

REGULATION

ON DETERMINING CRITERIA FOR THE GRANTING OF INCENTIVE FUNDS FOR ATTRACTING DIRECT INVESTMENTS IN THE FOOD MANUFACTURING BUSINESS

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I. INTRODUCTORY PROVISIONS

Subject of the regulation

Article 1

This Regulation closely regulates the criteria, conditions and manner of attracting direct investments in the food manufacturing business and keeping records of approved incentive funds.

Meaning of terms

Article 2

The terms used in this Regulation have the following meanings:

- 1) *Direct investments*, for the purposes of this Regulation, are investments in tangible and intangible assets of companies in accordance with this Regulation aimed at starting a new business activity, expanding the existing capacities or expanding the production to new products and production processes, and obtaining property directly linked to a company which has ceased to operate or would cease to operate if it were not purchased by a third party under market conditions and which provides for new jobs. Gaining stakes or acquiring of shares in a company is not considered to be a direct investment within the meaning of this Regulation;
- 2) *Investment project* is a project for executing the direct investment, which is described in the business plan submitted with the application for the granting of the incentive funds and which shall include a detailed description of the elements of direct investment, as well as the elements for the expert analysis of the investment project, in accordance with this Regulation;
- 3) *Investor* is a domestic or foreign company that submits an application for the granting of incentive funds for the execution of the investment project with the assets of the Beneficiary that is its affiliated entity. If the Investor is a company with headquarters in the Republic of Serbia, it may at the same time also be the Beneficiary of funds;
- 4) *Beneficiary of incentive funds* is a company with headquarters in the Republic of Serbia;
- 5) *Small enterprise* is a business entity with less than 50 employees and an annual turnover or a total annual balance sheet of not exceeding EUR 10 million, in accordance with the regulation governing state aid (hereinafter: small enterprise);
- 6) *Medium enterprise* is a business entity with between 50 and 250 employees and an annual turnover not exceeding EUR 50 million or a total annual balance sheet not exceeding EUR 43 million in accordance with the regulation governing state aid (hereinafter: medium enterprise);
- 7) *Large enterprise* is a business entity with more than 250 employees and an annual turnover of more than EUR 50 million or a total annual balance sheet of more than EUR 43 million in accordance with the regulation governing state aid (hereinafter: large enterprise);
- 8) *Food Manufacturing Business*, in the sense of the regulation governing the classification of business activities, includes the processing of products of agriculture, forestry and fishery for the purpose of obtaining food for humans or animals including the production of various intermediate products. Exceptionally, for activities considered to be the retail sale of products of producers who own their

retail stores (for example, those performed in bakeries, pastry shops or butchers selling their own products), incentive funds, within the meaning of this Regulation, may not be granted;

- 9) *Investments in tangible assets* are investments in land, buildings, production facilities, machinery and equipment, in accordance with the regulations governing state aid, which are recognized as eligible investment costs, if used exclusively by the Beneficiary of the incentive funds (greenfield or brownfield investments);
- 10) *Investments in intangible assets* are investments in patents and licenses in accordance with the regulations governing state aid, which are recognized as eligible investment costs if they are depreciated, if they are used exclusively by the beneficiary of incentive funds, if they have been in the balance sheets of the beneficiary of the funds for a minimum of five years, or three years for small and medium-sized enterprises and bought under market conditions from third parties;
- 11) *New employees related to the investment project* represent a net increase in the number of domestic full-time employees with full-time hours during the period of execution of the investment project, compared to the largest number of persons employed for a fixed and indefinite period during the 12 months prior to the filing date for the granting of incentive funds;
- 12) *Unique investment project* is any direct investment by the beneficiary of the incentive funds or their affiliated company, in the period of three years from the day of commencement of the execution of the previous investment project for which the incentive funds have been granted, in accordance with the previously concluded Incentive Funds Grant Agreement in the territory of the same or neighboring local self-government unit;
- 13) *Level of development of a local self-government unit* in which an investment project is being carried out, i.e. the classification of units of local self-government according to the level of development, is the degree determined by the regulations governing the single list of the development of local self-government units in effect on the day of filing the application for the granting of the incentive funds;
- 14) *Period of execution of the investment project* is the period determined by the Agreement on the granting of incentive funds, in accordance with this Regulation;
- 15) *Contracted salary* represents the basic income of the newly employed persons, which is at least 20% higher than the minimum wage, in accordance with the regulations governing labor relations;
- 16) *Equipment imported on the basis of investor's stake* is equipment that is not older than three years, and which the investor imports and invests as a stake in a company. The equipment that a large commercial company imports on the basis of its investor role, which is the beneficiary of the funds under the Grant Agreement, must be new.

Eligible costs

Article 3

Eligible costs are:

- 1) investments in tangible and intangible assets starting from the date of submission of the application for the granting of incentive funds by the expiration date for the execution of the investment project, in accordance with the Grant Agreement (hereinafter: eligible costs of investments), or
- 2) gross salaries for new employees in a two-year period after reaching full employment with the Beneficiary of incentive funds (hereinafter: eligible costs of gross wages).

The costs of leasing business premises in which the investment project is realized in the period of execution, provided that the period of lease from the deadline for the execution of the investment project is not shorter than five years for large companies, or three years for small and medium sized companies are also considered as eligible costs of investment.

Costs related to the acquisition of leased property, except land and buildings, are taken into consideration only if the lease takes the form of a financial lease and includes the obligation to purchase property at the end of the lease period, while eligible costs are recognized as those incurred under this basis in the period of execution of the project.

In the event of the acquisition of the assets of a company that has ceased to operate or would cease to operate if it were not acquired, the eligible costs are the cost of acquisition of the property by a third party under market conditions.

The eligible costs of investing in intangible assets for large companies can be recognized up to 50% of the total value of the eligible costs of investments, and for small and medium-sized companies up to 100% of the eligible investment costs.

Costs related to the purchase of passenger vehicles and means of transport are not considered as eligible costs of investment.

The assets acquired by the company on the basis of an investment after the incentive funds have been awarded must be new, except for land and buildings.

The restriction referred to in paragraph 7 of this Article shall not apply to a small and medium-sized company, or in the case of the acquisition of the assets of a company referred to in Article 2, paragraph 1, item 1) of this Regulation.

The eligible costs of gross wages referred to in paragraph 1, item 2) of this Article represent the total amount that the Beneficiary of the incentive funds actually pay for the work of an employee and includes gross earnings or earnings that include taxes and contributions for compulsory social security paid out of earnings, as well as contributions paid on earnings.

When calculating the eligible investment costs, the prices reduced by the amount of public revenues are taken into account.

II. THE AMOUNT OF INCENTIVE FUNDS AND THE RIGHT TO PARTICIPATE IN THE PROCEDURE FOR THE GRANTING OF INCENTIVE FUNDS

Sources of funds to attract direct investment

Article 4

The incentive funds for attracting direct investments in the food manufacturing business for the application of this Regulation shall be provided for in the budget of the Republic of Serbia (hereinafter: funds).

The right to participate in the granting process

Article 5

Investors who apply with investment projects in the food manufacturing business are entitled to participate in the granting process, if they apply, in the manner and under the conditions provided for in this Regulation, before the start of the execution of the investment project.

For the execution of the investment project, the Beneficiary of the funds is obliged to provide at least 25% of the eligible costs from their own funds or from other sources that do not involve state aid.

A large enterprise cannot be awarded funds before it has been determined from the documentation that the granting of funds will have an effective incentive outcome, that is, that it will affect:

- 1) a significant increase in the size of the project, or
- 2) a significant increase in the total amount of funds invested by the Beneficiary of the project, or
- 3) a significant increase in project execution dynamics, or

- 4) execution of the project, which could not be achieved without the granting of funds.

Exclusion from the right to be awarded the funds

Article 6

The right to be awarded the funds excludes the following investors and Beneficiaries of funds:

- 1) companies in difficulty, in the sense of the regulations governing the rules for granting state aid;
- 2) that have due and outstanding tax liabilities in the Republic of Serbia;
- 3) in which the Republic of Serbia, the autonomous province or the local self-government unit has a share;
- 4) that are obliged to refund unauthorized state aid;
- 5) whose contract on granting of incentive funds was terminated, except in the event of a consensual termination of the contract.

Businesses that can be awarded the funds

Article 7

The funds may be awarded to a company meeting the criteria and conditions set forth in this Regulation, and that:

- 1) are registered in the Business Registers Agency;
- 2) have submitted the application for the granting of the incentive funds and a business plan for the investment project for which funds can be awarded in accordance with this Regulation;
- 3) against which no previous bankruptcy proceedings, reorganization, bankruptcy or liquidation have been initiated, in accordance with the regulations governing bankruptcy and liquidation;
- 4) have not received any financial incentive funds for the same eligible costs.

Maximum allowed funds

Article 8

The maximum allowed funds shall be determined in accordance with the regulations governing the rules for granting state aid and the criteria set out in this Regulation.

The maximum allowed funds for large companies can be up to 50% of the eligible costs for the execution of the investment project.

The maximum allowed funds for a medium company can be up to 60% of the eligible costs, and for small companies up to 70% of the eligible costs for the execution of the investment project.

When determining the amount of funds that can be allocated, cumulation with previously approved state aid is taken into account, in accordance with the regulations governing the rules for granting state aid.

The maximum allowed amount of funds that may be awarded for an investment exceeding EUR 50 million may not exceed 25% of the eligible investment costs, and for investments exceeding EUR 100 million, this percentage may not exceed 17% of the eligible costs of investment and shall be determined in the following way:

- 1) for the part of eligible investment costs exceeding the amount of EUR 50 million - up to 25% of those costs,
- 2) for the part of eligible investment costs exceeding the amount of EUR 100 million - up to 17% of those costs.

For a direct investment that is considered to be a single investment project, the maximum allowed amount of funds that can be allocated to the Beneficiary of the funds or their affiliated entity is determined up to the percentage referred to in paragraph 5, item 1) and 2) of this Article.

III. AUTHORIZATION AND CONDITIONS FOR GRANTING THE FUNDS

Investment projects to which funds can be granted

Article 9

Funds can be awarded to investment projects in the food manufacturing business in the meaning of this Regulation, the minimum value of which is EUR 2,000,000, and which secure the employment of at least 30 new employees for an indefinite period of time related to the investment project.

Conditions for granting the funds

Article 10

Funds can be awarded under the following conditions:

- 1) If the direct investment is made at the same location in a local self-government unit for a period of at least five years after the execution of the investment project for large companies, or at least three years for small and medium companies; and
- 2) the achieved number of employees of the Beneficiary of funds after the execution of the investment project does not decrease for a period of five years for large companies or for three years for small and medium companies.

After reaching full employment, the Beneficiary of the funds, in accordance with the Grant Agreement referred to in Article 20 of this Regulation is obliged to regularly pay each new employee the contracted earnings referred to in Article 2, paragraph 1, item 15 of this Regulation.

Deadline for the execution of the investment project

Article 11

The deadline for the execution of the investment project and the employment of new employees related to the investment project is up to three years from the date of submission of the application for the granting of the funds, and which, after the conclusion of the Grant Agreement, can be extended up to five years, counting from the date of submission of the application for the granting of the funds, and upon the reasoned request of the Beneficiary of the funds, if the Economic Development Council (hereinafter: the Council) assesses that the circumstances that led to the need for the deadline extension are objective and that the extension of the deadline is eligible and justified, that is, that this is the most efficient way possible to achieve the goals of investment and economic development.

For investments of special importance, the deadline for the execution of the investment project and for the employment of new employees related to the investment project is up to 10 years from the date of submission of the application for the granting of the funds.

In case of extension of the deadline referred to in paragraph 1 of this Article, the term of validity of the bank guarantee shall be extended to reflect the extension of the deadline for the execution of the investment project.

Criteria for expert analysis of the investment projects

Article 12

The criteria for expert analysis of the investment project are:

- 1) references of investors (market recognition, client references, past experience and success in execution of investment projects, etc.);
- 2) the percentage of unemployed persons whose qualifications correspond to the activities of the investor or the Beneficiary of funds in the total number of persons on the records of the National Employment Service in the territory of the local self-government unit they are investing in;
- 3) the number or percentage of highly qualified persons employed by the execution of the investment project;
- 4) the volume and type of investments (greenfield or brownfield investments), that is, the degree of engagement of the construction industry in the execution of the investment project;
- 5) the technological level of the activity that is the subject of investment, in accordance with the Eurostat classification;
- 6) previous cooperation with suppliers and the planned share of domestic suppliers;
- 7) effects of the investment on employees (employee training and average salary);
- 8) the previous and the planned volume of international and total traffic (before and after the investment project);
- 9) financial and market assessment of the investment project (sources of financing, liquidity, profitability, sustainability and investment return period, etc.).

The National Employment Service shall submit the data referred to in paragraph 1 item 2) of this Article to the Development Agency of Serbia (hereinafter: the Agency) at its request.

IV. TYPE AND VOLUME OF THE FUNDS THAT CAN BE GRANTED

Incentive funds for eligible costs of gross wages for new jobs linked to an investment project

Article 13

The Beneficiary of funds that opens new jobs connected to the investment project in a local self-government unit that is classified as local self-government unit classification group 1 according to the development level, is awarded funds in the amount of 20% of the eligible costs of gross salary referred to in Article 3 of this Regulation, and in the maximum amount of EUR 3,000 in dinar counter value per each new job position.

The Beneficiary of funds that opens new jobs connected to the investment project in a local self-government unit that is classified into the local self-government unit classification group 2 according to the development level, is awarded funds in the amount of 25% of the eligible costs of gross salary referred to in Article 3 of this Regulation, and in the maximum the amount of EUR 4,000 in dinar counter value per each new job position.

The Beneficiary of funds that opens new jobs connected to the investment project in a local self-government unit that is classified as the local self-government unit classification group 3 according to the development level, is awarded funds in the amount of 30% of the eligible costs of the gross salary referred to in Article 3 of this Regulation, and in the maximum the amount of EUR 5,000 in dinar counter value per each new job position.

The Beneficiary of funds that opens new jobs connected to the investment project in a local self-government unit that is classified as the local self-government unit classification group 4 according to the development level, is awarded funds in the amount of 35% eligible of the gross salary costs referred to in Article 3 of this Regulation, and in the maximum amount of EUR 6,000 in dinar counter value per each new job position.

The Beneficiary of funds that opens new jobs connected to the investment project in a local self-government unit that is classified as a devastated area according to the development level is, is awarded funds in the amount of 40% of the eligible costs of gross salary referred to in Article 3 of this Regulation, and in the maximum amount of EUR 7,000 in dinar counter value per each new job position.

The total amount of funds in accordance with this Regulation and of other incentive funds that may be awarded shall be determined in absolute terms, without exceeding the upper limit to which the total amount of state aid is allowed in accordance with the regulations governing the rules for granting state aid.

Incentive funds for eligible costs of investment in fixed assets

Article 14

The Beneficiary of funds shall be awarded an increase in the amount of the grant referred to in Article 13 of this Regulation by 20% of the eligible costs for investments in fixed assets that are up to EUR 20,000,000.

The amount referred to in paragraph 1 of this Article shall be increased by 10% of the eligible costs for investments in fixed assets that are EUR 20,000,000-40,000,000.

The amount referred to in paragraph 2 of this Article shall be increased by 5% of the eligible costs for investments in fixed assets that are over EUR 40,000,000.

The total amount of funds in accordance with this Regulation and of other incentive funds that may be awarded shall be determined in absolute terms, without exceeding the upper limit to which the total amount of state aid is allowed in accordance with the regulations governing the rules for granting state aid.

V. PROCEDURE OF GRANTING THE FUNDS

Letter of Intent and notice of a potential level of incentive

Article 15

An investor who intends to execute an investment in the food manufacturing business may submit a Letter of Intent on the execution of an investment project to the Agency.

The letter of Intent contains in particular information about the investor, activity, previous investment activities, the planned amount of investment in fixed assets, the number of new employees or jobs related to the investment project, the planned gross salaries for the new jobs connected with the investment project in the two-year period after reaching full employment, as well as the information referred to in Article 12 of this Regulation, except for the information referred to in paragraph 1, item 2) and 5) of that Article.

If the Letter of Intent does not contain the elements referred to in paragraph 2 of this Article, the Agency shall request from the investor to supplement it, and may also request additional information from the investor in accordance with this Regulation.

Based on the information from the Letter of Intent, the Agency shall provide the investor with a notification on the potential level of incentive, leaving them with a 30-day deadline to declare themselves.

If the Agency determines that this is an investment of special importance, the Agency shall inform the Ministry competent for economic affairs (hereinafter: the Ministry) and the Council on the

existence of a project of special importance with the notification to the investor referred to in paragraph 4 of this Article.

The notification on the potential level of incentive is legally non-binding and contains the information that the granting and the amount of funds are decided upon by the Council after determining all the conditions for the granting the funds in accordance with this Regulation.

Application for the granting of the funds and expert analysis

Article 16

An investor who intends to execute the investment shall submit to the Agency a request for granting of funds on the prescribed form in the Serbian language (hereinafter: Application for the granting of the funds) so the Agency may determine the fulfillment of the conditions for the granting of funds, without prior submission of the Letter of Intent or upon receipt of the notification from the Article 15. paragraph 4 of this Regulation.

Based on the Application for the granting of the funds, the Agency carries out an expert analysis of the investment project applying the criteria referred to in Article 12 of this Regulation.

The Agency ex officio obtains an excerpt from the Central Register of Mandatory Social Insurance, which determines the number of employees in each month and the type of work engagement with the Beneficiary of funds in the period of 12 months preceding the date of submission of the Application for the granting of the funds.

It obliges the Central Register of Mandatory Social Insurance to submit, without delay, the certificates referred to in paragraph 3 of this Article.

The Agency shall notify the investor of the amount of incentive funds it will propose to the Council and shall submit to it a Draft Incentive Funds Grant Agreement.

The expert analysis of the investment project contains an analysis of the potential amount of funds.

Application Form for the granting of the funds

Article 17

The Application Form for the granting of the incentive funds under this Regulation shall be prescribed by the Minister competent for economic affairs (hereinafter: the Minister).

The following shall be attached to the Application for the granting of the funds:

- 1) business plan for the investment project applying for the funds;
- 2) an original or a certified photocopy of the registered financial statements of the investors for the previous two years of operation, with an audit report (if there is a statutory obligation to conduct an audit) unless they are publicly disclosed and a foreign legal entity submits an original or a certified photocopy of the financial statements with an audit report (if there is a statutory obligation to conduct an audit) and a certified translation into the Serbian language or an investor's statement that it is not obliged to obtain the report of the certified auditor. The investor shall submit an original or a certified photocopy of the consolidated financial report of the division and a certified translation into the Serbian language or a statement that there is no obligation to consolidate with the original or a certified photocopy of the individual financial reports of affiliated parties;
- 3) an original or a certified photocopy of an excerpt from the appropriate register of the country in which the investor has a seat, not older than three months, certified by the competent authority, as well as a certified translation of the copy into the Serbian language;

- 4) a certificate that no prior bankruptcy proceedings, reorganization or bankruptcy have been initiated against the investor and the Beneficiary of funds, and a foreign legal entity submits a statement thereof;
- 5) proof of settlement of tax obligations in the Republic of Serbia, and for foreign investors who did not operate in the Republic of Serbia, a signed statement that the investor did not operate in the Republic of Serbia and that it has no tax identification number allocated in accordance with the regulations governing the tax procedure and tax administration;
- 6) a statement that the responsible person of the investor and the Beneficiary of the funds has not been convicted for a labor rights criminal offense;
- 7) statement that the investor and the Beneficiary of the funds have not been convicted for a economic/financial criminal offense;
- 8) statement that the investor and the Beneficiary of funds are not companies in difficulty in terms of the rule on granting state aid.

The Agency for Business Registers shall enable undisturbed access to the financial reporting base and the delivery of conglomerated data to groups of companies, branches or geographical areas.

If the Agency cannot determine the essential facts for deciding from the submitted documentation, it may also request the submission of other documentation or other evidence relevant for deciding on the submitted Report for granting the funds if it considers it appropriate.

Documents submitted by a foreign company must be certified in accordance with the regulations of the country in which they were issued and translated into the Serbian language by an authorized interpreter.

the day of receiving the Application for the granting of funds in the Agency shall be considered to be the day of submission of the Application for the granting of funds.

Determining the fulfillment of the formal conditions for the granting of funds

Article 18

The Agency shall determine the fulfillment of the formal conditions for the granting of funds.

If the Application for the granting of funds has not been submitted in accordance with Article 17 of this Regulation, the Agency shall forward to the Investor a request for supplementing the documentation.

If the Investor fails to comply with the request referred to in paragraph 2 of this Article within 30 days from the date of receipt of the request, the Agency shall reject the Application for the granting of funds as incomplete, with an explanation.

If the Application for the granting of funds does not apply to an investment project in the food manufacturing business or the conditions referred to in Article 6 of this Regulation are fulfilled, the Agency shall reject this application and submit it to the applicant in explanation, within 30 days from the date of receipt.

Objection to the decision of the Agency from paragraph 3 and 4 of this Article may be submitted to the Ministry within 8 days from the date of receipt of the Agency decision.

The Ministry decides on the objection referred to in paragraph 5 of this Article and the response will be delivered to the Applicant within 30 days from the date of receipt of the complaint.

Applications that are complete and eligible are submitted to the Council by the Agency, no later than 30 days from the date of receipt.

Relationship between the Agency and the Council

Article 19

The Agency carries out administrative, technical and expert tasks for the Council, proposes to the Council President the convening of the Council session, prepares materials for consideration and deciding at the Council sessions, provides the necessary information on the status of investment projects, prepares minutes of the sessions and acts on the decisions of the Council.

The Agency prepares the text of the draft Incentive Funds Grant Agreement.

VI. THE GRANT AGREEMENT AND METHOD OF PAYMENT OF THE FUNDS

The Incentive Funds Grant Agreement

Article 20

The mutual rights and obligations of the Ministry and the beneficiaries of funds are regulated by the Incentive Funds Grant Agreement (hereinafter: the Agreement) concluded between the Ministry and the Beneficiary of the funds.

The Ministry submits the draft text of the Incentive Funds Grant Agreement to the State Aid Control Commission or the Government for the purpose of giving prior consent.

The Agreement includes: the subject, the amount and the dynamics of the investment and the number of new jobs connected with the investment project with the employment dynamics, the planned gross salary for new jobs connected with the investment project in the two-year period after reaching full employment, the obligation to pay the agreed salaries, the deadline for execution the investment project, the amount of funds allocated, the payment dynamics of the awarded funds and the obligation to notify on changes in the dynamics of investments no later than the end of the third quarter of the current year, as well as information on security funds, statement on fulfillment of requirements from Article 17 of this Regulation, reporting obligation, control over the execution of contractual obligations, termination of the Agreement, force majeure, HSE protection, dispute resolution and other issues of importance for the implementation of the Agreement.

The Agreement also determines the obligation of the Beneficiary to deliver audio visual material on the execution of the investment project, which the Agency has the right to use for the purpose of conducting strategic marketing of the economic potentials, promotion and reputation of the Republic of Serbia as an investment site.

The business plan that relates to the amount, structure and dynamics of investments, the plan and the dynamics of employment and projected gross earnings is an integral part of the Agreement.

If, during the period of execution, there is a deviation from the contractual obligations stipulated by the business plan, the Beneficiary is obliged to submit to the Ministry the amendments to the business plan by the time of signing the annex to the Agreement, the Agreement on mutual regulation of rights and obligations, or the conclusion of the settlement.

A change in the terms and conditions for the withdrawal of the first tranche of the Agreement constitutes an exception to the obligation to conclude the annex to the Agreement and to submit amendments to the business plan, the total deviation from the contractual obligations defined for the first tranche may not exceed 20% of the established dynamics provided that the entire investment and employment obligation related to the entire investment project, as defined in the documents, remain unchanged.

In the event of a change in the investment dynamics and the employment dynamics referred to in paragraph 7 of this Article, the beneficiary is obliged to submit report of an independent certified

auditor on the fulfillment of the obligations established by the Agreement in the amount of at least 80% in the respective year.

The Ministry may terminate the Agreement at any stage of its execution if it determines that the beneficiary does not fulfill the conditions set forth in the Agreement, if it turns out that the statements of fulfillment of the conditions referred to in Article 17 of this Regulation are not true and if the Council has reached a decision on termination. If there are justifiable reasons, the Ministry may, prior to the Council session, terminate the Agreement and collect the collateral, and inform the Council about its action on the next session.

Payment of awarded funds

Article 21

The payment of the awarded funds shall be made on the basis of a submitted application (hereinafter: Request for payment) which the Beneficiary of the funds submits to the Ministry, in accordance with the Agreement.

The awarded funds are paid in installments, in accordance with the Agreement and available budget funds.

The amount of the grant payments is determined in the percentage of the total amount of awarded funds, in the following way:

- 1) in an amount that is proportional to the percentage of the investment in fixed assets in each year of the execution of the investment project, compared to the total investment in fixed assets defined by the investment project, or
- 2) in the amount that is proportional to the percentage of newly employed in each year of execution of the investment project, compared to the total number of newly employed persons defined by the investment project, or
- 3) by combining the previous two ways.

The following shall be submitted attached to the Request for payment:

- 1) a report from a certified auditor with professional liability insurance and any additional evidence on the fulfillment of the conditions for the payment of installments and
- 2) a bank guarantee guaranteeing the repayment of the paid funds.

At the request of the Ministry or the Agency, the Central Register of Mandatory Social Insurance submits reports on the number of newly employed persons and the type of work engagement with the Beneficiary of funds on the day of submitting the application for the payment of each individual installment of the awarded funds, no later than 5 days from the date of receipt of the request.

Attached to the Request for payment of the first installment, in addition to the documents referred to in paragraph 4 of this Article, 2 signed blank solo bills of exchange with a signed bill of exchange for the purpose of collecting the statutory default interest shall also be submitted.

The Beneficiary of the funds may, instead of a blank bill of exchange, submit a bank guarantee in the name of the collection of potential statutory default interest, the amount of the tranche, or with the payment of the last tranche of the total amount of the awarded incentive funds.

In the case referred to in paragraph 7 of this Article, the Beneficiary of the funds shall, at the payment of each installment, deliver, in addition to a bank guarantee that guarantees the amount of these installments a bank guarantee covering the amount of potential statutory default interest.

For the payment of the last installment, the Beneficiary of the funds is obliged to submit a bank guarantee, which is equal to the total amount of awarded funds with a validity period of three years and six months from the day of submitting the Request for payment for small and medium

companies, ie with a validity period of five years and six months from the date of submission of the Request for payment for large companies.

The Ministry determines if the Request for payment is justified and regular according to the documentation submitted by the Beneficiary.

Means of security

Article 22

The Beneficiary of the funds is obliged to attach a bank guarantee issued by a commercial bank that is registered in the territory of the Republic of Serbia, which is unconditional and payable on the first call to the benefit of the Republic of Serbia.

The paid funds must be secured with a bank guarantee, in accordance with the Agreement.

In addition to the bank guarantee, the Beneficiary of the funds shall submit 2 registered and signed blank solo bills of exchange with a signed bill of exchange authorization for the purpose of collecting the statutory default interest, in accordance with the law that determines the amount of the statutory interest rate, and in the event of failure to fulfill the contractual obligations.

The statutory default interest is calculated for the period from the date of payment of each individual installment until the day of the refund of the total amount of disbursed funds.

In the event of failure to fulfill the contractual obligations or of a partial fulfillment of contractual obligations, the Ministry may, based on issued bank guarantees and blank solo bills, collect funds up to the amount of funds disbursed and prescribed statutory default interest.

VII. CONTROL OF FULFILLING THE CONTRACTUAL OBLIGATIONS

Reports submitted by the Beneficiary of funds

Article 23

The Beneficiary of the funds is obliged to report to the Ministry on the execution of the investment project for which the funds have been awarded.

The report referred to in paragraph 1 of this Article shall be submitted:

- 1) within 60 days from the date of submission of the proper Request for payment of the latest installment, ie from the date of completion of the investment project, and
- 2) within 60 days from the expiration of the period of guaranteed investment and employment.

The report on the execution of the investment project includes a report on the findings of the factual situation of an independent certified auditor that has insurance from professional accountability on the project audit that includes a check of the performed investment in the amount and the structure, the amount of paid salaries, taxes and contributions for new employees, the number of newly employed and the total number of employees, as well as the verification of compliance with other provisions of the Agreement (hereinafter: auditor's report).

The Ministry controls the data on the number of new employees and the total number of employees based on the report of the Central Register of Mandatory Social Insurance.

The Beneficiary of the funds shall enable the independent auditor to perform the audit of the fulfillment of the investment obligation (the amount and the structure of the investment during the execution of the project), the obligations of employing and maintaining the number of employees as determined by the Agreement (during the execution and during the guaranteed investment and employment period); the salary costs foreseen by the investment project, as well as the fulfillment of

other contractual obligations and, to this end, to provide insight into the documentation of the Beneficiary of the funds.

The auditor's report will have a conclusion with a positive or a negative opinion, and in the case of an opinion with reservations, i.e. abstaining from expressing an opinion, the auditor shall explain in the conclusion what is causing the reservations, i.e. to state the facts and reasons for refraining from giving an opinion.

An audit of an investment project that represents an investment of special importance may be performed by an auditing company that has at least four licensed certified auditors in full-time employment.

If the auditor's report shows that the Beneficiary of the funds did not fulfill all the contractual obligations during the period of execution of the project, that is, during the period of guaranteed investment and employment (negative opinion, opinion with reservation, refraining from expressing opinions), the Ministry will submit a written notice to the Beneficiary of the funds informing them on their obligation to remedy the determined failures. In the course of, or after the period of execution of the project, in case of full fulfillment of the obligation of investment in terms of the Contract, the total amount of investment and partial deviation in relation to the investment structure is determined, the Beneficiary of the funds shall submit to the Ministry a coordinated business plan before submitting the Request for payment or reports on the project execution.

If within 30 days after the receipt of the notification referred to in paragraph 8 of this Article, the Beneficiary does not remedy the failures, the Ministry may terminate the Agreement and request a refund of the funds awarded to the Beneficiary, increased by the amount of the applicable statutory default interest, or to propose to the beneficiary, after the Council decision, to conclude an annex to the Agreement.

Control and monitoring the performance of contractual obligations

Article 24

At the request of the Ministry, the Central Register of Mandatory Social Insurance submits reports on the number of newly employed workers and on the type of work engagement with the Beneficiary of funds on the day of submitting the Request for the payment of each individual installment of the awarded funds, no later than 5 days from the date of receipt of the request.

At the request of the Ministry, the Central Register of Mandatory Social Insurance submits to the Ministry and reports on the number of employees and the type of work engagement of employees with the beneficiaries during the project implementation period, as well as during the guaranteed investment and employment period.

The Ministry shall submit to the Central Register of Mandatory Social Insurance a list of beneficiaries of funds by Agreements.

At the end of each quarter, the Central Register of Mandatory Social Insurance shall submit to the Ministry its reports on the number of employees and type of work engagement with the Beneficiary of funds, according to the list from paragraph 3 of this Article.

The Ministry shall control the fulfillment of the obligations of the Beneficiary of funds referred to in Article 10, paragraph 2 of this Regulation, based on the report of the authorized independent auditor.

At any time, during the execution of the investment project, the Ministry can control the amount, the dynamics and the structure of investments foreseen by the investment project, i.e. the Agreement, in order to control the fulfillment of contractual obligations of the Beneficiary of the funds.

The Ministry shall also exercise control after the expiration of the deadline for the execution of the investment project in accordance with Article 10 paragraph 1 item 1) of this Regulation and the Contract.

The Ministry shall submit to the Agency copies of reports and information from paragraphs 1, 2, 4, 5, 6 and 7 of this Article.

Based on the reports and information referred to in paragraph 8 of this Article, the Agency monitors the dynamics of the execution of the investment project during course of execution.

If it is determined that a Council decision is required for further acting in relation to the investment project in question, the Ministry prepares a report and a proposal of measures and submits it to the Council via the Agency.

The report referred to in paragraph 10 of this Article holds data and information on all elements of the investment project, and it must include:

- 1) a summary of the auditor's report on the audit of the investment project with the verification of compliance with all the provisions of the Agreement;
- 2) information on the amount of investment of the Beneficiary of the funds in relation to the investment elements specified in the Report, the Agreement, or the investment project;
- 3) information on the dynamics of employment of new employees for an indefinite period of time with the Beneficiary of funds;
- 4) an overview of blocks of current accounts of the Beneficiary of funds, if any;
- 5) information on the problems the investor, or the Beneficiary of funds are encountering during the execution of the investment project;
- 6) other information of importance for the preservation of the financial, development and bilateral economic interests of the Republic of Serbia that may be endangered by the actions of the Beneficiary of funds.

The Ministry shall submit to the Agency for Business Registers a list of Beneficiaries of funds under the Agreement.

The Agency for Business Registers shall inform the Ministry without delay of any registration of changes with the Beneficiary of funds,.

The control of the amount of investment in fixed assets referred to in paragraph 6 of this Article shall be carried out in accordance with the Annex on the method and procedure for controlling the amount of investment, which is printed together with this Regulation and forms its integral part.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Termination of the Regulation

Article 25

Control of the execution of contractual obligations by concluded Agreements on the granting of incentive funds, as well as decision-making on performed controls, shall be carried out in accordance with the provisions of this Regulation.

The procedures for the granting of incentive funds that have commenced until the date of entry into force of this Regulation will be finalized in accordance with the Regulation on Terms and Conditions for Attracting Direct Investments ("Official Gazette of RS", No. 37/18).

Entry into force

Article 26

This Regulation shall enter into force on the eighth day after its publication in the Official Gazette of the Republic of Serbia.

Attachment

INVESTMENT CONTROL MANNER AND PROCEDURE

1. REPORT ON EXECUTED INVESTMENT

1.1. Findings from auditor's report on the amount and structure of the investment include:

- 1) the introductory part: the basic data on the Beneficiary of the funds and on the Agreement, as well as on the Annex/Annexes to the Agreement, if any, the name of the Beneficiary of the funds, the registration number, tax identification number, the number of the Agreement, the subject of the Agreement, the amount and dynamics of the investment and the deadline for the execution of the investment project, the application for the grant of the incentive funds, and may contain other information,
- 2) a list of documents based on which the report on the amount of investment was made,
- 3) findings on the amount of investment and compliance with the contractual obligations.

2. DOCUMENTATION BASED ON WHICH THE AUDIT OF THE AMOUNT OF INVESTMENT IS MADE

The control of the amount of investment foreseen by the investment project, depending on the subject of investment, is performed based on the following documentation:

- a) to prove that the assets acquired through a direct investment are used exclusively by the Beneficiary:
 - 1) statement from the responsible person of the Beneficiary of funds that the assets acquired through a direct investment are used only by the Beneficiary of the funds,
 - 2) proof that the property is entered in the Beneficiaries' accounts;
- b) to prove the duration of the lease: a lease contract,
- c) for tangible assets:

A. For the land:

- 1) acquisition with compensation (SPA, proof of payment, excerpt from the cadaster or land registry), evidence of records in the business books of the Beneficiary of funds,
- 2) acquisition without compensation (legal basis for acquiring without compensation - contract, proof of records in the Beneficiaries' books of accounts),
- 3) lease of land (lease contract, proof of records in the Beneficiaries' books of account).

B. For the buildings and production facilities:

– *For greenfield investments:*

- 1) a building permit if it is planned for a particular type of construction work,
- 2) Usage permit for buildings or a group of buildings for which a building permit has been issued,

- 3) proof that the building is registered in the real estate list as the property of the Beneficiary of the funds,
- 4) minutes on the handover of completed works (minutes of the commission for technical handover of works),
- 5) evidence of records in the Beneficiaries' accounts.

– *For brownfield investments:*

That do not include the reconstruction of existing buildings:

- 1) SPA for the building, or title deed or usage permit for a building, or lease contract,
- 2) proof of records in the Beneficiary's accounts.

That include the reconstruction/adaptation of the existing buildings:

- 1) Reconstruction / adaptation permit,
- 2) usage permit,
- 3) duly created and certified temporary situations and the complete situation with evidence of payment,
- 4) minutes on the handover of completed works (minutes of the commission for technical handover of works),
- 5) evidence of records in the Beneficiaries' accounts.

C) Plant, machinery, equipment:

- New equipment:

- 1) the supplier's invoices made out to the Beneficiary or the investor; customs documentation if the equipment is imported,
- 2) evidence that the user of the assets has become the owner of the asset,
- 3) proof of records in the Beneficiaries' books of account.

- Used equipment:

- 1) the supplier's invoices made out to the Beneficiary or the investor; customs documentation if the equipment is imported and evidence of payment to the supplier,
- 2) if own asset is introduced - proof of ownership, an agreement on the entry of equipment in the name of fulfilling the contractual obligation,
- 3) proof that the user of the assets has become the owner of the asset,
- 4) proof of records in the Beneficiaries' books of account.

A. For intangible assets:

- 1) the legal basis for acquiring,
- 2) supplier invoices,
- 3) evidence that an intangible asset is recorded in the books of Beneficiaries of assets,
- 4) statement from the responsible person of the Beneficiary of funds that the intangible assets are used only by the Beneficiary of the funds

B. Service centers services:

1) SPA for the building, or title deed or usage permit for the building, a lease contract.

Compensations, such as payments in goods or services without cash flows, shall not be deemed, for the purpose of this Regulation, as the acquisition of tangible assets referred to in Section 2, paragraph 1, point v) of this Annex.