

Administrative Ruling N° 030 which establishes the Regulations for Public Offer, Allocation and Trade of Securities issued by the Private Sector in Foreign Currency (Official Gazette N° 41.877 of May 12, 2020)

The National Superintendence of Securities (SUNAVAL) issued Administrative Ruling N° 030 on March 10, 2020, published in Official Gazette N° 41.877 of May 12, 2020, which establishes the rules for the public offer, allocation, and trade of securities and stocks issued by the national or foreign private sector in foreign currency.

I. Public offer of securities issued by the private sector in foreign currency

Which financial instruments may be publicly offered for the trade, in national or foreign currency, of securities issued by the private sector in foreign currency?

These financial instruments are the bonds, commercial papers, participation certificates, and promissory notes that are publicly offered and listed on a regulated market (Article 1).

Additionally, the National Superintendence of Securities (SUNAVAL), following the behavior of the stock and security market, may authorize the public offer of any other security, financial right, derivative instrument, contracts of agricultural inputs and products, among others, upon request of the interested (Article 2).

Who can publicly offer securities issued by foreign currency?

Both the national and foreign private sectors may make public offerings of financial instruments issued in foreign currency (Article 1). For this, they must be authorized for the SUNAVAL, must file the securities in the Registry of National Securities, and provide all the information required by the regulations of the security and stock market.

How is the market value of the traded securities determined?

The market value of the traded securities (to which exchange rates for the sale and purchase of securities issued by the private sector in foreign currency must be applied) will be (i) the market value in Venezuela or (ii) the one freely agreed upon by the parties if the security does not have a reference market value in Venezuela (Article 5; Articles 30 and 9 of Exchange Agreement No. 1 (Official Gazette N° 6,405 Extraordinary of September 7, 2018)).

Should collaterals be constituted? What else is required?

The issuers domiciled in Venezuela that intend to make a public offer of securities in foreign currency must constitute collaterals in favor of investors, and subject to SUNAVAL's approval. Thus.

- a) Companies, banks, insurance and reinsurance companies, or any duly authorized entity may constitute collaterals.
- b) They shall be expressed in the same currency in which the securities are issued or in national currency, for its equivalent value, which is adjusted according to the variations of the exchange rates provided for in Exchange Agreement No. 1.
- c) It must cover the total amount of authorized issuance, interests, and other expenses generated in its respective execution process (Article 7).

Also, they must submit a business plan with constant and sustained production levels aimed to export (Article 8) and provide two reports by risk assessment companies that must be approved by SUNAVAL (Article 9). The risk assessment companies must review their opinion (i) biannually in case of short term securities, (ii) annually if they are long term securities, and (iii) each time a relevant event happens that could affect the capacity to pay or when SUNAVAL considers it appropriate (Article 9).

II. Trade of securities issued by the private sector in foreign currency

Which institutions may participate as intermediaries in transactions of securities issued by the private sector in foreign currency? Through which entity may these securities be traded?

Security brokerage firms, stockbrokers, and stock exchanges previously authorized by SUNAVAL may participate as intermediaries in transactions of securities issued by the private sector in the foreign currency (Article 10). To obtain this authorization, these entities must submit a written request to SUNAVAL expressing their interest in participating in these transactions and comply with the requirements of the applicable regulations (Article 12).

Trading operations carried out by security brokerage firms, stockbrokers, and stock exchanges must be conducted through the stock exchanges authorized by SUNAVAL (Article 13).

In what currency can securities issued in foreign currency be traded?

Securities issued by the private sector in foreign currency may be traded in national or foreign currency (Article 11).

What about the secondary market trading?

SUNAVAL will establish the parameters for trading on the secondary market and will have real-time access to the information on these transactions. The authorized stock exchanges must comply with these parameters, which include (i) price jumps, (ii) price variation, and (iii) volume limits (Article 13).

Can security brokerage firms and stockbrokers acquire and hold foreign currency securities in their portfolios?

Yes, although temporarily and only to carry out the operations governed by this Administrative Ruling (Article 17; Article 27 of Exchange Agreement No. 1).

Can stockbrokers and security brokerage firms charge commissions, fees, or surcharges to their clients?

Yes, they can charge commissions, fees, or surcharges to their clients, according to the percentage set by SUNAVAL. The commissions, fees, and surcharges will be calculated based on the amount of the negotiation, and in the agreed currency. If the commission, fee, or surcharge is agreed to be in national currency, the reference exchange rate published by the Central Bank of Venezuela for the date of payment must be taken into account, even if the trade has been carried out in foreign currency (Article 19).

III. Negotiation of securities issued by foreign legal entities

How can securities issued by foreign legal entities in foreign currency be listed on the Venezuelan stock and security market?

To be listed on the Venezuelan stock security market, securities issued by foreign legal entities in a foreign currency require (i) the authorization from the governing body of the country of origin of the securities, (ii) to be listed and publicly offered on foreign stock and security markets, (iii) at least two reports from risk assessment companies, and (iv) a certified and legalized copy of the definitive issuance prospectus in Spanish (Article 25).

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