

No. 51/2021/TT-BTC

Hanoi, June 30, 2021

CIRCULAR

Guiding the obligations of organizations and individuals in foreign investment activities on the Vietnamese securities market

Pursuant to the November 26, 2019 Law on Securities;

Pursuant to the Government's Decree No. 155/2020/ND-CP of December 31, 2020, detailing a number of articles of the Law on Securities;

Pursuant to the Government's Decree No. 87/2017/ND-CP of July 26, 2017, defining the functions, tasks, powers and organizational structure of the Ministry of Finance;

At the proposal of the Chairperson of the State Securities Commission;

The Minister of Finance promulgates the Circular guiding the obligations of organizations and individuals in foreign investment activities on the Vietnamese securities market.

Article 1. Scope of regulation, subjects of application

1. This Circular guides the implementation of Clause 6, Article 138 of the Government's Decree No. 155/2020/ND-CP of December 31, 2020, detailing a number of articles of the Law on Securities (below referred to as Decree No. 155/2020/ND-CP) concerning obligations of foreign investors, organizations providing services to foreign investors and other organizations and individuals engaged in investment activities of foreign investors on the Vietnamese securities market.

2. Subjects of application:

a/ Foreign investors, groups of affiliated foreign investors;

b/ Depository members, clearing members, securities companies, securities investment fund managers, Vietnam-based branches of foreign investment

managers, overseas depositary receipt issuers, and economic organizations of which more than 50% of charter capital is held by foreign investors;

c/ The Vietnam Securities Depository and Clearing Corporation, the Vietnam Stock Exchange and subsidiary companies;

d/ Other related agencies, organizations and individuals.

Article 2. Interpretation of terms

In this Circular, the terms below are construed as follows:

1. *Valid copy* means a duplicate made from the master register or a copy authenticated by a competent agency or organization or a copy already collated against the original.

2. *Authorized representative of a foreign organization* means:

a/ Chairperson of the Board of Directors, chairperson of the Members' Council, Chief Executive Officer, corporate secretary, owner of the foreign organization;

b/ An authorized person defined in the charter, capital contribution agreement or an equivalent document of the foreign organization to be competent to represent the organization to sign documents;

c/ A person authorized in writing by the person defined at Points a and b of this Clause and certified by a notary overseas, or a person certified by a lawyer or notary overseas to be competent to represent the foreign organization in accordance with foreign law.

3. *Trading representative* means a Vietnam-based individual who satisfies the conditions specified in Clause 4, Article 138 of Decree No. 155/2020/ND-CP and is authorized by a foreign investor to conduct securities transactions and investment on the Vietnamese securities market, disclose information and report to competent state management agencies in accordance with Vietnam's law.

4. *Group of affiliated foreign investors* consists of foreign organizations that are interrelated in one of the following cases:

a/ Foreign funds or organizations managed by one local or foreign securities investment fund manager;

b/ Fund of funds, portfolios or sub-funds of a master fund, umbrella funds financed by one or more than one master-feeder fund;

c/ Portfolios of a foreign investment fund or foreign organization managed by foreign multiple investment managers funds (MIMF);

d/ Portfolios of a foreign investment fund or foreign investor, including also those custodized in different accounts;

dd/ Foreign funds or organizations having the same trading representative.

5. *Custodian bank* means a commercial bank or a foreign bank branch that is granted a depository member certificate by the Vietnam Securities Depository and Clearing Corporation.

Article 3. Indirect investment capital accounts

1. A foreign investor shall open 1 indirect investment capital account at 1 custodian bank licensed to deal in foreign exchange for conducting investment activities in Vietnam. An overseas depository receipt issuer shall open 1 indirect investment capital account at 1 custodian bank licensed to deal in foreign exchange for conducting issuance or cancelation of depository receipts or other related activities in accordance with law.

2. When receiving entrusted capital under Point b, Clause 1, Article 138 of Decree No. 155/2020/ND-CP, securities investment fund managers or Vietnam-based branches of foreign investment managers shall open indirect investment capital accounts to receive capital of foreign investors that do not have indirect investment capital accounts. In this case, the indirect investment capital accounts must bear the name of the securities investment fund managers or Vietnam-based branches of foreign investment managers.

3. All money transfers for conducting transactions and investment activities, other payments related to securities investment activities of foreign investors and operations of overseas depository receipt issuers, receipt and use of dividends or divided profits, purchase of foreign currencies for remittance abroad (if any) and other related transactions, shall be conducted via indirect investment capital accounts.

4. The opening, closure, use and management of indirect investment capital accounts must comply with the law on foreign exchange management.

Article 4. Securities depository accounts

1. After being granted securities trading codes, foreign investors and overseas depository receipt issuers shall open securities depository accounts according to the law on securities registration, depository, clearing and payment.

2. Foreign investors and overseas depository receipt issuers shall open securities depository accounts at custodian banks on the principle that for each granted securities trading code, only 1 securities depository account may be opened at only 1 custodian bank. Apart from securities depository accounts at

custodian banks, foreign investors and overseas depositary receipt issuers may open securities depositary accounts at securities companies on the principle that only 1 securities depositary account may be opened at each securities company.

3. When transferring its/his/her securities depositary account from a custodian bank to another custodian bank, a foreign investor or an overseas depositary receipt issuer shall close the securities depositary account at the old custodian bank after transferring the whole balance on this account to the securities depositary account at the new custodian bank. The procedures for transferring securities between securities depositary accounts must comply with the law on securities registration, depositary, clearing and payment.

Article 5. Obligations in investment activities on the Vietnamese securities market

1. Foreign investors and trading representatives of foreign investors shall ensure that investment transactions on the Vietnamese securities market and transactions conducted by affiliated persons and groups of affiliated foreign investors are not aimed at creating sham supply or demand, manipulating securities prices or committing other prohibited trading acts prescribed by law.

2. Foreign investors and overseas depositary receipt issuers are obliged to declare, pay and account-finalize taxes, charges, fees and service charges related to securities activities in Vietnam in accordance with Vietnam's law.

3. Foreign investors and groups of affiliated foreign investors shall perform the ownership reporting and information disclosure obligation on securities transactions in accordance with the law on disclosure of information on the securities market on the following principles:

a/ A foreign investor shall perform by itself/himself/herself or appoint 1 depositary member or 1 securities company or 1 securities investment fund manager or its representative office (if any) or another organization or authorize 1 individual to perform the ownership reporting and information disclosure obligation in accordance with the law on disclosure of information on the securities market;

b/ A group of affiliated foreign investors shall appoint 1 depositary member or 1 securities company or 1 securities investment fund manager or its representative office (if any) or another organization or authorize 1 individual to perform the ownership reporting and information disclosure obligation in accordance with the law on disclosure of information on the securities market;

A notice of appointment or change of an organization or individual to perform the obligation to report on securities holdings or disclose information

shall be made according to the form provided in Appendix I to this Circular and sent to the State Securities Commission, subsidiary companies of the Vietnam Stock Exchange within 24 hours after the appointment or authorization takes effect, enclosed with a valid copy of the establishment and operation license or business registration certificate or fund establishment registration certificate or an equivalent legal document of the appointed organization; or a valid copy of people's identity card or citizen identity card or valid passport or another lawful personal identity paper of the authorized individual.

c/ In case the number of investors in the group of affiliated foreign investors changes but the organization or individual performing the obligation to report on securities holdings or disclose information does not change, the organization or individual appointed or authorized to report on securities holdings and disclose information shall report on the change to the State Securities Commission and subsidiary companies of the Vietnam Stock Exchange within 7 working days since such change is made. Such a report covers:

- An updated list of affiliated foreign investors, made according to the form provided in Appendix II to this Circular;

- A mandate for information disclosure representative by groups of affiliated foreign investors, made according to the form provided in Appendix I to this Circular (in case of adding a new foreign investor to the group of affiliated foreign investors).

d/ Foreign investors and groups of affiliated foreign investors shall provide sufficient information on their securities holding status to organizations appointed or individuals authorized so as to fully perform the obligation to report on the securities holdings and disclose information in accordance with law;

dd/ Foreign investors and groups of affiliated foreign investors shall perform the obligation to report on securities holdings together with the obligation to disclose information. Such obligations must comply with the law on disclosure of information on the securities market.

Article 6. Obligations in provision of services to foreign investors

1. When providing services to foreign investors, securities companies, securities investment fund managers, Vietnam-based branches of foreign investment managers, and economic organizations of which more than 50% of charter capital is held by foreign investors shall:

- a/ Fully comply with the law on securities and securities market;

- b/ When providing services or participating in securities auctions under authorization of foreign investors, separate trade orders and investment

directions of foreign investors from those of local investors (if any) and their own ones, ensuring the compliance with the regulations on foreign holding rates in Vietnamese enterprises, for securities companies, securities investment fund managers and Vietnam-based branches of foreign investment managers;

c/ Distribute in a fair and rational manner assets to each foreign investor in accordance with signed contracts.

2. When conducting transactions for foreign investors, trading representatives of such foreign investors shall:

a/ Comply with the securities law and relevant laws;

b/ Strictly follow trading and payment directions of foreign investors, and refrain from directly making investment decisions, covering selection of securities types, amounts, prices and trading time when having not received trade orders and investment directions of foreign investors.

3. When providing services to foreign investors, the Vietnam Securities Depository and Clearing Corporation, depository members, clearing members, securities companies, securities investment fund managers, and Vietnam-based branches of foreign investment managers shall keep confidential information on foreign investors in accordance with relevant laws and provide information to competent state management agencies at the latter's request in a sufficient, accurate and timely manner.

4. The Vietnam Securities Depository and Clearing Corporation shall develop and operate the online securities trading code registration system and promulgate regulations on online registration of securities trading codes.

5. The Vietnam Securities Depository and Clearing Corporation shall specify the forms of warning and reprimand applicable to, and suspension of the use of the online securities trading code registration system of, a depository member in case such member fails to fully and timely submit the list of securities trading code registration dossiers and dossiers for reporting on changes of information on organizations and individuals specified at Clauses 1 and 2, Article 146 and Clause 2, Article 148 of Decree No. 155/2020/ND-CP.

6. The Vietnam Securities Depository and Clearing Corporation shall suspend or terminate the use of the online securities trading code registration system of a depository member when so requested by the State Securities Commission.

7. When finding that a depository member declares untruthful information for registering a securities trading code, registers a blank trading code or registers a trading code for an ineligible entity, the Vietnam Securities

Depository and Clearing Corporation shall report thereon to the State Securities Commission and after obtaining the latter's approval, suspend or terminate the use of the online securities trading code registration system of such member. In this case, the depository member shall bear all responsibilities, including also financial obligations, with regard to transactions conducted on the trading account opened with such securities trading code.

8. Depository members may register securities trading codes, revoke securities trading codes, and report change of securities trading code-related information to organizations and individuals after receiving a complete dossier specified in Clauses 1 and 2, Article 146, Clause 2, Article 147, and Clause 2, Article 148, of Decree No. 155/2020/ND-CP. Except documents which are notarized or authenticated according to regulations, depository members shall be held responsible for the accuracy of the copies they provide.

9. Depository members shall compile and preserve dossiers and documents on asset deposit on depository accounts of organizations or individuals that have been granted securities trading codes and provide them to competent management agencies in accordance with law when so requested by the latter.

10. Clearing members shall fully preserve documents on securities clearing and payment of organizations and individuals that have been granted securities trading codes, provide information and documents relating to securities clearing and payment activities to the competent management agencies in an adequate, timely and accurate manner in accordance with law when so requested by the latter.

Article 7. Reporting regime

1. Every month, depository members shall submit to the State Securities Commission reports on statistical data of depository accounts and asset portfolios of foreign investors and overseas depository receipt issuers, made according to the form provided in Appendix III to this Circular. For depository members being branches of foreign credit institutions or 100% foreign-owned credit institutions established in Vietnam, reports on their investment activities and portfolios, made according to the form provided in Section III, Appendix III to this Circular, shall also be required.

2. Once every 2 weeks, custodian banks where foreign investors and overseas depository receipt issuers open their indirect investment capital accounts shall submit to the State Securities Commission reports on capital circulation by foreign investors and overseas depository receipt issuers on these accounts, made according to the form provided in Appendix IV to this Circular.

3. Every month, securities companies, securities investment fund managers, and Vietnam-based branches of foreign investment managers shall submit to the State Securities Commission monthly reports on portfolio management and designated investments to foreign investors, made according to the form provided in Appendix V to this Circular.

4. Every month, the Vietnam Securities Depository and Clearing Corporation shall submit to the State Securities Commission reports on grant of securities trading codes, made according to the form provided in Appendix VI to this Circular.

5. Periodically (daily, monthly and yearly), subsidiary companies of the Vietnam Stock Exchange shall submit to the State Securities Commission reports on trading activities of foreign investors and overseas depository receipt issuers, made according to the form provided in Appendix VII to this Circular.

6. Upon request of the State Securities Commission, trading representatives of foreign investors shall submit reports on designated investment activities for foreign investors, made according to the form provided in Appendix VIII to this Circular.

7. Upon request of the State Securities Commission, the Vietnam Securities Depository and Clearing Corporation, Vietnam Stock Exchange and its subsidiary companies, securities companies, securities investment fund managers, Vietnam-based branches of foreign investment managers, depository members, clearing members, trading representatives, and foreign investors shall directly report and provide portfolios, data and other documents relating to activities of foreign investors.

8. Deadlines and time limits for submission of the reports specified in Clauses 1, 2, 3, 4 and 5 of this Article are as follows:

a/ Before 18:00 of every trading day, for daily reports;

b/ Within 3 working days after the 15th every month (for semi-monthly reports for the first half of each month), and within 3 working days from the last day of the month (for semi-monthly reports for the second half of each month), for reports on capital circulation activities by foreign investors;

c/ Within 5 working days from the last day of each month, for monthly reports;

d/ Within 90 days from the last day of each year, for annual reports.

9. Data cutoffs for making the periodical reports specified in Clauses 1, 2, 3, 4 and 5 of this Article are as follows:

a/ For semi-monthly reports: from the first day to the 15th of the reporting month and from the 16th to the last day of the reporting month (excluding data shown at a specific time);

b/ For monthly reports: from the first day to the last day of the reporting month (excluding data shown at a specific time);

c/ For annual reports: from January 1 to December 31 of the reporting year (excluding data shown at a specific time).

10. The reports specified in Clauses 1, 2, 3, 4, 5, 6 and 7 of this Article must be made in paper form, enclosed with their electronic files, or made on the foreign investment management system of the State Securities Commission and retained for at least 5 years.

Article 8. Implementation provisions

1. This Circular takes effect on August 16, 2021, and replaces the Minister of Finance's Circular No. 123/2015/TT-BTC of August 18, 2015, guiding foreign investment activities on the Vietnamese securities market.

2. The Vietnam Securities Depository shall carry out the activities to be implemented by the Vietnam Securities Depository and Clearing Corporation under this Circular until the Vietnam Securities Depository and Clearing Corporation comes into official operation in accordance with the Law on Securities.

3. The Hanoi Stock Exchange and Ho Chi Minh City Stock Exchange shall carry out the activities to be implemented by the Vietnam Stock Exchange and its subsidiary companies under this Circular until the Vietnam Stock Exchange and its subsidiary companies come into official operation in accordance with the Law on Securities.

Article 9. Organization of implementation

The State Securities Commission, Vietnam Securities Depository and Clearing Corporation, and Vietnam Stock Exchange and its subsidiary companies, securities companies, securities investment fund managers, Vietnam-based branches of foreign investment managers, depository members, clearing members, overseas depository receipt issuers, and related organizations and individuals shall implement this Circular.-

For the Minister of Finance
Deputy Minister
HUYNH QUANG HAI

Appendix I

MANDATE FOR INFORMATION DISCLOSURE REPRESENTATIVE BY GROUPS OF AFFILIATED FOREIGN INVESTORS

(To the Minister of Finance's Circular No. 51/2021/TT-BTC of June 30, 2021)

To:

- State Securities Commission;
- Stock Exchange.

We are:

No.	Investor's name	Securities trading code	Nationality	Business Registration No.*	Trading account No./ Broker	Depository account No., Custodian bank	Indirect Investment Capital Account No., Commercial bank	Affiliated form**	Trading representative
1									
2									
...									

* For individual investor: valid passport/social security No; for organizational investor: certificate of incorporation/certificate of business registration No or equivalent legal document.

** Specified as one of the below:

a/ Funds managed by one local or foreign investment manager;

b/ Fund of funds; sub-funds or portfolios of a master fund; fund of funds; umbrella fund; master-feeder fund;

c/ Portfolios of a foreign multiple investment managers fund - MIMF;

d/ Portfolios of an investment organization belonging to foreign governments or an international financial institution where Vietnam as a member can be custodized in different accounts;

dd/ Portfolios of a fund or a foreign investor which are custodized in different accounts;

e/ Funds, organizations or portfolios having the same trading representative.

We hereby appoint the following institution or individual:

Full name of appointed institution/ individual for information disclosure and reporting:

<i>Name of authorized institution, individual</i>	<i>Business Registration No.</i>	<i>Address/Tel/ Fax/ Email</i>	<i>Signature sample</i>
<i>1 - Authorized institution (Company A/Fund A)</i>			
<i>1.1. Name of the authorized institution</i>			
<i>1.2. Authorized representative/ list of authorized representatives of the appointed institution</i>			
<i>2 - Authorized individual</i>			
<i>Information disclosure representative</i>			

This appointment/ authorization takes effect from .../.../.... unless otherwise notified in another written notification by us.

This Mandate replaces the Mandate dated.....

Declaration: (effective from the date this registration is signed)

1. We hereby certify that all the information above is correct, the attached documents and the contents therein are true and accurate.

2. We hereby commit to comply to the Vietnamese law on disclosure and report.

3. We hereby certify that all information above is correct.

Attachments:

Applicants:

Names and signatures of authorized signatories:

Title:

Execution Date:

Appendix II

UPDATED LIST OF AFFILIATED FOREIGN INVESTORS

*(To the Minister of Finance's Circular No. 51/2021/TT-BTC
of June 30, 2021)*

To:

- State Securities Commission;
- Stock Exchange.

1. We are: (Information about the appointed organization/ individual authorized to make report on the ownership and publish information)

<i>Name of organization/individual</i>	<i>COI No.*</i>	<i>Head office address/Permanent address/tel/ fax/ email</i>
<i>1. In case the appointed party is an organization (Name of appointed organization and name of legal representative/ authorized representative, No of owner's certificate, head office address)</i>		
<i>Name of organization:</i>		
<i>b/ Name of legal representative/list of authorized individuals:</i>		
<i>2. In case appointed party is an individual (Full name, COI No., permanent address):</i>		

** For an individual investor: valid passport/social security No; for organizational investor: certificate of incorporation/certificate of business registration No or equivalent legal document.*

2. We, as the appointed/authorized party to report on ownership and disclose information on behalf of the group of affiliated foreign investors, we would like to report the updated list of the affiliated foreign investors as follow:

No	Name of foreign investor	Securities trading code	Name of trading representative (if any)	Remarks
1				unchanged
2				New member
3				Removed from the group

...				
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We hereby certify that the information contained herein is complete, accurate and each foreign investor of the group was informed about the latest list of affiliated foreign investor.

Signature of appointed organization/ authorized individual to report on ownership and disclosure.

- For individual:

Full name, signature of authorized individual:.....

- For organization:

Name of appointed organization:

(Signature, full name of legal representative/authorized representative and seal if any): -

Title:

Announcement date:

** Other Appendices to this Circular are not translated.*