

OUTSTANDING POINTS ON THE TRANSFER OF OWNERSHIP RIGHT OVER PRIVATELY PLACED CORPORATE BONDS

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On January 3, 2023, the Ministry of Finance issued Circular 30/2023/TT-BTC guiding the registration, depository, exercise of rights, transfer of ownership right, payment, and organization of the market for trading of privately placed corporate bonds in domestic market (**Circular 30**). This Circular takes effect from July 1, 2023 with the following highlights:

Firstly, regulating the registration, and transfer of ownership right over privately placed corporate bonds. Pursuant to Article 6, Circular 30, bond issuers must register the information on privately placed corporate bonds with the Viet Nam Securities Depository and Clearing Corporation (**VSDC**) under the registration form in Appendix I of this Circular, including information about the corporation, the privately placed corporate bonds, and the privately placed corporate bond owners. Circular 30 also guides the cases of transferring ownership right over privately placed corporate bonds in Article 9, including:

(i) VSDC shall transfer the ownership right over privately placed corporate bonds with regard to sale and purchase transactions on the trading system of privately placed corporate bonds at Stock Exchange;
(ii) VSDC shall transfer the ownership right over privately placed corporate bonds registered at VSDC not via the privately placed corporate bond trading system for the following cases:

- Donation, inheritance of privately placed corporate bonds under the Civil Code;
- Division, separation, consolidation, merger of enterprises; reorganization of public non-business units; dissolution of enterprises, dissolution of business households under the Law on Enterprises and other relevant laws;
- Transfer of ownership rights according to a court's judgment or decision, arbitral award, or decision of judgment enforcement agency;



- Transfer of ownership rights for disposal of secured assets being privately placed corporate bonds registered at VSDC and implementation of blockade in accordance with point c, clause 1, Article 23 of Circular 119/2020/TT-BTC on registration, depository, clearing, and settlement of securities;
- Transfer of ownership right over privately placed corporate bonds due to division of spousal common property during marital period under the Law on Marriage and Family;
- Transfer of ownership right over privately placed corporate bonds upon implementation of division, separation, consolidation, merger or dissolution of securities investment funds; establishment or increase in charter capital of private securities investment companies; increase or decrease in charter capital of member funds; funds paid by privately placed corporate bonds in redemption and resale activities of open-end funds;
- Transfer of ownership right over privately placed corporate bonds arising in cases where the bond issuers comply with Article 1 of Decree 08/2023/ND-CP on amendment and suspension of some articles of Decrees prescribing private placement and trading of privately placed corporate bonds in domestic market and offering of corporate bonds in international market (regarding the liability of bond issuers).

Secondly, regulating the organization of privately placed corporate bond trading. According to Circular 30, privately placed corporate bond trading is a normal trading transaction. Especially, Ha Noi Stock Exchange shall apply the method of agreement-based trading in the privately placed corporate bond trading system on the principle that the parties involved in the transaction reach agreement on the transaction contents by themselves. Such method is

established when the buyer or seller enters a trading command into the privately placed corporate bond trading system and the reciprocal party confirms such trading command. The method of agreement-based trading includes:

- Electronic agreement-based trading, which means a transaction in which a trading member enters a tender offer or an offer for sale with a firm commitment into the system or selects appropriate reciprocal commands that have been entered into the system to execute the transaction;
- Normal agreement-based trading, which means a transaction in which the buyer and seller reach an agreement on trading conditions in advance and report the results in the privately placed corporate bond trading system to establish the transaction.

Thirdly, regulating the payment for privately placed corporate bonds. Pursuant to Circular 30, a depository member or a direct account holder must open a deposit account in their name at a payment bank to pay for privately placed corporate bonds in transactions of bond dealing, domestic and foreign brokerage. In the case that a client opens a depository account at a depository member not being a trading member, commands shall be placed via trading members and the payment shall be made via depository members.

After obtaining the trading results provided by Ha Noi Stock Exchange, VSDC shall check the validity of the trading, blockade the amount of sold bonds and notify the valid trading results to depository members, and direct account holders to confirm the trading results. Based on the confirmation by the depository members and direct account holders, VSDC shall determine the payment obligation of privately placed corporate bonds and relevant amounts and send the payment obligation information to the relevant parties and payment banks.

In addition, Circular 30 also stipulates several special cases arising in the process of transaction payment, such as Comparison and confirmation of privately placed corporate bond trading; Handling of errors after trading of privately placed corporate bonds; Handling of insolvency to pay for privately placed corporate bonds.

COMMENTS AND RECOMMENDATIONS

Circular 30 regulates some important issues related to registration, depository, exercise of rights, transfer of ownership rights, payment, and organization of the market for trading privately placed corporate bonds in the domestic market. Enterprises need to update and study the provisions of Circular 30, for example, the obligation to register the issuance of privately placed corporate bonds at the competent authority (VSDC), cases of transferring ownership right over privately placed corporate bonds, organization of privately placed corporate bond trading to implement policies and activities related to corporate bonds in Viet Nam appropriately.