

# **Circular of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and China Securities Regulatory Commission on Some Issues concerning the Inquiry, Freezing and Deduction of Securities and Securities Transaction Settlement Funds**

The higher people's courts, people's procuratorates, departments (or bureaus) of public security and securities administration bureaus of all provinces, autonomous regions and municipalities directly under the State Council, the military courts and military procuratorates of the People's Liberation Army, the Production and Construction Corps Branch of the Higher People's Court of Xinjiang Uigur Autonomous Region, the people's procuratorates and bureaus of public security of Xinjiang Production and Construction Corps: With a view to maintaining a normal securities transaction settlement order, protecting the legitimate rights and interests of citizens, legal persons and other organizations and ensuring the lawful execution of public affairs by law enforcement organs, and in accordance with the Criminal Procedure Law of the People's Republic of China, the Civil Procedure Law of the People's Republic of China, the Securities Law of the People's Republic of China and other related laws and judicial interpretations, the related issues concerning the inquiry, freezing and deduction of securities and securities transaction settlement funds by the people's courts, people's procuratorates and public security organs are hereby notified as follows: **1.** When handling a case, if a people's court, people's procuratorate or public security organ needs to inquire about, freeze or deduct securities or securities transaction settlement funds through a securities depository & clearing institution or securities company according to the statutory scope of power, the securities depository & clearing institution or the securities company shall provide assistance according to law. **2.** When a people's court requires a securities depository & clearing institution or a securities company to assist in inquiry, freezing and deduction of securities or securities transaction settlement funds, or a people's procuratorate or public security organ requires a securities depository & clearing institution or securities company to assist in inquiry and freezing of securities or securities transaction settlement funds, related law enforcement officers shall present valid certificates and the effective legal document according to law. Where the certificates of related law enforcement officers and the related formalities are complete, the securities depository & clearing institution or the securities company shall sign for the related legal documents and assist in related affairs. Where the related recipient refuses to sign for an effective legal document issued by the people's court, the service by leaving the rejected document may be made. **3.** A people's court, people's procuratorate or public security organ may, according to law, inquire of a securities depository & clearing institution about the balance after the settlement and delivery process has been completed in the securities account, the securities delivery account and the capital delivery account of a client or a securities company, as well as changes in the balance and the account information. A people's court, people's procuratorate or public security organ may, according to law, inquire of a securities company about the balance in the securities account, capital account, securities delivery account or capital delivery account of a client, as well as changes in the balance, securities and capital flows, account information and etc.. As for inquiry about the account of a natural person, the name and identity card number of the person shall be provided; as for inquiry about the account of a legal person, the name and business license/legal person registration certificate number of the person

shall be provided. The securities depository & clearing institution or the securities company shall make written inquiry results and affix its special seal thereon. In case the inquiry organ holds any doubt about the inquiry results, the securities depository & clearing institution or the securities company shall make written explanations when necessary and affix its special seal thereon. 4. When a people's court, people's procuratorate or public security organ freezes or deducts the related securities or funds in light of the statutory scope of power, it shall specify the name and number of the account of securities or funds to be frozen or deducted, term of freezing, as well as the name and quantity of securities or amount of funds that have been frozen or deducted; and at the time of deduction, it shall also specify the name and number of the account into which the securities or funds will be transferred. As for freezing securities or securities transaction settlement funds, the scope of freezing and whether the yields are included shall be specified. Any type of special settlement and delivery accounts opened in the name of a securities depository & clearing institution according to this Circular may not be frozen as a whole. 5. The following securities, which are legally collected by a securities depository & clearing institution and deposited into a special settlement and delivery account in light of the business rules, may not be frozen or deducted: (1) Securities in a securities centralized delivery account, special settlement account or special disposal account opened by the securities depository & clearing institution; and (2) Securities in a client's securities delivery account, self-run securities delivery account or securities disposal account opened by a securities company at the securities depository & clearing institution. 6. The following funds, which are legally collected by a securities depository & clearing institution and deposited into a special settlement and delivery account in light of the business rules, may not be frozen or deducted: (1) Funds in a capital centralized delivery account or special settlement account opened by the securities depository & clearing institution; (2) Securities settlement risk funds and mutual protection funds for securities settlement as legally collected by the securities depository & clearing institution; (3) Funds in a special deposition account for settlement reserves or in a special capital assessment account for the issuance of new shares as opened by the securities depository & clearing institution at the bank; or the funds in an off-line subscription capital account opened by the securities depository & clearing institution for off-line allotment subjects in the issuance of new shares; (4) Funds in the capital delivery account of a client opened by a securities company at the securities depository & clearing institution; and (5) Minimum self-run settlement reserves in a self-run capital delivery account as opened by a securities company at the securities depository & clearing institution, or the funds payable as determined in light of the transaction results. 7. The impawning coupons for the repurchase purpose, guaranty for the variance in price, guaranty for exercise of rights as well as the guaranty for performance of contracts, which are provided by a securities company, other settlement participants, investors or issuers at the request of a securities depository & clearing institution in light of the business rules, may not be frozen or deducted before completion of the delivery. 8. The funds in a self-run capital account opened by a securities company at the bank may be frozen and deducted. 9. The securities under custody of a securities company may be frozen or deducted either by the custodian securities company or by a securities depository & clearing institution. Where different law enforcement organs go through the formality for the freezing and deduction of the same sum of securities separately at the securities company and the securities depository & clearing institution on the same trading day, the securities company shall provide assistance to the prior freezing and deduction. As for the freezing or deduction of the securities that are not under custody of a securities company or any other custody institution or the self-run securities of a securities company, the securities depository & clearing institution shall provide assistance. 10. The securities depository & clearing institution shall, after acceptance of a request for freezing and

deduction, provide assistance to the freezing and deduction based on the delivery results after the delivery process is completed on the delivery day corresponding to the acceptance day. A securities company shall, after acceptance of a request for freezing and deduction, immediately stop securities transactions and adopt the measure of removal for the transaction that has been ordered but has not been concluded at the time of freezing. Upon freezing, the securities company may make normal delivery of payable securities or funds used for delivery in light of the transaction results. After completing the delivery process, the remaining securities or funds may be deducted. Meanwhile, the securities company shall calculate an equivalent amount of payable funds or securities in light of the transaction results and deliver them to the law enforcement organ for freezing or deduction. 11. As for the securities or securities transaction settlement funds that have been frozen by a people's court, people's procuratorate or public security organ, any other people's court, people's procuratorate or public security organ or the same organ may make the waiting freezing for a different case. If the prior freezing is unchained, the waiting freezing registered firstly shall automatically become effective. After the waiting freezing becomes effective, the securities depository & clearing institution or the securities company that provides assistance to the freezing shall inform the foresaid organ of the waiting freezing in written. 12. The term for freezing of securities may not exceed 2 years, and that for freezing of securities transaction settlement funds may not exceed 6 months. Where the term of freezing needs to be prolonged, the formality for prolonging the term of freezing shall be handled before expiration thereof. And the prolonged term of freezing may not exceed the one prescribed in the preceding paragraph each time. 13. When different people's courts, people's procuratorates and public security organs demand the freezing, deduction or waiting freezing of the same sum of securities or securities transaction settlement funds, the securities depository & clearing institution or the securities company shall provide assistance in light of the order of the notices for assistance in freezing or deduction as served. 14. As for any dispute over the matter of freezing or deduction among different people's courts, people's procuratorates and public security organs that demand the freezing or deduction, these organs shall settle the dispute by themselves through negotiation. If the negotiation fails to be made, the matter of freezing or deduction shall be decided by their common superior organ; and if there is no such common superior organ, the dispute shall be settled by their respective superior organs through negotiation. The securities depository & clearing institution or the securities company for assistance in freeze shall, before the dispute is settled, control the largest scope of the disputed target as stated on the legal documents as served by the disputing organs. 15. Where a securities depository & clearing institution or securities company that shall provide assistance refuses to do so, divulges information to the parties concerned, or colludes with the parties concerned to transfer or hide assets, it and its directly liable persons shall be punished according to law. 16. Where there are former provisions inconsistent with this Circular, the latter shall prevail. 17. The "securities depository & clearing institutions" as mentioned in this Circular means China Securities Depository & Clearing Corporation Limited and its branch companies. 18. This Circular shall enter into force as of March 1, 2008. **Supreme People's Court  
Supreme People's Procuratorate Ministry of Public Security China Securities Regulatory Commission  
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