

*Providing for the purchases of enterprise bonds by credit institutions, foreign bank's branches*

**STATE BANK OF VIETNAM**

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**SOCIALIST REPUBLIC OF VIET NAM**

**Independence - Freedom – Happiness**

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No: 28/2011/TT-NHNN

*Hanoi, September 01, 2011*

## **CIRCULAR**

### **PROVIDING FOR THE PURCHASE OF ENTERPRISE BONDS BY CREDIT INSTITUTIONS, FOREIGN BANK'S BRANCHES**

- Pursuant to the Law on the State Bank of Vietnam No. 46/2010/QH12 dated 16 June 2010;
- Pursuant to the Law on Credit Institutions No. 47/2010/QH12 dated 16 June 2010;
- Pursuant to the Decree No. 96/2008/ND-CP dated 26 August 2008 of the Government providing for the functions, duties, authorities and organizational structure of the State Bank of Vietnam;

*The State Bank of Vietnam hereby provides for the purchase of enterprise bonds by credit institutions, foreign bank's branches as follows:*

#### **Article 1. Governing scope and subjects of application**

##### **1. Governing scope**

a. This Circular provides for the purchase of enterprise bonds by credit institutions, foreign bank's branches, which are issued for the first sale to buyers in the primary market within the territory of the Socialist Republic of Vietnam (hereinafter referred to as the purchase of enterprise bonds), including the case where the credit institution buys the remaining bonds that have not sold up to buyers under the underwriting commitment of the enterprise bonds.

b. This Circular does not provide for the purchase and sale of bonds issued by credit institutions, foreign bank's branches; the resale and repurchase of enterprise bonds among credit institutions, foreign bank's branches; the resale and repurchase of enterprise bonds between credit institutions, foreign bank's branches and organizations, individuals that are not credit institutions, foreign bank's branches; the sale and purchase of bonds issued in the international market.

##### **2. Subjects of application**

a. The commercial banks, finance companies and foreign bank's branches that are established and operate in accordance with provisions of the Law on Credit Institutions.

b. Enterprises that are established and operate in the territory of the Socialist Republic of Vietnam in accordance with provisions of the Law on Enterprises, and issue bonds for the first sale to buyers in line with provisions of laws on the issuance of enterprise bonds and laws on public offer of bonds.

## **Article 2. Interpretation**

In this Circular, following terms shall be construed as follows:

1. Enterprise bond shall mean a type of debit securities issued by an enterprise, which confirms the obligation of both principal and interest debt payment of the issuing enterprise to the bondholder.
2. Convertible enterprise bond shall mean a type of bond that may be converted to common stocks of the same issuing enterprise in accordance with provisions of applicable laws and conditions as defined in the plan of bond issuance of the enterprise.

## **Article 3. Principles of buying enterprise bonds**

1. The purchase of enterprise bonds by credit institutions, foreign bank's branches shall be performed in conformity with provisions of the Law on Credit Institutions, Law on Securities, Law on enterprises, this Circular and provisions of applicable laws.
2. The charge of outstanding debt for enterprise bond purchase to outstanding credit shall be performed in accordance with provisions of the State Bank of Vietnam from time to time.
3. The purchase of convertible enterprise bonds shall be performed in accordance with provisions of the Law on Credit institutions and guidelines of the State Bank of Vietnam on capital contribution, share purchase.
4. Currency used in sale and purchase of enterprise bonds shall be Vietnamese dong.

## **Article 4. Types of enterprise bonds that credit institutions, foreign bank's branches are permitted to buy**

1. Bonds that are issued in accordance with provisions of laws on the issuance of enterprise bonds.
2. Bonds that are issued in accordance with provisions of laws on public offer of securities.

## **Article 5. Conditions for credit institutions, foreign bank's branches to buy enterprise bonds**

Credit institutions, foreign bank's branches shall be permitted to buy enterprise bonds upon fully satisfying following conditions:

1. To be a commercial bank, finance company or foreign bank's branch that is established and operate in accordance with provisions of the Law on Credit Institutions.
2. The content of enterprise bond purchase is included in the establishment and operation License issued by the State Bank of Vietnam.
3. To ensure prudential ratios in activities of credit institutions, foreign bank's branches in accordance with provisions of the State Bank of Vietnam.
4. To have an internal credit rating System and to implement it, including the credit rating of bond issuing enterprises.
5. To issue a Regulation on purchase of enterprise bonds in conformity with provisions of this Circular and provisions of applicable laws, including following contents: process, procedure of appraisal and decision on bond purchase; responsibility and authority of individuals, units in reviewing and deciding the bond purchase; types and features of bonds purchased by the credit institutions, foreign bank's

branches; conditions of the bonds purchased by the credit institutions, foreign bank's branches; policies and limit for credit management, risk measurement and management system, measures and processes of risk settlement; implementation of prudential ratios in business activities; internal control in the bond purchase.

#### **Article 6. Responsibilities of credit institutions, foreign bank's branches**

1. To appraise and verify the plan and conditions of bond issuance of the enterprises for considering and deciding the purchase of enterprise bonds upon fully satisfying following conditions:

- a. Bonds are issued in compliance with provisions of laws.
- b. The enterprise's purpose of using proceeds from the issuance of bonds is legal and conformable with the lines of business of the enterprise.
- c. The bond issuing enterprise has adequate financial capacity for timely paying the principal and interest of bonds as committed.
- d. The bond issuing enterprise commits to buy back the bonds before their maturity in case where the enterprise violates provisions of laws on issuance of enterprise bonds, breaks the plan on issuance of enterprise bonds.

2. To implement procedures of bond purchase and sign bond sale and purchase contracts in accordance with provisions of laws on civil transactions and of this Circular:

- a. The bond sale and purchase contract mentioned above shall include following contents: Number of bonds to be purchased, purchase price, total amount of bond purchase, interest rate of bonds; method of issuing bonds; method of payment for purchase of bonds; term and method of bond payment; security for payment of bonds (if any); commitment of the enterprise on the issuance and payment of bonds, buying back bonds before their maturity in case where the enterprise violates provisions of laws on issuance of enterprise bonds or breaks the plan on issuance of enterprise bonds; rights of the enterprises, foreign bank's branches in supervising and requiring the enterprise to perform their commitments on issuance and payment of bonds; dealing with acts of violation of bond purchase contract of the credit institutions, foreign bank's branches and bond issuing enterprises; other agreements between the credit institutions, foreign bank's branches and the enterprise.

- b. A security contract for the case of purchasing secured bonds in line with provisions of laws on secured transactions.

3. To monitor the use of proceeds from the issuance of bonds by the enterprise; in the event where the bond issuing enterprise is found out not to use the proceeds from the issuance of bonds for the wrong purpose as stated in the plan on issuance of bonds and commitment with the investors, then the credit institutions, foreign bank's branch shall require the enterprise to buy back the bonds before maturity and the credit institution, foreign bank's branch shall not be authorized to buy bonds of the enterprise in the following issues in the same plan of bond issuance.

4. To request the bond issuing enterprise to make payment for the bonds upon maturity; in the event where the bond issuing enterprise is unable to make payment for the bonds at maturity, the credit institution and foreign bank's branch shall dispose the secured asset for the bonds secured by assets, ask the guaranteeing party to perform the obligation of payment for the bonds that are guaranteed for payment, and to prosecute the enterprise or guaranteeing party who breaks the commitments on bond payment.

5. To settle matters arising in the purchase of enterprise bonds in accordance with provisions of applicable laws in order to ensure the recovery of principals and interests of the enterprise bonds.

#### **Article 7. Limit for purchase of enterprise bonds**

1. The total amount invested in the enterprise bonds shall be charged to the total outstanding credit to a single customer, for a single customer and related person in line with provisions in Article 128 of the Law on Credit Institutions and applicable regulations of the State Bank of Vietnam

2. The credit institutions, foreign bank's branch shall stipulate in details the limits for purchase of enterprise bonds: purchase of bonds from an issuing enterprise; purchase of bonds from an issuing enterprise and issuing related enterprise; purchase of bonds from enterprise with or without security; purchase of enterprise bonds for sale, for investment and for holding to maturity.

3. A foreign bank's branch shall not be authorized to buy convertible bonds.

#### **Article 8. Risk coefficient, making provision and dealing with risk for outstanding debt of enterprise bond purchase**

1. Risk coefficient for outstanding debt of enterprise bond purchase shall be implemented in accordance with provisions of the State Bank on prudential ratios in activities of credit institutions.

2. Credit institutions, foreign bank's branches shall make provision against and dealing with risk for the outstanding debt of enterprise bond purchase as follows:

a. For bonds that are already listed in the securities market or already registered in the trading market of unlisted public companies (UPCom), the credit institutions, foreign bank's branches shall make provision against the reduction of bond price and deal with the provisioned amount in accordance with provisions of applicable laws and guidance of the Ministry of Finance on the regime of making and use of provision against the reduction of financial investments' price.

b. For bonds that are not listed in the securities market yet or not registered in the trading market of unlisted public companies (UPCom), the credit institutions, foreign bank's branches shall make provision against risk for outstanding debt of enterprise bond purchase in accordance with regulations of the State Bank of Vietnam.

#### **Article 9. Accounting, statistics, reporting and archive of files of enterprise bond purchase**

1. The purchase of enterprise bonds shall be accounted in line with provisions of laws on the accounting regime of credit institutions.

2. To implement statistic activity and, on a monthly basis, send a report on the situation of enterprise bond purchase in line with the Appendix 01, Appendix 02 enclosed with this Circular to the State Bank of Vietnam on the 12th day of the month consecutively following the reporting month at the latest.

3. To archive files of enterprise bond purchase in conformity with provisions of laws on archive of credit documents.

#### **Article 10. Implementation organization**

1. This Circular shall be effective from 20 October 2011.

2. Based on provisions of this Circular and applicable laws, credit institutions and foreign bank's branches shall issue their Regulation on purchase of enterprise bonds and send to the Banking Inspection and Supervision Department immediately after the issuance thereof so that they shall be used as bases

for the inspection and supervision over the purchase of enterprise bonds by credit institutions, foreign bank's branches.

3. In case where the credit institutions, foreign bank's branches has purchased enterprise bonds before the effectiveness of this Circular, they shall be authorized to continue until the maturity of the enterprise bonds.

4. Director of the Administrative Department, Director of the Monetary Policy Department and Heads of units of the State Bank of Vietnam, General Managers of the State Bank's branches in provinces and cities under the central Government's management; Chairman of Board of Directors, Board of Members and General Directors (Directors) of credit institutions, and related organizations, individuals shall be responsible for the implementation of this Circular.

**FOR THE GOVERNOR  
DEPUTY GOVERNOR**

**Nguyen Dong Tien**



Name of Credit Institution: .....

**APPENDIX 01**
**REPORT ON THE PURCHASE OF ENTERPRISE BONDS BY CREDIT INSTITUTIONS,  
FOREIGN BANK'S BRANCHES ARISING IN THE REPORTING MONTH**

Month ..... year .....

Oridnal No.	Enterprise bonds			Amount of buying enterprise bonds (VND billion)							Bond interest rate (%/annum)	Term of bonds
	Name of the issuing enterprise	Purpose of using bonds	Lines of business of the enterprise	Total amount of buying bonds	Of which							
					Convertible bonds	Non- convertible bonds	Secured bonds	Unsecured bonds	Bonds listed in the Upcom	Unlisted bonds		
1												
2												
3												
	Total											

Controller

....., date ...

General Director

Instructions for preparation of the form:

1. The norm of purpose of using bonds: Please to specify the purpose of using such as for restructuring the medium and long term loan or for increasing capital for operation; for the purpose of performing investment projects, to specify the industry, area of the investment project that uses the source from the issuance of bonds, such as dealing in real estates, securities, infrastructure construction ...
2. Subjects of application: Commercial banks, finance companies and foreign bank's branches.
3. Report recipient: Monetary Policy Department - SBV (email: phongcstd@sbv.gov.vn; fax: 0438246953).
4. Reporting time: On a monthly basis, on the 12th day of the month consecutively following the reporting month at the latest.
5. To clearly state full name and contact number of the drawer for answering matters in the report.
6. During the implementation, if there is any difficulty, please contact at the following numbers: 04.38246955.



Name of Credit Institution: .....

**APPENDIX 02**
**REPORT ON THE PURCHASE OF ENTERPRISE BONDS BY CREDIT INSTITUTIONS,  
FOREIGN BANK'S BRANCHES AT THE END OF THE REPORTING MONTH**
**Month ..... year .....**

Oridnal No.	Enterprise bonds			Outstanding debt of enterprise bond purchase (VND billion)							Bond interest rate (%/annum)	Term of bonds
	Name of the issuing enterprise	Purpose of using bonds	Lines of business of the enterprise	Outstanding debt of enterprise bond purchase	Of which							
					Convertible bonds	Non-convertible bonds	Secured bonds	Unsecured bonds	Bonds listed in the Upcom	Unlisted bonds		
1												
2												
3												
	Total											

**Controller**

 ....., date ...  
**General Director**

Instructions for preparation of the form:

1. The norm of purpose of using bonds: Please to specify the purpose of using such as for restructuring the medium and long term loan or for increasing capital for operation; for the purpose of performing investment projects, to specify the industry, area of the investment project that uses

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