

**EMERGENCY ORDINANCE no. 42 of April 2, 2020 for the modification and completion
Government Emergency Ordinance no. 110/2017 regarding the Support Program for small and
medium-sized enterprises - IMM INVEST ROMANIA, as well as for approval of State aid
scheme for supporting the activity of SMEs in the context of the economical crisis generated by
the COVID-19 pandemic**

Article I

Government Emergency Ordinance no. 110/2017 regarding the Program for supporting small and medium-sized enterprises – SMEs INVEST ROMANIA, published in the Official Gazette of Romania, Part I, no. 1,029 of December 27, 2017, approved with amendments and completions by Law no. 209/2018, as subsequently amended and supplemented, is amended and completed as follows:

1. Article 1 (3), point a) is amended and shall have the following content:

"a) one or more credits for investment and / or one or more credits / lines of credit for working capital, guaranteed by the state, through the Ministry of Public Finance, in a percentage of maximum 80% of the financing value, exclusively interest, fees and bank charges related to secured credit. The cumulative maximum value of the state guaranteed financing that can be granted to a beneficiary within this facility is 10,000,000 lei. The maximum value of credits / credit lines for financing working capital is 5,000,000 lei, and for the investment loans is 10,000,000 lei, within one of the following conditions valid for both financings, which represents the largest value of:

(i) double the amount representing the wage expenses, including the compulsory social contributions due by the employer related to income from wages and assimilated to wages, recorded at the level of 2019. In the case of companies established after 1 January 2019, the maximum amount of the loan cannot exceed the estimated amount for the first 2 years of activity;

or

(ii) 25% of the beneficiary's net turnover for 2019, respectively the gross income or the annual income norm in the case of natural persons who obtain income from independent activities, as the case may be, according to the Single Tax Declaration income and social contributions owed by the natural persons deposited with the competent fiscal bodies for the year 2019;

or

(iii) a value arising from its liquidity needs, these may include both working capital costs and the costs with investments, provided that the beneficiary presents some supporting documents, in which case the amount of the loan cannot exceed the liquidity needs from the moment of granting for the next 18 months. "

2. In Article 1 (3), letter b) is amended and shall have the following content:

"b) one or more credits / lines of credit for financing working capital, exclusively interest, commissions and the bank charges related to the credit guaranteed by the state in a maximum percentage of 90% granted to a micro enterprise or a small business, with a maximum value of 500,000 lei for micro-enterprises, respectively a maximum of 1,000,000 lei for small businesses, within one of the following conditions valid for both financings, which represents the highest value of:

(i) double the amount representing the wage expenses, including the compulsory social contributions due by the employer related to income from wages and assimilated to wages, recorded at the level of 2019. In the case of companies established after 1 January 2019, the maximum amount of the loan cannot exceed the estimated amount for the first 2 years of activity;

or

(ii) 25% of the beneficiary's net turnover for 2019, respectively the gross income or the annual income norm in the case of natural persons who obtain income from independent activities, as the case may be, according to the Single Tax Declaration income and social contributions owed by the natural persons deposited with the competent fiscal bodies for the year 2019;

or

(iii) a value arising from its liquidity needs, these may include both working capital costs and the costs with investments, provided that the beneficiary presents some supporting documents, in which case the amount of the loan cannot exceed the liquidity needs from the moment of granting for the next 18 months. "

3. In Article 1, paragraphs 3² and 3³ are amended and shall have the following content:

"(3²) For the credits referred to in paragraph (3) letter b), the Ministry of Public Finance grants the interests related to credits / lines of credit for financing working capital in 100% of the state budget, through the budget Ministry of Public Finance - General Actions, from heading 55 «Other transfers», paragraph 55.01.46 «Transfers to enterprises under the state aid schemes », within a state aid scheme associated with this program.

(3³) The interest subsidy period is from the moment of granting the credits / lines of credit contracted after the entry into force of these emergency ordinances until December 31, 2020. The interest subsidy is approved annually by a normative act with the power of law for the year 2020 and for the next 2 years only under the conditions in which the economic growth estimated by the National Commission for Strategy and Forecast for this period is below the level of the economic growth from 2020. The interest subsidy is realized in compliance with the provisions of the state aid legislation in force. "

4. In Article 1, a new paragraph, paragraph 3⁴, is inserted after paragraph 3³, with the following content:

"(3⁴) The maximum cumulative value of the state guaranteed financing provided for in paragraph (3) letter a) and b), which can be granted to a beneficiary within the program, it cannot exceed 10,000,000 lei, within the limit of the highest value of those mentioned in art. 1 paragraph (3) lit. a) points i), ii) and iii). "

5. In Article 2, point c) is amended and shall have the following content:

"c) risk commission - the amount due to the Ministry of Public Finance by the beneficiary of the guarantee, intended to cover the risk to guarantee by the state the credits / lines of credits granted in the program. Obligation to pay the commission the risk is covered by the aid in the form of a grant received by the beneficiary under the state aid scheme. After cessation of the applicability of the state aid scheme, the SMEs that contract loans within the program owe risk commissopn to the Ministry of Public Finance. The level of the risk commission is established annually by order of the Minister of public finances. "

6. In Article 2, point i) is amended and shall have the following content:

"i) collateral guarantees - the real and personal guarantees constituted by the beneficiary of the financing / third guarantors in favor the lending institution and the Romanian state, through the Ministry of Public Finance, in proportion to the percentage of collateral, other than the state guarantee and the legal real estate and / or movable mortgage on the assets financed by credit, which can be taken into account by credit institutions to reduce exposure to the borrower. The resulting amounts after the execution by the creditors of the guarantees constituted by the beneficiary, from which the related expenses are deducted credit, respectively interest, commissions and expenses caused by debt recovery, will decrease, in proportion to the percentage of guarantee, the amounts paid by the Romanian state, through the Ministry of Public Finance, and the amounts supported by lending institution; "

7. In Article 3 (1), letters c), d) and f) shall be amended and shall have the following content:

"c) does not appear with outstanding loans, including for leasing financing, in the last 6 months prior to the date of 31 December 2019 or if they have arrears, they are classified in categories A, B, C in the database of Credit Risk Central, hereinafter referred to as C.R.C.;

d) is not prohibited to issue checks on December 31, 2019 and does not appear with major ticket incidents to order in the last 6 months prior to December 31, 2019 in the Database of Payment Incidents, hereinafter referred to as D.P.I.;

.....

f) presents to the credit institution collateral guarantees which, in the case of investment loans, together with the state guarantee and the legal real estate and / or movable mortgage on the assets financed from the loan, covers at least 100% the value of the financing. For credits / lines of credit for financing working capital can be included in the structure of the guarantees related to the credit legal mortgage on the credit balances of all the accounts opened by beneficiary at the credit institution, together with the state guarantee; "

8. In Article 3 (1), point i) is inserted, having the following content:

"i) submit a written document committing not to lay off existing staff from the date of entry into force of this emergency ordinance until December 31, 2020. The Company may organize the program of work of the employees according to the evolution of its current activity. "

9. In Article 3, paragraph 3 is amended and shall have the following content:

"(3) Small and medium-sized enterprises in the sectors / sectors are not eligible for guarantees under the program domains: gambling and betting activities, production or sale of weapons, ammunition, explosives, tobacco, alcohol, substances under national control, plants, narcotic and psychotropic substances and preparations, activities of investigation and protection. "

10. In Article 5, paragraph 1 is amended and shall have the following content:

"Article 5

(1) The mechanism for granting the guarantees provided in art. 1 is carried out in compliance with the provisions of the Scheme of

State aid to support the activity of SMEs in the context of the economic crisis generated by the C-pandemic OVID-19,

provided in art. II. "

11. In Article 6, paragraph 2 is amended and shall have the following content:

"(2) The maximum duration of financing is 72 months in the case of investment loans and 36 months in the case of credits / lines of credit for working capital. Loans / lines of credit for working capital can be extended by maximum 36 months, following, in the last year of extension, to be reimbursed under the conditions established by the methodological norms of application of this Emergency Ordinance. "

12. In Article 8 (2), letter a) is amended and shall have the following content:

"a) real estate and / or movable mortgage constituted by beneficiaries and / or third parties;"

13. In Article 8 (3), letter b) is amended and shall have the following content:

"b) real estate and / or movable mortgage constituted by beneficiaries and / or third parties;"

Article II

In applying the provisions of the Government Emergency Ordinance no. 110/2017 regarding the Support Program of small and medium-sized enterprises - IMM INVEST ROMANIA, published in the Official Gazette of Romania, Part I, no. 1,029 of December 27, 2017, approved with modifications and completions by Law no. 209/2018, with the subsequent modifications and completions, the State aid scheme is approved to support the activity of SMEs in the context of the economic crisis generated by the COVID-19 pandemic, with the following content:

"SCHEMA OF STATE AID FOR SUPPORTING THE ACTIVITY OF SMES IN THE CONTEXT OF THE ECONOMIC CRISIS GENERATED BY COVID-19 PANDEMIC "

Article III

By derogation from the provisions of the Government Emergency Ordinance no. 77/2014 regarding the national procedures in the state aid field, as well as for the modification and completion of the Competition Law no. 21/1996, with the modifications and subsequent additions, the provisions of art. 7 of the Ordinance of Government emergency no. 77/2014 are not applicable to the state aid scheme herein.

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