REGULATION ON CONDITIONS AND METHOD OF ATTRACTING DIRECT INVESTMENTS ("Off. Herald of RS", No. 37/2018)

I. INTRODUCTORY PROVISIONS

Scope of Regulation

Article 1

This Regulation shall in more detail regulate criteria, conditions and method of attracting direct investments, maintaining records on approved incentives, as well as other issues of significance for attracting direct investments.

Terms

Article 2

The terms used in this Regulation shall have the following meanings:

1) *Direct investments* are the investments in material and non-material assets of companies, in compliance with this Regulation, with the aim of initiating a new economic activity, expanding the existing capacities or expanding the production to include new products and manufacturing processes, as well as acquiring property directly related to the company which terminated its operation or would terminate its operation, unless bought by a third person under market conditions, and which provide new employment. Acquisition of stakes or shares in a company shall not be considered investment within the meaning of this Regulation;

2) *An investment project* is a project which implementation will realize a direct investment, and which is described in the business plan which is to be submitted enclosed with the application form for granting incentive funds and which shall mandatorily include a detailed description of elements of the direct investment, as well as of the elements for the expert analysis of the investment project, in compliance with this Regulation;

3) *An investor* is a domestic or foreign company which submits an application form for granting incentive funds for the purpose of realisation of an investment project;

4) *A beneficiary of incentive funds* is a company with the headquarter in the Republic of Serbia. In case when the funds beneficiary to which incentive funds are awarded is founded by the Investor, that beneficiary shall be a direct or indirect subsidiary of the Investor;

5) *A small economic entity* is an economic entity which employs less than 50 people and whose annual turnover or total annual balance does not exceed EUR 10 million, in compliance with the regulation of the governing state aid (hereinafter referred to as: a small enterprise);

6) *A medium economic entity* is an economic entity which employs between 50 and 250 people, whose annual turnover does not exceed EUR 50 million or whose total annual balance does not exceed EUR 43 million in compliance with the regulation of the governing state aid (hereinafter referred to as: a medium enterprise);

7) *A large economic entity* is an economic entity which employs more than 250 people and whose annual balance exceeds EUR 43 million in compliance with the regulation of the governing state aid (hereinafter referred to as: a large company);

8) spa and climatic area is an area of spa where one or more natural healing factors (which includes thermal and mineral waters, air, gas and medicinal mud – peloid) exists and which are being used, and whose medical properties are scientifically tested and proven in accordance with the Law on Spas and which meets the requirements regarding the design and equipment for their use in accordance with the Law on Spas, as well as the climatic area which thanks to favourable climatic conditions has pronounced special characteristics of air with especially beneficial influence on human health, and which are listed in the Annex 1, which is printed together with this Regulation and forms an integral part thereof;

9) *Investments in material assets* shall be investments in land, buildings, manufacturing plants, machinery and equipment, in compliance with the regulations of the governing state aid, and which are recognised as reasonable investment costs, if used only by the beneficiary of incentive funds (greenfield or brownfield investments);

10) *Investments in non-material assets* shall be investments in patents and licenses in compliance with the regulations of the governing state aid, which are recognised as reasonable investment costs, if they are subject to depreciation, if they are used only by the beneficiary of incentive funds, if they are kept in the balance sheets of the beneficiary of incentive funds for five years at the minimum, or three years for small and medium enterprises, and if they are purchased under market conditions from the third persons;

11) *New employees related to an investment project* shall be the net increase in the number of domestic citizens employed for an indefinite period of time with full working hours within the funds beneficiary during the implementation period of an investment project, compared to the highest number of persons employed for a definite and indefinite period of time over the period of 12 months prior to the date of submission of application for incentive funds granting;

12) *A unique investment project* shall be every direct investment realized by a beneficiary of incentive funds or a subsidiary directly related to it, in the period of three years starting from the initial date of realisation of the previous investment project for which incentive funds are granted, in line with the previously concluded contract on granting incentive funds in the territory of the same or neighbouring local self-government unit;

13) *Development* *level* *of a local self-government unit* in which an investment project is realized, i.e. classification of local self-government units according to the development level, shall be the level determined by regulations governing a unique list of development levels of the local self-government units applicable on the date of submission of application for incentive funds granting;

14) *Period of realisation of an investment* *project* is a time period defined by the contract on granting of incentive funds, in compliance with this Regulation;

15) *Period of guaranteed investment and employment* is a time period of three, i.e. five years after the realisation of an investment project, during which the beneficiary of incentive funds shall be obliged not to reduce the value of fixed assets achieved by the realisation of the investment project, as well as the achieved number of employees, and during which it shall be obliged to, in accordance with the contract on granting incentive funds, to regularly pay the agreed salary to each employee;

16) *Agreed salary* is a basic salary defined as not less than the amount of minimum salary in compliance with the regulations governing labour relations, which includes all other salary elements (salary increase, work performance, rewards, bonuses, etc.) and other earnings which have a character of a salary (meal allowance, regress, etc.), so that the agreed salary of an employee amounts to at least 120% of such defined minimum salary;

17) *Equipment imported based on the investment of a foreign* *investor* is equipment not older than three years, which is imported by a foreign investor and invested as his investment in a company. Equipment imported by a large company based on the investment of a foreign investor, which is the funds beneficiary according to the contract on granting incentive funds, must be new;

18) *International trade services* which may be subject to granting of incentive funds, in line with this regulation, are services provided through information and communication technologies primarily to the users outside of the territory of the Republic of Serbia (development and production centres, research and development centres, consolidated and/or assigned performance of administrative processes, storage and processing of data, user centres – hereinafter referred to as: the international trade services).

Reasonable Costs

Article 3

Reasonable costs shall be:

1) Investments in material and non-material assets starting from the date of submission of application for granting incentive funds until the expiry date of the deadline for the realisation of the investment project, in compliance with the contract on granting incentive funds (hereinafter referred to as: reasonable investment costs), or

2) Gross salaries for new employees in the period of two years after achieving full employment with the beneficiary of incentive funds (hereinafter referred to as: reasonable costs of gross salaries).

Reasonable investment costs shall additionally include the costs of lease of business premises on which the investment project is realized during the implementation period thereof, provided that the rental period is not shorter than five years for large companies, i.e. three years for small and medium enterprises from the expiry date of the time limit for investment project realisation.

Costs which are related to acquiring of a leased property, excluding land and building, shall be taken into consideration only where the lease is in the form of a financial leasing and only if it includes the obligation to purchase the property at the end of the rental period, which must end before the expiry of the period of guaranteed investment and employment.

In case of purchasing property of a company which terminated its operations, or would terminate its operations unless being bought, reasonable costs shall be the costs of procurement of the property by a third person under market conditions.

Reasonable costs of investment in non-material assets for large companies may be recognised in the amount up to 50% of the total value of reasonable investment costs, and for small and medium enterprises in the amount up to 100% of reasonable investment costs.

Costs which are related to procurement of passenger vehicles and means of transport shall not be considered to comprise reasonable investment costs.

Property acquired by a company based on investment following submission of application form for granting incentive funds, excluding land and building, must be new.

The limitation referred to in paragraph 7 of this Article shall not apply to small and medium enterprises or to the case of purchasing property of a company referred to in Article 2, paragraph 1, item 1) of this Regulation.

Reasonable costs of gross salaries referred to in paragraph 1, point 2) of this Article shall mean the total actually amount paid by the beneficiary of incentive funds for work of an employee and shall cover the gross salary, i.e. salary inclusive of taxes and contributions for mandatory social insurance paid from the salary, as well as contributions paid on salary.

If the investment project refers to the hotel accommodation services sector in the territory of the local self-government unit where there is a spa and climatic area (hereinafter: hotel accommodation services), the costs related to the purchase of buildings are not considered as reasonable costs of investment.

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

Sources and Purpose of Funds for Attracting Direct Investments

Article 4

Incentive funds for attracting direct investments for realisation of this Regulation shall be provided from the budget of the Republic of Serbia (hereinafter referred to as: funds).

Funds may be used for financing of investment projects in the manufacturing sector, international trade service sector and hotel accommodation services sector, in compliance with this Regulation.

Funds may not be used for financing of investment projects in the sector of transportation, software development unless used to improve the product, production process or provision of international trade services, hospitality, game of chance, trade, production of synthetic fibres, coal and steel, mining, tobacco and tobacco products, weapons and ammunition, shipbuilding of maritime merchant vessels on self-propelling over 100 gross registered tons, airports, logistic centres, utilities sector and energy sector, broadband network, fisheries and aquaculture.

Funds granted for investments of special importance may additionally be used for financing purposes by the investor who realize the investment of special importance or a joint enterprise, such as the infrastructure-related and other investments necessary for the relevant economic activity and realisation of the investment project, which shall in particular include acquisition of land and other immovable property, infrastructural equipping of land, as well as remediation of any environmental damage caused in the period preceding the investment of special importance in the location where the investment in question is implemented, in compliance with the rules for granting state aid for individual investments of special importance.

Right to participate in funds granting procedure

Article 5

Investors applying with investment projects in the sectors which are, in compliance with Article 4, paragraph 2 of this Regulation, eligible for funds granting shall be entitled to participate in the funds granting procedure, providing that prior to commencing the realisation of the investment project they apply for funds granting in the manner and under conditions laid down by this Regulation.

For the realisation of an investment project, a funds beneficiary shall be obliged to provide a share of 25% of reasonable costs at the minimum from own funds or from other sources not comprising of state aid.

A large company shall not be granted funds prior to determining, based on the inspection of documentation, that the funds granting has beneficial incentive effect or influence on:

1) A significant increase of the scope of the project, or

2) A significant increase in the total amount of funds invested by the funds beneficiary in the project, or

3) A significant increase of the speed at which the project is realised, or

4) Project realisation, which could not be realised without funds granting.

Exemption regarding eligibility criteria

Article 6

The following investors and funds beneficiaries shall not be eligible for funds granting:

1) Companies in difficulties, within the meaning of regulations governing rules for state aid granting;

2) Those with due and mature outstanding tax liabilities in the Republic of Serbia;

3) Companies in which the number of employees has been reduced by 10% or more over the period of 12 months prior to submission of application form for funds granting compared against the average number of employees in the said period;

4) Those in which the Republic of Serbia, autonomous province or a local self-government unit have shares in ownership;

5) Those with obligations to repay the undue state aid;

6) Those with which the contract on granting incentive funds was terminated, except in cases of contract termination by mutual consent.

Companies eligible for funds granting

Article 7

Funds can be granted to a company which fulfills criteria and conditions laid down in this Regulation and which:

1) Is registered with the Business Registers Agency;

2) Has submitted an application form for funds granting and the business plan for the investment project which is eligible for funds granting in compliance with this Regulation;

3) Has not been subject to any previous bankruptcy procedure, reorganisation, insolvency or liquidation, in compliance with regulations governing bankruptcy and liquidation;

4) Has not been convicted of any economic criminal offence;

5) Has settled all its tax related liabilities in the Republic of Serbia;

6) Has not been granted funds for the same purposes;

7) Is not in difficulties in compliance with regulations governing rules for state aid control and granting;

8) Has no obligation to refund any undue state aid.

Maximum permitted amounts of funds

Article 8

The maximum permitted amounts of funds shall be determined in compliance with regulations governing rules for state aid granting and criteria laid down in this Regulation.

The maximum permitted amount of funds for the large companies can be set up to 50% at the maximum of the reasonable costs for the realisation of an investment project.

The maximum permitted amount of funds for the medium enterprises can be set up to 60% of the reasonable costs at the maximum, and for the small enterprises up to 70% at the maximum of the reasonable costs for the realisation of an investment project.

In determining the amount of funds that can be granted, the cumulation with previously granted state aid shall be taken into consideration, in compliance with regulations governing the rules for granting state aid.

Maximum allowed amount of funds to be granted for investments over EUR 50 million shall not exceed 25% of the reasonable investment costs, and for investments exceeding EUR 100 million, that percentage shall not exceed 17% of the reasonable investment costs and shall be determined as follows:

1) For the part of reasonable investment costs exceeding the amount of EUR 50 million – up to 25% of these costs,

2) For the part of reasonable investment costs exceeding the amount of EUR 100 million – up to 17% of these costs.

For a direct investment considered to be a unique investment project, the maximum permitted amount of funds that can be granted to a funds beneficiary or to a company related to it, shall be determined up to the percentage referred to in paragraph 5, points 1) and 2) of this Article.

III. ELIGIBILITY FOR GRANTING AND REQUIREMENTS FOR GRANTING FUNDS

Investment projects for which funds can be granted, which are relating to investments of special importance, investments for realization of investment projects which involve employment of more than 100 new employee, investments in the agricultural sector and investments in the hotel accommodation services sector

Article 9

Funds can be granted for:

1) The investment projects in the manufacturing sector where reasonable investment costs in material and non-material assets amount to at least EUR 500,000 and which ensure employment of more than 100 new employees for an indefinite period of time related to the investment project;

2) The investment projects in the international trade sector where reasonable investment costs in material and non-material assets amount to at least EUR 150,000 and which ensure employment of more than 100 new employees for an indefinite period of time related to the investment project;

3) The investment projects in the agricultural sector where reasonable investment costs in material and non-material assets amount to at least EUR 2,000,000 and which ensure employment of minimum 25 new employees for an indefinite period related to the investment project;

4) The investment projects in hotel accommodation services sector which are worth minimum EUR 2,000,000 and which ensure employment of minimum 70 new employees for an indefinite period related to the investment project.

Investment projects eligible for granting funds, which involve employment of up to 100 new employees

Article 10

Funds may be granted for:

1) The investment projects in the manufacturing sector where the reasonable investment costs in material and non-material assets amount to at least EUR 100,000 and which ensure employment of minimum 10 new employees for an indefinite period of time or creation of minimum 10 new jobs related to the investment project in the local self-government units which are, according to the development level, classified as devastated areas;

2) The investment projects in the manufacturing sector where the reasonable investment costs in material and non-material assets amount to at least EUR 200,000 and which ensure employment of minimum 20 new employees for an indefinite period of time or creation of minimum 20 new jobs related to the investment project in the local self-government units which are, according to the development level, classified to belong to the fourth group;

3) The investment projects in the manufacturing sector where the reasonable investment costs in material and non-material assets amount to at least EUR 300,000 and which ensure employment of minimum 30 new employees for an indefinite period of time or creation of minimum 30 new jobs related to the investment project in the local self-government units which are, according to the development level, classified to belong to the third group;

4) The investment projects in the manufacturing sector where the reasonable investment costs in material and non-material assets amount to at least EUR 400,000 and which ensure employment of minimum 40 new employees for an indefinite period of time or creation of minimum 40 new jobs related to the investment project in the local self-government units which are, according to the development level, classified to belong to the second group;

5) The investment projects in the manufacturing sector where the reasonable investment costs in material and non-material assets amount to at least EUR 500,000 and which ensure employment of minimum 50 new employees for an indefinite period of time or creation of minimum 50 new jobs related to the investment project in the local self-government units which are, according to the development level, classified to belong to the first group;

6) The investment projects in the service sector which may be subject to international trade which are worth minimum EUR 150,000 and which ensure employment of minimum 15 new employees for an indefinite period of time or opening of minimum 15 new jobs related to the investment project.

Requirements for granting funds

Article 11

Funds can be granted under following conditions:

1) That the direct investment remains at the same location in a local self-government unit in the period of minimum five years following the realisation of the investment project for large companies or for minimum three years for small and medium enterprises, and

2) That the achieved number of employees with the funds beneficiary following the realisation of the investment project is not reduced over the period of five years for large companies or three years for small and medium enterprises.

Upon achieving full employment, the funds beneficiary shall be obliged to, in compliance with the contract on funds granting referred to in Article 38 of this Regulation, regularly pay the agreed salary referred to in Article 2, paragraph 1, point 16) of this Regulation to each new employee.

Time limit for realisation of investment projects

Article 12

The time limit for realisation of investment projects and employment of new employees related to the investment projects shall be up to three years from the date of submission of application form for funds granting, which may be extended following the conclusion of the contract on incentive funds granting for up to five years at the maximum, counting from the date of submission of application form for funds granting, at a duly justified request of the funds beneficiary, if the Economic Development Council (hereinafter referred to as: the Council) assesses that the circumstances that have led to the need for the extension of the time limit are objective and that the extension of the time limit is duly justified and appropriate and/or that it is the most efficient way to achieve the objectives of the investment and economic development.

For investments of special importance, the time limit for the realisation of an investment project and employment of new employees related to the investment project shall not exceed ten years from the date of submission of application for funds granting.

In the case of time limit extension referred to in paragraph 1 of this Article, the validity period of the bank guarantee shall be extended proportionately to the extension of the time limit for the investment project realisation.

Criteria for expert analysis of investment projects pertaining to investments of special importance and investments for realisation of investment projects involving employment of more than 100 new employees

Article 13

Criteria for expert analysis of an investment project shall be:

1) References of the investor (recognition in the market, references of the clients, previous experience and success in the realisation of investment projects, etc.);

2) Percentage of unemployed persons whose qualifications correspond to the economic activity pursued by the investor and/or funds beneficiary in the total number of persons included in the records of the National Employment Service in the territory of the local self-government unit in which the investment is realized;

3) The number and/or percentage of highly qualified persons employed through the realisation of the investment project;

4) The amount and type of the investment (greenfield or brownfield investments), i.e. the level of engagement of the construction industry in the realisation of the investment project;

5) The technological intensity of the economic activity which is subject to investment, in compliance with the EUROSTAT classification;

6) Previous cooperation with suppliers and planned share of domestic suppliers;

7) Effects of the investment on the employees (employee trainings and average salary amounts);

8) Previous and planned volume of international and total turnover (before and after the investment project);

9) Financial and market assessment of the investment project (sources of financing, liquidity, profitability, sustainability, the investment payback period, etc.);

Information referred to in paragraph 1, point 2) of this Article shall be delivered by the National Employment Service to the Development Agency of Serbia (hereinafter referred to as: the Agency) at its request.

Criteria for expert analysis of investment projects relating to investments for realisation of investment projects involving employment of up to 100 new employees

Article 14

Criteria for expert analysis of investment projects involving employment up to 100 new employees shall be:

1. The experience in the pursuit of an economic activity;
2. Assessment of investment payback;
3. Technological intensity of the economic activity – adjusted EUROSTAT methodology;
4. The percentage of highly qualified staff;
5. Overall liquidity ratio;
6. Business results;
7. Indicator of indebtedness.

A prescribed number of points shall be awarded to the investment project for each criterion referred to in paragraph 1 of this Article, so that the total sum of points awarded amounts to 8.

Article 15

An investment project shall be awarded a relevant number of points based on the economic activity comprising the scope of the project according to the predominant economic activity of the investor in the following manner, and specifically:

1) If the investment project is implemented in relation to conducting of an economic activity that belongs to the same field of economic activities, 1 point shall be awarded;

2) If the investment project is implemented in relation to conducting of an economic activity that belongs to the same sector of economic activities, 0.5 point shall be awarded;

3) If the investment project is implemented in relation to conducting of an economic activity that does not belong to the same sector of economic activity, 0 points shall be awarded.

Article 16

 An investment project shall be awarded a relevant number of points based on the assessment of the success of the investment project which shall be determined in the following manner:

1) If the net present value (NPV) of the investment project is positive and if internal rate of return (IRR) is higher than the discount rate in the period of guaranteed investment and employment, the investor shall be awarded 1 point;

2) If the net present value (NPV) of an investment project is negative and if internal rate of return (IRR) is lower than the discount rate in the period of guaranteed investment and employment, the number of points shall be 0.

Article 17

The assessment of technological intensity of a business activity related to the investment project shall be conducted by applying the EUROSTAT methodology in the following manner:

1. An investment project that belongs to a high-technology economic activity according to the EUROSTAT methodology shall be awarded 1.5 points;
2. An investment project that belongs to a medium-high-technology economic activity according to the EUROSTAT methodology shall be awarded 1 point;
3. An investment project that belongs to a medium-low-technology economic activity according to the EUROSTAT methodology shall be awarded 0.5 point;
4. An investment project that belongs to a low-technology economic activity according to the EUROSTAT methodology shall be awarded 0 points.

Article 18

An investment project shall be awarded a relevant number of points according to the percentage of planned employment of new employees with high professional qualifications in the following manner:

1) The investment project for which employment of more than 10% of new employees with high professional qualifications has been planned shall be awarded 1.5 points;

2) The investment project for which employment between 5% and 10% new employees with high professional qualifications has been planned shall be awarded 1 point;

3) The investment project for which employment between 2% and 5% of new employees with high professional qualifications shall be awarded 0.5 point;

4) The investment project for which employment of less than 2% of new employees with high professional qualifications has been planned shall be awarded 0 points.

Article 19

An investment project shall be awarded a relevant number of points according to the assessment of the overall liquidity ratio of heretofore business of investor, based on submitted official financial statements for the last two years before submitting the application:

1) If the overall liquidity ratio is higher than 1.5, the investment project shall be awarded 1 point;

2) If the overall liquidity ratio is between 1 and 1.5, the investment project shall be awarded 0.5 point;

3) If the overall liquidity ratio is less than 1, the investment project shall be awarded 0 points.

Article 20

An investment project shall be awarded a relevant number of points based on the business results of the investor determined according to the financial statements for two business years prior to submission of application as follows:

1) If the investor has made business profit according to the above specified financial statements, the investment project shall be awarded 1 point;

2) If the investor has made business profit for one year according to the above specified financial statements, the investment project shall be awarded 0.5 point;

3) If the investor has not made business profit according to the above specified financial statements, the investment project shall be awarded 0 points.

Article 21

An investment project shall be awarded a relevant number of points based on the assessment of investor’s indebtedness indicators determined according to the financial statements for two business years prior to submission of application as follows:

1) If the investor’s indebtedness indicator is lower than 50% of the ratio of total liabilities to total assets, the investment project shall be awarded 1 point;

2) If the investor’s indebtedness indicator is lower than 70% of the ratio of total liabilities to total assets, the investment project shall be awarded 0.5 point;

3) If the investor’s indebtedness ratio is higher than 70% of the ratio of total liabilities to total assets, the investment project shall be awarded 0 points.

IV. TYPE AND AMOUNT OF FUNDS TO BE GRANTED

Incentives for reasonable costs of gross salaries for new jobs related to the investment project

Article 22

A funds beneficiary who creates new jobs related to the investment project in a local self-government units classified to belong to the first classification group of local self-government units according to the level of development shall be granted funds in the amount of 20% of the reasonable costs of gross salaries referred to in Article 3 of this Regulation and in the maximum amount of EUR 3,000 in RSD counter value per a newly created job.

A funds beneficiary who creates new jobs related to an investment project in a local self-government unit classified to belong to the second classification group of local self-government units according to the level of development shall be granted funds in the amount of 25% of the reasonable costs of gross salaries referred to in Article 3 of this Regulation and in the maximum amount of EUR 4,000 in RSD counter value per a newly created job.

A funds beneficiary who creates new jobs related to an investment project in a local self-government unit classified to belong to the third classification group of local self-government units according to the level of development shall be granted funds in the amount of 30% of the reasonable costs of gross salaries referred to in Article 3 of this Regulation and in the maximum amount of EUR 5,000 in RSD counter value per a newly created job.

A funds beneficiary who creates new jobs related to an investment project in a local self-government unit classified to belong to the fourth classification group of local self-government units according to the level of development shall be granted funds in the amount of 35% of the reasonable costs of gross salaries referred to in Article 3 of this Regulation and in the maximum amount of EUR 6,000 in RSD counter value per a newly created job.

A funds beneficiary who creates new jobs related to an investment project in a local self-government unit classified as a devastated area according to the level of development shall be granted funds in the amount of 40% of the reasonable costs of gross salaries referred to in Article 3 of this Regulation and in the maximum amount of EUR 7,000 in RSD counter value per a newly created job.

The total amount of funds that can be granted in compliance with this Regulation and other incentives shall be defined as an absolute amount which must not exceed the upper limit for allowed state aid granting according to the regulations governing the rules for granting state aid.

Incentives for reasonable costs of investments in fixed assets

Article 23

A funds beneficiary who realises an investment project in a local self-government unit classified to belong to the first classification group of local self-government units according to the level of development can be approved an increase of the funds amount referred to in Article 22 of this Regulation in the amount of up to 10% of the reasonable costs of investment in fixed assets.

A funds beneficiary who realises an investment project in a local self-government unit classified to belong to the second classification group of local self-government units according to the level of development can be approved an increase of the funds amount referred to in Article 22 of this Regulation in the amount of up to 15% of the reasonable costs of investment in fixed assets.

A funds beneficiary who realises an investment project in a local self-government unit classified to belong to the third classification group of local self-government units according to the level of development can be approved an increase of the funds amount referred to in Article 22 of this Regulation in the amount of up to 20% of the reasonable costs of investment in fixed assets.

A funds beneficiary who realises an investment project in a local self-government unit classified to belong to the fourth classification group of local self-government units according to the level of development can be approved an increase of funds amount referred to in Article 22 of this Regulation in the amount of up to 25% of the reasonable costs of investment in fixed assets.

A funds beneficiary who realises an investment project in a local self-government unit classified as a devastated area according to the level of development can be approved an increase of the grant amount referred to in Article 22 of this Regulation in the amount of up to 30% of the reasonable costs of investment in fixed assets.

A funds beneficiary who realises an investment project referred to in Article 9, paragraph 1, point 4) of this Regulation can be approved an increase in the grant amount of up to 20% of the reasonable costs for investments in fixed assets in the amount of up to EUR 10,000,000.

A funds beneficiary who realises an investment project referred to in Article 9, paragraph 1, point 4) of this Regulation can be approved an increase in the grant amount in the amount of up to 10% of the reasonable costs for investments in fixed assets in the amount of EUR 10,000,000 to EUR 20,000,000.

The total amount of funds that can be granted in compliance with this Regulation and of other incentives shall be determined as an absolute amount, where it must not exceed the upper limit for the total amount of state aid granting in compliance with regulations governing rules for state aid granting, except for the limit determined in Article 28, paragraph 3 of the Regulation.

Additional incentives for labour-intensive investment projects

Article 24

A labour-intensive investment project is an investment project which creates a minimum of 200 new jobs related to the investment project, within the timeframe envisaged for the realisation of the investment project.

A funds beneficiary who realises a labour-intensive investment project can be approved an increase in the grant amount referred to in Article 22 of this Regulation by 10% of the amount of reasonable costs of gross salaries referred to in Article 3 of this Regulation for each increase of the number of new jobs related to the investment project over 200 new jobs related to the investment project.

A funds beneficiary who realises a labour-intensive investment project can be approved an increase in the grant amount referred to in Article 22 of this Regulation by 15% of the amount of reasonable costs of gross salaries referred to in Article 3 of this Regulation for each increase of the number of new jobs related to the investment project over 500 new jobs related to the investment project.

A funds beneficiary who realises a labour-intensive investment project can be approved an increase in the grant amount referred to in Article 22 of this Regulation by 20% of the amount of reasonable costs of gross salaries referred to in Article 3 of this Regulation for each increase of the number of new jobs related to the investment project over 1,000 new jobs related to the investment project.

The total amount of funds that can be granted in compliance with this Regulation and of other incentives shall be determined as an absolute amount, where it must not exceed the upper limit for the allowed total amount of state aid granting in compliance with regulations governing rules for state aid granting.

Article 25

A funds beneficiary to which funds are granted based on recognized reasonable costs referred to in Article 23 of this Regulation, which relate to the projects which employ up to 100 new employees, the incentive amount shall be increased based on the assessment of the technological level of the economic activity related to the investment project as follows:

a) An investment project which belongs to a high technology level of economic activity according to EUROSTAT methodology, 100% of the funds full increase amount referred to in Article 21 of this Regulation shall be approved;

b) An investment project which belongs to a medium-high technology level of economic activity according to EUROSTAT methodology, 75% of the funds full increase amount referred to in Article 23 of this Regulation shall be approved;

c) An investment project which belongs to a medium-low technology level of economic activity according to EUROSTAT methodology, 50% of the funds full increase amount referred to in Article 23 of this Regulation shall be approved;

d) An investment project which belongs to a low technology level of economic activity according to EUROSTAT methodology, 25% of the funds full increase amount referred to in Article 23 of this Regulation shall be approved.

Article 26

 A funds beneficiary to which a minimum of 7 points is awarded based on the expert analysis of the investment project according to the criteria referred to in Article 14 of this Regulation shall be approved an increase in the incentive funds amount based on recognition of reasonable costs referred to in Article 23 of this Regulation by 10%.

V. INVESTMENTS OF SPECIAL IMPORTANCE

The notion of investment of special importance for the Republic of Serbia

Article 27

An investment of special importance shall be:

1) An investment which significantly impacts the future economic development of the Republic of Serbia, which contributes to improve competitiveness of the economy and the Republic of Serbia as an investment location and which promotes equal regional development regarding the scope of investment and territorial concentration of certain economic sectors and economic activities, and which invests in fixed assets of the funds beneficiary minimum EUR 5 million or creates more than 500 new jobs related to the investment project, if the investment is realised in a local self-government unit classified to belong to the first or second group according to the level of development, or which invests in fixed assets of the funds beneficiary more than EUR 2 million or creates more than 100 new jobs related to the investment project, if the investment is realised in a local self-government unit classified to belong to the third or fourth group according to the level of development, or classified as a devastated area;

2) An investment realised in the territory of one or more local self-government units and which encourages realisation of development priorities of one or more local self-government units aimed at enhancing their competitiveness. A decision whereby the development priority of a local self-government unit is specified shall be passed by the assembly or by the council of the local self-government unit, and where the investment is realised in the territory of several local self-government units, such decision passed by the competent authorities of these local self-government units shall determine a common development priority upon previously obtained opinion of the Agency;

3) An investment based on adopted bilateral agreements;

4) An investment based on an agreement on cross-border cooperation.

Criteria for analysis and amount of funds

Article 28

Criteria for expert analysis of investment projects referred to in Article 13 of this Regulation shall apply to investments of special importance.

For investment of special importance, funds shall be granted based on the reasonable costs of gross salaries for new jobs related to the investment project or reasonable costs of investments in fixed assets or a combination of these two methods of calculation of reasonable costs, provided that the funds amount thus calculated does not exceed the most favourable amount arising from the application of one or other calculation method.

By way of exception from paragraph 2 of this Article, for investments of special importance referred to in Article 9, paragraph 1, point 4) of this Regulation, the total calculated amount of incentive funds must not exceed 20% of reasonable costs of investment in fixed assets.

The Amount of funds for investment of special importance shall not exceed the upper limit for allowed state aid amount in compliance with the Article 8 of this Regulation and rules regulating state aid granting.

VI. FUNDS GRANTING PROCEDURE

Public Invitation

Article 29

Funds relating to investments for realization of investment projects whereby employment of up to 100 new employees is achieved shall be granted through a public invitation for funds granting.

The Ministry in charge of economy (hereinafter referred to as: the Ministry) shall publish the public invitation on its web page.

The text of the public invitation shall additionally be published on the web page of the Agency.

The public invitation shall in particular include:

1) The name and seat of the authority publishing the public invitation;

2) The name and seat of the authority to which applications for funds granting are to be submitted;

3) Funds granting criteria;

4) Validity term of the public invitation;

5) Address for any information relating to participation in funds granting procedure and contact person information;

6) Other information of significance and interest to investors and funds beneficiaries.

The decision on granting funds for investments of special importance, projects whereby more than 100 new employees are employed and investments in the hotel accommodation services sector shall be passed without a public invitation.

Letter of Intent and information notice on the possible level of incentives

Article 30

Investors intending to make an investment of special importance, project whereby more than 100 new employees are employed or investment in the hotel accommodation services sector can deliver to the Agency their Letters of Intent regarding the realisation of the investment projects.

A Letter of Intent shall in particular include information on investor, economic activity, previous investment activities, planned investment levels in fixed assets, number of new employees and/or jobs related to the investment project, planned costs of gross salaries for new jobs related to the investment project over the two years’ period following the achievement of full employment, as well as information referred to in Article 13 of this Regulation, except information referred to in paragraph 1, points 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 it may also request from the investor to provide additional information, in compliance with this Regulation.

Based on information provided in the Letter of Intent, the Agency shall deliver an information notice to the investor on the possible level of incentives, leaving him a period of 30 days to make a statement on it.

If the Agency finds that it is an investment project referred to in Article 27, paragraph 1, points 1), 3) or 4) of this Regulation, in addition to delivering the information notice referred to in paragraph 4 of this Article to the investor, it shall notify the Ministry and the Council of the existence of a project of special importance.

The information notice on the possible level of incentives shall be legally nonbinding and it shall contain information that the Council shall decide on granting and on the amount of funds after having determined all the conditions for granting funds in compliance with this Regulation.

Application for funds granting and expert analysis

Article 31

Following the receipt of information notice referred to in Article 30, paragraph 4 of this Regulation, an investor intending to realise an investment of special importance, i.e. a project whereby more than 100 new employees will be employed, i.e. a project whereby up to 100 new employees will be employed shall submit to the Agency an application for funds granting in the prescribed form, in Serbian language (hereinafter referred to as: the Application for Funds Granting) in order to determine the fulfilment of conditions for funds granting.

Based on the Application for Funds Granting, the Agency shall perform an expert analysis of the investment project by applying the criteria referred to in Article 13, i.e. Article 14 of this Regulation.

In cases of investments of special importance and projects whereby more than 100 new employees are employed, the Agency shall notify the investor of the incentive amount that it will propose to the Council and deliver a draft agreement on incentive funds granting to investor.

The expert analysis of an investment project shall include an analysis of the possible amount of funds.

Application Form for Funds Granting

Article 32

The application forms for incentive funds granting under this Regulation shall be prescribed by the Minister in charge of economy (hereinafter referred to as: the Minister).

The following shall be submitted enclosed with the Application for funds granting:

1) Business plan for the investment project for the realisation of which funds are to be granted;

2) The original or a certified photocopy of the registered financial statements of the investor for two previous years of operation, with an auditor’s report (if there is a statutory obligation of auditing) if they are not made publicly available, and the foreign legal entity shall submit the original or a certified photocopy of the financial statements with an auditor’s report (if there is a statutory obligation of auditing) and the certified translation thereof in Serbian language or the investor’s statement that he is not obliged to acquire any certified auditor’s report;

3) An original or a certified photocopy of an excerpt from the relevant register of the state in which the foreign investor has its seat, which must not be older than three months, certified by a competent authority, as well as a certified translation of the excerpt in Serbian language;

4) A certificate verifying that no previous bankruptcy procedure, reorganisation or liquidation has been initiated against the investor and funds beneficiary;

5) Proof of settlement of tax liabilities in the Republic of Serbia and for foreign investors which have not done any business in the Republic of Serbia, a signed statement that the investor has not done any business in the Republic of Serbia and that it does not have the tax identification number assigned to it in accordance with regulations governing tax procedure and tax administration;

6) An excerpt from the Central Register of Mandatory Social Insurance whereby the number of employees is determined for each month with the type of work engagement with the funds beneficiary for the period of 12 months preceding the date of submission of Application for Funds Granting;

7) A certificate verifying that the responsible person with the investor and funds beneficiary has not been finally convicted for criminal offences against economy;

8) A certificate verifying that the investor and funds beneficiary have not been convicted for criminal offences committed against economy.

If the Agency cannot determine from the documentation delivered the facts of relevance for deciding, it may additionally request that other documentation be submitted, i.e. that other proof of relevance for decision making on submitted Application for Funds Granting be provided where it consider it to be appropriate.

The documents submitted by a foreign company must be certified in compliance with the regulations of the state in which they are issued and translated in Serbian language by a certified translator.

The date of submission of Application for Funds Granting shall be considered to be the date of receipt of an Application for Funds Granting in the Agency.

Determining fulfilment of formal conditions for funds granting

Article 33

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

The Agency shall reject any untimely Applications for Funds Granting.

If the Application for Funds Granting is not submitted in compliance with Article 32 of this Regulation, the Agency shall reject such Application as incomplete and it shall deliver it to the applicant enclosed with an explanation, within 30 days from the date of receipt.

If the Application for Funds Granting does not fulfil the conditions referred to in Article 4 of this Regulation or if it fulfils the conditions referred to in Article 6 of this Regulation, the Agency shall reject such Application and deliver it to the applicant enclosed with an explanation, within 30 days from the date of receipt thereof.

In an investment project whereby up to 100 new employees are employed has not been awarded the minimum of 2 points according to the criteria prescribed by Article 14, paragraph 1, points 5) to 7) of this Regulation during the expert analysis, the Agency shall reject the Application for Funds Granting and deliver it to the applicant enclosed with an explanation, within 30 days from the date of receipt thereof.

Objections to Agency decisions referred to in paragraphs 2, 3, 4 and 5 of this Article can be filed to the Ministry within eight days from the dated of receipt of the Agency decision.

The Ministry shall decide on the objection referred to in paragraph 6 of this Article and deliver the answer to the applicant within 30 days from the date of objection receipt.

The Agency shall deliver the timely, complete and permitted Applications to the Council within 30 days from the date of receipt thereof at the latest.

Decisions of the Council

Article 34

The Agency shall deliver to the Council the Application for Funds Granting, information notice and statement referred to in Article 30, paragraph 4 of this Regulation, enclosed with the expert analysis of the investment project, proposed incentive amount and draft contract on incentive funds granting, and in the case of an investment of special importance referred to in Article 27, paragraph 1, point 2) of this Regulation, the Agency shall additionally deliver the decision passed by the assembly, i.e. council of the local self-government unit.

Delivery of Council decision and Draft Contract

Article 35

When the Council makes a decision on granting funds, the Agency shall deliver the decision of the Council and Draft Contract on granting incentive funds to the Ministry.

The Ministry shall deliver the decision of the Council and the text of the Draft Contract on granting incentive funds to the Government for prior consent.

Relations between the Agency and the Council

Article 36

The Agency shall perform the administrative and technical and expert tasks for the Council, propose to the President of the Council convening of the Council meetings, prepare materials for consideration and decision making in the Council meetings, provide required information on the status of investment projects, prepare minutes from the meetings and act upon the decisions of the Council.

The Agency shall prepare the text of the draft contract on funds granting.

Decisions on granting funds and other proposed measures

Article 37

Council’s Decision on granting funds shall include information on the investment project and its important elements, on the investor and on the funds beneficiary and on the amount of granted funds.

A decision by which the Council rejects to grant funds shall include reasons for such rejection to grant funds.

The Council shall additionally decide on proposed measures aimed at the most efficient achievement of investment objectives and economic development, which shall include the change of realization method of the investment project as per the concluded contracts on incentive funds granting, change of deadlines, reduction of amounts of funds granted proportionately to recognition of a partial performance of contractual obligations and at a reasoned proposal of the funds beneficiary, including proposals pertaining to any amendments, supplements or termination of contract on incentive funds granting.

The proposal of measures referred to in paragraph 3 of this Article shall be prepared by the Ministry on the basis of the reports referred to in Articles 41 and 42 of this Regulation and it shall deliver it through the Agency to the Council.

 Following the decision of the Council which is passed in compliance with paragraph 1 of this Article, the Ministry shall prepare the text of the annex to the contract on granting incentive funds or termination of the contract. In case of recognition of a partial performance of contractual obligations, the annex to the contract on granting incentive funds shall additionally include the reduction of amount of funds granted, but not yet disbursed, determined in the contract on granting incentive funds and/or the obligation of the funds beneficiary to return the part of disbursed granted funds.

The Agency shall draw up the minutes on the decisions of the Council, which shall be delivered to the members of the Council and to the Ministry.

During the period of guaranteed investment and employment and/or upon the expiry of that period, if the funds beneficiary has fulfilled a major part of the obligations arising from the contract on granting incentive funds and if that is in the interest of the Republic of Serbia, and where the objectives of investment and economic development are met, the Council may, based on a justified proposal of the funds beneficiary, decide to conclude a contract on mutual regulation of rights and obligations or a settlement agreement with the funds beneficiary.

The provision of paragraph 4 of this Article shall apply *mutatis mutandis* to the procedure relating to the Council decision referred to in paragraph 7 of this Article.

On the occasion of signing an annex to the contract on incentive funds granting, contract on mutual regulation of rights and obligation, i.e. conclusion of a settlement agreement, the beneficiary shall be obliged to deliver the amendments and supplements to the business plan.

VII. CONTRACT AND FUNDS DISBURSEMENT METHOD

Contract on Granting Incentive Funds

Article 38

Mutual rights and obligations of the Ministry and the funds beneficiary shall be regulated by the contract on granting incentive funds (hereinafter referred to as: Contract) concluded by the Ministry and the funds beneficiary.

Text of the Draft Contract shall be submitted by the Ministry to the Committee for State Aid Control, i.e. to the Government, for providing previous consent.

The Contract shall include: the scope of the Contract, investment amount and schedule and the number of new jobs related to the investment project with the employment schedule, planned gross salaries’ costs for the new jobs related to the investment project for the two years’ period following the achievement of full employment, the obligation to disburse the agreed salary, the time limit for realisation of the investment project, the amount of funds granted, the disbursement schedule for granted funds, as well as information on the collateral, reporting obligations, control of performance of contractual obligations, termination of the Contract, Force Majeure, environmental protection and occupational safety and health, dispute resolution and other issues of importance for the realisation of the Contract.

The business plan shall be an integral part of the Contract and it shall pertain to the amount, structure and schedule of investment, plan and schedule of employment and projected gross salary and planned share of domestic suppliers for the primary raw materials.

The Ministry may terminate the Contract in each phase of the realisation thereof, if it determines that the funds beneficiary does not comply with the conditions laid down in the Contract and where the Council passes a decision on such termination. Where there are duly justified reasons for that, the Ministry may, even before the Council meeting, terminate the Contract and collect the collateral, and the Council shall be notified thereof in the next Council meeting.

Disbursement of granted funds

Article 39

Granted funds shall be disbursed based on the request submitted (hereinafter referred to as: a payment request) which shall be delivered to the Ministry by the funds beneficiary, in compliance with the Contract.

Granted funds shall be disbursed in instalments, in compliance with the Contract and budget funds available.

The amount of instalment shall be determined as a percentage of the total amount of granted funds, in the following manner:

1) As the amount proportionate to the percentage of investment made in the fixed assets in each year of realisation of the investment project, against the total investments in the fixed assets defined in the investment project, or alternatively

2) As the amount proportionate to the percentage of newly employed persons in each year of realisation of the investment project against the total number of newly employed persons defined in the investment project, or

3) by combination of previous two manners.

The following shall be submitted enclosed with the payment request:

1) The report by a certified auditor which holds insurance against professional liability and any additional proof of compliance with the requirements for disbursement of instalment, and

2) The bank guarantee for the return of funds disbursed.

At the request of the Ministry, i.e. of the Agency, the Central Register of Mandatory Social Insurance shall deliver reports on the number of newly employed persons and on the type of work engagement with the funds beneficiary as at the date of delivery of the payment requests for individual instalments of granted funds, within five days from the request receipt date at the latest.

Enclosed with the payment request for the first instalment, in addition to the documents referred to in paragraph 4 of this Article, two signed blank solo promissory notes with signed letter of authorisation shall be submitted as well, for the purpose of collecting the statutory default interest or a bank guarantee covering the amount of possible statutory default interest as well.

For the disbursement of the last instalment, the funds beneficiary shall be obliged to provide a bank guarantee stating the total amount of granted funds with the validity period of three years and six months from the date of submission of the payment request for small and medium enterprises, funds beneficiaries, i.e. with the validity period of five years and six months from the date of submission of payment request for large companies.

The Ministry shall determine whether a payment request is adequately substantiated and complete, based on the documentation submitted by the beneficiary.

Collaterals

Article 40

The funds beneficiary shall be obliged to enclose a bank guarantee issued by a commercial bank registered in the territory of the Republic of Serbia which shall be unconditional and payable on first demand for the benefit of the Republic of Serbia.

 The funds disbursed must be guaranteed by a bank guarantee, in compliance with the Contract.

In addition to the bank guarantee, the funds beneficiary shall be obliged to enclose two registered and signed blank solo promissory notes with a signed letter of authorisation for the purpose of collecting the statutory default interest, in compliance with the law regulating the default interest rate, in case of any failure to fulfil the contractual obligations.

The funds beneficiary shall not be obliged to enclose the blank solo promissory notes referred to in paragraph 3 of this Article if they provide a bank guarantee covering the amount of possible statutory default interest as well.

In the case referred to in paragraph 4 of this Article, the funds beneficiary shall be obliged to, on the occasion of disbursement of each instalment, provide, in addition to the bank guarantee for the amount of such instalment, a bank guarantee covering the amount of possible statutory default interest as well.

The statutory default interest shall be calculated for the period from the date of disbursement of each individual instalment until the date of refund of the total amount of funds disbursed.

In case of a failure to fulfil the contractual obligations or in case of a partial fulfilment of contractual obligations, the Ministry may, based on the issued bank guarantees and blank solo promissory notes, collect the funds up to the amount of disbursed funds and prescribe statutory default interest.

VIII. CONTROL OF FULFILMENT OF CONTRACTUAL OBLIGATIONS

Reports to be submitted by the funds beneficiary

Article 41

The funds beneficiary shall be obliged to report to the Ministry on the realisation of investment project for which funds were granted.

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

1) Within 60 days from the date of submission of the complete payment request for the last instalment, i.e. from the completion date of the investment project, and

2) Within 60 days from the date of expiry of the time period of guaranteed investment and employment.

 The report on realisation of an investment project shall include:

1) A report of an independent certified auditor on the audit of the project which shall include a verification of its compliance with all the provisions of the Contract;

2) Information on the number of employees based on the report of the Central Register of Mandatory Social Insurance;

3) A report of an independent certified auditor holding an insurance against professional liability on the amount of salaries, taxes and contributions paid for all the employees in compliance with the Contract;

4) A report of an independent appraiser on the net book value of the contributed used equipment.

The funds beneficiary shall be obliged to enable the independent certified auditor to perform a control of the fulfilment of the investment obligations (the amount and structure of investments during project realisation), obligation to employ and retain the contractually determined number of employees (during the realisation and during the period of guaranteed investment and employment), costs of salaries envisaged by the investment project, as well as the fulfilment of other contractual obligations, and, for that purpose, to enable inspection of the documentation of funds beneficiary.

 The report of an independent certified auditor shall include a conclusion with a positive or a negative opinion, and in case of giving a qualified opinion or refraining from providing an opinion, he/she shall be obliged to elaborate the issues for giving a qualified opinion in the conclusion, or to state the facts and reasons why he/she refrained from providing an opinion.

 Auditing of an investment project which represents an investment of a special importance can be performed by an auditing company employing a minimum of four full-time licensed certified auditors.

 If the report of an independent certified auditor states that the funds beneficiary has failed to perform all the contractual obligations within the project realisation period, i.e. within the period of guaranteed investment and employment (a negative opinion, qualified opinion, refraining from providing opinion), the Ministry shall deliver a written information notice to the funds beneficiary on the obligation to remove the identified irregularities. During, i.e. following the project realisation period, in case that the obligation to invest has been fulfilled completely in respect of the contractually determined total investment amount and a partial deviation in respect of the structure of the investment, the funds beneficiary shall be obliged to deliver to the Ministry the adjusted business plan prior to the submission of the payment request, i.e. report on project realisation.

In case that the funds beneficiary fails to remove the deficiency within 30 days following the receipt of the information notice referred to in paragraph 7 of this Article, the Ministry may terminate the contract and request that the granted funds disbursed to the funds beneficiary be returned, increased by the amount of the relevant statutory default interest, or, according to the Council decision referred to in Article 37 of this Regulation, propose to the funds beneficiary to conclude an annex to the Contract.

Control and monitoring of fulfilment of contractual obligations

Article 42

At the request of the Ministry, the Central Register of Mandatory Social Insurance shall deliver reports on the number of newly employed and the type of work engagement with the funds beneficiary as at the date of submission of the payment requests for individual instalments of granted funds, within five days from the request receipt date at the latest.

At the request of the Ministry, the Central Register of Mandatory Social Insurance shall additionally deliver to the Ministry the reports on the number of employees and the type of work engagement with the funds beneficiary during the project realisation period, as well as during the period of guaranteed investment and employment.

The Ministry shall deliver to the Central Register of Mandatory Social Insurance the list of funds beneficiaries according to the Contracts.

At the end of each quarter, the Central Register of Mandatory Social Insurance shall be obliged to deliver to the Ministry reports on the number of employees and the types of work engagement with the funds beneficiary, according to the list referred to in paragraph 3 of this Article.

The Ministry shall perform the control of performance of funds beneficiary’s obligations referred to in Article 11, paragraph 2 of this Regulation, based on the independent certified auditor’s report.

The Ministry may perform a control of the amount, schedule and structure of investment envisaged in the investment project, i.e. Contract at any given moment during the realisation of the investment project, with the aim of controlling the fulfilment of contractual obligations of the funds beneficiary.

The Ministry shall perform a control following the expiry of the time limit for realisation of the investment project in compliance with Article 11, paragraph 1, point 1) of this Regulation and with the Contract.

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

Based on the report and information referred to in paragraph 8 of this Article, the Agency shall monitor compliance with the agreed schedule of investment project realisation during the realisation of the investment project.

Where it is determined that, for the purpose of further activities regarding the investment project in question, a decision of the Council is necessary, the Ministry shall prepare the report and a proposal of measures and deliver it to the Council through the Agency.

The report referred to in paragraph 10 of this Article shall additionally include information on all the elements of the investment project, and it shall mandatorily include:

1) A summary report of an independent auditor on the investment project audit which shall include the control of compliance with all the provisions of the Contract;

2) Information on the amount of investment made by the funds beneficiary regarding the elements of the investment stated in the Application, Contract, i.e. investment project;

3) Information on the compliance with the agreed schedule of employment of new employees for an indefinite period of time with the funds beneficiary;

4) An overview of blockades of current accounts of the funds beneficiary, if any;

5) Information about any problems faced by the investor, i.e. by the funds beneficiary during the realisation of the investment project;

6) Other information of significance for preservation of financial, developmental and bilateral and economic interests of the Republic of Serbia which may be jeopardized by the actions of the funds beneficiaries.

The Ministry shall deliver to the Business Registers Agency the list of funds beneficiaries as per the Contracts.

In case that any changes are registered with the funds beneficiary, the Business Registers Agency shall be obliged to notify the Ministry thereof without delay.

The control of the amount of investments in fixed assets referred to in paragraph 6 of this Article shall be performed in compliance with the Annex 2 on Method and Procedure for Investment Amount Control, which is printed with this Regulation and is an integral part thereof.

 X. TRANSITIONAL AND FINAL PROVISIONS

Expiry of Regulation validity

Article 43

The control of performance of contractual obligations according to the concluded contracts on granting incentive funds, as well as the decision making based on the performed control, shall be performed in compliance with the provisions of this Regulation.

Procedures for incentive funds granting initiated by the date of entry into force of this Regulation shall be completed in compliance with the Regulation on Conditions and Method of Attracting Direct Investments (“Official Gazette of the RS”, number 110/16) and Regulation on Conditions and Method of Attracting Direct Investments (“Official Gazette of the RS”, number 18/2018).

The requests for refund of costs invested in infrastructure submitted by the date of entry into force of the Regulation on Conditions and Method of Attracting Direct Investments (“Official Gazette of the RS”, number 28/15) and on the concluded contracts on refund of funds invested in infrastructure shall be decided upon in the manner and following the procedure laid down in the Regulation on Conditions and Method of Attracting Direct Investments (“Official Gazette of the RS”, no. 55/14 and 65/14).

On the date of entry into force of this Regulation, the Regulation on Conditions and Method of Attracting Direct Investments (“Official Gazette of the Republic of Serbia”, number 18/2018) shall cease to be in force.

Entry into force

Article 44

This Regulation shall enter into force on the eighth day from the date of its publication in the “Official Gazette of the Republic of Serbia”.

05 Number:

In Belgrade, on March \_\_, 2018

T H E G O V E R N M E N T

 THE PRIME MINISTER

 Ana Brnabic

Annex 1

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| --- |
| Spa and climatic areas |
| 1 | „PALANAČKI KISELJAK” – Smederevska Palanka |
| 2 | „KANJIŽA” - Kanjiža |
| 3 | „JOŠANIČKA BANJA” - Raška |
| 4 | „BANJA” - Aranđelovac |
| 5 | „SOKOBANJA” - Sokobanja |
| 6 | „VRNJAČKA BANJA” – Vrnjačka Banja |
| 7 | „BRESTOVAČKA BANJA” - Bor |
| 8 | „VRDNIK” - Vrdnik |
| 9 | „NIŠKA BANJA” - Niš |
| 10 | „PRIBOJSKA BANJA” - Priboj |
| 11 | „RUSANDA” - Melenci |
| 12 | „PALIĆ” - Subotica |
| 13 | AIR SPA IVANJICA - Ivanjica |
| 14 | „BANJA LJIG” - Ljig |
| 15 | „BANJA KOVILJAČA” - Loznica |
| 16 | „VRANJSKA BANJA” - Vranje |
| 17 | „SELTERS BANJA” - Mladenovac |
| 18 | „NOVOPAZARSKA BANJA” – Novi Pazar |
| 19 | AIR SPA ZLATAR – Nova Varoš |
| 20 | „BUJANOVAČKA BANJA” - Bujanovac |
| 21 | „SIJARINSKA BANJA” - Medveđa |
| 22 | „GORNJA TREPČA” –Čačak |
| 23 | „OVČAR BANJA” - Čačak |
| 24 | „BANJA BEČEJ” - Bečej |
| 25 | „MATARUŠKA BANJA” - Kraljevo |
| 26 | „BANJA VRUJCI” - Mionica |
| 27 | „GAMZIGRADSKA BANJA” - Zaječar |
| 28 | CLIMATIC AREA MOUNTAIN DIVČIBARE –Valjevo |
| 29 | CLIMATIC AREA MOUNTAIN ZLATIBOR –Čajetina |
| 30 | CLIMATIC AREA MOUNTAIN RUDNIK –Gornji Milanovac |

Annex 2

MANNER AND PROCEDURE OF CONTROL OF INVESTMENT AMOUNT

1. REPORT ON PERFORMED INVESTMENT PLANNED IN THE BUSINESS PLAN

1.1. Based on the findings of the performed control, and based on the documentation referred to in point 2 of this addendum, the entity or person performing the control shall make a report on performed investment planned in the business plan (hereinafter referred to as: Report on Investment).

1.2. Report on Investment (amount and structure of the investment) shall contain the following:

1) introduction: basic information on the funds beneficiary and Contract, as well as annex / annexes to the Contract, if they exist, the name of the fund beneficiary, identification number, tax identification number, contract number, subject of the contract, amount and dynamics of investment and the deadline for the completion of the investment project, Application for granting incentive funds, auditor’s report/s, report/s of authorised appraisers used in the control process, and other data,

2) provided documentation and possible subsequently provided documentation based on which the control of the amount of the investment is performed, in line with point 2 of this addendum,

3) data on the documentation which is not provided at the request of an authorised auditor performing the control, if such documentation exists,

4) findings on the investment amount, based on the analysis of the documentation which is subject to the control of the investment amount, in line with point 2 of this addendum.

2. DOCUMENTATION BASED ON WHICH THE INVESTMENT AMOUNT CONTROL IS PERFORMED

Control of the amount of the investment planned by an investment project, depending on the subject of investment, shall be performed based on the following documentation:

a) for proving that the assets acquired by a direct investment is used only by the funds beneficiary:

1) statement of a person in charge at the funds beneficiary that the property acquired by a direct investment is used only by the funds beneficiary,

2) evidence that the property is registered in the business books of the funds beneficiary.

b) for proving the lease duration: contract on a lease.

c) For tangible assets:

A) For land:

1) acquisition with the fee (contract on sale, evidence of payment, tax on the transfer of absolute rights, cadastre certificate, or land registry), evidence of records in business books of the funds beneficiary,

2) acquisition without a fee (legal grounds for acquisition without a fee – contract, evidence on records in business books of the funds beneficiary),

3) land lease (contract on a lease, evidence on records in business books of the funds beneficiary).

B) For buildings and manufacturing plants:

- For greenfield investments:

1) construction permit if necessary for a specific type of construction works,

2) utilisation permit for facilities, or a group of facilities for which construction permit is issued,

3) evidence that the facility is registered in the real estate folio in the land register as a property of the funds beneficiary,

4) minutes on receipt of completed works (minutes by the committee for technical inspection of works),

5) evidence on registration in business books of the funds beneficiary.

- For brownfield investments:

Not covering reconstruction of existing facilities:

1) contract on sale for the facility, or title deed or utilisation permit for the facility, or a contract on a lease of the facility,

2) evidence on registration in business books of the funds beneficiary.

Covering reconstruction/adaptation of existing facilities:

1) permit for reconstruction/adaptation,

2) registration of works according to the issued permit for reconstruction/adaptation,

3) utilisation permit,

4) contract on reconstruction/adaptation,

5) regularly created and certified temporary situations and terminated situation with the evidence on payment,

6) minutes on receipt of completed works (minutes of the committee for technical inspection of works),

7) evidence on registration in business books of the funds beneficiary.

C) Plants, machines, equipment:

- New equipment:

1) invoices of the supplier; customs documentation if the equipment is imported,

2) evidence that the funds beneficiary has become the owner of the funds,

3) evidence on the registration in business books of the funds beneficiary.

- Used equipment:

1) invoices of the supplier; customs documentation if the equipment is imported, and evidence on payment performed to the supplier,

2) if own funds are entering – evidence on property, contract on entry of equipment based on the execution of contractual obligations,

3) assessment of the present value of entering funds by an authorised appraiser (court expert),

4) evidence that the beneficiary of assets has become the owner of the assets,

5) evidence on the registration in business books of the funds beneficiary.

D) For intangible assets:

1) legal grounds for acquisition,

2) invoices of the supplier,

3) evidence that the intangible assets are registered in business books of the funds beneficiary,

4) review of calculated amortisation from the acquisition,

5) certificate by an authorised appraiser (court expert) that the intangible assets have been procured under market conditions,

6) statement of the funds beneficiary and investor under material and criminal liability that the intangible assets have not been procured from a person related to them,

7) statement by a person in charge at the funds beneficiary that the intangible assets are used only by the funds beneficiary.

E) Services which might be subject to international trade:

1) contract on sale for the facility, or title deed or utilisation permit for the facility, or a contract on a lease of the facility.