

LEGAL UPDATE (September 20th, 2022)

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

- New regulations on private corporate bond issuance.
- New draft regulations on state capital investment in enterprises.

1. **New regulations on private corporate bond issuance**

The Government has just issued Decree 65/2022/ND-CP amending and supplementing Decree No. 153/2020/ND-CP dated December 31st, 2020 regulating the offering and trading of private corporate bonds in the domestic market and offering corporate bonds to the international market.

Decree 65/2022/ND-CP amending regulations on bond issuance purposes in order to strengthen the responsibilities and obligations of issuers in using proceeds from bond issuance for the right purposes.

Accordingly, the purpose of issuing bonds is to implement investment programs and projects, to restructure the enterprises' own debts or to issue bonds in accordance with specialized laws. The enterprise must specify the issuance purpose in the issuance plan and disclose information to investors registering to buy bonds. The use of capital raised from the issuance of bonds by the enterprise must ensure the correct purposes according to the issuance plan and the content disclosed to investors.

Decree 65/2022/ND-CP supplements the method of determining professional securities investors who are allowed to invest in and trade private corporate bonds.

Specifically, professional securities investors are investors with financial capacity or professional qualifications in securities as prescribed in Article 11 of the Law on Securities. Organizations responsible for identifying professional securities investors and documents to identify professional securities investors must comply with the provisions of Articles 4 and 5 of Decree No. 155/2020/ND-CP dated May 31st December 2020 and amendments, except for the identification of professional securities investors specified at Point d, Clause this.

Decree 65/2022/ND-CP takes effect from September 16th, 2022.

2. **New draft regulations on state capital investment in enterprises**

The Ministry of Finance is collecting public opinions on the draft Circular amending Circular No. 36/2021/TT-BTC guiding on state capital investment in enterprises and managing, using capital and assets at the enterprise.

Accordingly, the draft amending and supplementing regulations on "Adjustment of charter capital in enterprises in which 100% of charter capital is held by the State" is as follows:

For operating enterprises, the adjustment of charter capital shall comply with the provisions of Article 11 of Decree No. 91/2015/ND-CP, Clause 4, Article 1 of Decree No. 32/2018/ND-CP and Clause 7 Article 2 Decree No. 140/2020/ND-CP of the Government.

For enterprises on the list of equitization approved by competent authorities, when determining the charter capital, the additional source of charter capital from the State budget and the Support fund for business arrangement and development shall not be identified.

The draft supplements regulations on "Distribution of profits for joint-stock companies and multiple members limited liability companies with shares and capital owned by the State" (Article 7a).

Accordingly, enterprises distribute profits according to the provisions of Clause 17, Article 2 of Decree No. 140/2020/ND-CP dated November 30th, 2020 of the Government; In case the enterprise operates under the model of parent company - child company, it shall base on the parent company's separate financial statements to determine the after-tax profit as the basis for distribution.

We hope this Newsletter would bring you useful information.

Best regards.

ABOUT US,

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