 62 of Decree No. 58/2012/ND-CP contain relevant provisions for a listing of securities issued by nonresidents. According to Article 61, the conditions for foreign issuing organizations to list securities on exchanges in Viet Nam are as follows:

- i. The securities of the foreign issuing organization have already been offered for public sale in Viet Nam in accordance with the Law on Securities.
- ii. The number of securities registered for listing corresponds to the number of securities permitted to be offered for sale in Viet Nam.
- iii. The conditions for listing prescribed in Articles 53 (HOSE) or 54 (HNX) of this decree have been satisfied.
- iv. The listing organization provides an undertaking to fully discharge all its obligations in accordance with the laws of Viet Nam.
- v. One securities company established and operating in Viet Nam participates in consultancy for listing of the securities.
- vi. There is compliance with the law of Viet Nam on foreign exchange control.

Article 62 of the decree lists the additional requirements for application filing and the procedures for registration for listing by nonresidents. Please see Chapter III.J for details on the specifics for the listing process for nonresidents.

5. Investment in Debt Securities by Nonresidents

With respect to the issuance of convertible bonds, the issuer must ensure that the rate of foreign ownership on the maturity date when these bonds are converted into stocks, or on the date when the stocks are bought, shall conform to the regulations under Article 2a on Rate of Foreign Ownership on Vietnam's Securities Exchange Market (Added) of Decree No. 58/2012/ND-CP (amended by Decree No. 60/2015/ND-CP).⁹

While foreign investors are normally able to invest in all types of debt securities in Viet Nam, MOF regulations stipulate that investors without a legal presence in Viet Nam are prohibited from trading T-bills.

M. Regulations on Credit Rating Agencies

Viet Nam's first credit rating agency, VietNamNet Credit Ratings Centre, opened in June 2005. The center had been set up to help develop the market as the first professional credit rating agency in Viet Nam, but discontinued its operations after less than 1 year due to Viet Nam's small credit rating market and a lack of the necessary support from market stakeholders.

Currently, there is no domestic credit rating agency in Viet Nam. At the same time, global credit rating agencies such as Standard & Poor's, Moody's Investor Service, Fitch Ratings, and Rating and Investment Information have assigned credit ratings for Viet Nam.

⁹ In the past, a blanket 49% cap applied to foreign investment in public companies. From 1 September 2015, a public company could increase its foreign ownership ratio up to 100%, subject to the SSC's approval, unless it operates a business activity that has a foreign ownership limit or is conditional for foreign investment (in which case the limit will be as provided in law or, if no specific limit is provided, 49%). The foreign ownership limit in equitized SOEs will be determined in accordance with the Law on Equitization, including the equitization plan for the relevant company.

The Decision Approving the Roadmap for Bond Market Development, approved by the Vietnamese Prime Minister in August 2017, set the goal of requiring corporate bonds and stock issuers to be credit-rated by at least two qualified credit rating agencies. Consequently, this decision set the policy to evaluate the current regulations on the establishment and operation of credit rating agencies.

The actual credit rating requirements for debt securities in Viet Nam are described in Chapter III.O.

N. Regulations on Securities Pricing Agencies

There are presently no securities pricing agencies in Viet Nam. In their absence, the two exchanges are performing the functions of a pricing agency. Please see Chapter III.L for more information on available bond pricing in Viet Nam.