

Law no. 724 of 23 December 1994

Measures to rationalize public finance

35. Issuance of bonds by local authorities.

1. The provinces, municipalities and unions of municipalities, metropolitan cities and municipalities in articles 17 and following, of the Law no. 142 of 8 June 1990, mountain communities, consortia between local authorities and regions can only issue bonds to finance investments. For regions, the provisions in article 10 of Law no. 281 of 16 May 1970, as amended by article 9 of Law no. 181 of 26 April 1982, remain. It is prohibited to issue bonds to finance current account expenditure. Unions of municipalities, mountain communities and consortia of local authorities must request the local authorities, that take part, for authorization to issue bonds. The authorization shall be considered denied unless expressly granted within ninety days of the request. The provisions of article 46 of Legislative Decree no. 504 of 30 December 1992, as subsequently amended and supplemented, are applied. The cost of monitoring provided for in said article 46 will be paid entirely by the issuing entity.

2. The issuance of bonds is subject to the following conditions:

a) that local authorities, even if they participate in consortia or unions of municipalities, are not in situations of instability or in situations of structural deficiency as defined by article 45 of Legislative Decree no. 504 of 30 December 1992;

b) that the regions have not proceeded to cover administrative deficits pursuant to article 20 of Decree-Law no. 8 of 18 January 1993, ratified with amendments by Law no. 68 of 19 March 1993.

3. No loan can be emitted when the final budget of the penultimate year results in a deficit and if the budget plan for the year in which the loans are scheduled has not been decided. The bond must be targeted for investment and must be equal to the value of the detailed project to which it refers. The investment, for which the bond is issued must have a market value, present or future, at least equal to the amount of the loan. The interest on bonds issued by entities referred to in paragraph 1 concur in all respects to the determination of the borrowing limit fixed by law for the respective types of issuing entities.

4. The duration of the bond can not be less than five years. In the case of loans issued by a union of municipalities or consortia of local authorities, the maturity cannot be beyond that in which the dissolution of the partnership or consortium is envisaged. If the municipalities merge before the end of a ten year period, pursuant to articles 11 and 26 of Law no. 142 of 8 June 1990, all legal relations arising from the loan are transferred to the new entity.

5. The bonds can be converted into shares or warrants of companies owned by the local authorities.

6. [The bond will be placed at par and interest may be paid, with annual, semiannual or quarterly fixed rate or variable rate coupons] (1). The effective pre-tax yield for those who underwrite the loan shall not exceed at the time of issuance, the gross return, plus one, on Government bonds of equal duration issued in the previous month. If during that time there

were no emissions of the kind reference will be made to the performance, plus one, of Government bonds on the market with a remaining maturity closest to that of the bonds to be issued. Bonds are issued in bearer form, are eligible to advance from the Bank of Italy and can be received as guarantee for advances by all banks. The issuing institutions must deduct tax of 12.50 per cent by way of tax on interest, premiums and other payments to private holders by way of advance tax for individuals taxed according to IRPEG. The revenue of the tax remains the responsibility of the issuing institutions which must register the amount in a separate entry of the budget, net of a one-off rate of 0.1 percent calculated on the value of the bond, to be awarded to income in the State budget as contribution to expenditure related to acts of authorization. [Access to the Cassa Depositi e Prestiti to set up new mortgages in the accounting periods in which the loan was signed is prohibited] (2).

7. The loan approval decision by the issuing entity must disclose the investment to be made, the total amount, the duration and the procedures for reimbursement and must be accompanied by the related amortization plan. Early repayment of the loan, where it is provided for, can only be carried out with funds from the disposal of available fixed assets. In order to place the loan the issuing entity uses brokers authorized by national or Community legislation, subject to the provisions governing their activities. The issuer shall deliver the proceeds of the bond according to the procedures laid down in article 19 of Law no. 1 of 3 January 1978. The treasurer of the issuing entity must provide for payment, to the entity or credit institutions, of the funds needed for the coupon payment, net of tax, and for the repayment of principal, in accordance with the amortization plan. The entity or credit institutions are the bond holders in relation with the issuing entity.

8. The repayment of the loan is secured through the re-launching of the delegation of payment referred to in article 3 of Law no. 843 of 21 December 1978. The repayment of the loan issued by the regions is ensured by inclusion in the budget with commitment of the region to instruct the treasurer to set aside the funds needed. Any form of guarantee from the State, and any form of guarantee from the Regions for loans issued by local authorities is prohibited.

9. The rules concerning the management of ordinary Government bonds in the Minister of the Treasury's Decree of 25 July 1985 are applied, *mutatis mutandis*, to bond issues. The bond issues are subject to prior approval by the Bank of Italy, which must be given within sixty days of the request, within limits set by itself, pursuant to article 129 of Legislative Decree no. 385 of 1 September 1993. Bonds can be listed on markets regulated under current legislation and can be repurchased by the issuer only with resources from budget savings.

10. Through a specific regulation to be issued by 30 June 1995, the Minister of the Treasury determines the characteristics of bonds and the criteria and procedures that local issuers are required to observe for the collection of savings; defines the amount of placement fees that the authorized intermediaries will receive and also defines the criteria for listing on the secondary market (3). To this end, changes and additions of the budget certificates referred to in article 44 of Legislative Decree no. 504 of 30 December 1992 may be provided for.

(1) Sentence repealed by article 41, paragraph 3, Law no. 448 of 28 December 2001.

(2) Sentence deleted first by article 3-ii, Legislative Decree no. 444 of 27 October 1995, in the text supplemented by the relevant law of conversion, and then by article 1, paragraph 90, of Law no. 549 of 28 December 1995.

(3) The Regulation laying down rules for the issuance of bonds by local authorities was approved by Ministerial Decree no. 420 of 5 July 1996.