

ORDINANCE on the Requirements to be met by Investment Projects Financed by Government Loans and Projects Applying for Financing by Government Guarantee, and the Procedure for their Consideration

Adopted by Decree of Council of Ministers No. 337 of 01.12.2015, promulgated in State Gazette, issue 94 of 04.12.2015, effective from 01.01.2016.

Chapter One

REQUIREMENTS TO BE MET BY THE INVESTMENT PROJECTS FINANCED BY GOVERNMENT LOANS AND THE PROCEDURE FOR THEIR CONSIDERATION

Art. 1. Investment projects, the financing of which requires conclusion of agreements for external and internal government loans during the next budget year shall be considered and approved by the Council of Ministers within the budgetary procedure for the respective year.

Art. 2. Ministers annually shall submit to the Ministry of Finance their proposals for investment projects under Art. 1 within the deadline set by the Council of Ministers in the budgetary procedure for the respective year under Art. 67, paragraph (1) of the Public Finance Act.

Art. 3. The Council of Ministers shall consider the project proposals for financing by government loans, which meet the following conditions:

1. The project shall support the development of the public sector and the economy of the country;

2. The proposal shall be accompanied by a full description of the project - name; objectives; feasibility study involving financial and economic analysis and derived indicators of financial and economic efficiency; expected deadlines for project implementation; socio-economic analysis of the expected results of its implementation; analysis of the impact on the environment;

3. An analysis of the applicability of the regime on state aid, which includes at least evaluation under Art. 21, paragraph (2) and (3) of the Public Finance Act to be enclosed;

4. The proposal shall be accompanied by a description of the project financial parameters - all sources of funding and the amount of the respective financial resources, amount of the requested loan, deadlines and manner of utilization of the loan, preliminary interest rate terms and repayment schedule, an estimate of the cost of consultancy and administrative and management services and other related project costs, sources of repayment of the loan;

5. There shall be presented an analysis and evaluation of the impact of external/internal financing and the costs of servicing the loan on the budget of the respective Ministry during the period of the project implementation until the full repayment of the loan, taking into account all investment projects that are implemented or are to be implemented within the system of the Ministry submitted the project proposal. The analysis and evaluation should be referred to the parameters set in the last medium-term budgetary procedure;

6. An analysis and assessment of risks and measures to be provided for their mitigation during project implementation;

7. The project proposal shall be accompanied by a scheme of exercising internal departmental control in the respective Ministry over project implementation;

Art. 4 The Ministers shall submit their proposals for investment projects to the Ministry of Finance with a covering letter containing the following information:

1. The importance of the project for the economy of the country;

2. The reasons for which the project can not use financing/co-financing by the European Union funds and programmes, other investment vehicles or partnership with the private sector;

3. Analysis and evaluation of existing loan agreements administered under the budget of the respective Ministry and the opportunities to undertake and service a new debt;

4. Analysis and evaluation of the impact of new debt financing on the overall level of costs for the relevant sector;

5. Degree of readiness for project implementation;

6. The main conclusions of the analysis under Art. 3, item 3.

Art. 5. (1) **The** Minister of Finance shall prepare a list of proposals submitted under Art. 2 and an analysis of the degree to which the following criteria have been met:

1. Favorable terms of financing or present value of the loan under its nominal amount;

2. Minimal administrative and management costs and other related expenses in the realization of the loan;

3. Degree of readiness for project implementation and utilization of loan funds;

4. Possibility of generating revenues during project implementation to be used as potential sources of servicing the loan or to facilitate its servicing; this criterion shall not apply to projects with a social purpose;

5. Presence of compatibility with the regime on state aid.

(2) The projects included in the list under paragraph (1) shall be presented for coordination to the Development Council at the Council of Ministers prior to their submission for consideration and approval by the Council of Ministers.

Art. 6. (1) **The** approval of the projects is subject to the restrictions under Art. 29 of the Public Finance Act and following an assessment of their impact on the budget expenditures, budget balance and transactions in the part of the financing and in compliance with the fiscal rules of the Public Finance Act and fiscal targets set in the last mid-term budget forecast.

(2) In cases where the project contains state aid the approval is subject to the procedures of the State Aid Act.

Art. 7. All projects approved by the Council of Ministers under Art. 5 which will be financed by government loans during the next budget year shall be included in the estimates in the draft of the State Budget Act for the next year and in the draft of the updated mid-term budget forecast for the respective period.

Chapter Two

REQUIREMENTS TO BE MET BY THE PROJECTS APPLYING FOR FINANCING BY GOVERNMENT GUARANTEE AND PROCEDURE FOR THEIR CONSIDERATION

Art. 8. The projects for which shall be proposed issuance of government guarantee under loans for their financing, which are expected to be concluded next year shall be considered and approved by the Council of Ministers within the budgetary procedure for the respective year.

Art. 9. Ministers annually shall submit proposals under Art. 8 to the Ministry of Finance within the **deadline** set by the Council of Ministers in the budgetary procedure for the relevant year under Art. 67, paragraph (1) of the Public Finance Act, accompanied by the following information:

1. Full description of the project - name, objectives, characteristics of the activity to be carried out, feasibility study, including financial and economic analysis and derived indicators of financial and economic efficiency, degree of readiness for the project implementation, amount of necessary investments and technical description of the expected results, macro-economic impact and environmental impact, existence of other incidental expenses;

2. Analysis of the applicability of the regime on state aid, which includes at least evaluation under Art. 21, paragraph (2) and (3) of the Public Finance Act;

3. Capital structure of borrower, analysis of financial position of borrower before project implementation and an estimate of its financial position after project implementation, expected cash flows during and after project implementation and sources for repayment of the requested loan;

4. Financial parameters of the requested loan under which government guarantee shall be issued - amount of the loan, deadlines and manner of utilization of the loan, advance interest rate terms and repayment schedule, fees and other administrative and management costs;

5. Collateral or guarantee schemes which can be used in favor of the guarantor.

Art. 10. The proposals for financing with loans under which issuance of government guarantees is proposed should first comply with the effective national and European legislation on state aid provided in the form of guarantees, as well as with the provisions of Chapter V of the Government Debt Act.

Art. 11. The Ministers when submitting their proposals under Art. 9 to the Ministry of Finance shall **provide** information on:

1. The importance of the project for the economy of the country, where the analysis of the importance of the project shall include the main conclusions of the economic analysis, financial analysis and effectiveness analysis (where relevant);

2. The reason for which the project can not use financing/ co-financing from the European Union funds and programmes or other investment vehicles;

3. The reason for which the project is not financed on a market-based principle and another type of guarantee (banking, corporate, etc.) is not used;

4. The risks during project implementation and the measures for their mitigation;

5. Collateralization of borrower and an assessment of its ability to service the existing loans and other obligations during the period of servicing the requested government-guaranteed loan;

6. Analysis and evaluation of the impact of new debt financing on the overall level of spending for the relevant sector;

7. The degree of readiness for project implementation;

8. The stage of preparing the necessary documents required under the State Aid Act in order to assess the compatibility of the requested guarantee with the rules, procedures and requirements of the European Commission on state aid in the form of guarantees;

9. Applicability of the regime on state aid and the conditions and parameters under which government guarantee will be issued pursuant to Art. 9, item 2 and item 4.

Art. 12. (1) The Minister of Finance shall prepare a list of proposals submitted under Art. 9 and analysis of the degree to which the following criteria have been met:

1. The importance of the project for the economic development of the country;

2. Comparative advantages of lending conditions in comparison with the market benchmarks;

3. The share of incidental expenses compared to direct investment costs;

4. Expected branch and macroeconomic effects of project implementation;

5. The extent of the risks undertaken and the measures for their mitigation;

6. Degree of collateralization for loan servicing;

7. Business reputation of borrower, lack of arrears in servicing of existing loans and other obligations, acceptable performance levels for profitability, efficiency, liquidity, indebtedness and solvency (financial autonomy);

8. Presence of compatibility with the state aid rules.

(2) The projects included in the list under paragraph (1) shall be submitted for coordination to the Development Council at the Council of Ministers prior to their submission for consideration and approval by the Council of Ministers.

Art. 13. All projects approved by the Council of Ministers under Art. 12, which will be financed with loans on which government guarantee will be issued during next budget year

shall be included in the estimates in the draft of the State Budget Act for next year and in the draft of the updated medium-term forecast for the period.

Chapter Three

ADDITIONAL TERMS AND CONDITIONS FOR CONSIDERATION OF INVESTMENT PROJECTS APPLYING FOR FINANCING BY GOVERNMENT LOANS OR THROUGH ISSUANCE OF GOVERNMENT GUARANTEE ON LOANS FOR THEIR FINANCING

Art. 14. (1) In case of an inability for concluding and/or entering into force of loan and/or guarantee agreements, which are included in the State Budget Act for the relevant year and the reasons for their postponement in the next year, the ministers shall notify in writing the Ministry of **Finance** for the circumstances which have arisen within the deadline set by the Council of Ministers in the budgetary procedure for the relevant year.

(2) In the event of significant changes in the projects approved under paragraph (1), the same shall be submitted for further consideration and approval by the Council of Ministers in accordance with the procedure of Chapter I or Chapter II accompanied by a further justification of the reasons giving rise to the need for significant changes.

(3) Significant changes to projects approved under Chapter I or Chapter II exist when there is a need to increase the budget or there are changes in the project management or other circumstances that hinder its implementation without affecting the Decision of the Council of Ministers by which has granted approval for these projects.

(4) The projects under paragraph (1) shall be included in the draft of the State Budget Act for the next year and in the draft of the updated medium-term budget forecast for the respective period.

Art. 15. Projects for which financing the conclusion of external and/or internal loan agreements and/or issuance of government guarantee in the respective budget year is required, and for the approval of which there is a special procedure provided in a law or act of Council of Ministers shall not be submitted for consideration under the terms and procedure of this Ordinance.

FINAL PROVISION

Sole paragraph. This Ordinance is adopted pursuant to Art. 5, paragraph (3) and Art. 22 of the Government Debt Act.