CAPITAL MARKETS POSITION PAPER

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1. DECISION NO. 51/2014/QD-TTG ON PRIVATIZATION OF SOES:

We would like to express our delight and appreciation of Decision No. 51/2014/QD-TTg on "Guidelines on the capital divestment, sale of shares, trading registration, and share listing on the stock exchange of state-owned enterprises (SOEs)" dated September 15, 2014 issued by the Prime Minister ("**Decision 51/2014**").

In our opinion, this is a significant breakthrough and a very wise decision, showing the Prime Minister's determination towards the process of privatization, the main of which is to develop a sound stock market.

However, we would like to emphasize that the compliance and enforcement of, as well as the supervision of compliance and enforcement of, the Decision 51/2014 will play a crucial role in the success of the privatization of the SoEs and the development of the Stock Exchange.

The market capitalization of Vietnam's stock market is very small in comparison with other countries in the ASEAN region, which is about 1/5 of the Philippines's, or 1/10 of Malaysia's. This means that Vietnam has not really attracted the large and long term cash flows of foreign investors. This might be significantly improved if Decision 51/2014 is strictly complied with and actively implemented. This is also an important step for the stock market to become an importance source of mobilizing capital for the economy and reducing budgetary deficits.

In addition, the privatization process needs to be implemented more decisively and faster. The Government should also offer to sell at least a 30% to 40% interest of each SoEs to be privatized in order to provide more liquidity to the market.

2. CORPORATE GOVERNANCE AFTER PRIVATIZATION

The State Securities Commission (**SSC**) and government of Vietnam have been actively working on formulating and establishing strict corporate governance policies. Yet, the corporate governance in privatized state-owned enterprises remains a current concern as there is no complete regulatory framework. Our discussions with a number of state-owned corporations indicate that they are not really aware of the importance of corporate governance and the willingness to comply with it.

In our view, good corporate governance is vital to:

- make the operation of a company, its profits and losses, revenues and investments more transparent;
- help the company to achieve sustainable development and growth; and
- attract both domestic and foreign investors.

We consider that a consolidated financial report is the core benchmark against which corporate governance of a company is measured. Both before and after privatization, large corporations cannot excuse their delay in publishing their consolidated financial reports due to reasons of their subsidiaries' failure to provide them with their audited financial reports. Good corporate governance should improve substantially the transparency and performance of a company.

Also we recommend that the State Capital Investment Corporation (SCIC) needs to make its annual financial reports publicly available. It also needs to disclose quarterly and publicly its investments and divestments for public scrutiny as the monies earned from the divestments and accumulated profits are extremely large and the market should be aware of what the SCIC does with those monies.

3. PUBLISHING THE PIPELINE OF COMPANIES TO BE PRIVATIZED

We have noted the government's strong commitment to the privatization process. However, investors in Vietnam, including us, have not seen any list of companies to be privatized and the estimated timing for privatization of those companies (which does not need to have exact dates, but just to outline the estimated timing for each quarter of the year). Instead, we have only known the timing for a company to be privatized through the media, randomly. There is no defined Government plan.

The importance of publishing the pipeline has probably been overlooked. A list containing the names of companies to be privatized, the proposed amounts with a price range and the estimated timing for privatization of those companies will be considered as a definitive, unambiguous and complete message of the Government's commitment to privatization, and also will be a notice to interested investors so that they can do proper due diligence on those companies, as well as be financially ready to invest in those companies.

4. SOME KEY FACTORS TO THE SUCCESS OF PRIVATIZATION

In our view, there will be a huge demand for capital (which can be up to $5 - $10 billion dollars, depending on the scale of privatization) for investments in the companies to be privatized. The Government should then develop some technical solutions to mobilize the capital for the success of privatization.

We wish to recommend some specific solutions as follows:

- Expedite the creation of domestic pension funds: these funds will provide a significant demand for the financial market and privatization.
- Have an international roadshow for each large company to be privatized promoted by leading international investment banking firms, which would give credibility and global visibility to the company being privatized.
- Consider bringing in strategic investors to participate in the privatization.
- Increase foreign ownership:
  - (a) under the current restrictions on foreign ownership of 49% in listed companies, the total value of listed shares (including good or bad ones) which foreign investors can buy is just under US$6 billion.
  - (b) For those companies satisfying the requirements of capitalization and liquidity (including both good or bad ones) to be included in VN30, foreign investors will only be able to buy up to additional US$3.1 billion worth of shares in those companies, which is about 5% of the total market capitalization, which is an extremely small figure.
  - (c) For the business lines and services under the WTO commitments of Vietnam, we suggest that Vietnam allow the full market access as per its WTO commitments.
  - (d) We also suggest that the restrictions on foreign ownership should only apply for business lines/areas which involve national security and thus require special conditions or restrictions. For other business lines/areas, there shouldn't be any foreign ownership restrictions.
  - (e) For Securities Investment Institutions (being securities companies and fund managers), we suggest that the foreign ownership of between 49% and 100% in those securities investment institutions be implemented.
  - (f) Under Decree 58/2012, a foreign investor can:
    - *(i) either own up to 49% of a securities company or an asset management company; or*
    - *(ii) own 100% of a securities company or an asset management company.*
  - (g) The foreign investor is prohibited from owning majority interest (between 50% to 99%) of a securities company or an asset management company.
  - (h) In our view, such a prohibition appears to be rigid and illogical. We suggest that Decree 58/2012 be amended to allow flexible foreign ownership of between 50% and

100% in securities companies and asset management companies, including listed securities companies and asset management companies.

- NVDR: Non-Voting Depository Receipt:
  (a) The Government will be able to attract a significant attention from international investors by sending a strong signal on its loosening the foreign ownership limits through the issue of Non-Voting Depository Receipt (NVDR). Those foreign investors, who wish to pay more attention to Vietnam, would be able to property evaluate opportunities arising from the privatization of the SoEs. Those potential investors will be part of the new demand for privatizations.
  (b) Based on our study, the issue of non-voting depository receipts (NVDRs) to foreign investors can be an effective option that may create a relatively broad-based impact on the performance of the stock market. On the one hand, it helps promote the inflow of foreign investment, improve market liquidity and at the same time reduce capital costs of companies. On the other hand, it may also bring positive impact on the state budget and higher revenue from payment of fees, taxes on securities investments, and help speed up the privatization (equalization) process.
  (c) Concerning risks associated with NVDRs, first, the so-called "foreign control" risk remains minimal. The practice of Thailand and Malaysia allowing nearly unlimited foreign investment in NVDRs is a typical example.
  (d) Based on the experience of other countries in the region, we suggest that the Government consider applying the NVDR in Vietnam as follows:

    (i) allow non-voting depository receipts (NVDRs) by adopting Thailand's model and for a pilot period of two years;
    (ii) allow NVDRs to be issued in the trial period at the cap of 20% of the total shares; and
    (iii) following the 2-year pilot project, if the NVDR option really helps improve market performance, without conflicts of interests between local and foreign investors, loosen or remove the above NVDR ratio.