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LAWYERS

LEGAL ALERT

(SEPTEMBER 2022)

**NEW LEGAL FRAMEWORK FOR PRIVATE PLACEMENT OF
CORPORATE BONDS IN THE DOMESTIC MARKET**



On 16 September 2022, the Government issued Decree 65/2022/ND-CP (“Decree 65/2022”) amending and supplementing a number of articles of Decree 153/2020/ND-CP regulating the private placement of corporate bonds in the domestic market and overseas (“Decree 153/2020”). Decree 65/2022 will take effect from the date of signing, i.e. 16 September 2022 with some novelties affecting businesses as follows:

1. Enterprises are allowed to issue bonds for the purpose of restructuring their own debts

According to Decree 65/2022, the purpose of issuing bonds is to implement investment programmes and projects, to restructure the enterprise's debts or in accordance with specialized laws. The enterprise must specify the bond-issuing purposes in the issuance plan and disclose information to investors who subscribe for the bonds. The enterprise's use of capital raised from the issuance of bonds must be consistent with the bond-issuing purposes specified in the issuance plan and the information disclosed to investors.

Thus, compared to Decree 153/2020, Decree 65/2022 allows enterprises to issue bonds for the purpose of restructuring their own debts, increasing the size of operating capital, and restructuring the capital of the enterprise, which was abolished according to the previous regulations.

2. Change the terms and conditions of bonds issued in the domestic market

According to Article 1.3 of Decree 65/2022, for bonds which have already been issued in the domestic market, enterprises may only change the conditions and terms of the bonds upon satisfaction of the following two conditions: (i) Approved by a competent officers of the bond-issuing enterprise; and (ii) Approved by the number of bondholders representing at least 65% of

the total number of bonds of the same type in circulation on the market.

Information on the change of conditions and terms of the bonds must be disclosed by the issuer by an extraordinary notice as prescribed.

3. Increase the par value of bonds offered for sale in the domestic market

Decree 65/2022 has increased the par value of bonds offered for sale in the domestic market to VND100 million or a multiple of VND100million instead of VND100,000 or a multiple of VND100,000 as previously stipulated in Decree 153/2020.

4. Investors may request the issuer to redeem the bonds before maturity

According to Article 1.6 of Decree 65/2022, investors may request the issuer to redeem the bonds before maturity in the following cases:

- Early redemption under the agreement between the issuer and the bondholder.
- Forced redemption at the request of the investors when:
 - The issuer violates the law on the offering and trading of corporate bonds according to a decision of a competent authority, which cannot be remedied or the remedy thereof cannot be accepted by a number of bondholders representing at least

65% of the total number of bonds of the same type in circulation on the market.

- The issuer violates the bond-issuing plan but such violation cannot be remedied or the remedy cannot be accepted by a number of bondholders representing at least 65% of the total number of bonds of the same type in circulation on the market.
- Other cases are specified in the bond-issuing plan (if any).

5. Shorten the time limit for disclosing bond offering results

Decree 65/2022 has shortened the time limit for disclosing bond offering results from 10 days to 5 days. Specifically:

- No later than 05 working days of completion of the bond offering, the enterprise must disclose the results of the bond offering to the investors and send the disclosure notice to the Stock Exchange.
- If the bond offering is unsuccessful or cancelled, the enterprise must, no later than 05 working days from the end of the bond distribution, disclose the information and send the disclosure notice to the Stock Exchange.

6. Reduce the bond offering duration

According to Decree 65/2022, the maximum duration for distributing bonds of each bond offering is 30 days (*previously 90 days*) from the date of information disclosure before the offering, and the total time of several offerings is up to 06 months (*previously 12*

months) from the issuing date of the first offering.

7. Professional securities investors must have at least VND2 billion worth of listed securities

According to Decree 65/2022, a professional securities investor is the one with financial capacity or professional qualifications in securities as required by the Securities Law. In which, a professional securities investor being an individual who is identified as qualified to subscribe for privately-placed corporate bonds must itemise listed securities worth of at least VND02 billion, which is determined by the daily average market value of such securities for at least 180 consecutive days prior to the date of determination of the status of a professional securities investor, excluding the value of margin lending transactions and the value of repo transactions.

8. The bondholder’s representative will supervise the enterprise

According to Articles 1.22 and 1.25 of Decree 65/2022, the representative of bondholders will report to the State Securities Commission and the Stock Exchange on a quarterly or annual basis and also report where the issuer is found to have committed violations affecting the interests of bondholders.

At the same time, the representative of bondholders is responsible for complying with the provisions of the securities law and Article 1.11 of Decree 65/2022 when providing the bondholders' representative services and is subject to the management of the State Securities Commission.



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