



RESEARCH TO COMPLETE THE LEGAL FRAMEWORK FOR DEVELOPMENT OF VIETNAM'S STOCK MARKET TO MEET INTERNATIONAL TRENDS

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Abstract - In the integration trend, Vietnam needs to mobilize capital for economic growth through the financial market, so it is of great interest to study and perfect the legal framework to create a foundation for the development of the stock market. Research on the basis of surveying 100 subjects who are the relevant Boards of Directors, Heads and Deputy Heads of some securities companies in Ho Chi Minh City and Hanoi to see the actual application of the legal framework. stock market in Vietnam. The results show that the current legal framework is relatively complete, but there are still some shortcomings in terms of consistency and timeliness in amending and supplementing the system of legal documents, payment and clearing. lack of systematicity, as well as a number of regulations on accounting, information disclosure and supervision that have not met practical needs. From there, the study proposes a number of solutions in the direction of building a legal framework in line with international practices, improving consistency and timeliness, completing the payment and clearing system as well as other regulations. information regulations. This contributes to a healthy legal environment for the Vietnamese stock market to develop in response to the trend of international integration.

Keywords: Legal framework; stock market development; international integration;


1. INTRODUCTION

In the trend of globalization, the development of capital markets is important for countries to attract financial resources for economic development. Accordingly, the completion of the legal framework for the stock market is an essential issue, which is of interest to many international organizations as well as researchers around the world. Typically, the International Organization of Securities Commissions (IOSCO) and some typical countries such as the US, China, Canada... have made continuous changes and adjustments to meet the globalization trend. Over the past time, Vietnam has made many efforts in issuing, amending and supplementing the system of legal documents to make the legal environment on the financial market in general and the stock market in particular healthy. However, the actual implementation of the stock market still has institutional problems and legal issues that have not been unified in transaction and payment activities (Nguyen Thi Lan, 2017). Legal documents related to the stock market still have a number of laws that have not been improved yet and specific sanctions regulations, payment transactions are not synchronized, and the method of supervision is not strict (Nguyen. Son, 2018). To meet the trend of international integration, Vietnam needs to make more efforts to perfect the securities market legal framework on the basis of conformity with international practices, ensuring consistency in the legal document system. laws, as well as amending and supplementing regulations in a timely manner to meet practical needs... This opens up many opportunities for Vietnam in finding financial resources for economic development through revenue. attracting regional and international capital markets by both domestic and foreign organizations and investors.

2. THEORETICAL FOUNDATIONS AND RESEARCH METHODS

2.1. Theoretical basis

- Brief history of formation and development: Derivatives market was born in ancient Greece and mainly in the early days of commodity derivatives trading, with the same form as a contract. options




on olives (Weber, 2009). Futures trading existed in the 12th century in England and France, and rice futures trading was started in the 17th century in Japan. In 1982, futures on the S&P 500 stock index were formed. The Chicago Board Options Exchange trades options on the S&P 100 and S&P 500 stock indices, while the US Stock Exchange trades stock index options on the New York Stock Exchange. In 1982, the London International Financial Futures Exchange was established (Tiwari and Turan, 2004). Today, the stock market has been applied in most countries around the world with fast growth and this has contributed to the development of the global capital market (IOSCO, 2018). Particularly in Vietnam, the stock market has officially come into operation since August 10, 2017, a relatively new market and in the early stages of development.

- Concepts: The framework or framework of the stock market is understood in a number of different ways. AEMC (2017) states that templates are principles that are established to apply to a particular activity. However, the commonly used concept is that a framework is a system of rules and standards established for certain activities (IFRS Foundation, 2019). The legal framework is a system of legal documents from the legislative, executive and judicial branches (Chance and Brooks, 2016). Market is also implied in different meanings but generally it is a place where buyers and sellers interact in relation to goods, services, or contracts or instruments, for money or exchange. Therefore, the stock market is understood as a place to exchange, buy and sell contracts between parties on the basis of underlying assets. The stock market is a financial market that is traded and exchanged through contracts for financial instruments. This market can be segmented into the listed market and the over-the-counter (OTC) market, and the corresponding legality will also differ in each segment of the market (Chance and Brooks, 2016). Stock market is a place and form of information exchange to collect orders to buy, sell and trade securities or to perform clearing and settlement of securities transactions (Government, 2015a).

- Related previous studies: Researches related to the stock market are of interest to researchers both at home and abroad. For foreign studies, such as Deng (2005); Baker (2010); SouzaAriail (2011); Lin (2011); Rauterberg and Verstein (2013); Biggins and Scott (2013); Buxbaum (2017); Giancarlo and Tuckman (2018), Barta (2018) mainly focus on a number of countries with developed stock markets such as the US or China, Canada, and Ireland. For the US country, Baker (2010) analyzed regulations related to US legal documents and focused on stock market regulation. The author has reviewed the current regulations on the basis of building a legal framework for this market. The linkage between domestic and international is a necessary condition for the successful regulation of the derivatives market. From there, the author proposes that the US Congress should create a legal cooperation framework between the US Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) to build an international framework to consistent use in the global market. Ariail (2011) studies the impact of the US Wall Street Reform and Consumer Protection Act of 2010 (abbreviated Dodd-Frank Act) related to hedging trade risks on the stock market. The results show that there is a need for hedging tools to prevent trade risks. At the same time, this market will have certain adjustments and large banks will be more affected by the provisions of this Law. Rauterberg and Verstein (2013) evaluated the regulation of the US stock market through reforms and appropriate adjustments to legal documents. According to the assessment, the situation in more than 20 years of trading on the stock market has been lack of regulations leading to legal disputes, and possibly the cause of the crisis. Accordingly, the author proposes that policy makers need to identify shortcomings in the regulation, noting the efforts of the government to ensure strict legality. Buxbaum (2017) analyzed the transnational regulatory order for the stock market for the US and the group of major economies (G20). According to the author, countries form regulations according to their own characteristics, so there is no international consensus on the derivatives market. The author believes that this is one of the certain obstacles that have hindered the process of developing an effective transnational legal order in this field on the basis of forming a common and unified legal mechanism. Giancarlo and Tuckman (2018) analyze US market performance and draw on regulatory experiences with the implementation of derivative swaps reform to reduce systemic risks with healthy swaps to support economic growth on a large scale. For related countries such as China, Canada, Ireland, typically Deng (2005) studies the formation of a system of regulations related to



disputes over derivatives trading in China. The author analyzes and evaluates lawsuits related to derivative activities and recognizes that these issues have not been fully updated in the revisions of the Securities Law. The author proposes to develop a system of more specific regulations related to disputes for derivatives trading in China to protect shareholders, as well as adjust monitoring tools in regulatory management. for this activity. Lin (2011) studied the regulations in derivatives trading of related partners in China. The author believes that this country has issued regulations on protecting the interests of partners in derivative transactions, but the law has not yet issued a basic legal framework for enforcement. This is the basis to ensure fairness and uniformity in the market. Since then, the author has proposed to form a legal framework on the basis of rules to suit the development conditions of the derivatives market in China. Barta (2018) proposes regulatory reform of derivatives trading in Canada. The author mainly analyzes regulations related to derivatives. On that basis, the author has proposed the establishment of a clearing and escrow center to minimize risks, and the center's regulations are in charge of state management agencies in order to enforce regulations to ensure compliance with regulations. ensure compliance. Biggins and Scott (2013) study the regulations related to the regulation of the derivatives market in Ireland on the basis of examining the relationship between the state regulatory agency and the Derivatives Association. The author recognizes the need for synchronous coordination on the basis of unified regulations to maintain the safety of the derivatives market. From there, the author proposes that there should be legal standards for the OTC market to ensure stability, safety, and avoid risks in the application. In Vietnam, research related to the stock market is quite common, however, studies focusing on legal regulations are still modest. For studies related to the stock market, which is of interest to some authors, the main focus is on assessing the current state of legal regulations and proposing solutions or directions for improvement, typically such as: Can Van Luc (2015); Nguyen Kim Chung (2015); Nguyen Thi Hoang Yen and Pham Tuan Vu (2016). For Can Van Luc (2015) consider the conditions for effective operation of the stock market by means of synthesis and analysis, period 2014. A number of market operating conditions are set out in which it is of interest. It is a legal matter of state management agencies. Thereby, the author has proposed some suggestions for effective operation of the stock market in Vietnam, that is, for the management levels, it is necessary to build a legal corridor in creating and trading, and mechanisms and measures to prevent risks in transactions, ensuring transparency. Nguyen Kim Chung (2015) uses qualitative methods through synthesis and analysis to discuss the legal framework for the stock market on the basis of the Government's promulgation of Decree 42/2015/ND-CP on the stock market. securities. According to the author, the issuance of this regulation has solved many problems in practice and helped the stock market develop more professionally and methodically according to international practices. Nguyen Thi Hoang Yen and Pham Tuan Vu (2016) reviewed the legal framework of Vietnam's stock market. The author has synthesized and analyzed the structural model of the centralized stock market in Vietnam and the legal framework proposed by the State Securities Commission. According to the author's assessment, the legal framework has not been completed because current legal documents are still incomplete and in the process of drafting documents. Some studies focus on amending the legal system on the basis of perfecting the legal system on securities related to derivatives such as Pham Thai Binh (2014) and Nguyen Son (2018). Research by Pham Thai Binh (2014) conducted in the period 2016 - 2018 and used qualitative research methods to assess the current situation of the stock market in Vietnam and the current status of conditions for building a stock market. securities in Vietnam. Since then, the author has proposed a number of solutions, including legal ones, and suggested that the legal basis for the stock market should be improved such as amending and supplementing the Law on Securities and guiding documents. guiding the implementation of the Securities Law to facilitate the formation of a legal framework in the management and supervision of the market. Nguyen Son (2018) proposes solutions to develop the stock market, which refers to the legal environment in clearing transactions. The author uses qualitative research method. The author has acknowledged that the current legal documents of Vietnam on the stock market are relatively complete, but there are still some laws that have not been improved yet and the sanctions are not specific, trading activities are not yet clear. The payment service is not synchronized, the monitoring method is not strict. The author also



proposed a number of solutions related to legal issues such as completing the legal framework for payment and clearing activities to meet practical needs and have an appropriate monitoring mechanism. The authors propose to complete legal regulations according to international regulatory framework standards such as Pham Thi Bich Thao (2015) and Nguyen Thu Thuy (2017). For Pham Thi Bich Thao (2015) analyzed and evaluated a number of limitations and solutions for the development of the stock market in Vietnam in the period 2016-2020. The author has recognized this activity to be inefficient. due to institutional factors and legal issues are still inadequate. On that basis, the author has proposed a number of important solutions to complete the legal framework according to international standards, the regulations must be synchronized and unified to ensure systematicity. Nguyen Thu Thuy (2017) studies the advantages and challenges in developing the stock market in Vietnam. The author focuses on analyzing related issues in the period 2010-2016. According to the author, to build and develop sustainably the stock market needs to be based on factors, of which the key is to complete the legal regulation system. The author has also proposed some related solutions such as perfecting the legal system related to the stock market, developing the derivatives market according to international practices and standards. From previous studies, it can be seen that in foreign studies, the focus on regulations has topics related to separate countries, but there is no research for Vietnam alone. For studies in Vietnam, in-depth studies on the systematic legal framework have also been interested, but in the past, while recently in the trend of international integration, Vietnam has issued new regulations, amendments and supplements to a number of Laws, Decrees and Circulars related to the stock market, but there has not been a systematic and systematic study.

2.2. Research Methods

The research uses qualitative research methods, mainly analysis and synthesis to match the research objectives and content, and interviews and discussions with experts.

- Sampling method: Research and survey 100 subjects who are actually working in securities companies in Ho Chi Minh City and Hanoi City, having experience and knowledge in the securities field to see the problem. authenticated. Among the surveyed subjects were 28 Board of Directors (28%); 42 Head, deputy head of investment, risk management department (42%); 19 Department heads (19%); and 11 senior professionals (11%). The time to carry out the survey of related subjects is from August 2022 to February 2023.

- Designing the content of the questionnaire: The objective of the questionnaire is to find out about the consistency and completeness of the legal regulations as well as the feasibility of applying some securities companies to the legal framework on stock market. The content of the questionnaire includes, according to the structure of the questionnaire, two parts: the content specified in the legal documents and the actual application of the regulations. Content related to the provisions of the amended Law on Securities; Decree 58/2012/ND-CP and amended and supplemented by Decree 60/2015/ND-CP detailing the implementation of a number of articles of the Law on Securities and the Law amending and supplementing a number of articles of the Law on Securities. Law on Securities (abbreviated Decree 58, 60); Decree 42/2015/ND-CP on securities and securities market (abbreviated as Decree 42); Circular 11/2016/TT-BTC and Circular 23/2017/TT-BTC on securities and stock market securities (abbreviated to Circular 11, 23).

3. RESULTS AND DISCUSSION

On the basis of summarizing from experts, it can be seen that the legal document system on the securities market is relatively complete, unified and meets practical needs, but a few shortcomings still exist.

3.1. About the content specified in the legal documents

In general, according to the survey results, the Vietnamese stock market is quite complete in terms of related legal regulations, specifically:

- Legal documents are relatively systematic from the Law on Securities, Decrees 42 and Decree 58, 60, Circulars 11, 23 to improve the legal environment for the financial market in general. and the stock market in particular.



- The draft amended Law on Securities has added a number of regulations on the basis of approaching international practices on the scope of business activities, clearing, information disclosure...
- Vietnam has issued, revised and supplemented a number of legal documents to shape the legal framework such as Decree 42, Circular 11, 23, in addition to the Draft Law on Securities amending and supplementing as well. added regulations related to the stock market.

3.2. About practical application

The application of regulations related to the stock market has solved practical needs, but some regulations are still inadequate, typically:

- The amendment and supplementation of legal documents are still not in line with international practices, specifically some basic provisions and principles of IOSCO's legal framework have not been regulated such as cooperation and coordination. in regulations, regulatory structures or safety...
- Some regulations are inconsistent with other legal documents such as Decree 42 and Circular 11, 23 guiding some regulations on derivative securities, while the current Law on Securities does not have these provisions.
- The Law on Securities is slow to amend, lacks the timeliness of the securities market, while this market was formed in 2017, but so far this Law is still in the drafting stage.
- Some regulations on payment and clearing transactions are not systematic to create consistency. The Ministry of Finance has issued Circular 05/2015/TT-BTC guiding clearing and settlement of securities transactions, while Circular 11, 23 still guides relevant regulations on clearing and settlement of securities transactions. securities transactions, besides the Bank, there are still regulations related to clearing transactions according to Decision 456/2003/QD-NHNN.
- Regulations on accounting, information disclosure and supervision have not yet met practical needs, typically the Ministry of Finance has not yet issued a Circular to guide securities accounting for securities companies, but has only recently been issued. Official Letter 6190/2017/BTC-CDKT.
- For the requirements of information disclosure and information supervision on the current stock market, Circular 155/2015/TT-BTC mainly only regulates the securities market, derivatives are not mentioned.
- The handling of violations is mainly related to the stock market, there are no specific regulations on dealing with the complicated and risky securities market to be serious enough. Currently, only administrative handling according to Decree No. 108/2013/ND-CP stipulating sanctions on the stock market, there are no regulations for the derivatives market or handling of cases of "making prices", manipulation on the stock market in general.
- Training and fostering on professional ethical standards have not been paid due attention, but mainly focused on fostering professional knowledge.
- Some key shortcomings in typical legal documents such as the revised Law on Securities has been drafted, however, there are still some inconsistent contents regarding the scope of regulation that are not clearly defined between the market and the market. Securities and derivatives markets, as well as the securities investor protection fund, have not yet regulated a fund for general purposes or separate the securities market and the derivatives market. Regarding the securities practice certificate, there is no mandatory regulation applicable to those working in organizations and agencies related to the securities market and the derivatives market. The regulations on criminal handling of price manipulation, especially in the complicated and risky stock market, have not been mentioned. For Decree 42 and Decrees 58 and 60, there are a number of issues such as not specifying the role of the State Securities Commission, specifically related to the stock market, besides the underlying stock market as well as not consistency in the system of relevant legal documents such as foreign investors' ownership issues. The guidance on regulations on information disclosure is not yet diverse in common and popular languages so that participating foreign investors can access information conveniently and easily. Particularly for Circular 11, 23, a number of provisions are inconsistent with the Law on Securities and the related Decree on terms and contents of derivative securities, a number of regulations in payment and clearing related to securities. Derivatives are still overlapping and inadequate with relevant regulations.



4. CONCLUSION

In the trend of globalization, countries are taking advantage of opportunities to attract financial resources for economic development through the financial market in general and the stock market in particular. To meet the requirements, international organizations and countries are very interested in forming a solid legal framework to create a foundation for this market to develop stably and sustainably. Vietnam, a developing country, is in need of capital resources for economic growth, so it is essential to perfect the legal framework for the Vietnamese stock market to meet the trend of international integration. It can be seen that, besides the remarkable achievements in terms of the level of consistency in the system of legal documents as well as having solved most of the problems arising in the related practice of the stock market, there are still There are certain shortcomings in terms of compatibility with international practices, consistency in the system of regulatory documents, slow improvement, so it is necessary to further improve to meet the increasing practical needs. Therefore, completing the legal framework of Vietnam's stock market in a manner consistent with international practices, ensuring consistency and timeliness, completing transaction payment, clearing, accounting regulation issues, etc. accounting, disclosure and monitoring. These are fundamental solutions that are essential to contribute to a healthy legal environment for the Vietnamese stock market to develop in response to the trend of international integration.

On the basis of previous studies of Vietnam related to the survey results and assessment of the current situation of applying the legal framework to the stock market in Vietnam, the study proposes a number of key solutions to improve the market legal framework. stock market for Vietnam to meet the integration trend.

Building a legal framework in line with international practices: Vietnam joins typical regional and international organizations such as the World Trade Organization (WTO), the ASEAN Economic Community (AEC) and, more recently, the ASEAN Economic Community. Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Therefore, the legal commitments in general are required to be consistent with international practices and according to experience, most countries comply or are compatible to be consistent with the principles and regulations of IOSCO. This is also consistent with the project of building and developing the stock market, the Government has a policy of building and developing the stock market in Vietnam based on international standards and practices. Accordingly, in the short term, in 3-5 years, Vietnam should gradually approach the provisions of IOSCO in the process of completing the legal framework by amending and supplementing legal documents and after this time. , Vietnam needs to consider to fully comply with IOSCO principles for enforcement in the stock market.

Improve consistency in the legal framework: Legal regulations need to create consistency because this is an important issue in building a legal framework for the Vietnamese stock market. This is also consistent with the Government's project on building and developing the securities market. Therefore, in the short term, state agencies such as the National Assembly, the Government and the Ministry of Finance need to review the inconsistencies, but in the long term, it is necessary to build a legal framework to ensure systematic and synchronous on the basis of the law. consistent basis from Laws, Decrees to Circulars.


Timely amending and supplementing legal regulations: The initiative in timely amending and supplementing the legal framework helps to meet practical needs as well as contribute to adapting to development trends in the global context. bridge. It is necessary to make timely changes and adjustments to meet the needs of the market, if not to be outdated and reduce the confidence of market participants. Therefore, relevant state agencies such as the National Assembly, the Government and the Ministry of Finance need to consider and promulgate early legal documents amending and supplementing from Laws, Decrees and Circulars in order to timely dealing with arising realities related to the stock market, then state agencies need to develop action plans with a longer-term orientation to 2030 and a vision to 2040 to actively study the draft. issues related to the legal framework for the financial market in general and the stock market in particular for timely and proactive implementation.

Completing regulations on payment and clearing transactions: The trading and clearing system is an important step in the process of organizing, managing and operating the stock market according to the experience of some countries. Accordingly, in the immediate future, the Ministry of Finance, in coordination with the State Bank of Vietnam, should review regulations related to payment and clearing transactions and proceed to advise and propose the promulgation of the Law on Payment System to ensure consistency related to the legal framework of the stock market in particular and the financial market in general.

Completing information regulations: Regulations on accounting information and supervision of information disclosure are always one of the important issues related to the stock market. Therefore, in order to ensure that the information is regulated in relation to the legal framework of the securities market, the Ministry of Finance should first issue a Circular guiding the accounting related to the securities market, then study and prepare it. draft and promulgate Vietnamese accounting standards related to securities market issues on the basis of IAS/IFRS so that the recognition, assessment and accounting of securities companies can meet practical needs. At the same time, amend and supplement regulations related to the requirements for information disclosure on the stock market. Another solution: Strengthen sanctions and strictly handle violations to ensure market discipline and avoid instability of the stock market in the early stages of development, especially the issue of "price-fixing". on the stock market. State management agencies such as the Ministry of Finance and the State Securities Commission need to strengthen specialized groups and delegations to conduct in-depth research on this issue in order to provide accurate and appropriate feedback and advice on the basis of The base learns from the experience of a number of countries with a complete legal framework to apply it appropriately to Vietnam. One of the countries with a market that many countries have to learn from like the US, or some emerging countries like India, Korea, or Singapore is a country in the AEC Community. The Ministry of Finance cooperates with the State Securities Commission and the Association of Securities Practitioners to periodically organize seminars and seminars on this issue to elicit the opinions of many scientists and industry experts to have a timely solutions and appropriate orientation for completing the legal framework of the securities market. In addition, the Securities Professional Association should pay attention to propaganda, training and retraining on issues on the legal framework of the securities market. In those issues, the Association needs to pay attention to integrating professional ethical standards to improve the sense of compliance and ensure market discipline of the participants.

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