



MINISTRY OF PUBLIC FINANCE

## ***APPLICANT'S GUIDE***

***elaborated on the basis of Government Decision no.  
807/2014 for the establishment of State  
aid schemes with the object of stimulating investments  
with major impact on the economy, as subsequently  
amended and supplemented***

*- Revision 3, November 2018 -*

This document is a guide for the applicants of State aid within the State aid scheme for stimulation of investments promoting regional development through the performance of investments, established through G.D. No. 807/2014, published in the Official Gazette, Part I, no. 714/September 30, 2014, amended and supplemented through G.D. No. 357/2016, published in the Official Gazette, Part I, no. 377/May 17, 2016, G.D. No. 476/2018, published in the Official Gazette Part I, no. 580/July 9, 2018, and G.D. No. 880/2018, published in the Official Gazette Part I, no. 954/November 12, 2018

The information about how to fill in the supporting documents that shall be submitted with the Application for financing agreement on the basis of this State aid scheme, as well as all the requirements that must be met in order to obtain the Financing Agreement are found in this document and on the website of the Ministry of Public Finance.

It is necessary to analyze in advance the provisions of G.D. no. 807/2014 *establishing a State aid scheme with the objective of stimulating investments with major impact on the economy*, as subsequently amended and supplemented, as well as all the information included in this Guide, and all the other information made available on the websites of the Ministry of Public Finance mentioned above.

Throughout the validity period of the State aid scheme, the Ministry of Public Finance makes available to the applicants, at <http://www.mfinante.gov.ro/formularFaqAjstat.html?pagina=domenii>, a dedicated platform for questions, notifications and requests of clarifications, which shall be settled with priority, if they are not already treated in this material and on the website of the Ministry of Public Finance.

The screenshot displays the ANAF website's 'Formular Ajutor de stat' (State Aid Form) for assistance. The page is titled 'FORMULAR PENTRU ASISTENȚĂ Ajutor de stat' and includes the following fields and sections:

- Navigation:** Acasă, Domenii de activitate, Afaceri Europene, Stabilitate financiară, Buletin MFP, Presa.
- Left Sidebar (Menu):** Bugetul de stat, Noutăți legislative, Trezorerie și datorii publice, Treasury and Public Debt, Relația cu instituțiile financiare internaționale, Impozite și taxe, Domenii reglementate specific, Reglementări contabile, **Ajutor de stat**, Patrimoniul public al statului, Nomenclatoare geografice, Politici publice, Audit public intern - MFP, Unitatea Centrală de Armonizare pentru Auditul Public Intern, Control intern/managerial și control financiar preventiv, Verificare achiziții publice.
- Main Content Area:**
  - Activități: Ajutor de stat
  - Formular Ajutor de stat
  - FORMULAR PENTRU ASISTENȚĂ Ajutor de stat (câmpurile marcate cu steleșă sunt obligatorii)
  - Data: 18.05.2016
  - Alege schema de ajutor de stat: [dropdown]
  - Tip societate: [dropdown]
  - Cod de identificare fiscală (CUI): [input]
  - cod CAEN: [input]
  - Denumire societate: [input]
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  - Nume și prenume persoana de contact: [input]
  - Funcție: [input]
  - Introduceți întrebarea \* (max. 3500 caractere): [text area]
- Right Sidebar (Menu):** Ajutor de stat, Scheme de ajutor de stat, H.G. nr. 807/2014, H.G. nr. 552/2014, H.G. nr. 507/2014, Formular întrebări, Întrebări frecvente, Scheme incluse.
- Footer:** ANAF logo, 'Puteți introduce maxim 3500 caractere', Windows taskbar showing the date 18.05.2016 and time 12:32.

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## CHAPTER I - GENERAL INFORMATION

### 1. What's the objective of this State aid scheme?

The State aid scheme has the objective of **regional development**, through the performance of **initial investments** in high technology fixed assets for the purpose of obtaining high added value products, no matter the size of the beneficiaries.

The State aid scheme was established on the basis of the provisions of Regulation (EU) no. 651/2014 of the Commission of June 17, 2014 declaring certain categories of State aid compatible with the internal market in application of art. 107 and 108 of the treaty, valid between July 1, 2014 and December 31, 2020, as subsequently amended and supplemented, and of Decision of the European Commission C (2014) 2240 final which authorized the map of regional State aid for the period 2014-2020.

The total value of an investment project must be of at least 4.5 million Lei. This value was determined by reference to an equivalent value of approximately 1 million EUR (calculated at an exchange rate of 4.5 Lei/EUR).

### **DEFINITIONS:**

**Total investment value** = the value of the investment plan that corresponds to the initial investment = value of eligible expenditures + value of ineligible expenditures - value of V.A.T.

**Initial investment** = the investment in tangible and intangible assets from the same perimeter, related to the start of a new unit, the extension of an existing unit's capacity, the diversification of a unit's production through products that have not been previously manufactured in that unit or a fundamental change in the general production process of an existing unit.

### **ATTENTION!**

**The investment projects whose total value is below the value of 4.5 million Lei** are not eligible for financing with State aid based on this scheme.

### 2. What's the budget of the State aid scheme?

The State aid scheme is included in the Programme "State aid for financing of investment projects" of the budget of the Ministry of Public Finance - General Actions.

The maximum budget of the scheme is of **4,070 million Lei**, respectively the equivalent of approximately

**925 million EUR**, with possibility of supplementation, as follows:

- a) commitment appropriations for the issuance of financing agreements for the period of 2014-2020;
- b) budgetary appropriations for the payment of State aid approved on the basis of the financing agreements that were issued, for the period of 2015-2023.

**The average annual budget** of the scheme is of **638 million Lei**, respectively the equivalent of approximately **145 million EUR**, such as it will be established through the annual budget laws.

### 3. What's the validity period of the State aid scheme?

**Financing agreements** can be issued on the basis of the scheme until **December 31, 2020**, under observance of the legislation in the field of State aid, within the limit of the commitment and budgetary appropriations approved through the annual budget laws.

**The State aid shall be paid** within the period of **2015-2023**, based on the financing agreements that were issued, within the limit of the budgetary appropriations approved through the annual budget laws.

### 4. Who can request financing within the State aid scheme?

The enterprises that can request State aid on the basis of this scheme are **newly incorporated enterprises** or **operating enterprises, both SMEs and large enterprises**, with **legal personality**, established in accordance with the **Companies law no. 31/1990**, republished,

as subsequently amended and supplemented.

**DEFINITIONS:**

**Newly incorporated enterprise** = the enterprise incorporated in the year of registration of the application for financing or the enterprise which carried out/did not carry out economic activity, but not more than 3 consecutive fiscal years prior to the date of registration of the application.

**Operating enterprise** = the enterprise that has carried out economic activity for more than 3 consecutive fiscal years as of the date of registration of the application for financing and has annual financial statements correspondingly approved for the last concluded financial year.

**Subsidiaries** = companies with legal personality, with the judicial regime of the form of company they were established as, in accordance with art. 42 in the Companies Law no. 31/1990, republished, as subsequently amended and supplemented

**Branches** = subsidiaries without legal personality of the companies and they are registered before starting to operate with the trade register of the county where they shall operate, in accordance with art. 43 para. (1) in the Companies law no. 31/1990, republished, as subsequently amended and supplemented.

**Working unit (secondary seats)** = subsidiaries without legal personality of the companies and they are mentioned only when the company is registered with the trade register at the main seat, in accordance with the provisions of art. 43 para. (3) in the Companies law no. 31/1990, republished, as subsequently amended and supplemented.

**ATTENTION!**

The classification of enterprises in the category of SMEs or large enterprises shall be made at the time of registration of the Application for financing in order to determine the correct classification of the initial investment, such as it is considered eligible.

**5. What are the eligible activity sectors?**

Shall be eligible the investments that are made in **all** sectors of activity, **with the exception** of those mentioned by art. 15 in G.D. no. 807/2014, as subsequently amended and supplemented, as well as by the “*List of activity sectors for which State aid is not awarded*” provided in Annex 1 to this Guide, in accordance with the legal provisions in force.

**ATTENTION!**

If the enterprise operates in a sector of activity considered ineligible, but requests financing for the performance of an initial investment in an eligible sector of activity, which is provided in the Ascertaining Certificate issued by the Trade Register, the initial investment can be eligible for financing with State aid under observance of all the other requirements provided by the scheme.

**6. Which are the eligible and ineligible expenditures that correspond to the initial investment?**

**ATTENTION!**

The eligibility of the elements from the investment plan shall be verified upon payment.

**ATTENTION!**

In the investment plan under the category of **Technical investments, machines and equipment** shall be presented only the total value and the distribution thereof into eligible and ineligible expenditures, by years. In the payment procedure shall be verified the eligibility of the expenditures by classification of the assets under the provisions of Government Decision no. 2.139/2004 approving the Catalog on classification and normal operating durations of fixed assets, as subsequently amended, with the minimum entry value of fixed assets established in accordance with the legal provisions in force.

## **6.1. Eligible expenditures**

### **DEFINITION:**

**Eligible expenditures** = the costs without V.A.T. which correspond to the performance, respectively the purchase, as applicable, of tangible and intangible assets, as well as the expenditures related to the renting of constructions that correspond to the performance of the initial

### **6.1.1 Eligible expenditures related to tangible assets**

#### **DEFINITIONS:**

**Tangible assets** = the assets associated with the initial investment, represented by:

- a) constructions of any type, respectively the expenditures made with the execution of constructions;
- b) new technical installations, machines and equipment classified in accordance with Government Decision no. 2.139/2004 *approving the Catalog on classification and normal operating durations of fixed assets*, as subsequently amended, with the minimum entry value of the fixed assets established in accordance with the legal provisions in force.

In the case of constructions shall be considered eligible only the expenditures found in Chapter 4 - Expenditures for the basic investment, sub-chapter 4.1 - Basic constructions and installations from the Itemized estimate, such as it is presented in Annex no. 8 to Government Decision no. 907/2016.

#### **ATTENTION!**

The maximum value of the expenditures that can be considered eligible which correspond to the execution of constructions may not exceed the cost standard. The expenditures that correspond to the execution of constructions which exceed the cost standard shall be considered ineligible.

#### **DEFINITIONS:**

**Cost standard** = the maximum value considered eligible in the case of tangible assets of the type of constructions, which cannot exceed 1,650 Lei/sq. m. of spread area.

**Spread area** = the sum of areas of all the levels of the construction, in accordance with STAS 4908-85 "Civil, industrial and agricultural and zoo-technical buildings". Conventional areas and volumes."

#### **Example:**

An enterprise makes a new construction of 3,000 sq. m. spread area with a total value of 9,240,000 Lei corresponding to the expenditures in Chapter I - Construction works from the Estimate on the only investment item which forms the object of the initial investment, thus resulting a cost of 3,080 Lei/sq.m. Considering that the maximum eligible value may not exceed 1,650 Lei/sq.m. spread area, it results that the difference of 1,430 Lei/sq.m. is ineligible (1,430 Lei/sq.m. = 3,080 Lei/sq.m. - 1,650 Lei/sq.m.). Thus, the eligible value of the construction is of 4,950,000 lei (3,000 sq.m. x 1,650 Lei/sq.m.), and the ineligible value is of 4,290,000 Lei (3,000 sq.m. x 1,430 Lei/sq.m.).

In the case of renting of constructions that correspond to the initial investment shall be considered eligible the expenditures for the rent of the constructions corresponding to the initial investment registered during the period of performance of the investment plan.



**ATTENTION!**

The maximum eligible value of the rent may not exceed 22 Lei/sq. m./month; the value of the rent exceeding the maximum eligible value is ineligible and shall be financed by the enterprise benefiting of State aid from own resources.

The lease agreement must be valid at least for the period of performance of the initial investment and five years after the date of completion thereof.

Tangible assets must cumulatively fulfill the following eligibility requirements:

- a) they must be exploited exclusively by the enterprise benefiting of State aid to reach the objectives of the investment for which financing was requested;
- b) they must be included among the assets of the enterprise benefiting of State aid and must remain associated with the investment for which financing was awarded for a period of at least five years as of completion of the investment;
- c) they must be purchased under market conditions.

**ATTENTION!**

If it is found during the five years as of completion of the investment that the assets corresponding to the initial investment performed are physically or morally worn, it shall be possible to replace them in order to ensure continuity of the financed activity, and the Ministry of Public Finance shall be informed in this respect.

**DEFINITION:**

**Purchase of assets under market conditions** = manner of purchase of the assets which is based on the following principles: nondiscrimination, equal treatment, mutual recognition, transparency, proportionality and efficiency of fund use.

**6.1.2. Eligible expenditures related to intangible assets**

**DEFINITION:**

**Intangible assets** = the depreciable assets associated with the initial investment that do not have a physical or financial materialization, like patents, licenses, know-how or other intellectual property rights

Intangible assets must cumulatively fulfill the following eligibility requirements:

- they must be exploited exclusively by the enterprise benefiting of State aid to reach the objectives of the investment for which financing was requested;
- they must be included among the assets of the enterprise benefiting of State aid and must remain associated with the investment for which financing was awarded for a period of at least five years as of completion of the investment;
- they must be purchased under market conditions;
- they must be purchased from third parties not related to the purchaser.

**DEFINITIONS:**

**Purchase of assets under market conditions** - manner of purchase of assets based on the following principles: nondiscrimination, equal treatment, mutual recognition, transparency, proportionality, and efficiency in the use of funds.

Third parties not related to the purchaser - private individuals or legal entities not found in at least one of the following cases:

- (i) private individuals who are the spouse or relatives up and including the 3rd degree, of the personnel or management of the purchaser;
- (ii) private individuals who are employees of the purchaser;

- (iii) private individuals or legal entities who are sellers and have an influence over the structure, votes or decisions of the management bodies of the purchaser;
- (iv) private individuals or legal entities who are sellers and over which the purchaser has an influence with regard to the structure, votes or decisions of its management bodies.

**ATTENTION!**

In order to be considered eligible, the costs that correspond to the intangible assets may not exceed 50% of the total eligible costs corresponding to the investment.

**6.2 Ineligible expenditures**

Shall be considered ineligible expenditures **the costs without V.A.T. that correspond to the investment project and are included in the patrimony of the enterprise following the purchase of tangible and intangible assets/the renting of constructions**, which do not fulfill the requirements for being considered eligible expenditures in accordance with the provisions of this State aid scheme. Ineligible expenditures shall not be financed from the State aid.

**ATTENTION!**

Shall be considered ineligible expenditures corresponding to constructions in the investment plan:

- the purchase, modernization and rehabilitation of constructions;
- the value of constructions to which the cost standard is not applicable;
- the value of the construction which exceeds the cost standard of 1,650 Lei/sq. m. spread area;
- the costs that correspond to the rent exceeding 22 Lei/sq.m./month;
- The types of constructions which do not fall under STAS 4908-85 "Civil, industrial and agricultural - zootechnic constructions. Conventional areas and volumes" (for example: platforms, roads, etc.)

**ATTENTION!**

All the expenditures that do not fulfill the requirements for being eligible expenditures shall be considered ineligible expenditures.

For example, shall not be eligible the tangible assets of the type of technical installations, machines and equipment which:

- do not fall under the classification presented in Government Decision no. 2.139/2004 *approving the Catalog on the classification and normal operating durations of fixed assets*, as subsequently amended;
- or
- do not have the minimum entry value of fixed assets established in accordance with the legal provisions in force; or
- are not new.

At the same time, in the case of tangible assets, shall not be eligible:

- the purchase of furniture and industrial furniture, decorations, means of transportation that can be registered, electronic computers which are not part of the technological flow, office equipment, tool kits, tool cabinets/trolleys, etc.
- expenditures for transportation, assembly of technical installations, machines and equipment.

**7. What are the eligibility criteria of the enterprises?**

Enterprises must cumulatively fulfill the following **requirements**

<b><u>General</u></b>	a) they are registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented;
	b) they make an initial investment in Romania, in one of the eligible fields of activity;
	c) they prove the viability of the investment project and the economic



	of the enterprise based on the Business Plan;
	d) they do not fall into the category of “enterprises in distress”;
	e) they are not undergoing forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation or temporary activity suspension.
	f) they are not subject to decisions of recovery of State aid or if such decisions were issued they were enforced, in accordance with the legal provisions in force;
	g) they have not benefited of other regional State aid for eligible costs of the type of salary costs within the same single investment project;
	h) they have not made a relocation to the unit where the initial investment is to take place for which the aid is requested within the last 2 years prior to the registration of the application for financing agreement and, at the time of registration of the application they offer a commitment that they shall not do this for a term of up to 2 years after completion of the initial investment for which the aid is
<b><u>Supplementary, for the enterprises having at least one concluded financial</u></b>	i) their turnover profitability is bigger than zero in the last concluded financial year;
	j) they have positive own capitals in the last concluded financial year;
<b><u>Supplementary for newly incorporated enterprises</u></b>	k) their subscribed and paid-up share capital is of at least 100,000 Lei;
	l) they do not belong to shareholders that hold or have held in the last two years prior to registration of the application for financing another enterprise registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented, which carries out or has carried out the activity for which financing is requested.

## 8. How is State aid calculated?

**State aid is granted to enterprises**, under observance of the provisions of:

- G.D. no. 807/2014, as subsequently amended and supplemented,
- Regulation (EU) no. 651/2014, as subsequently amended and supplemented,
- The Decision of the European Commission C(2014) 2240 final through which was authorized the map of regional State aid for the period 2014-2020.

through allocations from the State budget, from the budget of the Ministry of Public Finance - General Actions, **under the form of non-reimbursable amounts, relative to the eligible expenditures, within the limit of the maximum admissible intensity and the maximum level of State aid that can be granted to an enterprise, as follows:**

Region	Component counties	Period	Maximum intensity	Maximum level of the State aid that may be awarded to an enterprise - mill. EUR -
North - East	Bacău, Botoșani, Iași, Neamț, Suceava and Vaslui	2014-2020	50%	37.5
South-East	Brăila, Buzău, Constanța, Galați, Vrancea and Tulcea	2014-2020	50%	37.5
South Muntenia	Argeș, Călărași, Dâmbovița, Giurgiu, Ialomița, Prahova and Teleorman	2014-2020	50%	37.5

South - West	Dolj, Gorj, Mehedinți, Olt and Vâlcea	2014-2020	50%	37.5
North - West	Bihor, Bistrița-Năsăud, Cluj, Maramureș, Satu-Mare and Sălaj	2014-2020	50%	37.5
Center	Alba, Brașov, Covasna, Harghita, Mureș and Sibiu	2014-2020	50%	37.5
West	Arad, Caraș-Severin, Hunedoara and	2014-2020	35%	26.25
Ilfov	Ilfov	2014-2020	35%	26.25
Bucharest	Bucharest	2018-2020	10%	7.5

#### **DEFINITIONS:**

**Intensity of State aid** = ratio between the value of the aid and the value of the eligible costs.

**Intensity (%)** = (maximum value of the State aid/total value of eligible expenditures)x100

**Large investment project** = an initial investment with eligible costs which exceed 50 million EUR, a value calculated at the exchange rate set by the National Bank of Romania and valid on the date of elaboration of the financing agreement.

In the case of large investment projects, the aid may not exceed the maximum value provided for every development region and shall be calculated in accordance with the formula:

Maximum aid value =  $R \times (A + 0.50 \times B + 0 \times C)$ , where: R =

maximum intensity of the aid applicable in the region in question

A = eligible initial costs of 50 million EUR

B = the part of the eligible costs comprised between 50 million EUR and 100 million

EUR C = the part of the eligible costs over 100 million EUR

#### **DEFINITIONS:**

**Single investment project** = any initial investment started by the same beneficiary, at group level, within an interval of three years as of the starting date of the works at another investment benefiting of aid in the same region of level 3 in the Common Nomenclature of territorial statistical units (NUTS 3), respectively county.

**Group** - mother company and all subsidiaries thereof.

#### **ATTENTION!**

If a single investment project becomes a large investment project, the State aid requested by the enterprise shall be calculated by using the formula mentioned above.

The value in Lei of the eligible expenditures that correspond to the single project is made up of the value in Lei of the eligible expenditures approved or effectively deducted from the State aid, as applicable, which correspond to the previous projects and the value in Lei of the eligible expenditures that correspond to the project for which financing is requested.

For the application of the formula it is necessary that the value of cumulated eligible expenditures be calculated in EUR. In this respect shall be used the average exchange rate set by the National Bank of Romania for the month prior to the submission of the Application for Financing.

The value of State aid that corresponds to the project for which financing is requested shall be calculated as difference between the maximum value of State aid corresponding to the single project and the value of State aid approved or actually paid, as applicable.

### **Examples:**

For an enterprise which makes an investment of 13.5 million Lei, respectively the equivalent of approximately 3 million EUR, and the value of the eligible costs is of 9 million Lei, respectively the equivalent of approximately 2 million EUR, in Iasi, a locality situated on the regional map in the North-East region, a region with maximum intensity of 50%, **the State aid shall be determined as follows:**

The total value of eligible expenditures x The maximum intensity = 9 million Lei x 50% = 4.5 million

For an enterprise which makes an investment of 315 million Lei, respectively the equivalent of approximately 70 million EUR, and the value of eligible costs is of 270 million Lei, respectively the equivalent of approximately 60 million EUR, in Iasi, a locality situated on the regional map in the North-East region, a region with maximum intensity of 50%, **the State aid shall be determined as follows:**

Maximum aid value =  $0.5 \times (225,000,000 \text{ Lei} + 0.50 \times 45,000,000 \text{ Lei}) = 0.5 \times 247,500,000 \text{ Lei} = 123,750,000 \text{ Lei}$

### **ATTENTION!**

The requested State aid **may not** exceed the total value of the contributions to regional development that correspond to the investment for which financing is requested.

## CHAPTER II - MANNER OF AWARD OF THE STATE AID

### The mechanism of submission, analysis and settlement of Applications for financing agreements

The Ministry of Public Finance publishes on its website the date as of which applications for financing agreements can be registered and the annual budget allocated to the scheme.

The interested enterprises send the applications for financing agreement accompanied by the supporting documents to the General Registrar Office of the Ministry of Public Finance

The applications for financing agreement are analyzed by order of registration at the General Registrar Office of the Ministry of Public Finance. The analysis of the Applications for financing agreement is completed after the documentation is considered complete, with

- Financing Agreement;  
or
- Letter of Rejection.

The financing agreements shall be issued within the limit of the annual budget allocated through the annual budget laws.

The Ministry of Public Finance publishes on its website the date when the annual budget allocated to the scheme through the annual budget laws was exhausted and the fact that Applications for financing agreements are no longer received.

The applications for financing agreements registered after the date of exhaustion of the annual budget allocated to the scheme through the annual budget laws shall be returned to the enterprises.

The applications for financing agreements registered until the date of exhaustion of the annual budget allocated to the scheme through the annual budget laws, but which do not observe this budget and were not settled through a Financing Agreement or Letter of Rejection, shall be further assessed by the Ministry of Public Finance, which shall send to the enterprise, as applicable:

- a request for information and/or additional documents to supplement the Application for financing agreement;  
or
- Letter of Rejection.

If the annual budget allocated to the scheme was exhausted, but there still are applications which fulfill the eligibility requirements and criteria, the Ministry of Public Finance shall issue a draft financing agreement.

The draft financing agreements shall be approved by order of issuance, after the annual budget allocated to the scheme is supplemented in the current year or within the limit of the budget allocated in the following year, in accordance with the annual budget laws.

### **ATTENTION:**

The budget is exhausted when the amount left available from the annual budget allocated to the scheme after issuance of the last financing agreement does not cover the State aid requested by the following enterprise that submitted and registered with the ministry's registrar office an application for financing agreement.

## 1. What are the stages of the assessment process of the Application for Financing

The assessment of the Application for financing agreement shall be done **as follows**:

**a) Stage 1** - analysis in terms of document compliance - deadline: 15 calendar days - it includes:

- The registration of the Application for financing agreement and of the documentation attached thereto,
- The verification of the existence and compliance of the Application for financing agreement and of the documentation attached thereto;
- A request for additional information if certain documents are found not to be compliant,
- Elaboration of substantiation note and elaboration of draft Letter of Rejection if it is found that the documents that must accompany the Application for Financing agreement are missing.

**b) Stage 2** - analysis in terms of the eligibility of the investment project - deadline: 30 calendar days - it includes:

- Verifying the compliance of the documents sent following the request for additional information, if applicable,
- Assessment of the Application for financing agreement and of the documents attached thereto in terms of fulfillment of the eligibility requirements and criteria,
- Assessment of the viability of the investment project and of the economic efficiency of the enterprise on the basis of the information and documents presented in the business plan,
- Verification of the fulfillment of the stimulative effect of State aid,
- Request for information and/or documents to supplement the application for financing agreement, if applicable,
- Settlement of the Application for Financing agreement through issuance of the financing agreement or of the draft financing agreement.

## 2. How is the registration and assessment of the applications for financing agreement

### 2.1. Registration of the Applications for financing agreement

The applications for financing agreement are registered on the basis of an announcement published on the website of the Ministry of Public Finance, in the section *www.mfinante.ro* – *Economic agents - State aid*, which includes the date as of which the applications for financing agreement are to be submitted, as well as the budget allocated thereto in accordance with the annual budget law.

### **ATTENTION!**

Shall be taken into account only the applications for financing agreement registered with the General Registrar Office of the Ministry of Public Finance as of the date communicated on the website.

In order to obtain the financing agreement, **the applicant enterprise shall send to the General Registrar Office of the Ministry of Public Finance in 16 Libertatii Avenue, district 5, Bucharest, an Application for financing agreement accompanied by the supporting documents** necessary for the assessment, in one printed counterpart and in electronic form of the type memory stick or CD.

The documentation can be sent by mail or courier. Also, it is allowed to submit the documentation in person at the General Registrar's Office of the Ministry of Public Finance.

It shall be mentioned on the envelope "Implementation Unit of the State aid scheme established through G.D. no. 807/2014".

**ATTENTION!**

The applications for financing agreements submitted at another address than the one indicated shall be returned to the enterprises.

Shall not be taken into account the applications, documents, records sent by email, fax, or at a different address than the one specified above, as well as documents sent by the requesting enterprise in any form, at its own initiative, in order to supplement the application for financing agreement.

**2.2. Verification of the existence and compliance of the Application for Financing agreement and of the documentation attached thereto**

a) **Application for financing agreement** - the information shall be filled in according to the explanations from the form.

In order to fulfill the compliance requirements, the application:

- observes the model of form on the website of the Ministry of Public Finance,
- has all the rubrics filled in with the requested data,
- is dated and signed in the original counterpart by the person authorized to legally represent the enterprise
- contains information correlated with the information from the ascertaining certificate, the financial statements, the investment plan, the business plan, the identity document of the person authorized to legally represent the enterprise and the Power of attorney, if applicable.

**ATTENTION!**

If the legal representative of the enterprise in accordance with the Ascertaining Certificate is unable to sign the documentation necessary in order to access the State aid, it is allowed the appointment of another person to legally represent the enterprise in its relationship with the Ministry of Public Finance, the application for financing agreement being accompanied by a notarized power of attorney in this respect, as presented under letter h).

b) **ascertaining certificate** issued by the Trade Register Office attached to the tribunal where the enterprise is seated or the one issued with electronic signature by the on-line services of the National Trade Register Office.

In order to fulfill the compliance requirements, the ascertaining certificate:

- is attached in its original counterpart,
- is updated with valid data on the date of registration of the application for financing agreement,
- contains at least the following information: the identification details, the sole registration code, the shareholders and legal representatives of the enterprise, the main field of activity and all secondary fields of activity, the working units of the enterprise.

c) approved **annual financial statements** corresponding to the last concluded financial year. The obligation to submit the financial statements does **not** apply to newly incorporated enterprises which have not carried out activity.

The approved annual financial statements must contain:

- The situation of assets, debts, and own capitals - Form 10;
- The profit and loss account - Form 20;
- Informative data - Form 30;
- The situation of fixed assets - Form 40;
- The proof of submission thereof to the National Agency for Fiscal Administration.



In order to fulfill the compliance requirements, the financial statements submitted and approved in accordance with the legal provisions in force are attached in copies.

d) **business plan** - the document proving the viability of the investment project, the economic efficiency of the enterprise and which presents the development strategy for the enterprise's activity.

**DEFINITION:**

**business plan** = document revealing the economic efficiency of the enterprise and the viability of the investment, referring at least to the following aspects: description of the business, location of performance of the investment, presentation of the investment, financing sources of the investment, investment plan and substantiation thereof, analysis of the relevant market on which the enterprise requests financing, the substantiation of the turnover, the current financial situation and financial projections. The document shall substantiate: the classification of the investment in the category of initial investment, the stimulative effect of the State aid, the manner of fulfillment of the quantitative and qualitative indicators.

The business plan is elaborated throughout the period of implementation of the investment and for the following 5 years as of completion of the investment.

The indicative structure of the business plan, as well as the basic elements thereof, are found in annex 3 to this Guide. It can be filled in according to the object of activity, the characteristics of the investment project, etc.

**ATTENTION!**

The following **recommendations** will be considered when elaborating the business plan:

- it should be concise, complete, it should contain basic information with regard to the enterprise's activity,
- it should present an objective analysis, based on realistic proposals,
- it should include the investment plan presented in accordance with sub-item d1),
- it should contain the financial projections in Microsoft Excel format, both on paper and in electronic form, with all forms,
- it should be structured in accordance with the model presented in annex 3 to this Guide,
- it should present an Index with the transmitted documents.

d1) **investment plan** - the document included in the business plan which comprises the eligible and ineligible expenditures that correspond to the initial investment with determination of the total investment value, as well as the calendar of performance of the investment

**DEFINITION:**

**Calendar of performance of the investment** - period of realization of the investment plan as of the starting date of the investment and until December 31 of the year of completion of the investment.

In order to fulfill the compliance requirements, the investment plan:

- observes the model in annex no. 4,
- the values of the eligible expenditures, in total and on years, will be correlated with the corresponding information from the Application for Financing.

## **DEFINITIONS:**

**The moment of execution of the constructions** is the moment when the construction works have been partially or totally completed, they have been partially or totally accepted and has associated at least the following documents: work reports, invoice, payment order, account statement, acceptance report.

**The moment of purchase of the assets** is the moment when the asset was accepted in the location of performance of the investment and at least the following documents are associated:

## **ATTENTION!**

The Investment Plan must specify the estimated starting date of the investment which should correspond to the one mentioned in the Application for financing agreement.

In order to fulfill the compliance requirements, the business plan:

- comprises all the information,
- is dated and signed in the original counterpart by the person authorized to legally represent the enterprise,
- contains information correlated with the information from the Application for Financing Agreement and the Investment Plan,
- is sent including in electronic form.

f) **power of attorney** - is elaborated if another person than the legal representative of the enterprise signs the application for financing agreement.

In order to fulfill the compliance requirements, the power of attorney:

- is concluded before a notary,
- is attached in its original counterpart.

g) **identity document** of the person authorized to legally represent the company.

In order to fulfill the compliance requirements, the identity document of the person authorized to legally represent the enterprise shall be attached in copy.

h) **index** of documents attached to the application for financing agreement.

in order to fulfill the compliance requirements, the index mentions the name of each document and the page where it is filed.

## **ATTENTION!**

All the documents sent to the Ministry of Public Finance by the enterprise must be submitted in Romanian language. In the case of documents submitted in a foreign language, the enterprise shall present them accompanied by translations into Romanian certified by certified translators.

The documents issued by the applicant enterprise in their original counterparts shall be dated and signed by the person authorized to legally represent the enterprise.

The compliance of the documents presented in copies is supported by the legal representative of the enterprise through the statement on one's own responsibility within the application for financing agreement.

All the documents shall be filed, numbered on every page and indexed in the order provided by the compliance requirements for the documents sent for assessment of the Application for financing agreement.

Shall not be taken into account the documents sent by the enterprise at its own initiative, in order to supplement the application for financing agreement.

### **Checking list for the compliance requirements**

The application for financing	- observes the form in annex no. 1
	- has all the rubrics filled in

agreement	- is dated and signed by the person authorized to legally represent the enterprise
The Ascertaining Certificate	- is attached in the original counterpart
	- is updated with valid data on the date of registration of the application for - contains all the information, in accordance with the provisions of art. 3 letter a) in the procedure
The Financial statements	- are submitted and approved in accordance with the legal provisions in force
	- are presented in copies
The Business plan	- includes the investment plan elaborated in accordance with the model from the Applicant's Guide
	- comprises all the information, in accordance with the definition and instructions from the Applicant's Guide
	- presents the financial projections throughout the period of implementation of the investment and
	5 years as of completion thereof
	- contains information correlated with the information from the application
	- is dated and signed by the person authorized to legally represent the enterprise
The supporting documents that correspond to the business plan	- documents are submitted regarding the assurance of financing sources,
	- documents are submitted to support the turnover
	- documents are submitted to prove a real right over the location where the investment is to be made
The Power of attorney	- is signed by the legal representative, if another person than him/her signs the application for financing agreement
The identity document of the person authorized to sign the	- is attached in copy
The index	- mentions the name of every document and the page where it is filed

### **2.3. Assessment of the Application for financing agreement and of the documents attached thereto in terms of fulfillment of the eligibility requirements and criteria**

#### a) The Application for financing agreement

Shall be analyzed if the **eligibility criteria** are fulfilled:

- makes an initial investment in Romania with a total value of at least 4.5 million Lei, in one of the eligible fields of activity,
- does not fall into the category of "enterprise in distress",
- is not undergoing forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation or temporary activity suspension,
- is not subject to decisions of recovery of State aid or if such decisions were issued they have been enforced,
- has not benefited of regional State aid for eligible costs of the type of salary costs within the same single investment project,
- has not made a relocation to the unit where the initial investment is to take place for which the aid is requested in the last 2 years prior to the registration of the application for financing agreement and, at the time of registration of the application offers a commitment that it shall not do this for a period of up to 2 years after completion of the initial investment for which the aid is requested,
- does not belong to shareholders that hold/have held in the last 2 years prior to the date of registration of the application for financing agreement another enterprise registered in accordance with the Companies Law no. 31/1990, which carries out or has carried out the activity for which financing is requested, in the case of newly incorporated enterprises.

#### b) The Ascertaining Certificate

For the fulfillment of the eligibility criteria, it shall be verified if the enterprise:

- is registered in accordance with the Companies law no. 31/1990,
- has a subscribed and paid-up share capital of at least 100,000 Lei, in the case of newly incorporated enterprises.
- makes an initial investment in Romania, in one of the eligible fields of activity, the activity for which financing is requested and the location of performance of the investment being declared with the Trade Register Office,
- is not undergoing insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation or temporary activity suspension.

c) The Financial statements

For the fulfillment of the eligibility criteria, it shall be verified if the enterprise:

- has the turnover profitability  $> 0$  in the last concluded financial year, in the case of operating enterprises ( $= 100 \times \text{Net profit/Turnover}$ ),
- has positive own capitals in the last concluded financial year, in the case of operating enterprises (shall be taken from the Financial Statements - Form 10),
- has subscribed and paid-up share capital of at least 100,000 Lei, in the case of newly incorporated enterprises (shall be taken from the Financial Statements - Form 10 if applicable, or from the Ascertain Certificate issued by the Trade Register Office).

d) The Business plan

**The eligibility criteria** which the business plan must fulfill are detailed in Annex 3 to this Guide.

d1) The Investment plan

For **the fulfillment of the eligibility criteria, it shall be verified if the enterprise** makes an initial investment with a total value of at least 4.5 million Lei.

### 3. How is the Application for Financing Agreement assessed?

Following the assessment process of the application for financing agreement, the Ministry of Public Finance sends to the enterprises, as applicable:

- financing agreement,**
- request for information and/or documents to supplement the application for financing agreement**
- letter of rejection of the application for financing agreement.**

### 4. What are the conditions of issuance of the Financing Agreement?

In order to obtain the financing agreement, the applicant enterprise must submit all documents mentioned in the assessment of the Application for financing agreement and must fulfill all the compliance requirements and the eligibility criteria provided by the State aid scheme.

#### **ATTENTION!**

The Ministry of Public Finance shall issue the draft Financing Agreement within at most 30 days as of the date when the entire documentation is considered complete for verification and approval purposes.

### 5. When is it requested to supplement the application for financing?

If:

- the documents do not observe the compliance requirements,
  - there are inconsistencies in the supplied information,
  - it is found that it is necessary to have additional documents in order to settle the application,
- The Implementation unit shall send a request for information and/or documents to supplement the

application for financing agreement.

**ATTENTION!**

The applicant enterprise shall send the supplements of the documentation within at most 15 business days as of receipt of the request for information and/or documents to supplement the application for financing agreement.

If the documents sent to supplement the Application for financing agreement require additional information, the term of analysis of the Application for financing agreement is of 30 calendar days as of the date of supplementation thereof. The circuit of analysis of the application shall be resumed until the date when the application is considered complete.

The Ministry of Public Finance shall complete the process of assessment of the application for financing agreement within at most 30 calendar days as of the date when the entire documentation is considered complete within the meaning of the provisions of G.D. no. 807/2014, as subsequently amended and supplemented.

**ATTENTION!**

Shall not be taken into account the documents sent by the enterprise at its own initiative, in order to supplement the documentation that corresponds to the application for financing agreement.

**6. Under what circumstances is the letter for rejection of the application for financing agreement issued?**

The issuance of the letter of rejection of the application for financing agreement shall be made in the following situations:

- **The application for financing agreement is not accompanied by the following documents:**
  - a) original counterpart of the ascertaining certificate issued by the Trade Register Office attached to the tribunal where the enterprise is seated, which should mention at least the following information: identification details, sole registration code, shareholders and legal representatives of the enterprise, main field of activity and all secondary fields of activity, working units of the enterprise;
  - b) approved annual financial statements corresponding to the last concluded financial year, in copies, as applicable;
  - c) the business plan revealing the viability of the initial investment and the economic efficiency of the enterprise;
  - d) power of attorney signed by the legal representative of the applicant enterprise, if another person than him/her signs the application for financing agreement;
  - e) identity document of the person authorized to legally represent the enterprise, in copy;
  - f) index of the documents.
- **The eligibility criteria of the investment are not fulfilled:**
  - a) should be considered initial investments, respectively initial investments in favor of a new economic activity in the case of large enterprises which make investments in the Bucharest - Ilfov Region;
  - b) should have a total value, exclusive of V.A.T., of at least 4.5 million Lei;
  - c) should prove the economic efficiency and viability during the period of implementation of the investment and 5 years as of the date of completion thereof, in accordance with the business plan;
  - d) should prove the fulfillment of the stimulative effect of the State aid;
  - e) should meet the quantitative and qualitative indicators;
  - f) should generate contributions to regional development, through payment of charges and taxes to the general consolidated budget of the State and the local budgets, throughout the period of implementation of the investment and 5 years as of the date of completion thereof;
  - g) should generate a quantifiable multiplier effect in the economy by driving other related

investments and developing the local suppliers of products and services.

- **The eligibility criteria of the enterprise are not met:**

<b><u>General</u></b>	a) are registered in accordance with the Companies law no. 31/1990, republished, as subsequently amended and supplemented;
	b) make an initial investment in Romania, in one of the eligible fields of activity;
	c) prove the viability of the investment project and the economic efficiency of the enterprise on the basis of the Investment Plan and of the Business
	d) they do not fall into the category of “enterprises in distress”;
	e) are not undergoing the procedure of forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closing,
	temporary activity suspension;
	f) are not subject to decisions of recovery of State aid or if such decisions were issued they have been executed, in accordance with the legal provisions in force;
	g) have not benefited of other regional State aid for eligible costs of the type of salary costs within the same single investment project;
	h) have not made a relocation to the unit where the initial investment is to take place for which the aid is requested in the last 2 years prior to the registration of the application for financing and, at the time of registration of the application they offer a commitment that they shall not do this for a term of up to 2 years after completion of the initial investment for which the aid is requested.
<b><u>Supplementary, for the enterprises having at least one concluded financial</u></b>	i) turnover profitability bigger than zero in the last concluded financial year
	j) they have positive own capitals in the last concluded financial year
<b><u>Supplementary for newly incorporated enterprises</u></b>	k) their subscribed and paid-up share capital is of at least 100,000 Lei;
	l) they do not belong to shareholders that hold or have held in the last two years prior to registration of the application for financing another enterprise registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented, which carries out or has carried out the activity for which financing is requested.

- **The enterprise does not observe the term of maximum 15 business days as of the date of receipt of the request for information and/or documents to supplement the application for financing agreement**

## **7. Under what conditions is the Financing Agreement issued?**

**If the annual budget allocated to the scheme is exhausted, but the applicant enterprise presents all the documents mentioned in the assessment of the Application for financing agreement and fulfills all the compliance requirements and eligibility criteria provided by the State aid scheme, the Ministry of Public Finance shall issue the draft financing agreement and send a communication in this respect to the enterprise.**

### **ATTENTION!**

**Draft financing agreements shall be approved by order of issuance, after supplementation of the annual budget allocated to the scheme in the current year or within the limit of the budget allocated in the following year, in accordance with the annual budget laws.**



**ATTENTION!**

All the documents issued by the Implementation unit of the State aid scheme (financing agreement, request for information and/or documents to supplement the application for financing agreement, letter of rejection of the application for financing agreement, communication about the draft financing agreement) shall be sent by mail with confirmation of receipt and/or by electronic means.

**CHAPTER III - STARTING THE INVESTMENT**

**DEFINITION:**

**Starting the investment** - either starting the construction works that correspond to the investment, or the first commitment of mandatory legal nature of order of equipment or any other commitment through which the investment becomes irreversible, whichever occurs first.

Purchase of land plots and preparatory works, like obtaining permits and performing feasibility studies, shall not be considered starting the works.

Starting the construction works represents the closing of the agreement, of the firm order of execution of construction works.

**ATTENTION!**

Enterprises are required to start the investment for which they request financing within at most 4 months as of the date of issuance of the financing agreement, under observance of the schedule undertaken through the documentation attached to the application.

The enterprise may start the investment after registering with the General Registrar Office of the Ministry of Public Finance the Application for financing agreement, but at its own risk. Starting the investment after registering the Application for financing does not bind the Ministry of Public Finance to issue a Financing Agreement.

The enterprise is required to send to the Ministry of Public Finance data and information about the start of the investment and to attach a legalized copy of the first agreement or firm order of execution of the construction works or purchase of equipment.

**ATTENTION!**

The Ministry of Public Finance is entitled to permanently verify the fulfillment of the eligibility requirements of the enterprise, respectively of the investment project throughout the entire term of implementation of the investment plan.

## CHAPTER IV - MAINTENANCE OF THE INVESTMENT

The enterprise shall be required to maintain the initial investment in state of operation for a period of at least 5 years as of the date of completion thereof.

If it is found during those 5 years that the assets that correspond to the initial investment are physically or morally worn, it is allowed their replacement in order to ensure continuity of the financed activity, and the Ministry of Public Finance shall be informed in this respect.

The information send to the Ministry of Public Finance must include at least the following elements:

- the substantiation of the replacement decision proving that the asset/assets that is/are to be replaced is/are physically or morally worn,
- the name of the assets to be replaced,
- the name of the assets that shall replace the physically or morally worn assets,
- short description of the assets that will replace the assets physically or morally worn, with placement in the technological flow.

By July 1 of the year following the completion of the investment, respectively of performance of the last payment of the approved State aid, as applicable, the enterprise shall present to the Ministry of Public Finance a report audited by an authorized enterprise, which is not an affiliated person of the enterprise benefiting of State aid, which will certify the fact that the investment was made within the proposed parameters and the economic and financial results undertaken through the application for financing agreement and the documentation attached thereto were obtained.

The report audited by an authorized enterprise must comprise the following:

1. General identification details of the enterprise - the data will be correlated with the information from the Ascertainig Certificate, the Financial Statements;
2. The general framework of the investment project - description of the general and specific objectives of the investment project;
3. Realization of the investment plan - presenting the parameters of the investment plan which form the basis of issuance of the Financing Agreement and the parameters of the investment plan as it was realized
4. Economic and financial indicators - presentation and substantiation of the evolution of the economic and financial indicators from the period of performance of the investment and until the present,
5. Contribution of the project to regional development - presentation and substantiation of the level of contributions to the general consolidated budget of the State;
6. Supporting documents attesting the achievement of the investment plan.

### **ATTENTION!**

The enterprise must present and substantiate at least the following elements:

- the investment plan achieved.
- the categories of products/services obtained following the implementation of the investment project,
- the production capacity installed as a result of the implementation of the investment project,
- the number of jobs created as a result of the implementation of the investment project,
- the turnover achieved as a result of the implementation of the investment project,
- the economic and financial indicators
- the contribution of the project to regional development through payment of taxes and charges to the general consolidated budget of the State,
- the manner of fulfillment of other specific requirements provided in the issued Financing agreement.

### **ATTENTION!**

Considering the obligation of maintaining the initial investment for a period of at least 5 years as of the date of completion thereof, the Ministry of Public Finance will perform an annual verification on the spot in order to establish if this requirement is observed.

The enterprise will be informed by the Ministry of Public Finance on the period of performance of the verification. The enterprise is required to allow access to the representatives of the Ministry of Public Finance at the place of performance of the investment and make available thereto all the documents necessary to verify the maintenance of the investment.

## **CHAPTER V - AMENDING THE INVESTMENT PLAN AND THE FINANCING AGREEMENT**

### **ATTENTION!**

The applicant enterprises are required to finalize the investment for which they requested financing in accordance with the investment performance schedule which formed the basis of issuance of the financing agreement.

### **DEFINITION**

**Schedule of performance of the investment** - the period of implementation of the investment plan, as of the starting date of investment and until December 31 of the year of completion of the investment

### **ATTENTION!**

Amendments of the schedule of performance of the investment represent reallocations of values that correspond to the eligible expenditures and the State aid determined by the need to extend the period of implementation of the project, without exceeding the maximum value of total approved State aid.

If the investment registers amendments of the schedule of performance of the investment, the enterprise is required to request to the Ministry of Public Finance to approved these amendments throughout the implementation of the initial investment, within 30 days as of the time when it acknowledged the amendment in question, and attach a substantiation in this respect and the following supporting documents:

a) original counterpart of the ascertaining certificate issued by the Trade Register Office with the tribunal where the enterprise is seated, mentioning at least the following information: identification details, sole registration code, shareholders and legal representatives of the enterprise, main field of activity and all secondary fields of activity, working units of the enterprise;

b) approved annual financial statements corresponding to the last concluded financial year, in copies, as applicable;

c) The comparative situation of the initial investment plan and the amended investment plan and the amended investment plan proposed for approval;

### **ATTENTION!**

The enterprise must present the **Comparative situation of the initial investment plan with the amended investment plan**, in accordance with the model presented in Annex 5 to this Guide, with separate mentioning of the eligible and ineligible expenditures that correspond to the implementation period, as they were provided in the documentation that formed the basis of issuance of the Financing Agreement relative to the eligible and ineligible expenditures as they are found in the new schedule of implementation of the investment.

d) the business plan if the proposed amendment has an impact on the economic parameters of the investment project, with presentation of the elements that are amended

following the change of schedule;

**ATTENTION!**

The business plan will include at least the following sub-chapters:

- Justification of the need to amend the investment implementation schedule,
- Economic and financial analysis of the investment project,
- Quantitative indicators,
- The qualitative indicator *Contribution of the enterprise to economic growth and regional development*.

e) power of attorney signed by the legal representative of the applicant enterprise, if another person than him/her signs the application for financing agreement;

f) identity document of the person authorized to legally represent the enterprise, in copy;

g) index of the documents.

**ATTENTION!**

The document of substantiation and support of the elements which determine the amendment of the schedule of performance of the investment shall present and offer arguments for:

- the existing situation at the time of request of the amendment,
- the main factors which have caused the request for approval of the amendments occurred in the implementation of the investment plan,
- the amendments that have occurred in the implementation of the investment plan.

**ATTENTION!**

If it is found that the investment continues to fulfill all the requirements provided by this scheme, including the observance of the annual budgets of the scheme, the financing agreement shall be correspondingly amended.

If it is found that the investment no longer fulfills the requirements provided by this scheme, the financing agreement shall be revoked.

**ATTENTION!**

If the schedule of implementation of the investment is amended and the enterprise does not request to the Ministry of Public Finance to approve this amendment within 30 days as of the date when it became aware of that amendment and attach a substantiation in this respect, **the Financing Agreement shall be revoked.**

## CHAPTER VI - REVOKING THE FINANCING AGREEMENT

The Ministry of Public Finance shall apply the measures of revocation of the financing agreement if:

- a) the enterprise did not start the investment within at most 4 months as of the date of issuance of the financing agreement, under observance of the schedule undertaken through the documentation attached to the application;
- b) the enterprise does not observe the requirement regarding the maintenance of the initial investment for a period of at least 5 years as of the date of completion thereof;

### **ATTENTION!**

If it is found throughout a term of 5 years that the assets that correspond to the initial investment have been physically or morally worn, it shall be allowed to replace them in order to ensure continuity for the financed activity, and the Ministry of Public Finance shall be informed in this respect.

The information sent to the Ministry of Public Finance must include at least the following elements:

- the substantiation of the replacement decision proving that the asset/assets that are to be replaced are physically or morally worn,
- the name of the assets to be replaced,
- the name of the assets that shall replace the physically or morally worn assets,
- short description of the assets that will replace the assets physically or morally worn, with placement in the technological flow.

- c) the enterprise does not present by July 1 of the year following the completion of the investment, respectively of performance of the last payment of approved State aid, as applicable, to the Ministry of Public Finance a report audited by an authorized enterprise which will certify that the investment was implemented within the proposed parameters and the economic and financial results undertaken through the application for financing agreement and the documentation attached thereto have been obtained;
- d) the applicant enterprise does not finalize the investment for which it requested financing in accordance with the schedule of implementation of the investment;
- e) The enterprise does not request to the Ministry of Public Finance to approve the amendment of the schedule of implementation of the investment in the investment plan, within 30 days as of the time it became aware of that amendment;
- f) the investment no longer fulfills the requirements provided by this scheme, if the schedule of implementation of the investment is amended in the investment plan;
- g) the total value of the investment without V.A.T. decreases below the ceiling of 4.5 million Lei, respectively the equivalent of approximately 1 million EUR;
- h) it made a relocation to the unit where the initial investment is to take place for which the aid is requested within the last 2 years prior to the registration of the application for financing and it did not observe the commitment that it would not do this for a term of up to 2 years after completion of the initial investment for which the aid was requested.
- i) not observing the requirements provided by the financing agreement for which the revocation thereof is specified

In the cases listed above, the Ministry of Public Finance shall send to the enterprise a letter of revocation of the financing agreement.

## CHAPTER VII - RECOVERY OF THE STATE AID

**The State aid paid shall be recovered proportionally** with the degree of non-realization, in the following cases:

- the enterprise does not make the contribution to regional development in the amount provided in the financing agreement;

### **ATTENTION!**

If, after issuance of the financing agreement, amendments occur in the general legislation regulating the framework of organization and operation of companies, at the end of the period of maintenance of the investment the value of the contribution to regional development provided in the documentation attached to the application for financing shall be recalculated relative to these amendments.

- the enterprise does not fulfill other specific requirements provided in the financing agreement.

### **ATTENTION!**

If several requirements are provided in the financing agreement, the value of State aid paid which shall be recovered shall be calculated in accordance with the following mechanism:

- a) the degree of fulfillment of every requirements shall be calculated by comparing the value of the realized indicator to the value of the indicator mentioned in the financing agreement or in the business plan, as applicable,
- b) the arithmetic mean of the degrees of fulfillment of all requirements shall be calculated,
- c) the percentage calculated in accordance with letter b) shall be applied to the value of paid State aid,
- d) the difference between the value of paid State aid and the value calculated in accordance with letter c) is the value of State aid to recover.

**The paid State aid shall be recovered in full** in the following situations:

a) the enterprise does not observe the requirements about maintaining in state of operation the initial investment for a term of at least 5 years as of the date of completion thereof,

b) the enterprise does not present to the Ministry of Public Finance until July 1 of the year following the completion of the investment, respectively of performance of the last payment of approved State aid, a report audited by an authorized enterprise certifying the fact that the investment was made within the proposed parameters and that the economic and financial results undertaken through the application for financing and the documentation attached thereto were obtained,

c) the applicant enterprise does not finalize the investment for which it requested financing in accordance with the schedule of implementation of the investment;

d) The enterprise does not request to the Ministry of Public Finance to approve the amendment of the schedule of implementation of the investment in the investment plan, within 30 days as of the time it became aware of that amendment;

e) the investment no longer fulfills the requirements provided by this scheme, in case of amendment of the schedule of performance of the investment included in the investment plan;

f) the total value of the investment exclusive of V.A.T. decreases below the ceiling of at least 4.5 million Lei, respectively the equivalent of approximately 1 million EUR.

g) it made a relocation to the unit where the initial investment is to take place for which the aid is requested within the last 2 years prior to the registration of the application for financing and it did not observe the commitment that they would not do this for a term of up to 2 years after completion of the initial investment for which the aid was requested

h) it did not fulfill the requirements provided by the financing agreement for which the revocation thereof is specified.



**ATTENTION!**

in accordance with the provisions of Government Emergency Ordinance no. 77/2014, approved as amended and supplemented through Law no. 20/2015, the State aid provider (the Ministry of Public Finance) makes controls on the spot at the beneficiary economic operators, verifies the observance of the requirements for award of State aid and orders the measures necessary if these requirements were not observed, respectively issues decisions ordering the recovery of awarded State aid, and these decisions are enforceable.

The State aid that has to be recovered includes and related interest owed as of payment date and until recovery date.

The mechanism of establishment of the interest is provided in the Regulation EC no. 794/2004 of enforcement of Regulation (EC) no. 659/1999 of the Council establishing the norms of enforcement of art. 93 in the EC Treaty.

According to regulations provisions, the European Commission publishes the interest rates applicable to the recovery of State aid, both in force and previous, in the Official Journal of the European Union and, for information purposes, on the web.

The interest rate applicable to the recovery of State aid for Romania is published on the web page of the Competition Council [www.ajutordestat.ro](http://www.ajutordestat.ro), in the Section "Reference interest".

The interest is calculated as of the date when the State aid was made available to the beneficiary and until the date of actual recovery, with application of the principle of capitalization.

The decision of recovery shall be sent to the beneficiary economic operator and for enforcement purposes to the fiscal bodies competent in the administration of State aid beneficiaries.

## CHAPTER VIII - RETURN OF THE AMOUNTS UNDULY COLLECTED

Enterprises are required to verify the value of State aid transferred by the Ministry of Public Finance in the account 50.70 "Available from subsidies and transfers".

### **ATTENTION!**

If it is found that there is any undue amount, enterprises shall be required to inform the Ministry of Public Finance at once for the return thereof.

The amounts unduly collected shall be returned in the accounts opened with this purpose at the State Treasury, if the amounts are returned in the year they were collected, respectively if the amounts are returned in the years following that of collection.

For the undue amounts collected by enterprises, the Ministry of Public Finance shall charge corresponding interests and penalties, owed as of collection date and until return date, in accordance with Law no. 207/2015 on the Code of Fiscal Procedure, as subsequently amended and supplemented."

No	NACE	NACE Code name
<b>SECTION A - AGRICULTURE, FORESTRY AND FISHING</b>		
1	01	Agriculture, hunting and related service activities
2	02	Forestry, logging and related service activities
3	03	Fishing and aquaculture
<b>SECTION B - MINING AND QUARRYING</b>		
4	05	Extraction of superior and inferior coal
5	06	Extraction of crude petroleum and natural gas
6	071	Extraction of ferrous ores
7	0892	Extraction and agglomeration of peat
8	091	Activities of related services to crude petroleum and natural gas extraction
9	099	Activities of related services to mineral extraction
<b>SECTION C - PROCESSING INDUSTRY</b>		
10	102	Processing and preservation of fish, crustaceans and mollusks
11	1101	Distillation, refining and mixing of alcoholic beverages
12	1102	Manufacturing of wine from grapes
13	1103	Manufacturing of cider and other fruit wine
14	1104	Manufacturing of other non-distilled beverages, obtained through fermentation
15	1105	Manufacturing of beer
16	1106	Manufacturing of malt
17	12	Manufacturing of tobacco products
18	131	Preparation of fibers and spinning of textile fibers
19	19	Manufacturing of coke products and products obtained from crude oil processing
20	2014	Manufacturing of other basic organic chemical products
21	2051	Manufacturing of explosives
22	206	Manufacturing of synthetic and artificial fibers
23	24	Metallurgic industry
24	254	Manufacturing of weapons and ammunition
25	2591	Manufacture of steel drums and similar containers
26	301	Building of ships and boats
27	304	Manufacture of military fighting vehicles
28	33	Repair and installation of machinery and equipment
<b>SECTION D - ELECTRICITY, GAS, STEAM AND AIR CONDITIONING SUPPLY</b>		
29	35	Electricity, gas, steam and air conditioning supply

No	NAC E	NACE Code name
<b>SECTION F - CONSTRUCTIONS</b>		
30	41	Construction of buildings
31	42	Civil engineering
32	4399	Other specialized construction activities n.e.c.
<b>SECTION G - WHOLESALE AND RETAIL TRADE; REPAIR OF MOTOR VEHICLES AND MOTORCYCLES</b>		
33	45	Wholesale and retail trade and repair of motor vehicles and motorcycles
34	46	Wholesale trade, except of motor vehicles and motorcycles
35	47	Retail trade, except of motor vehicles and motorcycles
<b>SECTION H - TRANSPORTING AND STORAGE</b>		
36	49	Land transport and transport via pipelines
37	50	Water transport
38	51	Air transport
39	522	Support activities for transportation
<b>SECTION J - INFORMATION AND COMMUNICATION</b>		
40	60	Programming and broadcasting activities
41	61	Telecommunications
<b>SECTION K - FINANCIAL AND INSURANCE ACTIVITIES</b>		
42	64	Financial service activities, except insurance and pension funding
43	65	Insurance, reinsurance and pension funding, except compulsory social security
44	66	Activities auxiliary to financial services and insurance activities
<b>SECTION L - REAL ESTATE ACTIVITIES</b>		
45	68	Real estate activities
<b>SECTION N - ADMINISTRATIVE AND SUPPORT SERVICE ACTIVITIES</b>		
46	77	Rental and leasing activities
47	78	Employment activities
<b>SECTION O - PUBLIC ADMINISTRATION AND DEFENSE; COMPULSORY SOCIAL SECURITY</b>		
48	84	Public administration and defense; compulsory social security
<b>SECTION R - ARTS, ENTERTAINMENT AND RECREATION</b>		
49	92	Gambling and betting activities
50	93	Sports activities and amusement and recreation activities
<b>SECTION S - OTHER SERVICES ACTIVITIES</b>		
51	94	Activities of membership organizations

No	NAC	NACE Code name
.	E	
SECTION T - ACTIVITIES OF HOUSEHOLDS AS EMPLOYERS; UNDIFFERENTIATED GOODS - AND SERVICES - PRODUCING ACTIVITIES OF HOUSEHOLDS FOR OWN USE		
52	97	Activities of households as employers of domestic personnel
53	98	Undifferentiated goods- and services-producing activities of private households for own use
SECTION U - ACTIVITIES OF EXTRATERRITORIAL ORGANIZATIONS AND BODIES		
54	99	Activities of extraterritorial organizations and bodies

Registration date (*mention the date of registration in the register of correspondence of the enterprise*)

Registration number (*mention the registration number from the register of correspondence of the enterprise*)

### **APPLICATION FOR FINANCING**

We, the undersigned....., having the identification details mentioned at point I, legally represented through Mr./Mrs....., in his/her capacity as....., \_\_\_\_\_ hereby request financing in accordance with the provisions of the scheme whose object is to stimulate investments with major impact on the economy, approved through Government Decision no. 807/2014, as subsequently amended and supplemented.

#### **I. Presentation of the enterprise**

Enterprise name: SC .....SRL/SA

Enterprise registration date: \_\_\_\_\_

Registration no. with the Trade Register Office: J \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Tax  
identification code: \_\_\_\_\_ Address:

\_\_\_\_\_ (*county, locality, district, street, building, entrance, floor, apartment*), Zip code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Legal form: \_\_ SRL/SA

Share capital: \_\_\_\_\_ Lei, held by:

- private individuals: \_\_\_\_\_ %;

- SME<sup>1</sup>: \_\_\_\_\_ %

- large enterprises<sup>2</sup>: \_\_\_\_\_ %.

Main object of activity: \_\_\_\_\_ (*Denomination of the main activity, according to the Order of the president of the National Institute of Statistics no. 337/2007 on the update of the Classification of activities in the national economy - NACE, Rev. 2*)

NACE Code: \_\_\_\_\_ (*4 figure code, according to Order no. 337/2007, NACE Rev. 2*)

Secondary object of activity<sup>3</sup>: (*shall be filled in if financing is requested for a secondary object of activity*)

NACE Code: \_\_\_\_\_ (*4 figure code, according to Order no. 337/2007, NACE Rev. 2*)

#### **ATTENTION!**

Financing can be requested for a single economic activity, respectively for a single NACE code. The activity for which financing is requested can be main or secondary.

#### **ATTENTION!**

All information from section I shall be taken from the Ascertaining Certificate updated with all data valid on the date of registration of the application for financing.

<sup>1</sup> The enterprise which falls under the definition provided in annex no. 1 to the Regulation

<sup>2</sup> The enterprise that does not fall under the category of SMEs, according to the provisions of annex no. 1 to the Regulation

<sup>3</sup> Shall be filled in only if financing is requested for the secondary object of activity.



## II. Presentation of the current situation of the enterprise

### a) Data from the approved annual financial statements corresponding to the last concluded financial year, as applicable:

- average number of employees:\_\_\_ (shall be taken from the Financial Statements - Form 30)
- turnover:\_\_\_\_\_ (shall be taken from the Financial Statements - Form 20)
- value of total assets<sup>4</sup>:\_ (=fixed assets + current assets + advance expenditures - shall be taken from the Financial Statements - Form 10)
- turnover profitability<sup>5</sup>:\_\_\_\_\_ (=100X (Net profit/Turnover - shall be taken from the Financial Statements - Form 20)
- own capitals<sup>6</sup>:\_\_\_\_\_ (shall be taken from the Financial Statements - Form 10)

#### **ATTENTION!**

All information in section II shall be taken from the last Annual financial statements approved and submitted to the tax administrations from the territorial area where the enterprise has its tax domicile.

#### **ATTENTION!**

It is not allowed to present in the business plan a different average number of employees than the one presented in the application for financing.

### III. Brief presentation of the investment project made in the scheme, including the following information:

- investment objective:\_\_\_\_\_ (Mention the fundamental objective of the project that shall be detailed in the Business plan);
- classification of the investment in the category of initial investment: (check only one option, according to the objective of the investment project, which shall be substantiated in the Business plan)
  - incorporation of a new unit,
  - extension of the unit's capacity,
  - diversification of the unit's production,
  - fundamental change in the general production process of the unit or
- classification of the investment in the category of initial investment in favor of a new economic activity:
  - incorporation of a new unit,
  - diversification of the unit's activity;

#### **ATTENTION!**

It is forbidden to artificially cumulate several investment projects with different objectives.

<sup>4</sup> Total assets means fixed assets plus current assets plus advance expenditures.

<sup>5</sup> Turnover profitability = 100 x (Net profit / Turnover)

<sup>6</sup> The "Own capitals" element from the Balance

## **DEFINITIONS**

**The initial investment** is an investment in tangible and intangible assets from the same perimeter, related to the start of a new unit, the extension of the capacity of an existing unit, the diversification of the production of a unit through products that have not been previously manufactured in that unit or a fundamental change in the general production process of an existing unit.

**The incorporation of a new unit** represents the creation of a new location for the performance of the activity for which financing is requested, which is independent from a technological perspective from other existing units.

**The extension of the capacity of an existing unit** is the increase of the production capacity in the existing location due to not honored demand.

**The diversification of the production of an existing unit** means obtaining products or services which were not previously manufactured in that unit. The eligible costs must exceed by at least 200% the accounting value of the reused assets, as they were registered in the financial year prior to the start of the works.

**The diversification of the activity of a unit** represents obtaining of products or services as a result of a new activity which is not identical or similar to the activity previously performed in that unit (a new NACE code of four figures).

**The fundamental change in the general production process** consists of the purchase of assets whose accounting value exceeds the depreciation calculated in the three previous financial years of the similar assets related to the activity for which financing is requested. The mere replacement of existing assets is not considered fundamental change in the general production process.

## **ATTENTION!**

In the case of diversification of the production of an existing unit, the enterprise must: a) prove that the products/services that correspond to the investment project are not performed in the current activity of the company, respectively the same class (four figure numeric code), according to the Order of the President of the National Institute of Statistics no. 337/2007 on the update of the Classification of activities in the national economy - NACE, as follows:

- must present the list of products/services it performs in the current activity,
- must present the list of products/services it will make through the investment project.

b) must declare the accounting value of the reused assets related to the new activity, as follows:

- must identify each asset that is to be reused by name, inventory number in the Register of Fixed Assets and accounting value, as they were registered in the financial year prior to the start of the works,
- must identify each new asset that is to be purchased, considered for the diversification of activity,
- must present the value of every new asset.

The value of new assets that correspond to the investment project must exceed by at least 200 % the accounting value of the reused assets.

## **ATTENTION!**

In the case of a fundamental change in the general production process, the enterprise must present in the business plan the depreciation value of the assets related to the activity for which financing is requested, calculated in the 3 financial years prior to the year of submission of the application for financing. The mere replacement of existing assets is not considered a fundamental change in the general production process.

### **ATTENTION!**

In the case of large enterprises that perform initial investments in favor of a new economic activity, in the Development region Bucharest - Ilfov, shall be eligible only the investments related to the start of a new unit or the diversification of a unit's activity, provided the new activity is not identical or similar to the activity previously carried out in that unit.

### **DEFINITIONS:**

**Initial investment in favor of a new economic activity** - the investment in tangible and intangible assets from the same perimeter, related to the start of a new unit or the diversification of a unit's activity, provided the new activity is not identical or similar to the activity previously performed in that unit.

**Identical or similar activity** - the activity which is part of the same class (four figure numeric code), according to the Order of the President of the National Institute of Statistics no. 337/2007 on the update of the Classification of Activities in the National Economy - NACE.

- the investment value: \_\_\_\_\_ Lei/ *(total value of eligible and ineligible expenditures)*

- location of performance of the investment: \_\_ *(registered office or one of the working units of the enterprise where the investment is performed);*

### **DEFINITIONS:**

**The location of performance of the investment** is the registered office or one of the working units of the enterprise, registered or which shall be registered with the Trade Register Office where the investment is performed

**The same perimeter** - placement of the assets within the same cadastral plot or on adjacent cadastral plots.

- estimate starting date of the investment according to the investment plan: \_\_ *(the date when the investment shall start);*

### **DEFINITION:**

**The start of the investment** represents either the start of the construction works that correspond to the investment or the first legally binding commitment of order of equipment or any other commitment through which the investment becomes irreversible, whichever occurs first.

The purchase of land plots and the preparatory works, like obtaining permits and performing feasibility studies, shall not be considered start of the works.

Start of construction works - represents the conclusion of the agreement or any firm order of execution of construction works, whichever occurs first.

- estimated date of completion of the investment according to the investment plan: \_\_ *(date of commissioning of the last assets that are to be purchased in accordance with the investment plan);*

**IV. Stimulative effect** *(check the option that shall be substantiated in the Business Plan)*

The State aid awarded on the basis of this scheme has stimulative effect, because:

- the investment would not be profitable for the enterprise in that region in the absence of State aid; or
- the investment would not be made in that region in the absence of the aid.

**ATTENTION!**

The scenario shall be chosen after a realistic analysis of all factors that prove the stimulative effect and which will be presented in detail in the business plan.

It is not allowed to present in the business plan another scenario than the one checked in the application for financing.

## V. Presentation of the eligible costs and of the requested financing

### **ATTENTION!**

The value of eligible expenditures and of the requested aid shall be filled in without decimals and shall be taken from the investment plan.

Activity name	Type of eligible expenditure for which financing is requested		Value of eligible expenditures - Lei -				Maximum aid intensity in the region	Value of requested State aid - Lei -			
			Ye a	Ye a	Year.... .	Total		Ye a	Ye a	Year.... .	Total
Performance of investments in tangible and intangible assets	<input type="checkbox"/>	<b>a) Eligible costs for performance of investments in tangible assets</b>									
	<input type="checkbox"/>	a1) Execution of constructions									
	<input type="checkbox"/>	a2) Lease of constructions									
	<input type="checkbox"/>	a3) Technical installations, machines and equipment									
	<input type="checkbox"/>	<b>b) Eligible costs for the performance of investments in intangible assets</b>									
	<input type="checkbox"/>	b1) Costs for patents, licenses, know-how or other intellectual property rights									
		<b>TOTAL</b>									

### **ATTENTION!**

The table regarding the presentation of the eligible costs and of the requested financing shall be filled in by considering the following elements:

**Value of eligible expenditures without V.A.T. in one year** = value of expenditures effectively incurred in accordance with the investment plan, from that calendar year

**Value of State aid requested in one year** = value of eligible expenditures incurred until the date of submission of the last application for payment of State aid in that year x the maximum intensity of State aid %

The value of State aid that corresponds to the eligible expenditures incurred in the quarter/quarters IV corresponding to the years of performance of the investment project shall be completed in the following calendar year/years, as applicable.

Instead of Year I, Year II, Year... shall be mentioned the calendar years when the eligible expenditure is incurred, respectively the years when the financing is requested.

## VI. Declaration on one's own responsibility

I, the undersigned, (*first and last name of the legal representative of the enterprise*), identified with identity document series.....no... issued by.....on....., domiciled in.....

.....Street, \_\_\_building....., entrance....., \_\_\_\_\_ apt.

....., \_\_\_\_\_ district/county....., acting as legal representative of the enterprise

..... (*enterprise name*), hereby declare on my own responsibility that all the information provided and registered in this application is correct and complete and that all documents in copies that accompany the application are compliant with the originals.

I understand that any omission or inaccuracy in presenting the information for the purpose of obtaining money advantages is punished in accordance with the law.

I hereby declare on my own responsibility that the enterprise: (*check the situations that correspond to the enterprise*)

falls into the category of large enterprises;

falls into the category of small and medium enterprises;

### **DEFINITIONS:**

**Small and medium enterprises** are those enterprises that have less than 250 employees and whose net annual turnover does not exceed the equivalent in Lei of 50 million EUR, or they hold total assets not in excess of the equivalent in Lei of 43 million EUR and are classified in accordance with the provisions of Law no. 346/2004 on stimulating the incorporation and development of small and medium enterprises, as subsequently amended and supplemented, as follows:

(i) *medium enterprise from the category of SMEs*, is the enterprise which has between 50 and 249 employees and obtains a net annual turnover of up to 50 million EUR in Lei equivalent or has total assets not in excess of the equivalent in Lei of 43 million EUR;

(ii) *small enterprise from the category of SMEs* is the enterprise which has between 10 and 49 employees and obtains a net annual turnover or has total assets of up to 10 million EUR in Lei equivalent;

(iii) *micro-enterprise from the category of SMEs* is the enterprise which has up to 9 employees and obtains a net annual turnover or has total assets of up to 2 million EUR in Lei equivalent.

**Large enterprise** is the enterprise that does not meet the criteria for classification into the category of SMEs.

has not started the investment project for which it requests financing;

does not fall under the category of "enterprises in distress" defined in accordance with the provisions of art. 2 para. (18) in the Regulation (EU) no. 651/2014 of the Commission of June 17, 2014 declaring certain categories of aid compatible with the internal market in application of articles 107 and 108 in the treaty

### **DEFINITION:**

According to Regulation (EU) no. 651/2014 of the Commission declaring certain categories of aid compatible with the internal market in application of articles 107 and 108 in the treaty, an enterprise is in distress in the following situations:

(a) In the case of a limited liability trading company (other than a SME existing for at least three years or, within the meaning of eligibility for risk financing aid, a SME which is 7 years away from its first commercial sale which qualifies for risk financing investments following a diligence process made by a selected financial agent), when more than half its subscribed share capital has disappeared due to accrued losses. This situation appears when the deduction of accrued losses from reserves (and from all the other elements considered in general as being part of the company's own funds) leads to a negative result which exceeds half of the subscribed share capital. For the purpose of this provision,

"limited liability company" refers especially to the types of companies mentioned in annex I to Directive 2013/34/EU (1) and "share capital" includes, if applicable, any additional capital.

b) In the case of a trading company where at least one of the shareholders has unlimited liability

for the company's liabilities (other than a SME which exists for at least three years or, within the meaning of eligibility for risk financing aid, a SME which is 7 years away from its first commercial sale which qualifies for investments for risk financing following a diligence process made by a selected financial agent), when more than half of its own capital as provided in the company's accounting records has disappeared due to the accrued losses. For the purpose of this provision, "a trading company where at least one of the shareholders has unlimited liability for the company's liabilities" refers especially to those types of companies mentioned in annex II to Directive 2013/34/EU.

c) When the enterprise is subject to a collective insolvency procedure or meets the criteria provided by

internal law for a collective insolvency procedure to be opened at the request of its creditors.

(d) When the enterprise received rescue aid and has not reimbursed yet the loan or has not ended the guarantee or has received restructuring aid and is still subject to a restructuring plan.

(e) In the case of an enterprise which is not a SME, when, in the last two years:

1. the debt/own capitals ratio of the enterprise is bigger than 7.5 and
2. the capacity of coverage of interests calculated on EBITDA base is below the value of 1.0.

### **ATTENTION!**

In order to verify the situation under letter **a)**:

- from the balance shall be added the reported loss, the loss of the financial year and other elements considered to be part of own funds according to the balance (profit distribution, own actions, losses related to own capital instruments); the resulting amount represents the total losses;

- the total losses shall be deducted from the total obtained by adding up the capital premiums with the reserves from

reevaluation, with reserves and other elements considered to be part of own funds in accordance with the balance (the profit of the financial year, the reported profit, the earnings related to own capital instruments);

- if the result is negative, it shall be deducted from the value of the subscribed and paid-up capital;

- if the result obtained is lower than half of the value of the subscribed and paid-up capital,

**the company is in distress.**

In order to verify the situation from letter **b)**:

- from the balance shall be compared the value of total own capitals from the last financial year with the value of the same indicator from the previous financial year;

- if own capitals have decreased by more than half compared to the previous financial year, **the company is in distress.**

In order to verify the situation from letter **e)**:

#### **Point 1**

- from the balance sheet shall be added the total debts which must be paid within a term of up to 1 year with the total debts that must be paid within a term longer than 1 year;

- the result obtained shall be divided by the value that corresponds to own capitals;

- it shall be verified if the resulting value is bigger than 7.5.

#### **Point 2**

- from the profit and loss account the sum of the net profit, the expenditures for taxes and charges, the expenditures for interests and the expenditures for depreciation shall be referenced to the expenditures for interests;

- it shall be verified if the result is below 1.0.

If both requirements are cumulatively fulfilled on the last two financial years, **the firm is in distress.**

is not undergoing the procedure of forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation or temporary activity suspension;



### **ATTENTION!**

The data regarding the status of the company shall be verified on the basis of the information from the Ascertaining Certificate, updated with all the data valid on the date of registration of the application for financing.

- is not subject to decisions of recovery of State aid or, if such decisions were issued they have been enforced, in accordance with the legal provisions in force;
- it has not benefited and will not benefit of regional State aid for eligible costs of the type of salary costs within the same single investment project.

### **DEFINITIONS**

**Single investment project** represents any initial investment started by the same beneficiary, at group level, within a time frame of three years as of the starting date of the works at another investment which benefits of State aid within the same region of level 3 from the Common Nomenclature of Territorial Statistical Units (NUTS 3), respectively county.

**Group** - mother company and all subsidiaries thereof.

- has not made a relocation to the unit where the initial investment is to take place for which the aid is requested within the last 2 years prior to the registration of the application for financing and, at the time of registration of the application it offers a commitment that it shall not do this for a term of up to 2 years after completion of the initial investment for which the aid is requested

### **DEFINITIONS**

**Relocation** - transfer of an identical or similar activity or of part thereof from one unit of one of the contracting parties to the EEA Agreement, the initial unit, to the unit of another contracting party to the EEA Agreement where the investment that benefits of aid is made, the unit that benefits of aid. There is a transfer if the product or service from the initial unit and from the unit that benefits of aid have at least partially the same purposes, fulfill the requirements or needs of the same type of clients and jobs are lost in identical or similar activities at one of the initial units of the EEA beneficiary.

### **ATTENTION!**

The legal representative is required to verify that the shareholders of the enterprise or company from the group which includes the enterprise requesting State aid have not made a relocation to the unit where the investment is to be made in the last 2 years prior to the registration of the application for financing agreement and, at the time of registration of the application, they have no concrete plans of closing such an activity within a term of 2 years after completion in the region in question of the initial investment and of issuing a declaration in this respect.

- it does not belong to shareholders who hold or have held in the last 2 years prior to the date of registration of the application another enterprise registered in accordance with the Companies law no. 31/1990, as subsequently amended and supplemented, which carries out or has carried out the activity for which financing is requested, in the case of newly incorporated enterprises.

### **ATTENTION!**

This situation shall be checked only by newly incorporated enterprises.

I hereby declare on my own responsibility that, in the last 3<sup>7</sup> years, the enterprise: *(check one of the two options)*

- has not benefited of de minimis aid and other State aid;
- has benefited of the following de minimis aid and State aid:

<sup>7</sup> The last 3 years shall be considered: the current fiscal year and 2 previous years

No .	Name of the investment project	Location of performance of the investment (county)	Year of award of the aid	Provider of the aid	Legislative act	Amount of aid -EUR <sup>8</sup> -

**ATTENTION!**

If, between the time of registration of the Application for financing agreement and the time of receipt of the Financing Agreement, the applicant enterprise obtains another de minimis or State aid, it shall be required to send to the Ministry of Public Finance a notification mentioning:

- the provider of the de minimis or State aid,
- the legislative act on the basis of which the aid was awarded,
- the judicial act which makes possible the award of the aid, respectively financing agreement, financing contract, etc.
- the award date,
- the value in EUR of the awarded aid.

I also declare on my own responsibility that the enterprise:

- has not benefited and will not benefit of State aid for the same single investment project from other aid providers;
- has benefited or will benefit of State aid for the same single investment project from other aid providers:

Current	Name of the investment project	Location of performance of the investment	Year of award of the aid	Provider of the aid	Legislative act	Amount of aid -EUR <sup>9</sup> -

Name: \_\_\_\_\_ (*first and last name of the legal representative of the enterprise*)

Position: \_\_\_\_\_ (*shareholder, associate, administrator, proxy*)

Authorized signature of the applicant<sup>10</sup>: \_\_\_\_\_

Date of signature: \_\_\_\_\_

**ATTENTION!**

By filling in this declaration shall be assumed all provided information, being aware of the fact that false statements are punishable in accordance with art. 326 in the Criminal Code.

The application will be signed by the person authorized to legally represent the enterprise.

<sup>8</sup> The equivalent in EUR shall be taken from the judicial act or shall be determined at the currency exchange rate valid of the date of award of the aid in accordance with the judicial act.

<sup>9</sup> Just like 8

<sup>10</sup> The application will be signed by the person authorized to legally represent the enterprise

## BUSINESS PLAN

**ATTENTION!**

The document will not exceed 50 pages, excluding annexes

## TITLE PAGE

Enterprise name: \_\_\_\_\_

Name of the investment project: \_\_\_\_\_

Name: \_\_\_\_\_ (*first and last name of the legal representative of the enterprise*)

Position: \_\_\_\_\_ (*shareholder, associate, administrator, proxy*)

Authorized signature of the legal representative of the enterprise: \_\_\_\_\_

Date of signature: \_\_\_\_\_

## 1. DESCRIPTION OF THE BUSINESS

## 1.1. Presentation of the enterprise

Name of the enterprise: \_\_\_\_\_

Enterprise registration date: \_\_\_\_\_

Registration no. with the trade register office: J...../...../..... Tax

identification code: \_\_\_\_\_

Address: \_\_\_\_\_ (*county, locality, district, street, building, entrance, floor,*

*apartment*) Telephone: \_\_\_\_\_

\_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Legal form: \_\_\_\_\_ (SRL/SA)

Share capital: \_\_\_\_\_ Lei, held by:

- private individuals: \_\_\_\_\_ %

- SME: \_\_\_\_\_ %

- large enterprises: \_\_\_\_\_ %.

Main object of activity: \_\_\_\_\_ (*Denomination of the main activity, according to the Order of the president of the National Institute of Statistics no. 337/2007 on the update of the Classification of activities in the national economy - NACE, Rev. 2*)

NACE Code: \_\_ (*4 figure code, according to Order no. 337/2007, NACE Rev. 2*)

Secondary object of activity: \_\_\_\_\_ (*shall be filled in if the financing is requested for a secondary object of activity*)

NACE Code: \_\_ (4 figure code, according to Order no. 337/2007, NACE Rev. 2)  
Working units: \_\_\_\_\_ (county, locality, district, street, no., shall be filled in if the investment is made at the working unit)

### **ATTENTION!**

All the information in section 1.1 shall be taken from the Ascertaining Certificate updated with all data valid on the date of registration of the application for financing agreement and must be identical with those from the application for financing agreement.

#### 1.2. Objectives of the enterprise

shall present the economic objectives which synthesize and quantify the purposes taken into account on the long term and which refer to the evolution of the turnover, of the profit, the quality of the products and services offered.

#### 1.3. Presentation of the current activity

Shall present the activity the enterprise is performing at present, with identification of the NACE code/codes, of the products and services offered, clients and suppliers, evolution of the number of employees, etc.

#### 1.4. Presentation of the activity for which financing is requested

Shall present:

- the activity corresponding to the NACE code for which financing is requested, as it was mentioned in the Application for Financing Agreement,
- the need to implement the investment project,
- the (estimated) investment start date, but without exceeding 4 months as of the date of issuance of the financing agreement
- the date of completion of the investment
- the products obtained or services offered,
- the number of newly created jobs,
- experience in the field,
- the location of performance of the investment.

## **2. PRESENTATION OF THE INVESTMENT PROJECT**

### 2.1. Classification of the investment in the category of initial investment

Shall be substantiated the option checked in chapter III from the application for financing agreement.

In case of extension of the capacity of an existing unit, the enterprise must prove that:

- the current production capacity is used at maximum,
- there is not honored demand for products/services on the market.

In case of diversification of the production of an existing unit, the enterprise must:

- a) prove that the products/services that correspond to the investment project are not produced in the current activity of the company, respectively the same class (four figures numerical code), according to Order of the President of the National Institute of Statistics no. 337/2007 on the update of the Classification of Activities in the National Economy - NACE, as follows:
  - must present the list of products/services it performs in the current activity,
  - must present the list of products/services it shall produce through the investment project.
- b) must declare the accounting value of the reused assets related to the new activity, as follows:
  - must identify each asset that shall be reused by name, inventory number in the Register of Fixed Assets and accounting value, as they were registered in the financial year which precedes the start

of the works.

The value of the new assets that correspond to the investment project must exceed by at least 200% the accounting value of the reused assets.

In case of a fundamental change in the general production process, the enterprise must declare the value of the depreciation of assets related to the activity that must be modernized, calculated during the three previous financial years. The information shall be presented in table form.

The value of the new assets that correspond to the investment project must exceed the value of the depreciation, calculated in the three previous financial years, of the similar assets related to the activity for which financing is requested. The enterprise will fill in the table below.

- Lei -

Assets existing in the enterprise on the date of submission of the Application for financing agreement			Total depreciation	New assets that correspond to the investment project
Depreciation value				Value
YEAR -3	YEAR -2	YEAR -1		

## 2.2. Investment plan

Shall be substantiated the need to purchase the categories of assets presented in the investment plan, relative to the object of activity, the objectives of the investment project.

The enterprise must present the investment plan in accordance with annex 4, it must briefly describe the main constructions and the functions thereof, as well as the large categories of equipment which form the object of the investment plan and the main stages of the technological flow.

## 2.3. Proving the viability of the investment project and the economic efficiency of the enterprise following the implementation of the investment project

### 2.3.1 Analysis of the relevant market where the enterprise will carry out activity as a result of the manufacturing of products/provision of services resulting from the implementation of the investment

#### **DEFINITIONS:**

**The relevant market** includes a product or a group of products and the geographical area where they are manufactured and/or traded.

**The relevant market** has thus two components: the product market and the geographical market.

**The relevant product market** includes all products which are considered by the purchaser interchangeable or substitutable, due to their characteristics, price, and use. These products must be sufficiently similar so that consumers or beneficiaries would take them into account when they take purchase decisions.

Identifying the relevant market of the product presupposes the performance of an analysis which would establish the products which are part of that market, considering deciding factors, like substitutability, prices, elasticity of demand for the product according to the prices of other products, etc.

**The relevant geographical market** includes the area where all economic operators involved in the delivery of the products/services included in the product market are located, the area where the competition conditions are sufficiently homogenous and can be differentiated into neighboring geographical areas de especially to substantially different competition conditions.

The factors that must be considered when defining the relevant geographical market include the type and characteristics of the products involved, the existence of entrance barriers, the consumers' preferences, the differences between the market shares of the economic operators from neighboring geographical areas, substantial differences between the prices of the products at suppliers, as well as the share of transport expenditures in total costs.

According to the factors taken into account, the geographical area where the competitor manufacturers are located shall be defined. In order to be considered on the same relevant geographical market, it is not necessary for the products to be manufactured in the same locality or in neighboring localities. It is important that all these products should be made accessible to the same purchasers, so that every one of them should be a real economic alternative for the others. For some products or services, the relevant geographical market can be part of a locality, a locality, a county, a region or an area from Romania, for others the entire country or areas outside the country.

(see:

- COMMISSION NOTICE on the definition of relevant market for the purposes of Community competition law (97/C 372/03) and
- ORDER of the president of the Competition Council no. 388 of August 5, 2010 for the enforcement of the Instructions regarding the definition of relevant market)

### **ATTENTION!**

The analysis of the relevant market must reveal an excess of demand still uncovered by the offers that exist on the market.

In the description of the relevant market, the enterprise must present and justify the market share held at present, in the case of operating enterprises, as well as the market share it shall hold as a result of the implementation of the investment project.

### 2.3.2 Justification of the need to make the investment

Enterprises are required to present data regarding:

a) The production capacity

The enterprise is required to present and substantiate:

- the existing production capacity and the one resulting after the implementation of the investment project in the case of operating enterprises, as well as the degree of use thereof,
- the production capacity resulting from the implementation of the investment project in the case of newly incorporated enterprises, the degree of use thereof.

b) The achievement of the turnover

The enterprise is required to substantiate the turnover by presenting information regarding:

- the types of products made by the enterprise at present, the quantity, price and value thereof.
- the types of products that shall be manufactured by the enterprise as a result of the implementation of the investment project, the quantity, price, and value thereof.

### **ATTENTION!**

All the components of the turnover (products, quantity, price, value) will be substantiated by justifying the manner in which they were established and will be correlated with the information presented in sub-chapter 2.3.1.

### **ATTENTION!**

In order to support the information for substantiation of the turnover will be presented supporting documents like agreements, pre-agreements, letters of intent from possible customers.

The documents will be accompanied by a centralizing table with the following elements: customer name, no. and date of the letter of intent/agreements/pre-agreement, type of product, quantity, unit price and value.

### 2.3.3 The economic and financial analysis of the investment project

**ATTENTION!** The enterprise must prove the viability of the investment project, as follows:  
 In the case of **newly incorporated enterprises**, financial projections shall be elaborated by project with State aid.

In the case of **operating enterprises**, apart from the financial projections that correspond to the project with State aid, financial projections corresponding to the current activity of the enterprise, as well as financial projections that correspond to the consolidated activity of the enterprise (current activity + project), with State aid.

**ATTENTION!**  
**Operating enterprises** make the projections starting from the Financial statements approved and submitted in accordance with legal provisions, corresponding to the last concluded financial year.  
**Newly incorporated enterprises** make the projections by considering the established objectives.

**ATTENTION !**  
 Projections of the Profit and Loss Account, the Balance and the Cash flow shall be presented for the period of implementation of the investment and for the following 5 years as of completion of the investment. It is necessary to substantiate the income and expenditures, namely every component of the financial projections, in order to prove the reality of the used data.

**ATTENTION !**  
 The financial projections shall be elaborated and implemented according to the model in Microsoft Excel format, which shall be downloaded from the website of the Ministry of Public Finance.

2.3.4 Quantitative indicators

In order to prove the viability of the investment project and the economic efficiency of the enterprise, the following indicators shall be calculated and substantiated:

Quantitative indicators	Limits of the indicators
The general solvency rate $R_{sg} = \frac{\text{Total assets}}{\text{Total debts}}$	$R_{sg} > 1.66$
The turnover profitability $R_{ca} = 100 \times (\text{Net profit} / \text{Turnover})$	$R_{ca} \geq 2.5\%$
The net result trend $Trn = 100 \times (\frac{\text{Net result corresponding to the current period} - \text{Net result corresponding to the similar period of the previous year}}{\text{Net result corresponding to the similar period of the previous year in absolute value}})$	$Trn \geq 0\%$
Current liquidity rate $RLC = (\text{Current assets} / \text{Current debts})$	$(R_{lc}) \geq 1.00$
Indebtedness degree indicator* $I_{gi} = (\text{Borrowed capital} / \text{Committed capital}) \times 100$	$(R_{ig}) \leq 60\%$
Economic profitability rate $R_e = (\text{Gross profit} / \text{Total assets}) \times 100$	Higher than the inflation rate
Financial profitability rate $R_f = (\text{Net profit} / \text{Own capitals of the enterprise}) \times 100$	Higher than the average market interest rate

\*) Borrowed capital = loans over one year  
 Committed capital = borrowed capital + own capital



Quantitative indicators shall be calculated for the period of implementation of the investment and for the following 5 years as of completion of the investment, based on the financial projections presented at sub-item 2.3.3. The manner of calculation thereof shall be detailed with explanation and substantiation of the result obtained.

In the case of enterprises which perform activity, they shall be calculated based on the consolidated financial projections (current activity + investment project with State aid).

In the case of newly incorporated enterprises, they shall be calculated on the basis of the financial projections corresponding to the investment project with State aid.

### **ATTENTION!**

The quantitative indicators will be calculated in accordance with the model presented in Microsoft Excel format, which shall be downloaded from the website of the Ministry of Public Finance.

### 2.3.5 Qualitative indicators

#### a) Ensuring the financial resources necessary to perform the investment

### **DEFINITION:**

**The financing source** represents the resources of strictly financial nature of the enterprise dedicated to making the initial investment, obtained from own sources, respectively the increase of the subscribed and paid-up share capital, reinvested profit, intra-group loan or bank loan.

### **ATTENTION!**

The beneficiary of the State aid **must ensure a financial contribution equal to the total value of the investment (eligible expenditures + ineligible expenditures) less the value of State aid**, in a form that does not form the object of any public aid.

Supporting documents necessary to prove the existence of a certain financing source at the time of submission of the application for financing agreement:

<b>Financing source</b>	<b>Documents</b>
Increase of the subscribed and paid-up share capital, in the case of shareholders who are private individuals or legal entities	<ul style="list-style-type: none"> <li>▪ Decision of the G.M.S. with regard to the assurance of financing sources, with mentioning of the object of the capital increase</li> <li>▪ Ascertaining certificate</li> <li>▪ The trial balance of the month prior to the one when the</li> </ul>
Reinvested profit, in the case of shareholders who are legal entities	<ul style="list-style-type: none"> <li>▪ Decision of the G.M.S. on the assurance of financing sources, approving the reinvestment of profit with precise destination of financing of the investment project</li> <li>▪ Trial balance corresponding to the last month before registration of the application</li> <li>▪ Approved annual financial statements, corresponding to the last concluded financial year</li> </ul>
Loan from the shareholders legal entities or other associated enterprises	<ul style="list-style-type: none"> <li>▪ Decision of the G.M.S. on the assurance of financing sources, approving the conclusion of a loan agreement in favor of the enterprise that requests State aid with precise destination for financing the investment project</li> <li>▪ Loan agreement from the shareholder or associated enterprises with precise destination of financing the investment project with mentioning of the value, etc.</li> <li>▪ Trial balance corresponding to the last month before the registration of the lender's application</li> <li>▪ Approved annual financial statements corresponding to the last concluded financial year of the lender</li> </ul>

Bank loan	<ul style="list-style-type: none"> <li>▪ Loan agreement <u>or</u></li> <li>▪ Comfort letter</li> </ul>
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**ATTENTION!**

The comfort letter must be valid on the date of submission of the Application for financing agreement and shall be made in accordance with the model in Annex 6 to this Guide.

**b) Market position and experience in the field for which financing is requested**

If the enterprise has carried out until the present the activity for which financing is requested, a description of the evolution of its activity shall be presented, including relevant information about the experience in the field.

If the enterprise has not carried out until the present the activity for which it requests financing, the shareholders or managers of the enterprise that have been involved in the implementation of similar projects will present supporting documents on the experience in the field.

In these circumstances, the enterprise shall present supporting documents, like:

- agreements/contracts concluded with private individuals or legal entities which perform or have performed similar activities,
- collaborations/partnerships which reveal that the shareholders or managers of the enterprise have been involved in activities which ensure experience in the field for which financing is requested.

**c) Impact of award of the State aid on the competitive environment**

Enterprises must present and substantiate the information regarding the manner in which the obtaining of non-reimbursable amounts from the State budget will determine the obtaining of an advantage against their direct competitors.

The enterprises must present in the presentation and substantiation of the impact of award of the State aid on the competitive environment at least the following data and information:

- data regarding the competitors of the enterprise according to the types of products that shall be manufactured through the investment project,
- data regarding the market shares held by the main competitors of the enterprise on types of products which form the object of the investment project,
- the market share held at present by the enterprise if it currently carries out the activity for which financing is requested,
- data regarding the market share that shall be held by the enterprise following the implementation of the investment project, relative to the main competitors,
- comparative data regarding the price/prices estimated by the enterprise for the products/services that correspond to the investment project relative to the price/prices of competitors for the same types of products/services,
- any other data and information considered relevant by the enterprise in support of the impact of awarding State aid on the competitive environment.

**ATTENTION!**

Enterprises must prove through the information they present that competition shall not be significantly disturbed following the award of State aid.

**d) Contribution of the enterprise to economic growth and regional development**

**DEFINITION**

**The contribution to regional development** is the value of the contributions to regional development in the form of taxes and charges to the State's general consolidated budget corresponding to the initial investment and the jobs created directly by it, effectively paid by the enterprise benefiting of State aid throughout the implementation period and 5 years as of completion thereof.

Shall be presented in table format the number of jobs created as a result of the implementation of the investment project, with mentioning of the functions and corresponding salaries, broken down throughout the period of implementation thereof.

Shall be presented in table format the values of the contributions to the State budget corresponding to the employer and the employee calculated by application of the legal percentages in force on the salary fund, as follows:

Contributions	Year I	Year II	Year...	Total
Gross salaries fund				
Employee's contributions:				
CAS (...%)				
CASS (...%)				
Tax (...%)				
Total employee's contributions				
Employer's contributions:				
Labor insurance contribution (...%)				
Total employer's contributions				
Grand total				

**ATTENTION!**

The table shall be presented in Microsoft Excel format, both on paper and in electronic form, with all formulas.

It shall be also presented in table format the estimation of all contributions to the budgets that make up the general consolidated budget throughout the period of implementation of the investment and 5 years as of completion thereof.

Contribution	Year I	Year II	Year...	Total
1	2	3	4	5
Employee's contributions				
Employer's contributions				
Corporate income tax				
Local taxes (land, constructions)				
Other types of taxes and charges which represent income to the budgets that make up the general consolidated budget (exclusive of VAT)*				
<b>Grand total</b>				

\*) Shall be quantified and mentioned concretely the taxes and/or charges which arise from the current economic activity that corresponds to the investment project

**ATTENTION!**

The values of the contributions mentioned in this table must be correlated with those estimated in the projections of the financial statements.

**ATTENTION!**

The requested State aid may **not** exceed the total value of the contributions to regional development that correspond to the investment for which financing is requested.

The amount of contributions to regional development corresponding to the investment for which financing is requested shall be calculated in accordance with the legislation applicable at the time of submission of the application for financing agreement.

### **ATTENTION!**

If, after the issuance of the financing agreement, amendments are brought to the general legislation regulating the framework of organization and operation of companies, at the end of the period of maintenance of the investment the value of the contribution to regional development provided in the documentation attached to the application for financing agreement shall be recalculated relative to these amendments.

### **DEFINITIONS:**

**Jobs created directly by an investment project** represent the jobs related to the activity which forms the object of the investment, including the jobs created as a result of an increase of the rate of use of the capacity created by the investment.

**Creation of jobs** represents the net increase of the number of jobs created directly by the beneficiary of State aid in order to reach the objectives of the investment project after receiving the financing agreement, relative to the average of the 12 months prior to the month when the application for financing agreement is registered, after subtracting from the apparent number of created jobs the jobs eliminated relative to the average.

### **ATTENTION!**

The number of new jobs created as a result of the performance of the investment influences the level of contributions to regional development.

e) Involvement of the enterprise in different social projects with positive impact on the community from the region where the investment is made

It shall be mentioned:

- the activities of social nature in which the enterprise will be involved, like activities in educational, medical, sports units, etc. or collaborations at local level with the AJOFM in order to recruit unemployed people and the organization of professional training courses,
- the estimated value of the projects of social nature in which the enterprise will be involved.

f) The multiplier effect of the performance of the investment quantifiable in the economy through the promotion of other related investments and the development of local suppliers of products and services.

Shall be presented and quantified:

- the economic and social implications of the implementation of the investment project on the area where it is implemented.
- the estimated number of newly created jobs by promoting other related investments and developing the local suppliers or products and services.
- the estimated value of the agreements concluded with the local suppliers as a result of the implementation of the investment project.

g) The judicial status of the location of performance of the investment, respectively proving the existence of a real right over the location where the investment is to be implemented

In order to support the judicial situation of the location where the investment is to be implemented, the enterprise shall present the following documents:

- sale-purchase agreement/inheritance certificate, etc.
- land book excerpt,
- lease agreement,
- concession/assignment agreement or any other judicial document that proves the existence and ownership of the location,
- other supporting documents.

### **ATTENTION!**

When establishing the location of performance of the investment, it shall be taken into account that it must be valid at least throughout the term of performance of the investment and 5 years as of completion thereof.

The enterprise must prove a real right over the location where the investment is to be implemented.

The land plot where the initial investment is implemented and the constructions where the initial investment is made must be unencumbered on the date of registration of the Application for financing agreement.

The judicial documents which prove the ownership over the location must be valid throughout the term of implementation of the investment and 5 years as of the date of completion thereof.

#### **ATTENTION!**

The initial investment must be made within the same perimeter.

**Perimeter** - the same cadastral plot or adjacent cadastral plots.

#### 2.4. The stimulative effect of State aid

In order to prove the stimulative effect, the enterprise must consider the following:

- sending the application for financing agreement
- starting the investment after submitting the Application for financing agreement with the General Registrar Office of the Ministry of Public Finance, but not later than 4 months as of the time when the financing agreement is obtained
- confirming through the submitted documentation that:
  - a) the project would not be implemented in that region in the absence of the aid

**or**

- b) the project would not be profitable for the enterprise in the region in question in the absence of the aid.

#### **ATTENTION!**

The Ministry of Public Finance seeks to avoid granting State aid for an investment project the enterprise in question would implement anyway, to the same extent, even in the absence of the aid.

As a result of receiving the aid, the beneficiary would have to implement a project: which it would not implement in the absence of the aid.

a) If, in order to prove the stimulative effect, it is chosen **the scenario where the project would not be implemented in the region in question in the absence of the aid:**

The enterprise must prove that the State aid changes the behavior thereof in such a manner that it starts an additional activity through which it contributes to the development of an area, an activity it would not have started in the absence of the aid or it would have carried out in a different or limited manner or in another place.

The State aid is an incentive for choosing to make an investment planned in that area compared to other locations expressly identified, because it compensates for the disadvantages and net costs associated with a location from that area.

The enterprise may prove that the aid has a stimulative effect by providing documents proving that a comparison was made between the costs and benefits of placing the investment in that area and those from the alternative area (areas).

All relevant costs and benefits must be taken into account, including, for example, the administrative costs, the transportation expenditures, the costs for professional training not covered by a training aid, as well as salary differences.

This analysis must be materialized in an official document assumed by the management bodies or the shareholders' representatives authorized in this respect.

b) If, in order to prove the stimulative effect, **the scenario where the project would not be profitable for the enterprise in that region in the absence of the aid** is chosen:

- In the case of operating enterprises:

- The financial projections per project shall be sent (with and without State aid), the financial projections for current activity and per project (with or without State aid) and the quantitative indicators of current and project activity (with and without State aid) starting from the same assumptions of the initial investment (total investment value and eligible expenditures value, turnover level, number of jobs, manufacturing of the same type/types of products, etc.)

- Shall be compared the financial projections per current activity and per project (with and without State aid) and the quantitative indicators for current activity and for the project (with and without State aid).

- In the case of newly incorporated enterprises: shall be compared the financial projections corresponding to the project (with and without State aid) and the quantitative indicators corresponding to the project (with and without State aid), starting from the same assumptions of the initial investment (total investment value and value of eligible expenditures, turnover level, number of jobs, manufacturing of the same type/types of products, etc.),

### **ATTENTION!**

From the results obtained after comparing the financial projections and the quantitative indicators in the versions with and without State aid the enterprise must prove that the investment project would not be implemented in that region in the absence of State aid.

The financial projections shall be elaborated for the period of implementation of the investment and the following 5 years as of completion of the investment, based on the model presented in Microsoft Excel format which shall be downloaded from the website of the Ministry of Public Finance.

## INVESTMENT PLAN

- Lei without VAT -

Cost category	Value of eligible costs				Value of ineligible costs				Grand total
	Total	Year 1	Year 2	Year n	Total	Year 1	Year 2	Year n	
1	2	3	4	5	6	7	8	9	10
<b>Investments in tangible</b>									
Execution of									
Renting of									
Technical installations, machines and									
<b>Investments in intangible</b>									
Patents, licenses, know-how or other intellectual property rights									
<b>Grand total</b>									

Note: The values of eligible and ineligible expenditures shall be filled in without decimals.



**Comparative situation of the initial investment plan and the amended investment plan**

- lei without VAT -

	Initial investment plan									Amended investment plan								
Cost category	Value of eligible costs				Value of ineligible costs				Grand total	Value of eligible costs				Value of ineligible costs				Grand total
	Total	Year 1	Year 2	Year ..	Total	Year 1	Year 2	Year ..		Total	Year	Year 2	Year ....	Total	Year	Year 2	Year ....	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<b>Investments in tangible</b>																		
Execution of																		
Renting of																		
Technical installations, machines and																		
<b>Investments in intangible</b>																		
Patents, licenses, know-how or other intellectual property																		
<b>Grand total</b>																		

**Bank [bank header]**

No. .... / .....

To: ..... (identification details of the comfort letter

applicant) To the attention of: ..... (applicant's

representative)

## FOR YOUR INFORMATION:

Ministry of Public Finance

Implementation unit of the State aid scheme established through G.D. no. 807/2014

**COMFORT LETTER**

The Bank, seated in ....., registered under J/..... and with SRC ....., represented by Mr./Mrs. ...., in his/her capacity as....., hereby confirms that for..... [*applicant company name*], **was/were approved a/the credit facility/facilities for a total amount of .....** LEI/EUR [hereinafter referred to as the "Facility/Facilities"] (F1 amounting to...for a term of.....months, F2 amounting to.....for a term of..... months, etc.)<sup>11</sup> for the implementation of the project ".....", proposed for financing in the State aid scheme approved through G.D. No. 807/2014 *on the establishment of a State aid scheme with the objective of stimulating investments with major impact on the economy.*

The credit facility/facilities will be made available to the client after it presents to the bank the Financing Agreement issued by the Ministry of Public Finance for the award of regional State aid for the aforementioned project, in accordance with the terms and conditions of the loan agreement which is concluded between the Bank and the Client.

If, between the date of issuance of this Comfort Letter and the date of submission by the client of the Financing Agreement issued by the Ministry of

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<sup>11</sup> If applicable, the values and terms of each facility shall be mentioned separately

Public Finance situations of the following type occur:

- changes in the patrimonial situation, amendments of the financial data of the company (no longer correspond to the eligibility criteria of the bank in terms of profitability/solvency/indebtedness degree/liquidity/etc.),
- significant amendments of the shareholding structure or the management, etc.
- major changes of the project parameters,
- the impossibility of establishing the collaterals initially agreed with the bank or of another structure of collaterals agreed with the bank,

which makes it unacceptable for the Bank to make available the Facility/Facilities, the Bank will notify the Ministry of Public Finance and the Applicant within the shortest time possible on the refusal of awarding the Facility/Facilities.

This Comfort Letter serves as supporting document which certifies the existence of the financing source of the Applicant for the aforementioned project.

A copy of the Financing Agreement for the award of regional State aid will be sent to the Bank by the Applicant within at most five business days as of receipt thereof.

The validity of this Comfort Letter is of.... calendar days, with possibility of extension.

Signature      Date