

Decretal Federal Law No (9) of 2018, Regarding Public Debt

We, Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates,

Having perused the constitution;

Federal Law No (1) of 1972, Regarding Jurisdictions of Ministries and Powers of Ministers, and amendments thereto;

Federal Law No (7) of 1976, On the Establishment of the State Audit Institution, and amendments thereto;

Federal Law No (10) of 1980, Regarding the Central Bank, the Monetary System & Organization of Banking, and amendments thereto;

Federal Law No (5) of 1985, Promulgating the UAE Civil Transactions Law and amendments thereto;

Federal Law No (10) of 1992, Promulgating the Evidence Law in Civil & Commercial Transactions and amendments thereto;

Federal Law No (4) of 2000, Regarding the UAE Securities and Commodities Authority & Market and amendments thereto;

Federal Law No (1) of 2006, Regarding Electronic Transactions & Commerce;

Federal Law No (4) of 2007, Regarding Establishment of The Emirates Investment Authority, and amendments thereto;

Decretal Federal Law No (8) of 2011, Regarding the Rules for Preparation of the General Budget and Final Accounts;

Federal Law No (12) of 2014, Regarding Reorganization of Accounts Auditors Profession;

Federal Law No (2) of 2015, Regarding Commercial Companies, and amendments thereto;

Decretal Federal Law No (9) of 2016, Regarding Bankruptcy;

Decretal Federal Law No (13) of 2016, Regarding the Establishment of the Federal Tax Authority;

Federal Law No (20) of 2016, Regarding Pledge of Movable Properties in Guarantee of Debt;

Federal Law No (7) of 2017, Regarding Tax Procedures; and

Based on the proposal of the Finance Minister and approval of the Cabinet;

Promulgated the following Law:

Article (1)

Definitions

In the implementation of provisions of this decretal law, and unless the context otherwise requires, the following words and expressions shall have the meaning cited against each:

The State: The United Arab Emirates

The Government: The UAE Federal Government

The Local Government: The Government of any of the Union member emirates

The Minister: The Minister of Finance

The Ministry: The Ministry of Finance

The Central Bank: The Central Bank of the United Arab Emirates

The Governor: The Governor of the Central Bank

The Office: The Public Debt Management Office

Public Debt: Direct and indirect outstanding obligations, denominated in the UAE Dirham or any other foreign currencies, owed by the Government, in accordance with the provisions of this decretal law.

Local Public Debt: Direct and indirect outstanding obligations, denominated in the UAE Dirham or any other foreign currencies, owed by one Local Government or more, in accordance with the provisions of this decretal law.

Public Debt Instrument: Any debt instrument issued by the Government or which is a party of, in accordance with this decretal law, and contains a commitment by the Government to pay a certain amount of funds, including Islamic financial instruments, treasury bonds, promissory notes, treasury bills, debt rescheduling bills, government bonds, general or commercial loans, credit facilities, or payment guarantees.

Local Public Debt Instrument: Any debt instrument issued by the Local Government of any emirate or which is a party of, in accordance with this decretal law, and contains a commitment by the Local Government to pay a certain amount of funds, including but not limited to financial instruments referred to in the definition of Public Debt Instrument.

Outstanding Public Debt: The total current and outstanding balance of the issuances of the Government and its related entities, which has not been paid.

Public Debt Surplus: The remaining of the amount of the value of issued Public Debt Instruments, which has not been committed in accordance with the provisions of this decretal law.

Government Own-Stable Revenues: Fiscal revenues resulting from the provision of Government services and the carry-on of its various activities, for which no fixed and compulsory amount is

required to deem such a revenue as stable. This revenue may vary between specific percentages, up or down, but not exceeding 10% of the arithmetic average for the last three (3) years.

Government Entities: Public authorities and institutions, and corporations that are wholly owned by the Government or owned wholly by a Government owned entity.

The Electronic Registry: The electronic registry established at the Ministry for registering the ownership of Public Debt Instruments.

Article (2)

The Purposes of This Decretal Law

- 1) This Decree-Law regulates the general rules governing the issuance and management of Public Debt in accordance with a prudent and safe policy, to manage its risks and minimize its cost.
- 2) The Government may issue or be a party to one or a group of Public Debt Instruments to achieve any of the following:
 - a. Support and develop a highly efficient financial market in the State.
 - b. Finance infrastructure projects and governmental development projects as approved by the Cabinet.
 - c. Contribution of Public Debt Instruments to the development and diversification of primary and secondary financial markets in the State.
 - d. Support the implementation of the Central Bank's monetary policy.
 - e. Refinance or substitute an outstanding Public Debt.
 - f. Cover any financial guarantee issued by the Government in accordance with the provisions of this decretal law.
 - g. Settlement of any other emergency government financial obligation approved by the Cabinet, based on a proposal by the Minister.
 - h. Any other objectives that are consistent with the purposes of this decretal law, approved by the Cabinet.

Article (3)

The Public Debt Management Office

- 1) An office for the management of Public Debt, shall be established, under the name of "Public Debt Management Office", in the Ministry, which is directly subordinate to the Minister, and shall have the following jurisdictions:
 - a. Propose strategies and policies of Public Debt management in coordination with the Central Bank and submit them to the Minister for approval by the Cabinet.
 - b. Implement strategies and policies approved by the Cabinet in coordination with the Central Bank.
 - c. Provide advice to the Minister regarding the preparation of proposals related to the issuance of Public Debt Instruments to be submitted to the Cabinet, in coordination with the Central Bank.

- d. Monitor financial risks and any other risks related to the issuance and trading of any Public Debt Instrument, and propose solutions to manage and monitor such risks.
 - e. Provide advice to the Minister regarding investment options for any Public Debt Surplus through safe and highly liquid investment instruments, in coordination with the Central Bank and the Emirates Investment Authority.
 - f. Provide advice to the Minister to determine the level of acceptable risks when borrowing or issuing any guarantees for the purpose of implementing any of the governmental development projects.
 - g. Coordinate with the Central Bank regarding the management of issuance and sale of Government bonds, treasury bills, and any other government securities.
 - h. Manage the issuance and sale of any other Public Debt Instruments, in coordination with the Central Bank.
 - i. Coordinate with the Local Government in each emirate to support and develop highly efficient primary and secondary financial markets, through the issuance of Public Debt Instruments in the State.
 - j. Provide advice to the Minister on policies and procedures to be undertaken in order to reduce the costs of Public Debt portfolios, and to maintain the levels of associated risks within acceptable levels.
 - k. Prepare the annual debt issuance plan.
 - l. Identify clear short- and long-term objectives for Public Debt management in the State.
 - m. Provide necessary reports regarding the proper management for the implementation of Public Debt in the State.
 - n. Any other functions that are assigned to the Office by the Minister within the framework of the purposes stipulated in this decretal law.
- 2) The Minister shall issue a resolution regarding the organizational structure of the Office and the bylaws governing its functions.

Article (4)

Issuance of Public Debt Instruments

- 1) A law shall govern the issuance of Public Debt. This law shall specify the following:
 - a. The purposes of issuing the instrument(s).
 - b. The ceiling of the total amount for the instrument(s) to be issued.
 - c. The period of issuance and offering of the instrument(s) and the maturity date for payment.
- 2) The Cabinet, based on a proposal by the Minister, may issue resolutions on the following:
 - a. Type of the Public Debt Instrument(s).
 - b. The way the Public Debt Instrument(s) is(are) to be offered.
 - c. Reissuance of the Outstanding Public Debt within the limits specified in the issuance law.

and may delegate the Minister to take necessary measures to implement the provisions of this law regarding the management of the Public Debt Instrument(s) and the resolutions of the Cabinet in this regard.

Article (5)

The terms of any Public Debt Instrument shall not be amended after announcing the conditions of its offering and trading.

Article (6)

The Total Maximum Amount for Outstanding Public Debt

The total amount of Outstanding Public Debt shall not, at any time, exceed the amount determined by the Cabinet, at a maximum of Two Hundred Fifty per cent (250%) of the Government Own-Stable Revenues. For the purposes of this article, neither the Public Debt Surplus nor the proceeds of its investment shall be included in the total Outstanding Public Debt.

Article (7)

The share of Public Debt that is allocated for infrastructure projects or their financing shall not exceed Fifteen per cent (15%) of the total Outstanding Public Debt at any time.

Article (8)

Management of the Public Debt Surplus

The Minister shall be authorized to conclude one agreement or more with the Central Bank and the Emirates Investment Authority or with both parties to invest any funds that have been registered by the Ministry as Public Debt Surplus.

Article (9)

The Strategy of Public Debt Management

- 1) The Minister shall prepare a strategy and an action plan for the management of the Public Debt and shall update it annually or whenever it deems necessary, in coordination with the Governor to achieve the objectives of this decretal law.
- 2) The Minister shall submit the strategy and the action plan for Public Debt Management to the Cabinet for approval.
- 3) The strategy and the action plan for Public Debt Management shall be published in the Official Gazette, following its approval by the Cabinet.

Article (10)

Settlement of Public Debt Instruments

- 1) A Public Debt Instrument shall be considered as an absolute and unconditional obligation on the Government to be settled from its resources, and shall have a privilege right for settlement before all other debt.
- 2) Funds required for the settlement of Public Debt and its service shall be included, annually, in the State's general budget.

- 3) The Minister may delegate the Central Bank to withdraw, automatically, from the Government's accounts held at the Central Bank for the settlement of any of the Public Debt Instruments.
- 4) Should the settlement date for Public Debt or any of its obligations fall on an official holiday of the government or banks operating in the State, the first following business day shall be the due date for settlement, unless otherwise stated in the loan agreement, entered into by the Government or any of the Government Entities.

Article (11)

Financial Guarantees of the Government

- 1) The Government may provide one governmental financial guarantee or more on behalf of any of the Government Entities, based on a recommendation from the Minister, approval by the Cabinet, and issuance of a law to this effect.
- 2) The Cabinet shall, based on a proposal by the Minister, issue a resolution to specify the terms and conditions governing the issuance of the governmental financial guarantee.
- 3) The Minister shall be authorized, by virtue of this decretal law, to issue the required governmental financial guarantee to implement the Cabinet resolution, as referred to in item (1) of this article.

Article (12)

Re-lending Borrowed Funds

Re-lending of collected funds from the issuance of any Public Debt Instrument may be approved, by a Cabinet resolution in order to achieve any of the objectives specified in Article (2) of this decretal law. Such a resolution shall specify the category of eligible parties to borrow, total amount allocated for re-lending, and the terms of settlement for the amount borrowed.

Article (13)

Public Debt Management Report

- 1) The Minister shall submit an annual report regarding the management of the Public Debt to the Cabinet for endorsement within the first three months of the beginning of each financial year for the Government. The report shall include a review of the activities of the previous financial year compared to the approved strategy for the management of Public Debt along with an overview for the current financial year's borrowing plans based on expectations referred to in the State's annual budget.
- 2) The report shall be published in the Official Gazette once endorsed by the Cabinet.

Article (14)

Audit

- 1) The Office shall have one external auditor or more selected from the pool of licensed audit firms in the State. The Minister shall issue a resolution to appoint the external auditor for a one-year term, renewable, and shall determine in this resolution the applicable fees.
- 2) The external auditor shall conduct the audit of the accounts of the Office and shall prepare a report every three (3) months regarding the extent to which the Office implements the provisions of this decretal law and the resolutions in implementation thereof with respect to these accounts, and shall submit the report to the Minister.
- 3) The external auditor may, at any time, review records of the Office, its accounts, and all other documents; and may request clarifications as deemed necessary for the performance of its functions, review the outstanding rights and obligations related to the activities of the Office, in accordance with the provisions of this decretal law and the resolutions in implementation thereof.

Article (15)

Listing and Registration

- 1) Public Debt Instruments shall be issued in electronic forms (book-entry) and shall be registered in an Electronic Registry. Public Debt Instruments may also be issued in the form of paper certificates.
- 2) Public Debt Instruments offered for public subscription shall be listed on one financial market or more operating in the State, in accordance with the provisions of the Federal Law No. (4) of 2000, Regarding the UAE Securities and Commodities Authority & Market, and amendments thereto. As an exemption from the provisions referred to in the aforementioned law and the decisions issued pursuant thereto, Public Debt Instruments shall be traded in accordance with the trading provisions issued for the implementation of the provisions of this decretal law.
- 3) The Minister shall issue, in coordination with the Securities and Commodities Authority and the Central Bank, all executive bylaws and resolutions that concern the issuance and registration of Public Debt Instruments as well as the provisions of trading, clearing and settlement, and the registration of any liabilities thereon, within six (6) months from the date of this decretal law comes into effect.
- 4) Data and records in the registry of Public Debt Instruments, held in accordance with the provisions of item (1) of this article, including records related to the trading of the Public Debt Instrument, shall have authoritative legal power as granted by the decretal law to the official documents.
- 5) As an exemption from the provisions and rules of evidence set forth in any other law, claims that pertain to Public Debt Instruments may be documented by all legally recognized methods of proof, including electronic data, telephone records, facsimile mailings, and e-mail; provided that any of these correspondence methods is supported by the recipient of the subject communication.

Article (16)

Public Debt Management Offices in the Emirates

- 1) The Local Government in each emirate shall, in case of issuing Local Public Debt Instruments, establish an office that has, at least, the same competencies as provided in Article (3) of this decretal law, at the level of the concerned administration.
- 2) Each Public Debt Management Office in the concerned emirate shall take necessary measures to implement the provisions of item (1/i) of Article (3) of this decretal law, and shall, as requested, provide the Public Debt Management Office established in accordance with this decretal law all the data, information, and statistics necessary for the preparation and issuance of reports, data, statistics, resolutions, and recommendations referred to in this decretal law.

Article (17)

Statute of Limitations for Claims

- 1) No claim by the Government for any dues that are owed by any party in accordance with the provisions of this decretal law shall be heard beyond five (5) years following the emergence of the claimed right.
- 2) No claim by any party for any dues that are owed by the Government in accordance with the provisions of this decretal law shall be heard beyond five (5) years following the emergence of the claimed right.

Article (18)

Exemption from Fees and Taxes

Issuance of any Public Debt Instrument, payment of its value, its returns, interest, or profits resulted therein shall not be subject to any federal or local fees or taxes.

Article (19)

Issuing of Loan Bonds by Government Entities

No Government Entity shall issue loan bonds or Islamic financial instruments without the prior approval of the Cabinet. The request for approval shall include the amount of the loan bonds or the Islamic financial instruments to be issued, the purpose of issuing them, and the financial sources or the investments to be allocated for the settlement of incurred debt.

Article (20)

Oversight of Government Entities' Borrowing

Without prejudice to the provision of Article (19) of this decretal law, the Office shall oversee the borrowing or financing arrangements made by Government Entities, provided that the sum of such arrangements, in any year, exceeds the capital of the relevant entity for the given year. The Office shall be authorized to request and receive necessary information related to such

arrangements; and shall determine, upon receipt of such information, the policies and procedures to be considered by the concerned entity to manage its borrowing or financing arrangements.

Article (21)

Executive Bylaws

The Cabinet shall issue necessary resolutions to implement the provisions of this decretal law.

Article (22)

Decretal Law Publication and Application

This decretal law shall be published in the Official Gazette, and shall come into force on the day following the date of its publication.

Khalifa Bin Zayed Al Nahyan

President of the United Arab Emirates

Promulgated by us at the Presidential Palace, Abu Dhabi

on Muharram 10, 1440 Hijri

September 20, 2018 Gregorian