

## 2011 - 2012 Blank AGC Questionnaire

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**Welcome to the Depository-Information Gathering Project.** Before beginning, we suggest that you: print the entire document for review on paper; review the Glossary of Terms. Each will assist you with answering the questions. For help, contact: Robin D. Truesdale, Baker & McKenzie LLP (202) 835-1664; e-mail: Robin.D.Truesdale@bakernet.com

### SCOPE, STRUCTURE, OWNERSHIP, CAPITAL, REGULATION AND AUDIT

*The purpose of this section is to understand the ownership structure and financial strength of your institution, as well as the level of regulatory and operational supervision to which it is subject.*

1. Rule 17f-7, by reference to Rule 17f-4, requires that, for a depository to be eligible to hold securities of U.S. registered investment companies (such depositories hereinafter referred to as “Eligible Securities Depositories”), the depository must be a “system for the central handling of securities where all securities of any particular class or series of any issuer deposited within the system are treated as fungible and may be transferred or pledged by bookkeeping entry without physical delivery of the securities.”

Are all securities of a particular class or series of any issuer that are deposited in your institution treated as fungible, and can they be transferred or pledged by bookkeeping entry without physical delivery of the securities?

Yes

2. Rule 17f-7 also requires that an Eligible Securities Depository “acts as or operates a system for the central handling of securities or equivalent book-entries in the country where it is incorporated,” or “acts as or operates a transnational system for the central handling of securities or equivalent book-entries.”

**Does your institution: (Choose all that apply.)**

Act as or operate a system for the central handling of securities or equivalent book-entries in the country where it is incorporated? (please answer 2b)

**2b. Please specify the types of securities for which you act as or operate a system for the central handling of securities or equivalent book-entries:**

Shares, fund certificates, government bonds, corporate bonds, and municipal bonds

**3. What type of legal entity is the institution? (Choose all that apply.)**

Other (please answer 3a)

**3a. Please explain:**

VSD is a wholly state-owned limited liability company

**4. Is the institution operated as a "for profit" or a "not for profit" organization?**

Not for profit

**5. Please provide the names of the owners and their ownership interest percentages.**

State is the single owner

**6. Please answer the following:**

**6a. What is the date of establishment of the depository?**

27/Jul/2005

**6b. What is the date that the depository's operations began?**

01/May/2006

**7. Under what regulation or statute is the depository established and governed?**

- Decision No. 189/2005/QD-TTg dated 27 July 2005 of the Prime Minister on the establishment of Vietnam Securities Depository (VSD).
- Decision No. 171/2008/QD-TTg dated 18 December 2008 of the Prime Minister on transforming VSD a State income generating service delivery agency into a wholly state-owned limited liability company. VSD commenced its new corporate model on 29th July 2009.
- The Business certificate No.03/UBCK-GCN dated 29 July 2009 of the Chairman of Vietnam State Securities Commission.
- Law of Securities no.70/2006/QH11 dated 29 June 2006 of the National Assembly.
- Decision no.87/2007/QD-BTC dated 22 October 2007 of the Minister of the Ministry of Finance on the Regulations of securities registration, depository, clearing and settlement.
- Circular No. 43/2010/TT-BTC dated 25 March 2010 of Ministry of Finance on the amendment, supplement of the Regulations of securities registration, depository, clearing and settlement.
- Circular No.74/2011/BTC dated 1st June 2011 of the Minister of the MOF giving guidelines on securities transactions.

**7a. Is the regulation or statute electronically available?**

Yes (please answer 7b)

**7b. If regulation or statute is electronically available, please supply web address(es) here or upload document (s) in question 7c.**

www.vsd.vn

www.ssc.gov.vn

**7d. Please provide details of the structure and composition of your Board together with their industry experience and responsibilities in governing the depository.**

**What are the qualifications to become a board member?**

The board includes a Chairperson, a vice Chairperson and directors. The total number of board members is 5. The composition of the board is:

Ms. Nguyen Thi Lien Hoa - Chairperson

Ms. Phuong Hoang Lan Huong - Vice Chairperson cum CEO

Mr. Duong Van Thanh – Director

Mr. Nguyen Ngoc Anh - Director

Ms. Tran Thi Tuyet Mai - Director

The Board of Directors decides all matters related to identifying and realizing goals, tasks, and rights of VSD.

Qualifications to become a board member:

- Being a Vietnamese Citizen who has a registered permanent residence in Vietnam and full compacity for civil acts;
- Having a graduate degree onwards having capacity for managing and knowledge of securities and securities market.

The Chairperson of the Board of Directors should have at least 3-year experience in management and administration in the securities field;

- Having good health, good morality, honesty, incorruptability, good knowledge and good abidance by laws; not being subject to prohibition of business management;
- Others conditions as governed by laws.

**7e. What are the election procedures?**

Board members will be appointed by the Minister of the Ministry of Finance at the request of the Board and the Director of Personnel Department - Ministry of Finance and upon receipt of opinions from the Chairman of Vietnam State Securities Commission.

**7f. What is the maximum length of time a board member can serve?**

Three-year term but can be reappointed

**7g. How are the voting powers distributed amongst the board members (i.e. does each board member have one vote or do certain members have additional voting power)?**

Each board member has one vote.

**7h. Who is responsible for regulating the board members?**

The Ministry of Finance

**8. Rule 17f-7 requires that an Eligible Securities Depository “is regulated by a foreign financial regulatory authority**

as defined under section 2(a)(50) of the Act”, with section 2(a)(50) establishing that “‘foreign financial regulatory authority’ means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate the participation of its members in activities listed above.”

**Who regulates the activities of the depository? (Choose all that apply.)**

A governmental body or regulatory organization empowered to administer or enforce laws related to securities matters.

**9. Please provide the name of regulatory authority(ies) identified in question 8:**

Vietnam State Securities Commission,

Ministry of Finance

**10. Rule 17f-7 requires that an Eligible Securities Depository “is subject to periodic examination by regulatory authorities or independent accountants.”**

**Is the depository subject to periodic examination by: (Choose all that apply.)**

Regulatory authorities

Independent accountants

**11. What enforcement actions are available to the regulatory authority(ies) for breach of applicable statute or regulatory requirements? (Choose all that apply.)**

**Name of Authority #1 (please answer 11a):**

Vietnam State Securities Commission

**11a.**

Fines

**12. Has there been any use of such enforcement actions in the last three years?**

No

## **Capital**

**13. Are annual financial statements publicly disclosed?**

Other (please answer 13h)

**13h. If other, please explain:**

The copy of annual financial statements is put on the board at VSD's office and submitted to VSD's regulators.

**Internal Audit**

**14. Is an internal audit undertaken in your depository?**

No (please proceed to 15)

**15. Is a financial audit performed by an Audit Firm, Regulatory Authority, or other external party?**

Yes (please answer 15a)

**15a. If yes, please state the name(s) of the entity(ies) who perform the financial audit.**

Deloitte Vietnam

State Audit

*Question numbers 15b, 15c, 15d, 15e and 15f have been modified. Thus, your answers from last year have not been populated for these questions.*

**15b. Please list the date of your last financial audit performed by an Audit Firm, Regulatory Authority, or other external party:**

Deloitte Vietnam: March 2011

State Audit: May 2011

**15c. Please list the period that the audit covered:**

1st Jan, 2010

**to**

31<sup>st</sup> Dec, 2010

**15d. How frequently does the financial audit occur? (Choose one.)**

Annually (please answer 15f) by Deloitte Vietnam

**15f. Are the results of the financial audit publicly available?**

No

**15g. Please select the statement that most accurately characterizes the results of the last financial audit: (Choose one.)**

No material exceptions found.

**16. Is an operational audit performed by an Audit Firm, Regulatory Authority, or other external party?**

Yes (please answer 16a)

**16a. If yes, please state the name(s) of the entity(ies) who perform the operational audit.**

VSD's operations are audited by SSC on annual basis;

State Audit.

**Question numbers 16b, 16c, 16e, 16f and 16g have been modified. Thus, your answers from last year have not been populated for these questions.**

**16b. Please list the date of your last operational audit performed by an Audit Firm, Regulatory Authority, or other external party:**

SSC: December 2010

State Audit: May 2011

**16c. Please list the period that the audit covered:**

1<sup>st</sup> Jan, 2010

**to**

31<sup>st</sup> Dec, 2010

**16d. How frequently does the operational audit occur? (Choose one.)**

Annually (please answer 16f)

**16f. Are the results of the operational audit publicly available?**

No

**16g. Please select the statement that most accurately characterizes the results of the last operational audit: (Choose one.)**

No material exceptions found.

## **PARTICIPANTS AND PARTICIPATION**

*The purpose of this section is to understand issues relating to participation in the depository, including eligibility requirements, conditions of participation, and supervision of participants.*

**17. What types of entities are eligible to become participants and how many of each type are there currently? (Choose all that apply.)**

Banks (please answer 17a) Brokers (please answer 17e)

Foreign Institutions (please answer 17m) Other entities (please answer 17q)

**17a. How many Bank participants are there currently? (then please answer 17b)**

22 (8 banks who are depository participants and 13 banks who are direct account holding participants)

**17b. Please select the features included in the eligibility requirements for Banks. (Choose all that apply.)**

Regulatory Oversight (please answer 17c)

Other (please answer 17d)

**17c. Where can a description of the specific eligibility requirements for Bank participants be found?**

- For those banks which are depository participants, the eligibility requirements can be found in Article 47 of the Securities Law no.70/2006/QH11 dated 29 June 2006, Article 7 of Decision No.87/2007/QĐ-BTC dated 22 October 2007 of the Minister of the Ministry of Finance on the Regulations of securities registration, depository, clearing and settlement, Article 2 of Circular no. 43/2010/TTBTC dated 25th March 2010 providing regulations on supplementing, amending the Regulation on securities registration, depository, clearing and settlement promulgated attached to Decision no. 87/2007/QĐ-BTC dated 22nd October 2007 of the Minister of the Ministry of Finance, and Article 2 of the Membership Guideline of VSD dated 22 April 2010.

- For those banks which are direct account holding participants, the eligibility requirements can be found in Article 9 of Decision no. 87/2007/QĐ-BTC dated 22nd October 2007 of the Minister of the Ministry of Finance.

**17d. Please explain:**

Banks have to satisfy some requirements in financial status, and requirements in location, facilities, equipments, etc. The specific requirements are found in the legal documents mentioned in 17c.

**17e. How many Broker participants are there currently? (then please answer 17f)**

103

**17f. Please select the features included in the eligibility requirements for Brokers. (Choose all that apply.)**

Regulatory Oversight (please answer 17g)

Other (please answer 17h)

**17g. Where can a description of the specific eligibility requirements for Broker participants be found?**

Eligibility requirements for Broker participants can be found in Article 47 of the Securities Law no. 70/2006/QH11 dated 29 June 2006, Article 7 of Decision No.87/2007/QĐ-BTC dated 22 October 2007 of the Minister of the Ministry of Finance on the Regulations of securities registration, depository, clearing and settlement, Article 2 of Circular no. 43/2010/TT-BTC dated 25th March 2010 providing regulations on supplementing, amending the Regulation on securities registration, depository, clearing and settlement promulgated attached to Decision no. 87/2007/QĐ-BTC dated 22nd October 2007 of the Minister of the Ministry of Finance, and Article 2 of the Membership Guideline of VSD dated 22 April 2010.

**17h. If other, please explain:**

Brokers have to conduct securities brokerage or proprietary businesses, meet requirements in location, facilities, equipments, etc. The specific requirements are found in the legal documents mentioned in 17g.

**17m. How many Foreign Institution participants are there currently?**

None

**17n. Please select the features included in the eligibility requirements for Foreign Institution participants. (Choose all that apply.)**

Regulatory Oversight (please answer 17o)

Other (please answer 17p)

**17o. Where can a description of the specific eligibility requirements for Foreign Institution participants be found?**

Detailed eligibility requirements can be found in Article 10 of the Membership Guideline of VSD dated 22 April 2010.

**17p. If other, please explain:**

Foreign CSDs are entitled to apply registration of special member of VSD to provide services related to securities registration, deposit, clearing and settlement performance.

**17q. If you have selected "Other entities" above, please explain:**

State Bank of Vietnam, State Treasury, Corporation of State Capital Investment and Management, Credit organizations, insurance companies, and other as regulated by VSD.

**17r. Indicate how many "Other entities" are currently participants?**

One

**17s. Please select the features included in the eligibility requirements for the participants referred to above as "Other entities". (Choose all that apply.)**

Regulatory Oversight (please answer 17t)

**17t. Where can a description of the specific eligibility requirements for participants described above as "Other entities" be found?**

Eligibility requirements for "other entities" can be found in Article 9 of the Membership Guideline of VSD dated 22 April 2010.

**18. Are participants required to contribute capital to the depository that would result in ownership of the depository?**

No

**19. Are prospective participants subject to an initial review and approval process regarding compliance with eligibility requirements?**

Yes

**Conditions of Participation**

**20. What governs the relationship between the depository and the participants? (Choose all that apply.)**

Relevant law and regulation

Standard participation contract

By-laws of the depository

**21. Rule 17f-7 requires that an Eligible Securities Depository "holds assets for the custodian that participates in the system on behalf of the Fund under safekeeping conditions no less favorable than the conditions that apply to other participants."**

**Please confirm that assets of foreign investors held by custodians as participants in the depository are held under safekeeping conditions no less favorable than the conditions that apply to other participants.**

Yes (please answer 21b)

**Question number 21b has been modified. Thus, your answer from last year has not been populated for this question.**

**21b. Please confirm the basis for the arrangements you have in place to ensure that the assets you hold for custodians receive the same level of safekeeping protection as the assets held for other categories of participants. (Choose all that apply.)**

Relevant Law and Regulation

Standard participation contract

Established terms and conditions of participation

By-laws of the depository

Rules of the depository

**22. How does the depository notify participants of material changes to the conditions of participation? (Choose all that apply.)**

By public announcement

By press release

Other (please answer 22a)

**22a. Please explain:**

By fax or mail; By meeting; Website

### **Governance of Participants**

**23. Who enforces compliance with the depository's conditions of participation? (Choose all that apply.)**

The depository

The depository's regulator

**24. What enforcement actions are available to the enforcement authority? (Choose all that apply.)**

Fines

Suspension of participation

Termination of participation

**25. Has there been any such enforcement actions in the last three years?**

Yes

**25a. If yes, please explain, including information relative to any suspensions of depository participants:**

2 case of termination: Failure to make financial contribution to Annual Compensation Fund and Failure to refund the loan from Compensation Fund.

## **DEPOSITORY FUNCTIONALITY AND SERVICES; USE OF AGENTS**

*Certain functionalities and services reduce risk to an investor if provided in an efficient manner. The purpose of this section is to identify those functionalities that may potentially be offered by depositories and clearing systems around the world, and ascertain whether they are offered by your institution.*

**26. For which of the following security types do you serve as a depository or clearing system? (Choose all that apply.)**

Government securities

Equities

Corporate bonds

Others (please answer 26a)

**26a. Please name the other security types:**

Fund certificates, Municipal bonds

**27. Is the use of the depository in your market compulsory by law or compulsory by market practice for the settlement or safekeeping of all instrument types in your market (e.g. equities, government securities, corporate bonds, money market instruments, warrants, derivatives etc). (Choose all that apply.)**

Yes by law for settlement, but not for all instrument types (please answer 27a)

Yes by law for safekeeping, but not for all instrument types (please answer 27b)

**27a. Please list the instrument types for which it is not compulsory by law to: (i)settle in your depository**

Securities of nonpublic companies

**(ii)safekeep in your depository:**

Securities of nonpublic companies

**28. Settlement and Safekeeping Percentages**

**28a. Please list by instrument type the percentage of the total market in your jurisdiction (either volume or value) settled within your institution, exclusive of your links with third parties.**

In principle, securities (including equity, bond, fund certificate) traded on Stock exchanges are all cleared and settled through VSD (cash settled through Settlement Bank).

**28b. Please list by instrument type the percentage of the total market in your jurisdiction (either volume or value) held in safekeeping within your institution.**

Equities: 65%; Bonds: 100% Fund certificates: 100%

**29. Are there any activities performed by a third party on behalf of the depository for the depository participants (e.g., vaulting of physical securities, registration, entitlement processing, etc.)?**

No

**30. Has any participant suffered any losses in the past three years due to the depository's performance?**

No

### **Other Services**

**31. Who accepts cash deposits (or makes payment credit accommodations) for depository transactions? (Choose all that apply.)**

Neither/others (e.g. credit lines used; please answer 31b)

**31b. If neither/others, please explain:**

The Bank for Investment and Development of Vietnam (BIDV) which is appointed by Vietnam State Securities Commission.

**32. Who processes cash clearing (or draws on credit lines, if applicable) for depository transactions? (Choose all that apply.)**

Depository

**33. Who controls the movement of cash for cash deposits (or draws on credit lines, if applicable)? (Choose all that apply.)**

Depository

Banks appointed by depository (please answer 33a)

**33a. Please name banks appointed by depository:**

Bank for Investment and Development of VietNam (BIDV)

**34. Who controls the movement of cash for cash clearing (or for draws on credit lines, if applicable)? (Choose all that apply.)**

Depository

**35. Please indicate services you provide. (Choose all that apply.)**

Information in advance on corporate (annual or special) meetings in order that owners can vote.

Other (please answer 35d)

**35d. If other services, please explain:**

Other services: Securities Registration; Depository Services (Securities depository, Securities withdrawal, Transfer of securities, Pledge and pledge release); Corporate Action processing services (payment of bond interest and principle, and cash dividend; processing stock dividend, bonus stock, and right issue; conversion of convertible bonds), Securities Clearing

and Settlement (securities and cash clearing, and securities delivery); Issuing Trading Code for Foreign Investors; Issuing Local securities codes and International Securities Identification Numbers (ISIN).

**36. What procedures are in place for the processing of corporate action entitlements? (Choose all that apply.)**

Other (please answer 36d)

**36d. If other, please explain:**

- Issuers are in charge of informing VSD about detail Corporate action information. The information is published on the website of VSD and the stock exchange. VSD also sends the notice to members in official documents via post. Issuers take responsibility for corporate action to beneficiaries in compliance with the notice. If there is any changes related to corporate action in comparison with published information, issuers will have to inform VSD so that VSD will inform members and other market participants. VSD plays central role in collecting the information of securities holders and sending to issuers, concurrently allocates entitlement to securities holders at execution rate announced by issuers.

- As for receiving dividends in cash, paying bond interests, issuers undertake to remit full cash into VSD's account so that VSD can allocate cash to members then members will pay to investors who open depository account at members.

- As for voting right, VSD only sends the lists of beneficiary investors to issuers for relevant actions.

**37. What procedures are in place for the processing of interest and dividends?(Choose all that apply.)**

Other (please answer 37d)

**37d. If other please explain:**

- VSD sets up a master list of beneficiary investors with allocation of entitlements to interest or cash dividends and send to the issuer for approval. Two days before the payment date, the issuer will remit money to VSD's account opened at BIDV (the Settlement Bank). One day before the payment date, VSD will remit money to depository participants' accounts, and depository participants will allocate money to their individual investors' account on payment date.

**Linkages With Other Central Securities Depositories (CSD) or International Central Securities Depositories**

**(ICSD)**

**38. Please list all depositories or settlement systems to which you have an electronic link.**

VSD has no electronic link with other depositories or settlement systems

**39. Are procedures and controls (firewalls) in place to avoid systemic collapse or contamination if one of the linked entities should experience business interruptions for whatever reason?**

Not applicable

**40. Has a business interruption recovery plan been developed in the event the linkages should become inoperable for any reason?**

Not applicable

## ACCOUNT STRUCTURES AND RECORDKEEPING

*The purpose of this section is to identify the nature of accounts; the naming convention is employed, the level of segregation achieved, accessibility in the event of bankruptcy and the frequency of reporting generated from them.*

### **41. Are participants permitted to maintain more than one account at the depository?**

Other (please answer 41d)

#### **41d. If other, please explain:**

Each participant is allowed to open only one depository account at VSD. A participant's account will include different sub-account for different purposes, including: trading securities accounts, trading halt accounts, pledge accounts, on hold account, pending payment accounts, frozen accounts pending withdrawal, transaction pending accounts, Error correction accounts; other accounts prescribed by law.

### **42. Are participants required/permitted to segregate assets held for their own benefit from those they hold for their clients?**

Yes (please answer 42a)

#### **42a. If yes, is segregation required or simply permitted?**

Required (please answer 42b)

#### **42b. How does segregation occur? (Choose all that apply.)**

By sub-accounts within a single participant account.

By separately designated beneficial owner accounts.

### **43. Does the depository permit its participants to open accounts in the participant's own nominee name(s)?**

Other (please answer 43b)

#### **43b. If other, please explain:**

Securities shall be centrally deposited at VSD in the form of omnibus account. The securities holders are co-owners of deposited securities in proportion to the number of securities deposited. The depository of clients' securities at VSD take place at two levels: clients deposit their securities at participants and participants re-deposit their clients' securities at VSD. Participants shall hold in custody securities of their clients and are authorized by clients to conduct securities registration, depository, clearing and settlement operations. In order to have their securities kept in custody at participants, clients must sign contracts on opening securities depository accounts with participants. VSD shall hold securities deposited by its participants and is authorized by participants to conduct operations in connection with securities registration, depository, clearing and settlement. In order to have their securities kept in custody at VSD, participants must open securities depository accounts with VSD.

### **44. In the event a participant's single or main account is blocked for any reason (e.g., insolvency, penalties, violations, liens), would securities held in any account or accounts on behalf of the participant's clients be accessible:**

**44a. By the participant's clients?**

Other (please answer 44c)

**44c. If other, please explain:**

Clients are entitled to request transfers of their securities held in the account opened at the insolvent participant to the account opened at another participant. The insolvent participant is responsible for working with VSD and other authorities to handle clients' requests. Authorities can designate a participant for transfer of clients' securities in case the insolvent participant, or its clients do not request to transfer securities to account opened at another participant.

**45. In what form does the depository maintain records identifying the assets of each participant? (Choose all that apply. Please refer to "Help" for clarification.)** 

Computer file (please answer 45b)

Hard copy (please answer 45b)

**45b. In which format is the source data maintained?**

ORACLE

**46. Rule 17f-7 requires that an Eligible Securities Depository “provides periodic reports to its participants with respect to its safekeeping of assets, including notices of transfers to or from any participant's account.”**

**Does the depository make available periodic safekeeping reports to participants, including notices of transfers to or from the participant's account?**

Yes (please answer 46b)

**46b. If yes, please indicate the scheduled frequency: (Choose one.)**

Daily

Upon request

**47. What is your document and record retention policy for documents and records described above in this section? (Choose one.)**

Other (please answer 47a)

**47a. If other, please explain:**

10 years

**SETTLEMENTS**

*The purpose of this section is to identify the model of settlement employed, the relationship between cash and securities, and the basis on which participants meet their obligations.*

**48. The Committee on Payment and Settlement Systems of the Bank for International Settlements (BIS) has identified three common structural approaches or models for linking delivery and payment in a securities**

**settlement system. Please indicate which model your procedures most closely resemble (Please refer to details on the models within the "Help" section located below this question): (Choose all that apply.)**

Model 1 - Gross, Simultaneous Settlements of Securities and Funds Transfers. (please answer 48a)

Model 3 - Simultaneous Net Settlement of Securities and Funds Transfers. (please answer 48a)

**48a. Please briefly describe your settlement process, including how your settlement procedures may vary from the model chosen above (and as described below in the Help section)?**

- Model 1 is applied for foreign currency - denominated bonds, trading block (greater than or equal to 100,000 equities or fund certificates)

- Model 3 is applied for local currency - denominated bonds, stocks, and fund certificates

**Question 48 Help:**

*Model 1 - Gross, Simultaneous Settlements of Securities and Funds Transfers. These systems settle transfer instructions for both securities and funds simultaneously on a trade-by-trade (gross) basis, with final (irrevocable and unconditional) transfer of securities from the seller to the buyer (delivery) occurring at the same time as final transfer of funds from the buyer to the seller (payment). The securities settlement system maintains securities accounts and funds accounts for participants. Transfer of securities and cash are made by book-entry.*

*Model 2 - Gross Settlements of Securities Transfers Followed by Net Settlement of Funds Transfers. These systems settle securities transfer instructions on a trade-for-trade (gross) basis, with final transfer of securities from the seller to the buyer (delivery) occurring throughout the processing cycle, but settle funds transfer instruction on a net basis, with final transfer of funds from the buyer to the seller (payment) occurring at the end of the processing cycle.*

*The securities settlement system maintains securities accounts for participants, but funds accounts are usually held by another entity (often a commercial bank or the central bank). Securities are transferred by book-entry, such transfer being final at the instant the entries are made on the securities settlement system's books. The corresponding funds transfers are irrevocable, but not final. During the processing cycle, the system calculates running balances of funds debits and credits, the balance being settled at the end of the processing cycle when the net debit and net credit positions are posted on the books of the commercial bank or central bank that maintains the funds accounts. Settlement of funds accounts may occur once a day or several times a day.*

*Model 3 - Simultaneous Net Settlement of Securities and Funds Transfers. These systems settle transfer instructions for both securities and funds on a net basis, with final transfer of both occurring at the end of the processing cycle. Settlement may occur once a day or several times a day. The securities settlement system maintains securities accounts for participants. Funds accounts may be maintained by another entity, either a commercial bank or the central bank.*

*During a processing cycle, running balances of debits and credits to funds and securities accounts are calculated. All funds and securities transfers are provisional until the end of the processing cycle, at which time book-entry transfer of securities take place. If and only if all participants have sufficient balances of funds and securities, final transfers of the net securities balances and net funds balances are executed.*

**49. Are the cash and security movements simultaneous?**

Yes

**OWNERSHIP OF SECURITIES**

*The purpose of this section is to determine how ownership of securities is represented, the ways the depository maintains ownership or control of securities held in the depository, and the extent to which ownership of assets held by the depository is separated from the proprietary assets of the depository.*

**50. How are depository eligible securities held by the depository?**

Securities in the depository are held in dematerialized form.

**52. If securities are dematerialized:**

**May dematerialized security positions be re-certificated and held outside the depository?**

Other (please answer 52j)

**52j. If other, please explain:**

When securities are registered with VSD, they will be dematerialized. Therefore, securities deposited with VSD are in book-entry form, not physical securities. If investor wants to withdraw their securities, he/she will ask the depository participant to submit securities withdrawal application to VSD. Upon receipt of participant's eligible application, VSD will request the issuer to reissue the shareholder's passbook – not a physical certificate (which will be available within 15 days after receipt of VSD's request). The passbook, serving as a holding statement, then will be sent to the participant to deliver to the investor.

**53. Rule 17f-7 requires that an Eligible Securities Depository “maintains records that identify the assets of each participant and segregate the system's own assets from the assets of participants.”**

**Does the depository maintain records that identify the assets of each participant and segregate the system's own assets from the assets of participants?**

Yes

**54. Does the law protect participant assets from claims and liabilities of the depository?**

Yes

**55. Can the depository assess a lien on participant accounts? (A lien would entitle the depository to take and hold or sell the securities of the participant in payment of a debt.)**

Other (please answer 55o)

**55o. If other, please explain:**

Using assets in the account of members to reclaim debts is only possible in cases when participants go bankrupt or are subject to operating license revocation. In these cases, using assets in participants' accounts will be in the order as stipulated by related laws or court sentences. VSD itself will not decide how to handle assets in participants' accounts but will act in accordance with laws and authorities' decision.

## **56. Transfer of Legal Ownership**

### **Does the depository have legal authority to transfer title to securities?**

Yes (please answer 56a)

### **56a. When does title or entitlement to depository securities pass between participants? (Choose one.)**

At the end of the business day on which the transfer occurs. (please answer 56c)

Other (please answer 56b)

### **56b. Please describe:**

More specific information can be found in Article 27 Decision No.87/2007/QD-BTC dated 22 October 2007 of the Minister of the Ministry of Finance on the Regulations of securities registration, depository, clearing and settlement.

### **56c. Where does title or entitlement to depository securities pass between participants? (Choose one.)**

On the registration and depository books

## **HANDLING OF SECURITIES OUTSIDE THE DEPOSITORY ENVIRONMENT**

*The purpose of this section is to consider the process (and any risk inherent within such a process) that involves the safekeeping of client assets while they are being removed from a depository and being lodged into a depository.*

### **57. How are eligible securities lodged (that is, placed) in the depository system? (Choose all that apply.)**

Other (please answer 57a)

### **57a. Please describe:**

Firstly, issuers register securities to VSD, provide Shareholder and securities information. Next, VSD notice participants about the registered securities. Participants receive depository request from clients, and submit to the depository securities holders' passbooks (a kind of ownership statement provided by issuers) to the depository. Then the depository verifies the passbooks and investors' information against the Shareholder book previously registered and provided by the issuers.

### **58. When are securities lodged into the depository reflected in a participant's depository account? (Choose all that apply.)**

Other (please answer 58a)

### **58a. Please explain:**

Upon reconciliation of participant's lodging application with information in the shareholder book provided by the issuer, VSD will credit securities to the depository account of the participant who will then credit those securities to their individual investor's depository account.

### **59. How long does it usually take to lodge securities with the depository? (Choose one.)**

Other (please answer 59b)

**59b. If other, please explain:**

Within 01 working day after receipt of complete documents from participant.

**60. During the process of lodging securities into the depository, can the securities:**

**Be traded?**

No (please answer 60c)

**60c. If they cannot be traded, or if you answered other, please explain:**

These securities can not be traded until they are credited to the respective depository participant's account.

**61. Are securities immediately available for delivery upon transfer to the depository?**

Yes

**62. Please describe briefly the arrangements/procedures/facilities you maintain to ensure that eligible securities held at the depository are handled at least as efficiently as compared to securities held outside the depository, particularly in relation to income, corporate actions and proxy services.**

Eligible securities held at VSD are dematerialized to avoid risks of damages, stealing and forgery; Book-entry system is applied to make it convenient in transferring ownership (legal ownership of investor regarding securities deposited in account at VSD is protected) and corporate action processing. Interests related to deposited securities are monitored and handled by participants and VSD, investor does not need to directly contact with Issuer to receive interests and benefits.

**63. What transfer process steps are involved when eligible securities are withdrawn from the depository for safekeeping? (Choose one.)**

Other (please answer 63a)

**63a. Please specify:**

Issuers will reissue the shareholders' passbook and the depository will debit the relevant participant's depository account. Ownership information of investor is kept track of in registration system. Transfer of ownership must be registered with VSD and complied with VSD regulations.

**64. How long does it usually take to remove securities from the depository? (Choose one.)**

Other (please answer 64b)

**64b. If other, please explain:**

No later than 15 working days

**65. While the securities are being removed from the depository, can they:**

**65a. Be traded? (Choose one)**

No (please answer 65b)

**65b. Please explain:**

Those who have withdrawn their securities cannot trade them. According to Securities Law, investor who holds securities of public company must deposit securities at VSD before selling. Therefore, investor who would like to sell securities after withdrawing securities out of VSD must deposit securities at VSD. They can only transfer the ownership in the special cases

as stipulated in Article 4, Item 1b of Circular no. 43/2010/TT-BTC dated 25th March 2010 on supplementing, amending the Regulation on securities registration, depository, clearing and settlement promulgated attached to Decision no. 87/2007/QD-BTC dated 22nd October 2007 of the Minister of the Ministry of Finance.

## **STANDARD OF CARE**

*The purpose of this section is to understand the responsibility and liability that the depository has in providing services to its participants/members in the settlement and clearing of securities and/or cash, and to understand what type of protections exist for participants in the event of a participant failure/default.*

### **Depository Liability**

**66. Does the depository accept liability (independent of any insurance coverage) for the following:**

**66a. Reconciliation errors with the registrar and/or the issuer that result in direct damages or losses to participants?**

Other (please answer 66d)

**66d. If other, please explain:**

Securities Law prescribes that securities of public company must be registered with VSD by Issuer (VSD is the sole agent to implement registration towards all securities of public company). Issuer takes responsibility for the accuracy and adequacy of registration information.

**66e. Theft of securities (either physical certificate or electronically from accounts at the depository) from the depository that results in direct damages or losses to participants?**

Yes (please answer 66f)

**66f. If yes, please check all of the following that apply:**

The depository assumes liability for direct losses

**66i. Failure of the depository's systems that result in direct damages or losses to participants because they cannot use either securities or funds?**

Yes (please answer 66j)

**66j. If yes, please check all of the following that apply:**

The depository assumes liability for direct losses

**66m. Any direct damages or losses to participants caused by the depository due to its errors, omissions or fraud?**

Yes (please answer 66n)

**66n. If yes, please check all of the following that apply:**

The depository assumes liability for direct losses

**66q. Any direct damages or losses to participants caused by the depository in its capacity as a central counterparty?**

Not applicable

**66u. Does the depository guaranty settlement?**

Other (please answer 66w)

**66w. If other, please explain:**

- VSD's members are responsible for settling all of their transactions. In case of cash shortage, VSD's Compensation Fund or compulsory loan from BIDV will be applied. When lack of securities occurs, participants will be required to borrow securities for timely delivery. VSD will facilitate participants' borrowing. However, default can happen if lacking participant cannot borrow relevant securities.

**66x. Any direct damages or losses to participants caused by the depository as a result of force majeure events, acts of God, or political events, etc.?**

No

**66+. In all cases where the depository assumes responsibility for direct or indirect or consequential losses, is the depository's liability limited by a standard of care determination?**

Other (please answer 66!)

**66!. If other, please explain:**

As for wholly state owned limited liability company, obligations are governed by applicable law.

**67. Do the depository's written contracts, rules, or established practices and procedures provide protection against risk of loss of participant assets by the depository in the form of?**

**67a. Indemnification**

Yes (please answer 67b)

**67b. Please explain (then please answer 67c):**

This is stipulated in legal documents.

**67c. Please provide details of the relevant sections of the contracts, rules or practices where this information is found.**

- Law of Securities No. 70/2006/QH11 dated 29 June 2006 of the National Assembly; - Decision No. 87/2007/QD-BTC dated 22 October 2007 of the Minister of the Ministry of Finance on the Regulations of securities registration, depository, clearing and settlement. - Circular no. 43/2010/TT-BTC dated 25th March 2010 on supplementing, amending the Regulation on securities registration, depository, clearing and settlement promulgated attached to Decision no. 87/2007/QD-BTC dated 22nd October 2007 of the Minister of the Ministry of Finance. - VSD's membership guideline dated 22 April 2010 - Agreement signed between VSD and participant.

**67d. Insurance**

Yes (please answer 67e)

**67e. Please explain (then please answer 67f):**

Insurance of Fire and explosion and other risks.

**67f. Please provide details of the relevant sections of the contracts, rules or practices where this information is found.**

Clause 5 of the Contract

**67g. Acknowledgement of liability for losses caused by depository's own actions.**

Yes

**67i. Please provide details of the relevant sections of the contracts, rules or practices where this information is found.**

Clause 8 of the Contract

**68. Is the depository immune from legal action in its own jurisdiction?**

No

### **Security Control**

**69. How do participants receive information (view actual settlement of trades, movement of securities on their accounts, etc.) and see the status of their accounts? (Choose all that apply.)**

By direct electronic link

By receipt of physical account holding statements

**70. Do participants have access to affect their holdings, including confirming and affirming trades, movement of securities on their accounts, etc.?**

Yes (please answer 70a)

**70a. How is access given to participants? (Choose all that apply.)**

Other (please answer 70c)

**70c. Please explain:**

Via a private WAN, and instructions in hard copy form.

**71. Regarding data security:**

**71a. Are passwords used by participants to access their accounts?**

Yes

**71c. Does each user have a unique user ID?**

Yes

**71e. Are passwords regularly changed?**

Other (please answer 71g)

**71g. If other, please explain:**

VSD recommends that participant change user password, however, participants are in charge of controlling password change of their staff.

**71h. Is there a user lock-out after a pre-set number of unsuccessful User ID attempts?**

No

**72. Does the depository communicate with other market entities such as stock exchanges, payment systems, clearing houses, etc., by secured linkages?**

Yes (please answer 72a)

**72a. Please explain:**

VSD also uses a secured link (via WAN) with stock exchanges to receive trading data; send holding limit of foreign investors and information on securities registration (to Hanoi Stock Exchange); with the settlement bank (BIDV) to monitor cash movements.

**73. How does the depository communicate with other market entities?**

**73a. Stock Exchanges (Choose all that apply.)**

Fax

Paper/other

**73b. Payment Systems (Choose all that apply.)**

Fax

Paper/other

**73c. Clearing Houses (Choose all that apply.)**

Not applicable

**73d. Registrars (Choose all that apply.)**

Not applicable

**74. How is access to the physical building controlled? (Choose all that apply.)**

By guards

By electronic keys/personal ID card

**75. What are the vault security procedures for the safekeeping of physical paper? (Choose all that apply.)**

Dual access control

Vault counts (please answer 75a)

Fire alarms

Other (please answer 75b)

**75a. Please indicate frequency of vault counts:**

Monthly and whenever necessary

**75b. Please explain:**

VSD rent a storehouse of the National Storing Bureau (a professional storing service provider) for safekeeping physical documents

**Participant Default Protections Resulting from a Participant Failure**

**76. If a participant defaults, how is the loss covered? (Choose all that apply?)**

Other (please answer 76d)

**76d. Please explain:**

Those participants who lack securities for delivery have to borrow or get securities support from other members, clients; and other legal sources. The participants whose transactions are cancelled are to be responsible for losses of clients and related participants. Loss compensation is negotiation among related parties but not exceeding 10% of the value of cancelled transactions. Those participants who lack money for payment can borrow from the Compensation Fund (which was formed from the participants' contribution and managed by VSD) or from the Settlement Bank.

**77. During the past three years, has there been a situation where a participant defaulted which resulted in a significant loss?**

No

**77a. How was the situation resolved? Or if you answered "Other," then please explain:**

There were cases in which participants ran short of cash or securities for settlement. However, these cases were solved via securities lending, money loans or cancellation of transactions. Therefore, VSD's settlement of securities transactions was smoothly made without significant influence on other participants and the market.

**78. Does the depository have a guaranty fund independent of stock exchange or other market guarantees?**

Yes (please answer 78a)

**78a. If yes, please respond to the following questions: What is the size of the fund (then please answer 78b)?**

Over 15 million USD (up to Sep, 2011).

**78b. How is the size of the fund determined? (Choose one.)**

Other (please answer 78c)

**78c. If other, please explain:**

An initial fixed amount contributed by depository participants and their annual contributions calculated by brokerage trading value for listed securities on stock exchanges of previous year.

**78d. How is the fund financed? (Choose one.)**

Contributions from participants (please answer 78f)

**78f. If so, what is the amount or percentage per participant?**

A fixed amount of 120 million VND (around 6,700 USD) plus 0.01% of brokerage trading value for listed securities on stock exchanges of previous year but not exceeding 2.5 billion VND/year (for participants who are brokers), and 0.01% of the brokerage trading value for listed securities on stock exchanges of previous year settled through commercial banks but not exceeding 2.5 billion VND/year (for participants who are commercial banks).

**78h. Who is covered by the fund? (Choose all that apply.)**

Depository participants only

**78j. When is the guaranty fund used? (Choose all that apply.)**

When a depository participant temporary defaults

**79. Does the depository have forms of oversight management for assessing and monitoring of the following? (Choose all that apply.)**

Participant eligibility requirements

Settlement controls that minimize or eliminate the risk of default by a participant (please answer 79d)

Blocking of securities movement before receipt of payment

Blocking payment until securities are moved

**79d. What type or types of settlement controls (Choose all that apply.)**

Controlling DVP settlement (please answer 79f)

**79f. Please explain:**

Investors need to have adequate securities and cash before affecting selling and buying transactions, and participants are responsible for their investors' solvency. Via monitoring investors' account balance, VSD can spot out those investors who lack securities for delivery on the settlement date. Cash for payment of participants will be transferred to their cash accounts opened at the Settlement Bank (BIDV) before being transferred to VSD's account and selling side's account. The Settlement Bank will check and notify VSD of the shortage amount for timely remedies.

**80. Does the stock exchange have default protections that extend to the depository, such as the following? (Choose all that apply.)**

No

## **BUSINESS RECOVERY PLAN**

*This section is intended to identify key aspects of the depository's Business Recovery Plan (BRP), including testing requirements and past results, expected recovery time periods, and the independent review and validation (if any) of the BRP.*

### **81. Do you have a formal business recovery plan?**

Yes (please answer 81a)

#### **81a. Does your Business Recovery Plan include: (Choose all that apply.)**

Back-up of all computer files

Off-site data storage

Back-up files stored and locked

#### **81b. Please identify both the frequency and the last date of testing for the following third party:**

##### **Depository participants/members**

Semiannual; Last testing: 4<sup>th</sup> June, 2011 (within limited participants. VSD is completing and finalizing the comprehensive testing seminar, applicable for various cases)

### **82. How quickly can the main system be reactivated in the event of an outage? (Choose one.)**

Other (please answer 82a)

#### **82a. If other, please explain:**

VSD has a dynamo in place to supply power immediately after the outage occurs.

### **83. If a back-up system exists, how quickly can the back-up system be activated in the event of the main system failing? (Choose one.)**

1 - 4 hours

### **84. Will the depository publicly announce any system interruption?**

No (please proceed to 85)

#### **84a. To whom will the depository disclose any system interruptions? (Choose all that apply.)?**

To depository regulators

To direct and indirect participants

Other (please answer 84d)

#### **84d. If other, please explain:**

Stock Exchanges, Settlement Bank

#### **84e. How will the depository disclose any system interruptions? (Choose all that apply.)**

Written notice to participants.

**85. In the past three years, has it been necessary to activate the recovery plan in a live situation?**

No

**PERFORMANCE, INSURANCE, AND LOSS**

*This section is intended to identify the level of insurance maintained by the depository, and the extent to which coverage would extend to financial loss incurred by participants and their clients, including but not limited to losses resulting from operating performance, security breaches, and employee negligence or misconduct.*

**86. Has there been any material loss by the depository during the past three years?**

No

**87. Has the depository been subject to any litigation involving a participant during the past three years?**

No

**88. Has the depository realized revenues sufficient to cover expenses during the past three years? (Choose one.)**

Not applicable

**89. Does the depository maintain a reserve for operating losses?**

Yes (please answer 89a)

**89a. Please describe and indicate reserve amount:**

The reserve is made up of 2% to 5% of the VSD's annual revenue.

**90. Has the regulatory body with oversight responsibility for the depository issued public notice that the depository is not in current compliance with any capital, solvency, insurance or similar financial strength requirements imposed by such regulatory body?**

No

**91. Does the depository have insurance to cover losses in the event of Default on settlement commitments by the depository or a participant?**

Not applicable

**92. Does the depository have Fidelity insurance (that is, insurance to cover loss of securities or money resulting, for example, from acts such as forgery, theft, fraud and/or employee dishonesty)?**

Not applicable

**93. Does the depository have insurance for Operational Errors?**

Not applicable

**94. Does the depository have Errors and Omissions insurance?**

No

**95. Does the depository have insurance for the Premises?**

No

**96. Does the depository have any other insurance?**

Yes (please answer 96a)

**96a. If so, what is it for?**

Insurance of Fire and Explosion and other risks.

**96b. What is the amount of the coverage?**

~ 1.142 million USD

**96c. What is the amount of the deductible?**

For Act of God: ~950 USD / case

Others: ~425 USD / case

**97. Who is the insurance carrier? If more than one insurance carrier, please list each carrier here and provide your responses to questions 97a and 97b in corresponding order.**

Bao Viet Insurance

**97a. Who is the insurance carrier's parent company, if applicable? (If inapplicable, simply type n/a.)**

Bao Viet Group

**97b. What is the term of the policy?**

From Jan 1, 2011 to Dec 31, 2012

**97c. Who does the insurance cover? (Choose all that apply.)**

Depository

**PUBLIC AVAILABILITY**

**99. The AGC encourages respondents/depositories to make their answers to this questionnaire publicly available. Will you be making your response publicly available? (For additional guidance, please review the help feature to this question.)**

Yes (please answer 99a)

**99a. If yes, how will you be making it publicly available: (Choose all that apply.)**

By individual request with depository (please answer 99c)

**99c. Please provide name of contact at depository who has been designated to receive such requests (then please answer 99d).**

Ms. Nguyen Thi Thanh Thao, Manager – Research & Development, and International Cooperation Division

**99d. How would they prefer to be contacted? (Choose all that apply.)**

Facsimile (please answer 99f)

By mail/air courier (please answer 99g)

By e-mail (please answer 99h)

**99f. Please provide facsimile number:**

84-4-3 9747 235

**99g. What is the preferred street address for mailing requests?**

No. 15 Doan Tran Nghiep Street, Hai Ba Trung District, Hanoi, Vietnam

**99h. What is the preferred e-mail address for such requests:**

thaontt@vsd.vn and cc to: [huyennnguyen@vsd.vn](mailto:huyennnguyen@vsd.vn); [minhng@vsd.vn](mailto:minhng@vsd.vn)