

March 21, 2017

# Public Debt Management Law

(Pyidaungsu Hluttaw Law No. 2 , 2016)

The 10<sup>th</sup> Waning of Nataw 1377 M.E

(5th January 2016)

Pyidaungsu Hluttaw hereby enacts this Law.

## Chapter I

### Title and Definition

1. This Law shall be called the Public Debt Management Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:
  - (a) **State** means the Republic of the Union of Myanmar;
  - (b) **Government** means the Union Government of the Republic of the Union of Myanmar;
  - (c) **Minister** means the Union Minister for the Ministry of Planning and Finance<sup>1</sup>;
  - (d) **Ministry** means the Ministry of Planning and Finance<sup>2</sup> of the Union Government;
  - (e) **Union Ministry** means any Union Ministry of the Republic of the Union of Myanmar;
  - (f) **Central Organization** means the President, the Union Government, Pyidaungsu Hluttaw, Pyithu Hluttaw, Amyotha Hluttaw, the Supreme Court of the Union, the Constitutional Tribunal of the Union, the Union Election Commission, the Office of the Attorney General of the Union, the Office of the Auditor General of the Union, the Union Civil Service Board;
  - (g) **Central Bank** means the Central Bank of Myanmar;
  - (h) **Financial Year** means the period commencing from the 1<sup>st</sup> April of a year to the 31<sup>st</sup> March of the following year;
  - (i) **Treasury Single Account** means the Union Fund Account including the Union Deposit Account and any other account linked to the Treasury Single Account

<sup>1</sup> Ministry of Planning and Finance is substituted by Union Government's Notification 9/2016.

<sup>2</sup> Ministry of Planning and Finance is substituted by Union Government's Notification 9/2016.



maintained in the Central Bank of Myanmar;

- (j) **Government Securities** mean Treasury Bills, Treasury Bonds, International Bonds, and Promissory Notes;
- (k) **Government Debt** means all financial liabilities created as a result of borrowing by the Central Organizations, the Union Ministries and their Subordinates or commitment of any payment or Publicly Guaranteed Debt. Borrowing of the State-Owned Economic Enterprises from the State Owned Banks established under the Financial Institutions of Myanmar Law as set out in section 24 (a) in this is not included in these liabilities;
- (l) **Public Debt** means the liabilities for Government Debt and Publicly Guaranteed Debt and all financial liabilities created as a result of borrowing by Region or State Governments, Development Committees and State-Owned Economic Enterprises;
- (m) **Publicly Guaranteed Debt** means all financial liabilities created where the State has issued loan guarantees and other forms of guarantees any person, or entity, or project;
- (n) **Public Debt Management** means the management relating to Public Debt mentioned in this Law;
- (o) **Borrowing** means taking of loans through the loan agreements concluded by Central Organizations, Union Ministries and their Subordinates, Region or State Governments, Development Committees and State-Owned Economic Enterprises and the issuance of Government Securities and liabilities resulting from Government guarantees;
- (p) **Agent** means the Central Bank of Myanmar, any domestic or foreign financial institutions, or any domestic or foreign securities companies that may carry out specified operations, laid down by this law or under an agency agreement, on behalf of and for account of the Ministry;
- (q) **Financial Institutions** mean the institutions established and stipulated as financial institutions under the Financial Institutions of Myanmar Law;
- (r) **Underwriters** mean financial institutions and securities companies that manage the process of the issuance and distribution of Government Securities in the financial markets;

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- (s) **Debt Servicing** means all due interest and principal repayments in regard to the debt, fees and expenses incurred pursuant to the terms and conditions of such loan agreement;
- (t) **State-Owned Economic Enterprises** mean the enterprises established under the State-Owned Economic Enterprises Law;
- (u) **Development Committees** mean a committee or an organization formed by specifying boundary to carry out the development works.

## **Chapter II**

### **Borrowing and Authorization for Borrowing**

3. The Government may borrow money from local or abroad with the approval of the Pyidaungsu Hluttaw on behalf of the State for the following matters:

- (a) to finance the Union budget deficits;
- (b) to finance projects and investments;
- (c) to maintain a credit balance in the Treasury Single Account at a level determined by the Minister;
- (d) to refinance outstanding debt or repay a loan prior to its due date of repayment;
- (e) to replenish, if necessary, the foreign reserve fund maintained by the Central Bank;
- (f) to repay liabilities remaining under publicly guaranteed debt;
- (g) to lend as Government loan or credit to Region or State Governments, Development Committees, State-Owned Economic Enterprises, and any other entities approved by the Pyidaungsu Hluttaw;
- (h) to immediately protect, mitigate or eliminate affects caused by a natural or environmental disaster or any other emergency situations of the State; and
- (i) to finance any other matter as stipulated in the Union Budget Law approved by the Pyidaungsu Hluttaw.

4. All money raised for the matters in this Chapter of the borrowing shall be incurred only for the matters as approved by the Government in accord with this Law.



5. Subject to the Chapter on Taking of Loans in the Union Budget Law, the Minister may borrow local or foreign currencies from local or abroad by concluding loan agreements, issuing government securities or entering into other credit agreements and issuing government guarantees. Such borrowing shall be in accord with the objectives and prohibitions in the Union Budget Law.
6. The Government may empower the Minister to enable to perform all or part of the matters in this Chapter. The Minister may, on behalf of the State, guarantee for all or part of the matters in this Chapter.
7. The Minister may appoint an Agent to undertake some of the responsibilities under this Law, in accordance with the stipulation and under Agreement concluded by two parties.
8. The Government, Region or State Governments, Development Committees and State-Owned Economic Enterprises shall allocate liabilities for the borrowings under this law as priority in their respective budgets. Such liabilities shall be determined on the basis of concluded agreements, commitments on co-financing, loan agreements, decisions on issuance of Government Securities and obligations for being a member State of international financial institutions.

### **Chapter III**

#### **Objectives of Public Debt Management**

9. The objectives of Public Debt Management are to ensure that the needs to finance the Union Budget and its payment obligations over short term to long term are met at the lowest possible cost, with a prudent degree of risk, and to promote development of the domestic market relating to Government Securities.
10. Public Debt Management includes laying down the Medium Term Debt Management Strategy for Government debts and well maintaining the records for all Public Debt.

### **Chapter IV**

#### **Laying Down the Government Debt Management Strategy**

11. A Medium Term Debt Management Strategy for government debt shall be laid down annually on a rolling basis by the Ministry for a period of at least three following financial years with the permission of the Government and approved by Pyidaungsu Hluttaw.

12. In laying down the Government Debt Management Strategy, the matters mentioned in Section 3 shall be based on and taken into account:

- (a) the macroeconomic framework;
- (b) future borrowing requirements of the Government;
- (c) market conditions; and
- (d) other factors related to the development of the strategy.

13. The following shall be included in the Government Debt Management Strategy:

- (a) proposed guidelines and specified targets for the composition of the Government debt portfolio and new debt so as to ensure that the risks in the portfolio remain at acceptable levels;
- (b) planned measures to promote the development of the domestic market for Government Securities;
- (c) policies and guidelines for lending and onlending and the issuance of debt guarantees.

14. The Government Debt Management Strategy approved by the Government, upon the proposal by the Minister,

- (a) shall be in line with the Union Budget Law for the next financial year.
- (b) shall be published no later than the beginning of the relevant financial year.
- (c) shall govern all Government borrowing and other debt management activities which are undertaken on the approval of such strategy.

## **Chapter V**

### **Government Borrowing and Debt Management**

15. Government borrowing includes the issuances of Government Securities in the domestic market and abroad, and taking of loan through concluding loan agreement, within Myanmar or from abroad. Government borrowing shall be within the ceiling as set out in the Union Budget Law and the Union Supplementary Appropriation Law approved by the Pyidaungsu Hluttaw.

16. Borrowing through the issuance of Government Securities in the domestic market shall be undertaken as follows:



- (a) issuance of Government Securities by the Ministry, on behalf of the State, upon prior decision adopted by the Minister, determining the type and features of Government Securities;
  - (b) issuance of Government Securities by auction, syndication or by another means as approved by the Minister, only with the stipulated registration form;
  - (c) setting out the auction of Government Securities in accord with an issuance calendar as approved by the Minister;
  - (d) publishing in advance the calendar as approved by the Minister, which may include the issuance date, type and term of Securities, and maximum amounts to be issued;
  - (e) being the Ministry, that is the sole authority to auction Government Securities, as approved by the Minister, and to accept bids submitted in an auction on behalf of the Government;
  - (f) Taking the prior approval of the Minister for their terms and conditions if Government Securities are to be issued other than by auction,.
17. Borrowing through the issuance of Government Securities abroad shall be undertaken as follows:
- (a) receiving the approval from the Pyidaungsu Hluttaw in respect of such borrowing as submitted by the Government;
  - (b) approving by the Minister, the mode of issuance including the type, maturity, amount, and estimated cost of Government Securities, and the appointment of the underwriters and market conditions;
  - (c) approving by the Minister, appointment of fiscal and paying agents, legal agents and other parties necessary for the issuance of Government Securities;
  - (d) signing by the Minister, or appointing an agent to sign under a power of attorney, the agreements related to the issuance of securities.
18. (a) Borrowing through concluding loan agreements, whether within Myanmar or abroad, shall be undertaken as follows:
- (i) receiving the approval from the Pyidaungsu Hluttaw in respect of such borrowing through loan agreements by the Government after submitting to the Pyidaungsu Hluttaw;
  - (ii) delegating authority to, the relevant Union Ministry and its officials by the Minister to negotiate and conclude the loan agreement on behalf of the Government;



- (iii) concluding a loan agreement between the Government and a financial institution or a foreign government or other creditor by the Minister after approving the terms and conditions by the Government;
  - (iv) signing by the Minister, or appointing an agent to sign, under a power of attorney, loan agreements and related documents.
- (b) Approving terms and conditions, with the consent of the lender, in respect of a loan, the Minister may undertake as follows:
- (i) repaying a loan prior to its date of repayment;
  - (ii) renegotiating the terms and conditions of a loan;
  - (iii) converting a loan from one form to another or consolidating two or more loans into a single borrowing.

19. The Minister may, in accord with the objective of the public debt management, and an approved strategy, undertake portfolio management operations. Such operations shall be as approved by the Minister under Regulations.

## **Chapter VI**

### **Region or State Governments' Borrowing and Debt Management**

20. Region or State Governments may borrow money under the provision Section 18, the Annual Union Budget Law and Laws and Regulations related to Regions or States. The permission of the Government and the approval of the the Pyidaungsu Hluttaw shall be obtained in advance for borrowing of Region or State Governments.

21. Region or State Governments shall submit to the Ministry a record of its outstanding debt and new loans not later than one month after the end of every quarter of a financial year. The Ministry may request in writing on behalf of the Minister any information on the debt of Region or State Governments.

## **Chapter VII**

### **Development Committees' Borrowing and Debt Management**

22. Development Committees may borrow money under the provisions of the Annual Union Budget Law, any other applicable Law and Rules related to Development Committees. The

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permission of the Government and the approval of the Pyidaungsu Hluttaw shall be obtained in advance for borrowing of the Development Committees.

23. Development Committees shall submit to the Ministry a record of its outstanding debt and new loans not later than one month after the end of every quarter of a financial year. The Ministry may request in writing on behalf of the Minister any information on the debt of Development Committees.


## **Chapter VIII**

### **State-Owned Economic Enterprises' Borrowing from State-Owned Banks and Debt Management**

24. (a) State-Owned Economic Enterprises may borrow money from the State-Owned Banks established under the Financial Institutions of Myanmar Law if their own fund is not sufficient for carrying out their functions.
- (b) The borrowing under sub-section (a) shall be undertaken in accord with the Annual Union Budget Law.
- (c) The permission of the Government and the approval of the Pyidaungsu Hluttaw shall be taken in advance for such borrowing.
25. State-Owned Economic Enterprises shall submit to the Ministry a record of its outstanding debt and new loans from State-Owned Banks not later than one month after the end of every quarter of a financial year. The Ministry may also request in writing on behalf of the Minister any information on the debt which State-Owned Economic Enterprises borrowed from State-Owned Banks.

## **Chapter IX**

### **Lending and Onlending**


26. The Minister may, on behalf of the State, provide loans approved by the Financial Commission to Region or State Governments, Development Committees and State-Owned Economic Enterprises, in accord with the Union Budget Law:
27. In providing loans under Section 26:
- (a) the Minister may on behalf of the State, sign by himself/herself or appoint an agent to sign under the power of attorney, an agreement related to a loan. 



- (b) the Minister may determine the terms and conditions of a loan, with the approval of the government.
28. Under the provisions of the Union Budget Law:
- (a) the Ministry may, on behalf of the State, provide onlending from abroad under the Section 18 to Region or State Governments, Development Committees, State-Owned Economic Enterprises and entities carrying out mutual interest with the State.
  - (b) the Minister shall determine the terms and conditions related to the onlending and obtain the approval of the government.
  - (c) The Minister may sign by himself/herself, or appoint an agent to sign under a power of attorney, the agreements related to the onlending under sub-section (a).
29. Prior to extending a loan or onlending under this Chapter, and the risk on the loan outstanding shall be assessed by the Ministry.

## **Chapter X**

### **Public and Publicly Guaranteed Debt**

30. The Minister may:
- (a) issue loan guarantees and other forms of guarantees applied for any person, entity or projects in accord with the terms and conditions approved by the Government and the Pyidaungsu Hluttaw.
  - (b) Sign by himself/herself or appoint an agent to sign under a power of attorney, the agreement related to the Government guarantee.
31. Prior to the issuance of Government guarantee under this Chapter, and as long as the guarantee is outstanding, the risk to the Government for the issuance of such guarantees shall be assessed by the Ministry. Where there is a guarantee in a foreign currency, if neccessary, consult with the Central Bank of Myanmar.
32. The borrower of a loan for which the government has provided a loan guarantee shall pay guarantee fee determined by the Minister to the government unless the Pyidaungsu Hluttaw otherwise stipulates. 

33. The Minister has the right to claim the expenses for the following matters to reimburse or replenish from the borrower of a loan for which the Government has provided a loan guarantee:

- (a) all money disbursed by the Government to fulfill the guarantee;
- (b) all expenses incurred by the Government in relation to the guarantee;
- (c) interest on all money disbursed by the Government to fulfill the guarantee.

## **Chapter XI**

### **Accounting, Budgeting, and Reporting**

34. The Ministry shall:

- (a) record all Public Debt, lending, onlending and guarantees and all financial transactions related to Public Debt Management, in accordance with the Budget Classifications and Chart of Accounts. Accounting records for all financial transactions related to Public Debt shall be set out in accord with regulations and rules issued by the Ministry;
- (b) apply Myanmar Financial Reporting Standards in maintaining the accounts for Public Debt Management.

35. In preparing the annual budget, Central Organizations, Union Ministries and their Subordinates, Region or State Governments, Development Committees and State-Owned Economic Enterprises shall estimate their disbursements and debt repayment in accord with budget instructions, and allocate in their budget. Such allocation shall be submitted to the respective Hluttaw for its approval.

36. The Ministry shall make sure timely payment of principal, interest, borrowing and other expenses for Government debt without delay, in accord with the existing financial regulations, in the case of estimated expenses of such debt payments are not allocated or sufficient in the respective Union Budget Law or Region or State Budget Law.

37. Not later than six months after the end of the financial year, the Minister shall submit an annual report on Government Debt Management activities, government guarantees and government lending to the Pyidaundsu Hluttaw. The following shall be mentioned in Minister's annual report:

- (a) the objective and basic concept of the debt management strategy;



- (b) information on the contribution of the debt management strategy and debt management activities by using such information during the financial year to objectives the debt management strategy;
  - (c) the terms and conditions of new loan agreements during the respective financial year;
  - (d) total outstanding debt borrowed by the Central Organizations, Union Ministries and their subordinates, Region or State Governments, Development Committees, and State-Owned Economic Enterprises;
  - (e) a list of all lending and onlending which includes specification of the types of loans for the conditions that are likely to default;
  - (f) a list of all guarantees issued by the State.
38. The Office of the Auditor General of the Union shall:
- (a) audit annually whether or not the performances related to the government debt are effectively carried out and supervised in accord with the Auditor General of the Union Law.
  - (b) submit audit reports and audit findings to the President and the Pyidaungsu Hluttaw simultaneously.

## **Chapter XII**

### **Responsibilities of the Ministry**

39. The Ministry shall be responsible for the debt recording and reporting of the Public Debt Management activities.
40. The responsibilities of the Ministry are as follows:
- (a) to prepare a Medium Term Debt Management Strategy and Borrowing Plan and to upload to the Ministry Website;
  - (b) to prepare an Annual Report related to the Debt Management Activities, gurantees and loans on government debt and to upload to the Ministry website;
  - (c) to publish Debt Statistical Bulletins and other publications on Public and Publicly Guaranteed Debt;
  - (d) to manage the debt in accord with this Law and the Medium Term Debt Management





Strategy for government debt;

- (e) to prepare the issuance calendars for Government Securities issued in Myanmar;
- (f) to manage the issuance of Government Securities including approving the auction results;
- (g) to participate in negotiations with creditors, and advise the Minister for all Government borrowing;
- (h) to assess the possible risks in issuing guarantees and submit a report to the Minister;
- (i) to compel the recovery of any payments including interest and other costs incurred by the Government to fulfill the government guarantees;
- (j) to assess the credit risk in any lending and submit a report to the Minister;
- (k) to monitor and report the conditions on the debt of all Region or State Governments, Development Committees and State-Owned Economic Enterprises;
- (l) to keep comprehensive and accurate records of outstanding government debt, government guarantees and lending in an appropriate debt recording and management system;
- (m) to advise on debt payment obligations of the Government;
- (n) to prepare the relevant debt repayment and disbursements of loans in the Union Budget Law or Region or State Budget Law for the respective financial year;
- (o) to keep store all loan agreements and debt management records in a safe place;
- (p) to record the loan concluded by the Government;
- (q) to record an inventory and facilitate the payment of share capital subscriptions to international financial institutions;
- (r) to monitor the disbursements of loans by the Government in accord with disbursement of loan schedule agreed between two parties;
- (s) to prepare securitization which is deemed expedient in matter to settle a default or other liabilities;
- (t) to perform other functions and duties related to public debt management determined by the Minister.



## **Chapter XIII**

### **Prohibition**

41. No one is allowed to do the following:
- (a) Borrowing and negotiations in order to take loans without the permission of the Minister;
  - (b) borrowing for other matters other than any matters mentioned in section 3;
  - (c) default to repay on a loan in accord with this Law;
  - (d) default to submit information to be sent to the Ministry in accord with Sections 21, 23, and 25.
42. Whoever violated any prohibition contained in Section 41 shall be taken action with the applicable laws of the State.

## **Chapter XIV**

### **Miscellaneous**

43. All Government Securities issued in Myanmar in accord with Section 16 shall be liable to pay taxes according to the provisions contained in applicable laws, rules and regulations and procedures.
44. In implementing the provisions contained in this Law:
- (a) the Ministry may issue rules, regulations, and the by-laws with the approval of the Union Government;
  - (b) the Ministry may issue necessary notifications, orders, directives and procedures.
45. The Government Securities Act (India Act 10, 1920, Vol III) shall be repealed when all Government Securities are issued as Scripless by using electronic technology.

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I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein

President

The Republic of the Union of Myanmar

