

## Banking and Finance News

### **The Ministry of Finance regulates Law No. 2640/05 creating the Development Finance Agency (AFD)**

Decree No. 9213 of April 25, 2023, has regulated Law No. 2640/05 which established the creation of the Development Finance Agency (Agencia Financiera de Desarrollo – AFD, by its Spanish acronym), as amended by Law No. 6769/21, and abrogated Decree No. 7395/06. Decree No. 9213 establishes that the AFD may grant financing to Intermediary Financial Institutions (IFIs) in legally authorized modalities and dictated by its Board of Directors. In addition, obtaining funding to grant financing to IFIs is not subject to the regulation of Law No. 6490/20 on Public Investment.

On the other hand, it indicates that the AFD may obtain loans with or without a Paraguayan government guarantee in local or foreign currency. For guaranteed loans, the AFD needs the favorable opinion of the Ministry of Finance; however, for unsecured loans, the AFD must communicate the Ministry of Finance the execution of the loan agreement within fifteen business days.

Likewise, prior to the issuance of bonds, with or without government guarantee, the AFD must communicate to the Ministry of Finance the issuance schedule, the amount and the financial conditions of each issuance. In the case of issuance of bonds with Paraguayan government guarantee, the AFD will need the prior favorable opinion of the Ministry of Finance within fifteen business days of receiving the communication. If the Ministry of Finance does not issue an opinion within the aforementioned term, it will be considered as an unfavorable opinion. The AFD may not unilaterally modify amounts, dates or financial conditions related to bonds issued with a Paraguayan government guarantee after receiving the opinion of the Ministry of Finance, and any modification will require the opinion of the Ministry of Finance.

In addition, it is established that the AFD may act as trustee, trustor and beneficiary in trust businesses related to its corporate purpose or the development of the financial, capital, insurance, pension funds or infrastructure markets. AFD may participate in trust business operations and modalities of trust permitted by Law No. 921/96 on Trust Businesses, and AFD's Board of Directors will determine the requirements and procedures for its participation in each trust business, as well as the risk limits it may assume. In addition, specific authorization from the Board of Directors is required for AFD's participation in each transaction.

Additionally, the AFD may participate in the financing of public infrastructure works through trusts. The Board of Directors will determine the form and percentage of AFD's participation based on the size, amount and complexity of the project. The AFD may also grant funds to IFIs to finance public infrastructure investment projects carried out or executed by the private sector, municipalities, local states and public companies. However, the total amount of loans must not exceed 30% of the AFD's net worth at the close of the previous year's fiscal year, and collateral or credit risk hedging instruments will be required.



In summary, the aforementioned decree establishes the provisions governing the legal nature of the AFD, its relationship with the Executive Branch and its powers. In addition, it regulates the obtention of loans and the presentation of reports for the obtention of bonds, determines the intervention in trust businesses and establishes the financing of public infrastructure. It also establishes the destination of funds and the credit certificate, as well as the regulation of foreign accounts and credits in process of liquidation. Finally, it establishes provisions for the composition, duties and powers of the Board of Directors, as well as for the admission and regulatory regime of its personnel.

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