Ministerial Decree No 389 of December 1, 2003
Rules on access to capital markets by provinces, municipalities, metropolitan cities, mountain communities and island communities and consortia of local authorities and regions, as per article 41, paragraph 1, Law No 448 of December 28, 2001.

MINISTER OF ECONOMY AND FINANCE in concert with the MINISTER OF THE INTERIOR

Having considered Law No 724 of December 23, 1994, and in particular articles 35 and 37, dealing respectively with the issuance of bonds by local authorities and with local authorities' borrowing;

Having considered Legislative Decree No 239 of April 1, 1996, and subsequent amendments and supplements, amending the tax regime on interests, premiums and other proceeds of bonds and similar securities, issued in compliance with article 3, paragraph 168, Law No 549 of December 28, 1995;

Having considered article 129 of Legislative Decree No 385 of September 1, 1993, and subsequent amendments and supplements, which provides the rules for the issuance securities;

Having considered the Minister of the Treasury's Decree No 420 of July 5, 1996, published in the Official Gazette No 189 of August 13, 1996, on the regulation that lays down rules for the issuance of bonds by local authorities;

Having considered article 45, paragraph 32, Law No 448 of December 23, 1998, as amended by Decree-Law No 392 of December 27, 2000, converted with amendments by Law No 26 of February 28, 2001;

Having considered Legislative Decree No 267 of August 18, 2000, containing the consolidated act on the civil jurisdiction of local authorities;

Having considered that the procedures for the control of excessive deficits fall within the relations between the State and the European Economic and Monetary Union, as required by the Maastricht Treaty;

Having considered Law No 448 of December 28, 2001, containing provisions for the formation of the State's annual and multi-year budget (2002 Financial Law);

Having considered in particular article 41 of the mentioned Law No 448 of 2001, as amended by article 2, paragraph 1(ii) of Law-Decree No 13 of February 22, 2002, converted with amendments by Law No 75 of April 24, 2002, whereby the Ministry of Economy and Finance, in concert with the Ministry of the Interior, establishes by decree the content and methods of coordination of access to capital markets by local authorities;

Having considered article 3 of Constitutional Law No 3 of October 18, 2001, laying down rules on the scope of application of the State's exclusive legislative powers;

Having considered article 17, paragraphs 3 and 4, Law No 400 of August 23, 1988;

Having considered the need to ensure, as per article 41 of the mentioned Law No 448 of 2001, the enactment of provisions for access to capital markets by provinces, municipalities, associations of municipalities, metropolitan cities, mountain and island communities, and also consortia of local authorities and regions;

Having heard the Joint Conference mentioned in article 8, Legislative Decree No 281 of August 28 1997, at its meeting of May 9, 2002;

Having heard the opinion of the State Council, expressed in the meeting of the Advisory Section for Legislation of May 26, 2003;

Having considered the communication to the President of the Council of Ministers, as per article 17, paragraph 3, Law No 400 of August 23, 1988, made by memorandum, No ACG/l7OGT/56785 of October 6, 2003;

Adopts the following rules:

1. *Market access coordination*

1. Under article 41, paragraph 1, Law No 448 of December 28, 2001, provinces, municipalities, associations of municipalities, metropolitan cities, mountain and island communities, referred to in article 2, Decree No 267 of August 18, 2000, consortia of local authorities and regions must communicate by the 15th of February, May, August and November of each year to the Ministry of Economy and Finance, Treasury Department (from here on Treasury

Department), Directorate II, data on the net use of forms of short-term credit from the banking system, loans taken out with parties external to the public administration, derivative transactions entered into, debt issued and securitizations concluded. The Treasury Department, within thirty days from the date of this decree shall draw up, after consulting the Conference referred to in article 8 of Legislative Decree No 281 of August 28, 1997, the forms to be used for communications as per this paragraph for the purposes of forwarding to the Ministry of the Interior for the prescribed agreement[1].

2. Under article 41, paragraph 1, Law No 448 of December 28, 2001, the Ministry of Economy and Finance shall coordinate the access to capital markets of the institutions identified in paragraph 1. Coordination is limited to financing operations in the medium and long term, or securitizations of values equal to or exceeding 100 million euros. To this end, the aforementioned entities, except as provided in paragraph 3, inform the Treasury Department of the characteristics of the transactions being prepared. Within ten days after confirmation of receipt by Department II of the Treasury Department of the notification referred to in this paragraph, that Department may indicate, by motivated decision, what is the best time for the effective implementation of the market access operation. In the absence of such decision, the transaction may be completed within the twenty days following the confirmation of receipt in the case of issues on the bond market, and within the time set by the entities in all other cases. Funding transactions with charges weighing on the State budget are excluded from the need of prior notice as per this paragraph, they are regulated by specific legislation.

3. In the case of transactions subject to the supervision of the Inter-ministerial Committee for Credit and Savings (ICCS), issuers will send the data simultaneously to the Treasury Department and the ICCS. In this case, any comments made by the Treasury Department must take place prior to the authorization issued by the ICCS, so that it can provide adequate technical support to the decision that the Committee will take.

2. *Amortization*

1. Contracts for the management of a sinking fund of outstanding principal or, alternatively, to conclude a swap for debt amortization, mentioned in article 41, paragraph 2, Law No 448 of December 28, 2001, may be concluded only with intermediaries with appropriate credit rating, as certified by internationally recognized rating agencies.

2. The amounts set aside in the sinking fund may be invested only in securities issued by public administrations and entities as well as companies with public participation by European Union countries.

3. *Derivative transactions*

1. If borrowing transactions are in currencies other than the euro, coverage of the exchange rate risk must be provided through exchange rate swaps, which are contracts between two parties that take the commitment to regularly exchange flows interest and principal denominated in two different currencies according to the procedures, timing and conditions stated in the contract.

2. In addition to the transactions referred to in paragraph 1 of this article and article 2 of this decree, the following derivative transaction are also allowed:

a) interest rate swap between two parties taking the commitment to regularly exchange interest flows connected to major financial market parameters according to the procedures, timing and conditions stated in the contract;

b) purchase of a forward rate agreement in which two parties agree on the interest rate that the buyer agrees to pay on a capital at a future date;

c) purchase of an interest rate cap in which the buyer is protected from increases in the interest rate payable above the set level;

d) purchase of an interest rate collar in which the buyer is guaranteed an interest rate to be paid, fluctuating within a predetermined minimum and maximum;

e) other derivative products containing combinations of the above that enable the transition from fixed to floating rate and vice versa when a predefined threshold has been reached or after an established period of time;

f) other derivative products aimed at restructuring debt, only if they do not have a maturity subsequent to that of the underlying liabilities. These operations are allowed when the flows received by the interested bodies are equal to those paid in the underlying liabilities and do not involve, at the time of their conclusion, an increasing profile of the present values of single payment flows, with the exception of a discount or premium to be paid at the conclusion of the transactions, not exceeding 1% of the notional of the underlying liabilities.

3. The above derivative transactions are allowed only in the presence of real liabilities due and can be indexed only in reference to monetary parameters of the Group of Seven most industrialized nations.

4. In order to limit credit exposure to counterparties of the derivative transactions of this article, contracts may be concluded only with intermediaries covered by appropriate credit rating, as certified by internationally recognized rating agencies. If the total nominal amount of derivative transactions carried out by the territorial body in question exceeds 100 million euros, the institution will gradually strive, through transactions following the entry into force of this decree, to ensure that the total nominal amount of transactions entered into with each counterparty does not exceed 25% of the total outstanding operations.

5. The provisions contained in article 2 and in this article shall apply to regions until the adoption of specific regional regulations.

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[1] The forms mentioned in this paragraph were approved with the Executive Decree of June 3, 2004 (Official Gazette No 168 of July 20, 2004).