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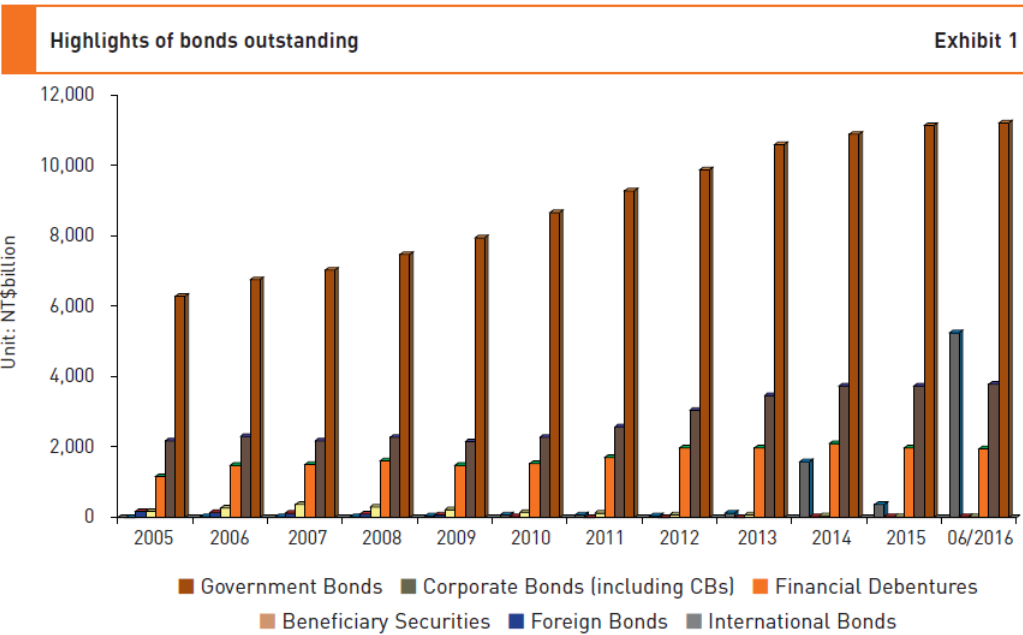
Taiwan international bond primary market and issuance of professional international bonds

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The bond products circulating on Taiwan’s bond market include government bonds, financial debentures, corporate bonds, beneficiary certificates of Real Estate Assets Trust and Real Estate Investment Trust and international bonds. Since the issuance of the first patriotic government bonds in 1949, Taiwan’s bond market has been developing for nearly 70 years, but has been less developed compared to the equity market due to a lack of one special governmental agency dedicated to the policy and administration of the bond market since different bond products are governed by different legislations and thus different government agencies.

Government bonds, which are issued by the Treasury of the Ministry of Finance and managed by the Central Bank of the Republic of China (Taiwan) (“CBC”) under legislations relating to government bonds, have the largest share by issuance volume among the bond products (see Exhibit 1). Issuance of corporate bonds and international bonds is governed by the Securities and Exchange Act and under the jurisdiction of the Financial Supervisory Commission (“FSC”). The FSC is also the competent authority of the secondary market of the bonds. Taiwan Stock Exchange (“TWSE”) and Taipei Exchange (“TPEX”) are authorised by the FSC to supervise the trading of the bonds on TWSE and TPEX respectively but currently only government bonds are traded on TWSE and all international bonds are traded on TPEX.

Starting from 1991, Taiwan allowed the Asian Development Bank to issue a Dragon Bond which is the first international bond denominated in US dollars. However, due to lack of legislation and trading mechanism, other than supranational organisations, no foreign companies came to Taiwan to issue international bonds until November 2006 as the FSC, the regulator of corporate bonds, opened the bond market to foreign companies in October 2005.



Note: International Bonds means bonds denominated in foreign currencies offered and issued in Taiwan by issuers (including domestic, foreign and Taiwan branches of Mainland China banks).
 Foreign Bonds means bonds denominated in New Taiwan dollars offered and issued in Taiwan by foreign issuers whose shares or Taiwan depository receipts are listed on Taiwan Stock Exchange or Taipei Exchange.

Source: TPEX Overview 2016

Nevertheless, given various restrictions on the issuance of international bonds, the financial crisis resulting from Lehman Brothers' bankruptcy in 2008 and the crisis relating to European sovereign bonds in 2011, from 2006 to 2012, there were only four issues of international bonds denominated in US dollars and three in Australian dollars and the total issuance size was around US\$1.75bn. All of the seven issuers are major international banks, such as Citibank, Deutsche Bank and BNP Paribas.

To promote the international bond market and attract more foreign companies to issue international bonds in Taiwan, and in consideration of the needs of the market and institutional investors for fixed income products, since 2013 the FSC adopted a classified management system for Nevertheless, given various restrictions on the issuance of international bonds, the financial crisis resulting from Lehman Brothers' bankruptcy in 2008 and the crisis relating to European sovereign bonds in 2011, from 2006 to 2012, there were only four issues of international bonds denominated in US dollars and three in Australian dollars and the total issuance size was around US\$1.75bn. All of the seven issuers are major international banks, such as Citibank, Deutsche Bank and BNP Paribas.

International bonds issued by foreign issuers		Exhibit 2
Type I: International bonds to professional investors only (exempt from any application and filing with the authorities)		
Issuer	Legal entity organised under the laws of foreign jurisdiction (excluding China) or branch of a foreign financial institution satisfying the conditions promulgated by the FSC	
Type of bonds	Straight bonds denominated in foreign currency	
Legal basis	A ruling issued by the FSC on June 26, 2014 (Ref. No.: Jin-Guan-Zheng-Fa-1030023000)	
Type II: International bonds to general investors (regulatory approval is required)		
Issuer	Foreign issuer whose shares are listed on Taiwan securities market	<ol style="list-style-type: none"> Foreign issuer whose TDRs are listed on Taiwan securities market ("TDR-listing company") Branch of foreign financial institution Affiliates of foreign company
Type of bonds	Straight bonds, convertible bonds or bonds with warrants denominated in foreign currency	<ol style="list-style-type: none"> Straight bonds denominated in foreign currency TDR-listing company may issue convertible bonds or bonds with warrants to convert into or subscribe TDRs
Legal basis	Regulations Governing Issuance and Offering of Securities by Foreign Issuers	
Source: LIN Chia-Chang and Lee You-Lin, Ten-Year Developing Process and Outlook of Taiwan International Bond Market, No. 3 Vol. 34 SECURITIES AND FUTURES MONTHLY, p.16-29, 2016		

As of the end of 2015, 1,554 bonds with a total value of NT\$10,241bn (around US\$340.47bn) were listed on the Taipei Exchange, including 259 issues of international bonds to the sum of NT\$1,801bn (around US\$60bn). The issuers of international bonds include not only international financial institutions, but also manufacturers or service companies, such as Intel and AT&T. With more diversified international bond products, from January 2016 to June 2016, there were 342 outstanding international bonds (including 239 denominated in US dollars (with a total value of US\$70.9bn), 93 denominated in Renminbi (with a total value of RMB59.9bn), eight in Australian dollars (with total value of A\$490m), one

in South African dollars (with a total value of ZAR600m) and one in New Zealand dollars (with total value of NZ\$570m)) and the total issue size is NT\$2,623bn (around US\$82.88bn).

Structure of the international bond primary market

International bonds are bonds denominated in foreign currencies (i.e. not New Taiwan dollars) offered and issued in Taiwan by domestic and overseas issuers. Bonds denominated in Renminbi are called Formosa Bonds. However, foreign issuers who do not have equity securities listed on the Taiwan securities markets are only allowed to issue straight bonds and are not allowed to issue convertible bonds or bonds with warrants.

Currently, depending on the identity of the foreign issuers and the investors of the international bonds, international bonds issued by foreign issuers are classified as shown in Exhibit 2.

We will focus on Type I (Professional International Bonds) in this article because most foreign issuers of international bonds follow this route which is the easiest way to have the international bonds offered and sold in Taiwan.

Issuance of Professional International Bonds

Qualification of "professional investors"

The "professional investors" as defined under the Taipei Exchange Rules Governing Management of Foreign Currency Denominated International Bonds ("TPEX Rules"), include:

- (i) a "professional institutional investor" which includes overseas or domestic (i) banks, securities firms, futures firms and insurance companies (excluding insurance agencies, insurance brokers and insurance surveyors); (ii) fund management companies, government investment institutions, government funds, pension funds, mutual funds, unit trusts, and funds managed by financial service enterprises pursuant to the Securities Investment Trust and Consulting Act, the Future Trading Act or the Trust Enterprise Act or investment assets mandated and delivered by or transferred for trust by financial consumers; and (iii) other institutions recognised by the FSC.
- (ii) a legal entity or fund with total assets exceeding NT\$50,000,000 (around US\$1,666,667) according to its most recent audited or reviewed financial report; or
- (iii) an individual having applied in writing to the securities firms for the status of professional investor who meets all of the following three criteria:
 - (a) he/she has provided a proof of financial capacity of at least NT\$30m (around US\$1m), or has made a single trade, the transaction amount of which is higher than NT\$3m (around US\$100,000); his/her total assets and investments booked at and made through such securities firm are higher than NT\$15m (around US\$500,000), and he/she has provided a statement certifying that the value of his/her total assets has exceeded NT\$30m (around US\$1m);
 - (b) he/she has sufficient professional knowledge or trading experience in financial products; and he/she fully understands that the securities firm is exempted from certain responsibilities towards professional investors in connection with bond trading activities and agrees to sign up as a professional investor.

Professional International Bonds are listed in the professional section of TPEX and can only be sold to qualified professional investors. Accordingly, local securities firms are responsible for conducting reasonable investigation to verify if an investor meets the criteria for a professional investor and

obtaining reasonable and credible supporting documents from such investor. In addition, if the investor is a corporate or an individual (other than a professional institutional investor), the local securities firms shall deliver a risk disclosure statement to such investor for such investor's execution.

Regulatory regime for Professional International Bonds

Below is a summary of the Taiwan legal regime for the issuance of Professional International Bonds by foreign issuers.

Exemptions

Based on a ruling issued by the FSC on June 26, 2014 (Ref. No.: Jin-Guan-Zheng-Fa-1030023000) ("FSC Ruling"), the issuance of Professional International Bonds is exempted from (i) the prior approvals from the FSC, the CBC and TPEX; (ii) credit rating; and (iii) local trustee structure. Issuers of Professional International Bonds are not required to follow local prospectus requirements (see details under Required Documents below).

Issuance process

The major steps for issuance of Professional International Bonds are:

- (i) local underwriter engagement for distributing the bonds in Taiwan;
- (ii) preparation of transaction/reporting/listing documents;
- (iii) discussion of indicative terms with local regulators;
- (iv) discussion with potential investors;
- (v) pricing and execution of the subscription agreement with local underwriter;
- (vi) reporting to the CBC;
- (vii) reporting the subscription agreement to Taiwan Securities Association (TSA) for record;
- (viii) filing with the TPEX for listing of the bonds;
- (ix) public announcement published by the local underwriter;
- (x) TPEX to grant its approval for listing of the bonds;
- (xi) listing the bonds on the TPEX and closing of the issuance.

The listing process of Professional International Bonds is simply administrative and straightforward. In practice, once the deal is priced, the listing application along with the required documents will be submitted to TPEX for its review, and the reporting to the CBC (with a copy to TPEX) can be made on the same day. However, the reporting to the CBC can also be made prior to the pricing. In the meantime, the local filing agent is required to report one executed copy of the subscription agreement to TSA to seek its approval for record prior to the issue/listing date. TSA requires the reporting to be completed 4 business days before the targeted listing date. Once the above-mentioned processes are completed, the foreign issuer can close the deal on the listing date.

Listing requirement

According to the FSC Ruling and current regulations, other than PRC-based issuers, there are no particular qualifications for the foreign issuer of Professional International Bonds. Namely, the issuer of the Professional International Bonds need not be a listed company on a foreign stock exchange. Further,

there is no specific requirement for the debt issuance programme (pursuant to which the Professional International Bonds are issued) to be listed on an exchange.

Required documents

Basically, the required documents for a foreign issuer to issue Professional International Bonds in Taiwan are quite straightforward. In our experience, a foreign issuer may normally use its existing MTN Programme or debt issuance programme to issue Professional International Bonds and use the template documents under the programme directly.

With respect to the issuance, TPEX has requested the legal counsel to issue a "Checklist for Counsel" to confirm certain factual matters. TPEX accepts this checklist issued either by the foreign counsel (usually the programme counsel) or by the local counsel of the foreign issuer.

There is no need for the issuer to prepare a supplemental prospectus to meet the TPEX listing requirement. However, some sections (such as the TPEX's disclaimer, the Taiwan settlement procedure, the Taiwan taxation and the Taiwan selling restriction) are needed or recommended to be included in the offering document (which can be put in the pricing supplement/final terms). According to the FSC Ruling, the issuer needs to prepare a "cover" of the offering documents (generally including the offering circular/ prospectus and pricing supplement/final terms) to include the description that "the bonds will be issued to professional investors/professional institutional investors in Taiwan only." This can be done with a separate cover page to wrap the offering documents into one information package, which will be made available to the investors.

Other than the foregoing, the issuer can simply follow the international offering standards to prepare all the transaction documents, including offering circular/prospectus (together with a pricing supplement/final terms) and subscription agreement, all of which can be in English without being translated into Chinese.

The documents to be prepared locally are mainly related to the listing application to TPEX and reporting to the CBC (with a copy to TPEX), such as offering plan (e.g. the term sheet in the pricing supplement) and the interest schedule in prescribed form; document(s) evidencing that the bonds have been registered with a foreign or domestic securities depository (e.g. Euroclear's or Clearstream's screenshot); the executed TPEX listing agreement; meeting minutes of the board or the shareholders' meeting (as applicable) approving the offering and issuance of the bonds; the subscription agreement; securities underwriter confirmation opinion to be executed by the lead manager in prescribed form; and checklist for counsel signed by the issuer's legal counsel in prescribed form. All of the above documents can be prepared in English.

As for the reporting to the CBC (with a copy to TPEX), the foreign issuer is only required to submit the offering plan (e.g. term sheet), basic information and description of use of proceeds, in Chinese or in English.

During the live term of the Professional International Bonds, the foreign issuer is subject to the periodic and non-periodic reporting obligations.

According to the TPEX Rules, the foreign issuer is required to appoint securities firms for providing quotations in respect of Professional International Bonds after the listing even though the bonds are sold to professional investors. In March 2016, the regulator amended the TPEX Rules and the relevant regulations in respect of the quotation mechanism requiring that the issuer should appoint a local entity to act as the "liquidity provider" from March 31, 2016.

On a separate note, the annual listing fee for the Professional International Bonds is 3/10,000 of the total nominal value of the bonds. However, the total amount of the annual listing fees payable will be capped at NT\$500,000. In addition, a one-time administrative fee in the amount of NT\$15,000 is also payable for each tranche under one bond issuance. Over the term of the bonds, the annual listing fee is 3/10,000 of the outstanding amount of the bonds of the same issuer, which must be paid by the end of January of each year.