

*Wording relevant as from 25 November 2011*

APPROVED  
by Order No 322  
of the Minister of Economy of the  
Republic of Lithuania  
dated October 29, 2001  
(wording of Order No 4-501  
of the Minister of Economy of the  
Republic of Lithuania  
dated November 29, 2007)

## **REGULATIONS ON GRANTING GUARANTEES FOR LOANS OF SMALL AND MEDIUM-SIZED BUSINESS**

### **I. GENERAL PROVISIONS**

1. Regulations on Granting Guarantees of Loans of Small and Medium-sized Business (hereinafter – “the Regulations”) regulate the conditions and order of granting guarantees to small and medium-sized business entities and execution of undertakings under granted guarantees of private stock company “Investicijų ir verslo garantijos“ (hereinafter – “the Company”).

2. Principle terms used in these Regulations are as follows:

**Company’s liability limit** – a part of loan indicated in the guarantee granted by the Company and secured by Company’s guarantee, in per cent.

**Guarantee** – a Company’s undertaking to pay to the lender the amount of loan secured by the Company and not paid by the borrower.

**Guarantee recipient**– credit institution – a creditor of the guarantee recipient to which the guarantee is granted.

*Clause amendment: No 119, 30-09-2009, State Gazette, 2009*

**Guarantee allowance** – an amount of money paid to the guarantee recipient in case the borrower fails to return the loan.

**Guarantee amount** – a maximum amount payable by the Company to the guarantee recipient under the granted guarantee.

**Loan** – a credit taken by the borrower (loan), the return of which is secured by the Company by granting guarantee.

**First part of loan** – a part of loan, the return to the guarantee recipient of which shall be secured by the Company and which shall be primarily covered by the borrower when returning the loan.

**Borrower** – a small and medium-sized business entity which has received the loan, where the return of part of such loan has been secured by the guarantee granted by the Company.

3. Following these Regulations the Company shall grant guarantees only in respect of loans granted to the borrowers who meet the requirements established by the definition of a small and medium-sized business entity, as defined by the Law on Small and Medium-sized Business (State Gazette, 1998, No 109-2993; 2002, No 105-

4689) and to whom the restrictions on state aid to small and medium-sized business entities are not applicable.

4. The execution of the undertakings of the Company under granted guarantees shall be secured by the State. The guarantees granted by the Company shall be equated to the State guarantee.

5. In respect of state aid granted to small and medium-sized business entities under these Regulations shall be subject to Commission Regulation (EC) No 1998/2006 on the application of Articles 87 and 88 of the Treaty to de minimis Aid (OJ 2006, L 379, p. 5).

## II. GRANTING A GUARANTEE

6. For granting a guarantee, the borrower shall pay to the Company the guarantee fee set by the Board of the Company.

7. Guarantees shall be granted to the credit institutions which have concluded a cooperation agreement (hereinafter – “Cooperation Agreement”) with the Company which shall establish the following:

7.1. The content and form of a request to grant a guarantee and documents, which shall be submitted when requesting to grant a guarantee. There shall be established in the Cooperation Agreement that guarantee recipient shall submit to the Company the evaluation report of the granted loan, containing loan risk analysis;

7.2. The basic requirements raised to the borrower and financed project, including requirement to invest into the financed project no less than 20 per cent of monetary funds or other assets. The requirement to invest no less than 20 per cent monetary funds or other assets shall not apply to the borrower, who on the day of submission (registration) of request to grant a guarantee to the Company has been operating for less than 12 months;

*Clause amendment: No 116, 30-09-2010, State Gazette, 2010*

7.3. conditions of granting a guarantee (procedures of granting a guarantee; liability of the Company and a guarantee recipient; rights and obligations related to the guarantee; events due to occurrence of which the guarantee recipient would be entitled to claim the execution of the undertakings of the Company under the granted guarantee, and events due to occurrence of which the guarantee recipient would not be entitled to such a right; order and terms of calculation and payment of guarantee allowance);

7.4. order of disputes resolution among the Company and the guarantee recipient;

7.5. undertaking of the guarantee recipient to inform the Company on the process of implementation of the financed project and loan return by complying with the requirements of information periodicity and content as established by the Cooperation Agreement;

7.6. undertaking of the guarantee recipient not to amend conditions of the loan agreement without the written consent of the Company;

7.7. realisation order of assets pledged to secure the return of the loan;

7.8. other conditions.

8. Prior to granting a loan the guarantee recipient shall submit to the Company the request to grant a guarantee and documents which must be submitted under the Cooperation Agreement when requesting to grant a guarantee.

9. The decisions to grant guarantees shall be passed by the managing bodies of the Company following the order established by the Articles of Association of the Company. The Company shall inform the guarantee recipient on the decision passed

in writing. Upon passing the decision to grant a guarantee, the Company shall issue the guarantee recipient the written guarantee following the conditions established by the Cooperation Agreement. In the written guarantee it might be established that the granted guarantee shall come into force from the day of payment of fee for granting a guarantee.

*Clause amendment: No 119, 30-09-2009, State Gazette, 2009.*

*Clause amendment: No 142, 22-11-2011, State Gazette, 2011*

### **III. GENERAL REQUIREMENTS TO GUARANTEES, LOANS AND BORROWERS**

10. Under the granted guarantee Company's liability limit shall be no higher than 80 per cent of the loan.

11. The amount of Company's guarantee shall not be higher than 5 million Litas, and in case of the borrower who on the day of submission (registration) of request to grant a guarantee to the Company has been operating for less than 3 years – not higher than 2 million Litas.

12. In case of multiple guarantees granted to the borrower, the total amount of guarantees taking into account the returned parts of loans shall not exceed the amount indicated in Clause 11 of these Regulations.

13. Under these Regulations the guarantees shall only be granted if the following conditions are satisfied:

13.1. loans shall be intended to investments or circulated asset required for development of a small and medium-sized business;

13.2. a borrower or borrower's participants (shareholders, owners and other) shall invest into the financed project no less than 20 per cent of monetary funds or other assets. The requirement to invest no less than 20 per cent of monetary funds or other assets shall not be applicable to the borrower, who on the day of submission (registration) of request to grant a guarantee to the Company has been operating for less than 12 months;

*Clause amendment: No 116, 30-09-2010, State Gazette, 2010*

13.3. a borrower is not under bankruptcy or restructuring procedures;

13.4. under the Regulation specified in Clause 5 of these Regulations de minimis aid of particular amount may be granted to a small and medium-sized business entity.

14. The Company's Board has a right to establish additional conditions to those provided in Clause 13 of these Regulations taking into account small and medium-sized business development policy of the Government of the Republic of Lithuania and in order to manage the risk assumed under the granted guarantees.

15. Guarantees may be granted for loans in Litas or foreign currency. The guarantee amount for loans in foreign currency shall be indicated in Litas.

16. Guarantee shall be granted provided that the financed project to which the loan is granted, is recognised by the Company as financially reasonable (rewarding) and credited, and the requirements specified in Clauses 13 and 14 of these Regulations are satisfied.

*Clause amendment: No 119, 30-09-2009, State Gazette, 2009.*

### **IV. EXECUTION OF COMPANY'S UNDERTAKING UNDER GRANTED GUARANTEES**

17. The Company guarantees the guarantee recipient the return of the first part of loan, meeting Company's liability limit. Upon return of a part of loan by the borrower, first of all, the part of loan secured by the Company's guarantee shall be reduced by this amount (i.e. the guarantee amount shall be reduced by this amount). The company's liability under the granted guarantee shall be subsidiary. In case the borrower fails to return the loan, the Company shall pay the guarantee allowance to the guarantee recipient, if the borrower failed to return the first part of the loan and the guarantee recipient did not succeed or, due to objective circumstances, is not likely to succeed in recovery of loan from the means ensuring the return of loan as submitted by the borrower. In case of non-return of loan, from the amount recovered from means ensuring the return of loan as submitted by the borrower firstly the non-secured part of loan shall be covered, and then the part of loan secured by the Company's guarantee.

18. Upon failure by the borrower to return the loan, the request of the guarantee recipient submitted to the Company to execute Company's obligations under the granted guarantee shall be substantiated by documents and other evidence. In addition, documents supporting the use of loan for its purpose and performance of conditions of granting a guarantee shall be submitted.

19. Upon passing a decision to perform obligations under the granted guarantee, the Company shall pay the guarantee allowance to the guarantee recipient following the order established by the Cooperation Agreement.

20. After performance of its obligations under the granted guarantee the Company has the right to claim by way of resource for the amount of money of the borrower, which the Company has paid on behalf of the borrower.

## **V. RECORDS OF GUARANTEES**

21. After granting a guarantee, the Company shall start to accumulate documents and information about the execution of conditions of granting a guarantee, use and return of the loan granted to the borrower, and other information related to the guarantee, the borrower and the loan granted to the borrower.

22. Financial flows related to granting guarantees shall be recorded separately by the Company.

23. Following the order and terms established by the Government of the Republic of Lithuania the Company shall provide reports to the Ministry of Finance of the Republic of Lithuania required for recording of the State debt obligations.

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