

## LEGAL UPDATE (April 23rd, 2022)

In this issue, we would like to bring to your attention to the following:

- Amending and supplementing regulations on private placement and trading of corporate bonds.
- Proposing new regulations on management of multi-level marketing (MLM) activities.

### 1. **Amending and supplementing regulations on private placement and trading of corporate bonds**

The Ministry of Finance is drafting a Decree amending and supplementing a number of articles of Decree No. 153/2020/ND-CP dated December 31<sup>st</sup>, 2020 providing for the private placement of corporate bonds for trading in domestic market and offer corporate bonds to the international market.

Some notable contents of the Draft include:

- (i) Firstly, amending and supplementing regulations on the purpose of bond issuance in Article 5 of Decree No. 153/2020/ND-CP. Specifically, the Draft clearly stipulates that enterprises are not allowed to issue bonds to contribute capital in any form, buy shares, buy bonds of other enterprises, or lend capital to other enterprises. The regulation helps to overcome the loophole that many businesses have taken advantage of to issue bonds for the wrong purpose, contributing to strengthening the responsibility and obligation of the issuer in using the proceeds from the bond issuance for right purposes.
- (ii) Secondly, detailing regulations on bond buyers. Specifically, the Draft adds Point d, Clause 1, Article 8 as follows: "Before making a bond purchase/sale transaction, an investor must be identified as a professional securities investor".
- (iii) Thirdly, supplementing requirements that bond offering documents must have credit rating results for some types of issued bonds. Accordingly, the new Draft amending Clause 2, Article 12 on Bond Offering Documents requires: "The credit rating results of the credit rating agencies for bond issuers and issued bond in case of issuing bonds to professional securities investors who are individuals, issuing bonds without collateral, without payment guarantee, the issuing enterprise had making-loss business result in the year before the year of issuance or has accumulated losses at the year of issuance".
- (iv) Fourthly, supplementing regulations on representative of bondholders when signing contracts with issuers (amendment point c, clause 2, Article 12). Specifically, the Draft supplements: "The representative of bondholders is responsible for supervising the use of capital raised from bond issuance, receiving and managing collateral, and monitoring the implementation of commitments of the issuing enterprise and perform

other responsibilities in accordance with the provisions of the securities law.” This is to strengthen the supervision of the purpose of using the bond capital of the issuer as well as strengthen the supervision of the implementation of other commitments of the issuer.

- (v) Fifthly, supplementing specific regulations on documents and procedures for registration of transactions on the corporate bond trading system for private placement at the Stock Exchange (Article 16b); on changing, canceling transaction registration on the trading system of corporate bonds offered for private sale at the Stock Exchange (Article 16c).
- (vi) Sixthly, amending a number of regulations on the time limit and content of information disclosure; while enhancing the transparency of bond issuers and their use of bond issuance capital.

## **2. Proposing new regulations on management of multi-level marketing (MLM) activities**

The Ministry of Industry and Trade is collecting comments from the public with the draft Circular amending and supplementing Circular No. 10/2018/TT-BCT detailing a number of articles of Decree No. 40/2018/ND-CP of the Government on the management of MLM activities.

The Draft introduces the following regulations:

### **(i) The process of organizing the MLM knowledge test for local representatives.**

The process includes the following steps: Checking the completeness and validity of the registration dossier for knowledge verification for the local representative according to regulations; making a plan on the time, place and method of examination and notify in writing the Department of Competition and Consumer Protection of the organization of the examination in case the Department of Industry and Trade organizes the examination; testing plan announcement; organizing the examination; assessing test results; notifying test results and issuing certificates.

### **(ii) Reducing requirements for assessment of test results**

The Draft amendments and supplements to regulations on examination forms and evaluation of test results. Accordingly, the test of legal knowledge on MLM knowledge for local representatives is conducted in the form of essay or multiple choice in a minimum time of 60 minutes.

Test scores are scored on a 100-point scale, with specific requirements as follows:

Điểm kiểm tra được chấm theo thang điểm 100, yêu cầu cụ thể như sau:

- For the legal knowledge test on MLM activities, the test result being below 80 points (replacing the current 90 points) for multiple-choice test and under 65 points (replacing the current 75 points) for essay form is not satisfactory.

- As for the knowledge test for local representatives, the test result with less than 70 points for multiple-choice test and less than 50 points for essay form is not satisfactory.

We hope this Newsletter would bring you useful information.

Best regards.

**Contributor(s)****Mr. DINH QUANG LONG****Director cum Managing Partner****M** (+84) 919 963 977 | **E** [long.dinh@apolatlegal.com](mailto:long.dinh@apolatlegal.com)**Mr. TRAN CHAU HOAI HAN****Associate****M** (+84) 988 787 285 | **E** [Han.tran@apolatlegal.com](mailto:Han.tran@apolatlegal.com)

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**Contacts:**

**HO CHI MINH CITY (Head office)**

5<sup>th</sup> Floor, IMM Building  
99-101 Nguyen Dinh Chieu, District 3  
Ho Chi Minh City, Vietnam

**THE BRANCH IN HA NOI CITY**

Room A8, 29th Floor, East Tower, Lotte Center  
54 Lieu Giai, Cong Vi Ward, Ba Dinh District  
Hanoi City, Vietnam

Tel: +84-28-3899 8683

Email: [info@apolatlegal.com](mailto:info@apolatlegal.com)

Website: [www.apolatlegal.com](http://www.apolatlegal.com)

**SINGAPORE (Affiliated office)**

#26-10, SBF Center,  
160 Robinson Road  
Singapore 068914

Tel: +84-93-2014 986

Email: [info@apolatlegal.com](mailto:info@apolatlegal.com)

Website: [www.apolatlegal.com](http://www.apolatlegal.com)

Scan QR code:

