

**STUDY ON THE LEGAL BASIS AREA THE MUNICIPAL BONDS IN THE
REPUBLIC OF MOLDOVA**

**Prof., Phd Oleg Stratulat, Associate Professor Ana BERDILA,
Associate professor Ghenadie Ciobanu**

Academy of Economic Studies of Moldova

Abstract

Financing local government spending at the expense of taxes, contributions, donations and other levies to grant title was always weak. This has conditioned the emergence of alternatives for financing local objectives, including the fully registered Debenture were municipal. Municipal bond loan, the economic and social sense, is the credit relationship between the lender (investor public), making available to the debtor (local government) temporarily free financial resources in terms of reimbursement and payment of interest through special lending instrument - municipal bonds.

Municipal bond loan debt is a fundamental way the public authority in the medium and long term, the credit instrument which is municipal bonds.

Keywords:

Debenture, legislative and regulatory framework, local administration, credit instruments, financing deficit

General approach on municipal bonds

Municipal Obligations are contracts between the municipality and the person or entity on the financing of activities. Municipal obligations are debt holder of the issuer resulting from a bond loan on the latter release it on the market, assuming the obligation to pay interest and redeem the title given to a future date.

The issue of municipal obligations of local governments receiving additional resources to the traditional. LPA them borrow directly from the public investor, bond loan is better and sometimes cheaper. Compared with other types of loans, the disadvantages of such methods of training of public financial resources, on which a public authority at its Debenture issue are those that must pay interest periodically and repay the loan at maturity, which means that is necessarily their judicious management, including estimating the expected return on public investment.

The incentive issue municipal obligations in terms of theory, it argues the following:

- current local budget deficit financing. Costs, analog local government revenue, it has a consistency and do not coincide in time, so to mobilize additional financial resources necessary to borrow.
- Repayment of earlier debts. In this regard, debt refinancing is done.
- Winding holes pets. In such situations may be used Debenture in cities, districts, villages where the tax base depends on the seasonal cycle of production.
- Funding of local programs and projects of their own capital investment. In this respect are attractive loans that address problems of housing and infrastructure development etc. localities.

Essence, but the investment attractiveness of municipal obligations and still manifest in a number of characteristics reflected in their classification criteria. Thus, municipal Debenture shall be made in a variety of forms depending on the type and characteristics of bonds issued.

There are a wide variety of municipal bonds.

Municipal bonds are different by characteristics, features and its attributes which explains their classification according to various criteria. In this way, the wide range of municipal bonds offer investors many advantages.

Bond loan debt is a way of APL, is distinguished by bank credit through the following features:

- If bank lending is unique in the person of the creditor bank, whereas bond issue brings together a large number of creditors.
- bank credit may not be quoted on the secondary market. While the bond, is a negotiable debt instrument is quoted on the secondary market.

Like any public lending, Municipal Debenture number of technical elements have to:

1. The amount borrowed and the number of bonds issued that depends on:
 - a) the nominal amount of bonds, that amount will be reimbursed by the LPA to loan maturity, the bond holder;
 - b) the issue, the selling price of bonds at time of issue. This value can be equal to face value or less than face value;
 - c) Market value is market price at which the bond is currently traded on the market.
2. Bond rate is the price of 100 currency units par value. Bond rate is expressed as a percentage. Depending on the course concepts are used:
 - a) course at par or poles where it is 100% level, so the nominal value is equal to market price;
 - b) being over par or over look - the rate is less than 100%;
 - c) being under par and the stakes - the level is below 100%.
3. The term of repayment, which corresponds to the life of the bonds.
4. Nominal interest rate is the interest rate that applied to the loan allows the calculation of coupon interest. The interest rate may be fixed, so it changes the whole life, or may be variable, so be in line with the market rate.
5. Coupon interest rate is the absolute mass of the bond holder entitled to one year or a fraction of a year.
6. The cost issue, which includes the cost of issuing securities transactions and their movement.
7. The cost of loans, bonds generated by the issuer to the lender on the interest and amount reimbursed.
8. Conditions of debt repayment, which is determined according to the loan amortization plan.

Contracting and management of local public borrowing is done through a series of specific operations.

Municipal Debenture Placement is the operation whereby the local government take possession of the amount borrowed. If Debenture loans when the amount borrowed depends on the technical receipt of entry.

1. Placement directly by LPA-ri securities by institutions belonging to them. Effects of direct placement:
 - LPA sites gradually enter the possession of the amount borrowed, as it manages to sell the bonds issued.
 - Sale transactions require an overall cost of the expenditure of public institutions in charge of the sale of bonds. This reduces the efficiency cost of the loan because of the amount of bond sales minus the cost of entry.
2. Placement through banks or banking consortia. Bank as an intermediary or take the commission bonds issued by APL, or actually buying them. So:

- Placing the commission - the bank assumes the responsibility to sell securities issued by APL at face value or issue price. In the contract, APL shall provide the bank a certain number of documents which it in a certain time, called the period of investment, sell these documents to holders of capital. As the sale of bonds, the bank put the money received on the APL retaining commission in the contract.

The effects of placing the commission:

- LPA gradually enter the possession of money
- The risk of placement in terms of the sale of bonds is APL
- The return of the loan depends on the commission you charge the bank.
- The purchase of bonds issued by the Bank APL (or other intermediaries) - Bank of LPA buy any bonds issued at a price issue in the contract mediation, which then sells bonds at a higher price than the issue price. There are cases in which the bank can not sell bonds at a higher price than the issue price and then either sell them at a lower price by accepting the loss, remains the sole creditor of the LPA is pending maturity of the loan.

Effects of placement by intermediaries:

- LPA immediately to hold the amount borrowed.
- Risk Placement by bank transfer.

3. Placement through a stock exchange

The effects of placing a stock exchange is through the sale of municipal bonds through auctions conducted by a primary dealer in the APL provision as approved by the latter graph, which then can be defined and modified. The effects of placing a stock exchange:

- The registration process variations make it impossible to know the proceeds from the sale of bonds.
- Investment costs are reduced because the inclusion of municipal bonds to stock is automatically making the return on the loan is not dependent on any listing fees or charges.

Municipal Debenture Repayment is the operation to withdraw from circulation municipal bonds. There are various methods of reimbursement:

1. Reimbursement towards annuities. The annuity means the annual payment by the debtor of a part of the loan plus interest accrued that year.

Annuity means a deferred repayment of the amount borrowed. Annual rates may be reimbursed equal, higher or lower. The most frequently used repayment in equal installments.

2. Reimbursement through the exchange of securities. Whenever the market are quoted municipal bonds can be withdrawn from circulation at any time by the stock redemption. The aim moments when the scholar has a tendency to fall making the local budget effort on redemption monkeys.

This method has the advantage that is simple and not have high surrender charges.

3. Reimbursement by the drawing of lots shall be used if the APL is very large number of creditors and the bonds were issued without a firm maturity. Withdrawal from circulation in order to organize regular drawing. In this case the bonds are repaid only amounts that have emerged winners in the drawing of lots.

The firing starts again so that it can be made full redemption in a given period. Municipal Debenture is obvious that they are their own risks, among which we highlight the following:

- Risk their investment projects;
- Economic risks;
- Significant demographic change;
- Migration;
- Risks arising from legislative and fiscal instability;
- Own risk emerging market;
- Risks caused by natural factors etc..

In this way, municipal Debenture, which are an additional source of cash for local government, is managed wisely and efficiently, generating economic and social benefits for both subjects, but also for the community as a whole.

Municipal Debenture developed countries but also in many other countries with market economies, including Eastern European region have become important tools and secure financial resource mobilization in the capital markets to finance capital projects.

Legislative and regulatory framework in Moldova.

Experience worldwide shows that municipal bonds are financing instruments characterized by their holders a fixed interest rate offered. From this point of view are similar to bank loans, but it is in an advantageous alternative in many ways.

Internationally diversified market most municipal bonds is located in the U.S., where the first half of 2006 volume was over 178 billion market. USD. In European countries where estimates of international rating agencies "Standard & Poor's" in 2006 total volume of financial resources attracted local and municipal authorities will be 216 billion estimate. Euro with an increase of 2% over 2005. It noted that in 2002 the increase was more pronounced and the average was 14%. In Europe they seem to geographical concentration of financial resources attracted local and municipal administration in five Western European countries: Germany, Italy, France, Spain and Switzerland.

In Moldova there is also practical. This is influenced by several factors namely:

1. The legal framework in respect of Municipal Debenture simplistic, narrow - contained in several articles of the Law on Securities Market, no. 199 - XIV of 18.11.1998 and Law on Local Public Finance, no. 397-XV of 16.10.2003.

Securities Market Act, Chapter, Article 48, paragraph states: "... the movement of securities:

- Securities issued by the state, municipalities, central government authorities and local
- corporate securities issued by local corporate
- corporate securities issued by foreign legal
- Options on securities and other forward contracts
- other securities and financial instruments, the movement which is not prohibited by applicable law ... "

In this way, allow movement of securities issued by local authorities requires of them. But, specifically municipal securities, their essence, characteristics, types, mechanism of issuing, servicing and repayment of municipal debt is not enshrined in any paragraph.

The Law of Local Public Finance, no. 397-XV from 16.10.2003, Chapter II, "structure administrativ-territorial units budgets," Article 14 "loans for capital expenditure", paragraph (5) states: "... the ATU for the executive authorities and the town's second Balti, the representative and deliberative decision of the authorities concerned may contract by issuing bonds, short and long term loans for capital expenditure ...", and paragraph (6): "... the provisions of paragraph (5) are applicable if total amount of debt corresponding budgets already contracted or guaranteed loans, the loans to be contracted and their related interest and the loans are expected to be guaranteed and the interest thereon, shall exceed 20% of total annual revenue budgets of those ... "

So, the rules above translates as follows: 1) Municipal Debenture may be contracted for only one purpose - financing capital expenditure (financing investment projects, 2) right to issue Debenture is restricted to administrative units - territorial units (District Council, Gagauz-Yeri, Chisinau and Balti municipality).

Unfortunately, it is virtually all governing Debenture. As we see the current legal framework is underdeveloped. Existing regulations do not actually demarcate municipal Debenture mechanism. Stipulations that are insufficient for development of normative acts and design issues of municipal bonds.

Moreover, the Tax Code, Art. 19 Facilities provided by the employer, in the d) stipulates that "the sum of interest, obtained as a result of exceeding the basic rate (rounded to next whole share) determined by the National Bank of Moldova in November of the previous fiscal year of management: - the refinancing of commercial banks through repurchase agreements purchase of state securities within 2 months - a term loans of up to 5 years - the long-term loans - loans for a period exceeding 5 years, interest rate calculated for loans granted by the employer to the employee, depending on their term of grant.

In other words, the municipal securities such tax incentives shall be without prejudice and in this respect bears a discriminatory, potential investors are not encouraged in the procurement of municipal securities.

In this way, the first step in implementing the Municipal Debenture is completely legal

framework and modern training.

2. Underdeveloped securities market. Securities market of Moldova is characterized by slow growth, a hesitant and low liquidity. In its development and function of the scholar NSC-32 index and market capitalization over the period 2001-2007 the securities market was behind the neighboring countries and other emerging countries worldwide. Another factor which reflects the situation of an underdeveloped capital market is the low level of competitiveness of the issuers and their small number.

3. Lack of local practice facility issue municipal bonds. It covers foundation, preparation, launch, reimbursement, remuneration of IOM, which requires coverage of legislative and regulatory provisions. IOM national problem was first challenged in the National Forum "Fiscal Decentralization: challenges for Moldova" from 09-10 March 2006. Meanwhile, local shows lack of process information, promotion of mass education of the population vis-a-vis the investment in HMI. So far, only a few localities have initiated some discussions and debates on the need to implement IOM mechanism.

4. Low management capacity, which is manifested by poor knowledge in the field and the absence of local initiative of launching such financial instruments. It is envisaged that the local government level and at the investor level, there is a culture in the IOM. In general the legal framework provides a special article to reflect the rights, duties and responsibilities of mayors, chairmen of districts in the issuance and circulation of IOM.

There is a lack of training of participants for the APL bond loan market. First, investors do not know the structure of local finances and the legal framework governing the LPA, there are no specific rules for the placement of municipal bonds. Moreover, APL officials have appropriate training for the preparation of documentation required for municipal borrowing Debenture (feasibility studies, audit reports) and do not know the procedure and steps to be taken in this regard.

Therefore, develop a culture of IOM for APL among participants market, particularly the LPA and public investors.

5. Uncertainty in financial instruments of government from the people. Purchase of state securities currently is done mainly by economic (especially commercial banks), while citizens are oriented towards the acquisition of property and the placement of bank deposits.

Meanwhile, municipal bonds have some undeniable advantages, the most important being:

- Low cost of borrowing. The issue of municipal obligations is held low interest rate loan resources, mobilizing local resources in the financial market to non-residents, individuals and non-banking institutions to cover budget deficits and gaps pets in local budgets, financing seasonal work, etc..
- Training a new instrument for financing investment projects. High degree of confidence and liquidity of municipal bonds allow local government to classify them as optimal

instruments to finance investment projects. In this way, in international practice had a widespread municipal bonds, which activate the means for building productive things with their subsequent sale or letting.

- full and transparent use of IOM. Loan contracted by municipal bonds is repaid at maturity, thus giving him the possibility of local government to build it completely, compared with bank loans which are repaid during the period of his existence. For municipal bond issue interest rate is calculated is determined by transparent and competitive (tender), features missing in calculating the cost of bank credit;
- Improving capital market infrastructure. Successful implementation of the Debenture will positively affect the investment climate in cities, districts, etc., will create a boost in terms of capital market infrastructure development.
- Flexibility municipal loans according to the needs of the issuer (municipal authorities): the amount requested, the interest rate, maturity, grace period and repayment terms. At the same time, guarantee repayment of the loan with the local government revenue, compared with bank credit which requires pledging of public property. However, the Bank reserves the right to change the interest rate on loans granted without the consent of the debtor.
- increased interest from investors to municipal bonds, so there was no case so far, an issue not fully subscribed.

Thus, municipal enterprises in the sphere of communal farm-buildings, the vast majority are monopolists and that have a guaranteed market for performance of services. In this way, bonds issued by these companies through local public authorities, in international practice, is considered to be the safest. However, in Moldova there are a number of factors would curb appeal of municipal bonds issued within the communal-housing - first debts to creditors that you have them.

Inhalation Functionality RULES REGARDING MUNICIPAL OBLIGATIONS IN MOLDOVA

In this way, the first step in implementing the Municipal Debenture would be completely legal framework and modern training.

In this regard it is necessary to operate a series of legislative actions, namely:

- Introducing a special chapter in the Law on securities market, which would reflect the concept and mechanism Municipal Debenture, including the issuance of bonds, their placement, servicing and repayment;
- Introduction to the Law on local public finance a series of articles which would regulate the Debenture municipal complex;
- Introduction to the Law on Local Public Administration, no. 123-XV of 18.03.2003, a chapter that would mean the requirements and responsibilities to local administrative capacity, the effect of which would be forming a powerful financial management, including in lending;
- Introduction of an item in the tax code that would exempt lenders from income tax interest municipal bonds, which would establish public equity securities market and create a tax relief funds to attract potential investors to temporarily free of objectives public interest ..

Legislation and normative acts of the Republic of Moldova should be connected to international law in this area. But they provide only the rules of the game, so continue to follow the activities of creating mechanisms for boosting the launch and operation of the markets in the financial market of Moldova. Municipal bonds are financial instruments on a wide range of money market instruments including money market existing state securities market, corporate securities market.

Of course as these segments of financial market development requires an intense, but since these segments have a certain level of development and evolution, some experience with its strong and weak parties.

As for the bond market are the top track and having regard to international experience and experience of the segments, similar mechanisms of financial system we can build a viable segment, efficient and attractive tool for local and foreign investors.

Also necessary to highlight specific issue that is the goal of municipal bonds (eg building roads, bridges, other infrastructure objects managed by local authorities).

Using Municipal Debenture would help solve many problems, the main ones being:

- Lower cost of borrowing. The issue of municipal bonds appear safer investment alternative ways, and as a result of the competition is lowering interest rates instead of borrowed resources, while mobilizing local financial market to individuals and legal resources to cover budget deficits and house dips local budgets, financing seasonal work, investing in broad economic and social resonance, etc..
- Training a new instrument for financing investment projects. High degree of confidence and liquidity of municipal bonds allow local government to classify them as optimal instruments to finance investment projects. In this way, based on international practice, may be issued municipal bonds, which would raise funds to build productive things with their subsequent sale or letting.
- Improving capital market infrastructure. Successful implementation of Municipal Debenture will positively affect the investment climate in towns and boost capital market infrastructure development, indispensable element of the developed market economy.

Of those exposed can see that despite the international experience that municipal Debenture is an advantageous way of contracting funds for operational and investment needs of local government authorities in Moldova there is no adequate legal framework and tax regime for their implementation.

To unlock the process of implantation of Municipal Debenture following operations are necessary legislation:

- Municipal Debenture reflection mechanism in regulations;
- regulation of administrative capacities necessary for the effective management of local government borrowing;
- imposition of the tax system stimulant mobilize financial resources of the public investor to the objectives of public interest.

Training Municipal Debenture mobilizing funds to finance community needs is a convincing indicator of the progress of fiscal decentralization process and the high degree of local financial autonomy.

In recent years by specialists in the capital market more frequently to discuss the need to develop bond market in Moldova (corporate and municipal). In this area of the capital market is a vast experience of developed countries and former socialist countries, which have already been well-known results. Given the experience of capital market reforms and financial and economic reforms, Moldova has frequently resorted to various international experiences.

Eventually, however, that developing new practical matter on our domestic segment, which targets we intend to realize them, and how we do it. The context for our country to create municipal bond market segment is necessary to ensure adequate development of infrastructure of cities and rural areas.

Another important point is that in Moldova there are only two places that emit municipal bonds: Chisinau and Balti, the rest of local government, in this respect, a potentially lower. And then if we appeal to the international experience of several countries feel the differences in the development of cities (eg in Romania there are at least 15 towns which have the potential and resources to issue municipal obligations).

An important is educating the population in this area. For that we consider it necessary to create public confidence for investing in these financial instruments. If people would see the benefit of purchasing municipal bonds, will be needed and the study of this area. This can be achieved through information campaigns in the media, seminars and workshops with representatives of local authorities.

Orientation of Moldova for European integration is viable and effective for issuers and investors access to market euroobligatiunilor and investing in these markets.

Therefore we have a lot of studying and yet achieved in this area. Importantly, concrete plans to implement programs, real and effective. Both local authorities and experts in the field of capital market expected to change legislative and regulatory framework and ways to engage actively in this field.

Bibliography

1. Declarația Universală a Drepturilor Omului aprobată la 10.01.1948 de Adunarea Generală a Națiunilor Unite.
2. Carta europeană: exercițiul autonom al puterii locale (adoptată la Strasbourg la 15 octombrie 1985).
3. Constituția Republicii Moldova adoptată la 29.07.1994, cu modificările și rectificările ulterioare.
4. Legea Republicii Moldova Codul fiscal nr. 1163-XIII din 24.04.97 Monitorul Oficial nr.62/522 din 18.09.1997
5. Legea Republicii Moldova privind descentralizarea administrativă nr. 435-XVI din 28.12.2006 Monitorul Oficial nr.29-31/91 din 02.03.2007
6. Legea Republicii Moldova privind administrația publică locală nr. 436-XVI din 28.12.2006 Monitorul Oficial nr.32-35/116 din 09.03.2007