

LEGAL UPDATE (March 16th, 2023)

The draft decree amending Decree 65/2022/NĐ-CP on private placement and trading of corporate bonds

Despite being issued not long ago, Decree 65/2022/NĐ-CP has revealed its shortcomings in the current domestic and international bond markets. Therefore, on March 12th, 2023, the Ministry of Finance submitted a draft decree amending and supplementing some provisions of Decree 65/2022/NĐ-CP, which regulates the issuance and trading of corporate bonds in the domestic market and the offering of bonds in the international market. In the draft decree, many new policies are introduced to benefit investors and bond-issuing companies, including the following specific changes:

1. Suspend the enforcement of provisions regarding professional securities investors until January 1st, 2024

Decree 65/2022/NĐ-CP has stipulated that professional securities investors must ensure a minimum average holding portfolio value of 2 billion VND over 180 days, excluding borrowed money.

However, in the draft decree submitted to the government, the Ministry of Finance reported that the market is facing difficulties in liquidity and payment of bonds due in 2023-2024. Therefore, Clause 1 Article 1 of the draft proposes extending the implementation period by one year for the provisions on identifying professional securities investors in Decree 65/2022/NĐ-CP, from January 1st, 2023 to January 1st, 2024. This proposal is also fully consistent with Clause 1 Article 3 of Decree 08/2023/NĐ-CP, effective from March 5th, 2023, which suspends the enforcement of provisions on identifying professional securities investors according to Decree 65/2022/NĐ-CP until December 31st, 2023.

Extending the implementation period of provisions on professional securities investors for one year will give the market more time to adjust and maintain the demand for bond investment by individual professional securities investors.

2. Postponement of implementing the credit rating requirement for 1 year

In the same clause 1 of the draft, the Ministry of Finance proposes to allow postponement of the implementation of the credit rating requirement for 1 year, instead of applying credit rating from January 1, 2023 as stipulated in Decree 65, it will be effective from January 1, 2024. This proposal is also fully in line with Clause 3 of Article 3 of Decree 08/2023/NĐ-CP.

This regulation helps to reduce issuance conditions, especially for companies with a high level of bond debt, particularly in the real estate sector. Additionally, the market will have time to meet the criteria for bond debt and develop the credit rating market.

3. Allow extending bond maturity for up to 2 years

Notably, the Ministry of Finance also proposes to allow enterprises to modify the term, exchange bonds issued in accordance with the law on bond issuance, and extend the maximum bond term by no more than 2 years compared to the term announced to investors.

However, in case the bondholders do not accept the changes of the bond conditions, the enterprise issuing the bonds is responsible for negotiating to ensure the investors' rights and interests. If the bondholders still do not accept the negotiation plan, the enterprise must fully pay the principal, bond interest upon maturity and exercise the accompanying rights (if any) for the bondholders according to the announced issuance plan.

In addition, the draft also provides regulations in case the enterprise cannot pay the bond principal and interest in cash, they can negotiate with the investors to make bond payments with other assets.

These changes are of great significance in resolving difficulties and obstacles in the current bond market in Vietnam.

We hope this Legal Newsletter would bring you useful information.

Best regards.

Disclaimer: All materials have been prepared for general information purposes only. The information is not intended as, and should not be taken as, legal advice. Do not act or refrain from acting based upon information provided herein without first consulting our lawyers about your particular factual and legal circumstances. Apolat Legal can accept no responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate adviser.

ABOUT US,

Apolat Legal is a professional law firm with its offices in Ho Chi Minh city and Ha Noi city. The firm's lawyer team specializes in almost all legal practice areas in Vietnam including Enterprise and Investment; Labor and Employment; Intellectual Property; Dispute Resolution; Real Estate and Construction; Information and Communication; Natural Resources and Environment; Transport; Industry and Trade; Education and Training; Finance and Banking; Agriculture; Legal Document Translation; Legal Training.

Our reputation and the quality of its services are reflected by our clients. We are serving nearly 1,000 clients both local and multi-national companies.

We are also honored to receive numerous recognitions and/or articles posted by world-leading and local organizations and publications including: The Law Association for Asia and the Pacific (LawAsia, 1966), The Legal500, IP Link, IP Coster, Lexology, Global Trade Review (GTR), The Saigon Times, etc.

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

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

THE BRANCH IN HA NOI CITY

10th floor, 5 Dien Bien Phu Street,
Dien Bien Ward, Ba Dinh District,
Hanoi City, Vietnam

Tel.: +84-28-3899 8683

Email: info@apolatlegal.com

Website: www.apolatlegal.com

SINGAPORE (Affiliated office)

#26-10, SBF Center,
160 Robinson Road
Singapore 068914
Tel: +84-93-2014 986

Email: info@apolatlegal.com

Website: www.apolatlegal.com

Scan QR code:

