



MINISTRY OF FINANCE

APPLICANT'S GUIDE

***elaborated on the basis of
Government Decision no. 807/2014 establishing certain State aid
schemes to support investments with major impact in the economy,
as subsequently amended and supplemented***

- Revision 5, August 2021 -

This document is a guide for State aid applicants within the State aid scheme to stimulate investments promoting regional development through the performance of investments, as established through G.D. no. 807/2014, published in the Official Gazette, Part I, no. 714 /30.09.2014, amended and supplemented through G.D. no. 357/2016, published in the Official Gazette, Part I, no. 377/17.05.2016; G.D. no. 476/2018, published in the Official Gazette Part I, no. 580/09.07.2018; G.D. no. 880/2018, published in the Official Gazette Part I no. 954/12.11.2018; G.D. No. 1046/2018, published in the Official Gazette Part I, no. 25/10.01.2019; G.D. no. 268/2020, published in the Official Gazette Part I, no. 286/06.04.2020; G.D. No. 628/2020, published in the Official Gazette, Part I, no. 711/07.08.2020, and G.D. no. 760/2020, published in the Official Gazette Part I, no. 702/15.07.2021.

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

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

Throughout the period of validity of the State aid scheme, the Ministry of Finance makes available to the applicants at <https://mfinante.gov.ro/ro/formular-intrebari>, a dedicated platform through which can be addressed questions, notices, and requests for clarifications, which shall be resolved with urgency, if not already treated in this material and on the website of the Ministry of Finance.

Formular asistență Ajutor de Stat

Acasa / Domenii / Ajutor de stat / Formular asistență Ajutor de Stat

Formular asistență Ajutor de Stat

Date societate

Schema*
Alege schema de ajutor de stat

Tip societate*
Alege tip societate

Cod de identificare fiscala
Cod CAEN*

Denumire* societate
Judet*
Alege judetul

Persoana de contact

Telefon* de contact
E-mail

Nume si prenume* persoana de contact
Functia*

Introduceti intrebarea

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CHAPTER I - GENERAL INFORMATION

1. What is the objective of this State aid scheme?

The objective of the State aid scheme is **regional development** through the **performance of initial investments** in high-tech fixed assets to obtain products with high added value, irrespective of the size of the beneficiaries.

The State aid scheme was established on the basis of the provisions in the Regulation (EU) no. 651/2014 of the Commission of 17 of June 2014 declaring certain categories of aid compatible with the internal market in application of art. 107 and 108 of the Treaty, valid between July 1, 2014 and December 31, 2020, as subsequently amended and supplemented, of the Decision of the European Commission C (2014) 2240 final authorizing the map of regional State aid for the period of 2014-2020 and of the Commission Communication C(2020) 4355 final of July 2, 2020 amending the Guidelines on regional State aid for the period 2014-2020 (which formed the basis of issuance of the Decision of the European Commission C(2014) 2240 final approving the Map of regional aid for 2014-2020) and extended the period of implementation thereof.

The total value of one investment project must be of minimum 4.5 million Lei. This value was decided relative to an equivalent value of approximately 1 million EUR (calculated at an exchange rate of 4.5 Lei/EUR).

DEFINITIONS:

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

Initial investment = the investment in tangible and intangible assets within the same perimeter, connected to the start of a new unit, the extension of the capacity of an existing unit, the diversification of the production of a unit through products that have not been previously manufactured in that unit or a fundamental change in the general production process of an existing unit, with the exception of investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE, as approved through Order of the President of the National Institute of Statistics no. 337/2007 on updating the Classification of activities in the national economy - NACE.

Initial investment in favor of a new economic activity = the investment in tangible and intangible assets related to the incorporation of a new unit or the diversification of a unit's activity, provided the new activity is not identical or similar to the activity previously performed in that unit; the investment must be within the same perimeter, with the exception of investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE, as approved through Order of the President of the National Institute of Statistics no. 337/2007

WARNING!

Investment projects whose total value is below 4.5 million Lei are not eligible for financing with State aid on this scheme.

2. What is the budget of the State aid scheme?

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

The maximum budget of the scheme is of **Lei 6,380 million**, respectively the equivalent of approximately **EUR 1,450 million**, with possibility of supplementation, as follows:

a) commitment appropriations for the issuance of financing agreements for the period 2014-2023;

b) budget appropriations for payment of State aid approved on the basis of the issued financing agreements for the period of 2015-2028.

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

3. What is the validity term of the State aid scheme?

Financing agreements can be issued on the basis of the scheme by **December 31, 2023**, under observance of the legislation in the field of State aid and of the regional map authorized by the European Commission, within the limit of the annual budget allocated to the scheme through the annual budget laws.

The **State aid shall be paid** between **2015 and 2028**, on the basis of the financing agreements issued and within the limit of the annual budget allocated to the scheme through the annual budget laws.

4. Who can apply for financing within the State aid scheme?

The enterprises that can apply for State aid on the basis of this scheme are **newly incorporated or operating enterprises, both SMEs and large enterprises, with legal personality**, incorporated in accordance with the **Companies Law no. 31/1990**, as republished, as subsequently amended and supplemented.

DEFINITIONS:

Newly incorporated enterprise = the enterprise incorporated in the year of registration of the application for financing agreement or the enterprise that has carried out/has not carried out economic activity, but not more than 3 consecutive fiscal years before the date of registration of the application.

Operating enterprise = the enterprise that has been performing economic activity for more than 3 consecutive fiscal years on the date of registration of the application for financing agreement and has approved annual financial statements corresponding to the last concluded financial year.

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

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

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

WARNING!

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

5. What are the eligible activity sectors?

Shall be eligible the investments which are made in **all** activity sectors, **except for** those provided under art. 15 in G.D. No. 807/2014, as subsequently amended and supplemented, and

those mentioned in the “*List of activity sectors not eligible for State aid*” provided in Annex 1 to this Guide, in accordance with the legal provisions in force.

WARNING!

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

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

WARNING!

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

DEFINITION:

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

Investment plan = synthetic document presented in table format, which comprises exclusively the value corresponding to the eligible and ineligible expenses of the initial investment, on categories and with determination of the total investment value and of the schedule of performance of the investment.

WARNING!

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

6.1 Eligible expenses

DEFINITION:

Eligible expenses = costs without V.A.T. which correspond to the manufacturing, respectively to the purchase, as applicable, of tangible and intangible assets, as well as expenses related to the lease of constructions, corresponding to the performance of the initial investment.

6.1.1 Eligible expenses related to tangible assets

DEFINITIONS:

Tangible assets = assets associated to the initial investment, represented by:

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

New assets = assets that have never been used.

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

In the case of lease of constructions corresponding to the initial investment shall be considered eligible the expenses for the lease of constructions corresponding to the initial investment registered during the period of implementation of the investment plan.

WARNING!

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

The lease agreement must be valid at least for the period of performance of the initial investment and five years after completion thereof, with possibility of extending the validity by at least 2 years and it must enter into force on a subsequent date to that of submission of the request.

The tangible assets must cumulatively fulfill the following eligibility requirements:

- a) they must be exclusively used by the enterprise benefiting of State aid to reach the objectives of the investment for which financing was requested;
- b) they must be included in the assets of the enterprise benefiting of State aid and must remain associated to the investment for which financing was awarded for a term of at least 5 years as of completion of the investment;
- c) they must be purchased under market conditions.

WARNING!

If it is found, within the 5 year term as of completion of the investment, extended by maximum 2 years, as applicable, the physical or moral wear of the assets that correspond to the initial investment made, it is allowed to replace them in order to ensure continuity for the financed activity, subject to informing the Ministry of Finance.

DEFINITION:

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

6.1.2 Eligible expenses related to intangible assets

DEFINITION:

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

Intangible assets must cumulatively fulfill the following eligibility requirements:

- they must be exclusively used by the enterprise benefiting of State aid to reach the objectives of the investment for which financing was requested;
- they must be included in the assets of the enterprise benefiting of State aid and must remain associated to the investment for which financing was awarded for a term of at least 5 years as of completion of the investment;
- they must be purchased under market conditions;
- they must be purchased from third parties unrelated to the purchaser.

DEFINITIONS:

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

Third parties unrelated to the purchaser - natural or legal persons that are not found in at least one of the following situations:

- (i) natural persons who are spouses or relatives up to the 3rd degree, inclusive, of the personnel or management of the purchaser;
- (ii) natural persons who are employees of the purchaser;

- (iii) natural or legal persons who are sellers and have an influence on the structure, votes or decisions of the purchaser's management bodies;
- (iv) natural or legal persons who are sellers and on which the purchaser has an influence on the structure, votes or decisions of their management bodies.

WARNING!

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

6.2 Ineligible expenses

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

WARNING!

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

- the purchase, modernization, and rehabilitation of constructions;
- rent related costs exceeding the value of 22 Lei/sq. m./month.

WARNING!

All the expenses which do not fulfill the requirements to be eligible expenses shall be considered ineligible expenses.

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

- are not included in the classification presented in Government Decision no. 2.139/2004 *approving the Catalog on the classification and normal operating terms of fixed assets*, as subsequently amended;

or

- do not have the minimum entry value of fixed assets established in accordance with the legal provisions in force;

or

- are not new.

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

- the purchase of furniture and industrial furniture, decorations, means of transport that can be registered, electronic computers which are not part of the technological flow, office equipment, tool kits, tool cabinets/carts, etc.,

- expenses for transport, assembly of technical installations, machines and equipment.

7. Which are the eligibility criteria for the enterprises?

Enterprises must cumulatively fulfill the following **requirements**:

General

- a) they are registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented;
- b) they make an initial investment in Romania, in one of the eligible fields of activity;
- c) they do not fall into the category of "*enterprises in distress*";
- d) they are not undergoing the procedure of forced execution,

	<p>insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation, or temporary activity suspension;</p> <p>e) they are not subject to decisions of recovery of State aid or if such decisions have been issued they have been enforced, in accordance with the legal provisions in force;</p> <p>f) they have not benefited of other regional State aid for eligible costs of the type of salary costs within the same single investment project;</p> <p>g) they have not made a relocation to the unit where the initial investment for which the aid is requested shall be made in the last 2 years prior to the registration of the application for financing agreement and, at the time of registration of the application, they offer a commitment that they shall not do this for a period of up to 2 years after completion of the initial investment for which the aid is requested;</p>
<u>Supplementary for operating enterprises</u>	<p>h) their turnover return is bigger than zero in one of the last three concluded financial years;</p> <p>i) they have positive own capitals in the last concluded financial year;</p>
<u>Supplementary for newly incorporated enterprises</u>	<p>j) they have a share capital subscribed and paid up of minimum Lei 100,000;</p> <p>k) they do not belong to shareholders who hold or have held in the last 2 years prior to the date of registration of the application for financing agreement another enterprise registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented, which performs or has performed the activity for which financing is requested.</p>
<u>Supplementary, provided by Recommendation (EU) 2020/1039 of the Commission of July 1, 2020¹, both for operating enterprises and for newly incorporated enterprises</u>	<p>l) they are not residents in fiscal terms in the jurisdictions registered on the list of the European Union of non-cooperating jurisdictions or they are subject to the fiscal legislation thereof;</p> <p>m) they are not controlled, either directly or indirectly, by shareholders from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions, the analysis going through to the level of the real beneficiary, as defined by art. 3 point 6 in Directive 849/2015;</p> <p>n) they do not control, either directly or indirectly, own subsidiaries or permanent seats in the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions;</p> <p>o) they do not exercise the right of joint ownership with the enterprises from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions.</p>

WARNING!

The list of the European Union of non-cooperating jurisdictions and Directive 849/2015 of the European Parliament and of the Council are published on the website of the Ministry of Finance.

WARNING!

¹ Directive (EU) no. 849/2015 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

At the same time, the Commission's Recommendation of July 14, 2020 offers the Member States the possibility of ignoring the existence of certain connections of the beneficiary enterprises with those from the non-cooperating jurisdictions, in two cases:

1. if the level of the fiscal liabilities from the Member State which grants the support for a certain period of time (for example, the last three years) is considered adequate compared to the total turnover or the level of activity of the beneficiary enterprise, at individual and group level, within the same period;
2. if the enterprise undertakes legal commitments of eliminating within a short time interval the connections with the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions, subject to adequate monitoring and corresponding sanctioning in case of failure to observe these commitments.

8. How is the State aid calculated?

State aid shall be granted to the enterprises under observance of the provisions in:

- G.D. no. 807/2014, as subsequently amended and supplemented,
- Regulation (EU) no. 651/2014, as subsequently amended and supplemented,
- the Decision of the European Commission C(2014) 2240 final authorizing the map of Regional State aid for the period 2014-2020,
- the Commission Communication C(2020) 4355 final of July 2, 2020 amending the Guidelines on regional State aid for the period 2014-2020 (which formed the basis of issuance of the Decision of the European Commission C(2014) 2240 final approving the Map of regional State aid for the period 2014-2020) and extended the period of implementation thereof until December 31, 2021,

through allocations from the State budget, from the budget of the Ministry of Finance - General Actions, **under the form of non-reimbursable amounts corresponding to the eligible expenses, within the limit of the maximum admissible limit and of the maximum level of State aid an enterprise may benefit of, as follows:**

Region	Component counties	Period	Maximum intensity	Maximum level of State aid an enterprise may benefit of - million EUR -
North-East	Bacău, Botoșani, Iași, Neamț, Suceava and Vaslui	2014-2021	50%	37.5
South-East	Brăila, Buzău, Constanța, Galați, Vrancea and Tulcea	2014-2021	50%	37.5
South Muntenia	Argeș, Călărași, Dâmbovița, Giurgiu, Ialomița, Prahova and Teleorman	2014-2021	50%	37.5
South-West Oltenia	Dolj, Gorj, Mehedinți, Olt and Vâlcea	2014-2021	50%	37.5
North-West	Bihor, Bistrița-Năsăud, Cluj, Maramureș, Satu-Mare and Sălaj	2014-2021	50%	37.5
Center	Alba, Brașov, Covasna, Harghita, Mureș and Sibiu	2014-2021	50%	37.5
West	Arad, Caraș-Severin, Hunedoara and Timiș	2014-2021	35%	26.25
Ilfov	Ilfov	2014-2021	35%	26.25
Bucharest	Bucharest	2018-2021	10%	7.5

The gross intensity of State aid an enterprise may benefit of within the scheme between 2022 and 2023 relative to the eligible expenses shall be established through the regional maps approved by the European Commission for this period. The maximum level of State aid relative to

the eligible expenses and under observance of the provisions of art. 11 shall be established as a correspondent of the maximum approved intensity.

DEFINITIONS:

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

Intensity (%) = (maximum value of State aid/total value of eligible expenses) x 100

Large investment project = an initial investment with eligible costs of more than 50 million EUR, calculated at the exchange rate set by the National Bank of Romania valid on the date of elaboration of the financing agreement.

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

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

R = maximum aid intensity applicable in the region in question

A = initial eligible costs of EUR 50 million

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

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

DEFINITIONS:

Single investment project = any initial investment started by the same beneficiary, at group level, within a time interval of 3 years as of the starting date of the works at another investment that benefits of aid in the same region of level 3 in the Common nomenclature of territorial statistical units (NUTS 3), respectively county.

Group = the mother company and all its subsidiaries.

WARNING!

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

The value in Lei of the eligible expenses that correspond to the single investment project is formed of the value in Lei of the eligible expenses approved or effectively discounted with State aid, as applicable, which correspond to the previous projects, and the value in Lei of the eligible expenses that correspond to the project for which financing is requested.

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

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

Examples:

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

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

For an enterprise which makes an investment of 315 million Lei, respectively the equivalent of approximately 70 million EUR, and the value of the eligible costs is of 270 million Lei, respectively

the equivalent of approximately 60 million EUR, in Iasi, a locality situated on the regional map in the North-East area and whose maximum intensity is of 50%, **the State aid shall be determined as follows:**

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

WARNING!

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

CHAPTER II - MANNER OF AWARD OF THE STATE AID

The mechanism of submission, analysis, and settlement of the Applications for financing agreement

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

The registration of the applications for financing agreement shall be made in continuous session.

Interested enterprises shall send the applications for financing agreement accompanied by supporting documents to the Ministry of Finance.

The analysis of the Applications for financing agreement shall be finalized after the documentation is considered completed, with:

- Financing Agreement;**
- or**
- Letter of rejection.**

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

The registration of the applications for financing agreement shall also continue if the annual budget allocated to the scheme was not approved through the annual law of the State budget or the annual budget allocated to the scheme was exhausted.

The Ministry of Finance shall publish on its website the date when the annual budget allocated to the scheme through the annual budget laws was exhausted.

The applications for financing agreement registered by the date of exhaustion of the annual budget allocated to the scheme through the annual budget laws which are not included in this budget and which were not settled with Financing Agreement or Letter of rejection shall continue to be assessed by the Ministry of Finance, which shall send to the enterprise, as applicable:

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

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

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

The applications for financing agreement registered after the depletion of the annual budget allocated to the scheme shall be returned to the enterprises.

The applications for financing agreement which have not been settled by the expiration date of the scheme's validity, without exceeding the legal term, shall be returned to the enterprises.

WARNING:

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

1. How is the registration and assessment of the applications for financing agreement performed?

1.1. Registration of the Application for financing agreement

The applications for financing agreement shall be registered on the basis of an announcement published on the website of the Ministry of Finance, in the section www.mfinante.gov.ro – *State Aid – Announcements*, which comprises the date as of which shall be submitted the applications for financing agreement, as well as the budget allocated in accordance with the annual budget law.

WARNING!

Shall be considered only the applications for financing agreement registered with the Ministry of Finance as of the date communicated on the website.

For the purpose of obtaining the financing agreement, **the applicant enterprise shall send to:**

- **the General Registrar's Office of the Ministry of Finance on 16 Libertatii Avenue, district 5, Bucharest, an application for financing agreement accompanied by the supporting documents** necessary for the assessment, in one printed counterpart and in electronic form of memory stick type.

The documentation can be sent by post or courier service. Also, it is allowed personal submission of the documentation at the General Registrar of the Ministry of Finance.

On the envelope it is mentioned "Implementation unit of the State aid scheme established through G.D. No. 807/2014".

or

- **On-line, an Application for financing agreement (CA807) accompanied by the supporting documents (C807)** necessary for the assessment, in electronic form.

WARNING!

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

Shall not be taken into account the applications, documents, written materials send by e-mail, fax, or at another address than the one specified above, as well as documents sent by the applicant enterprise under any form, at its own initiative, in order to supplement the application for financing agreement.

The form of the Application for financing agreement is found in Annex 2.1 of this Guide.

WARNING!

On-line filling in and submission of the Applications for financing agreement and of the supporting documents to the **Ministry of Finance** shall be made in accordance with the *User's Guide for on-*

line submission, published on the website of the Ministry of Finance, in the section <https://mfinante.gov.ro/depunere-on-line1>.

The form of the Application for financing agreement is found in the section www.mfinante.gov.ro – *Informed Investor – On-line submission – On-line submission access*.

1.2. Verifying the existence and compliance of the Application for Financing Agreement and of the documentation attached thereto

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

In order to fulfill the compliance requirements, the application:

- observes the model of form in Annex 2.1 to this Guide,
- has all the rubrics filled in with the requested data,
- is dated and signed in the original counterpart, or electronically in case of on-line submission, by the person authorized to legally represent the enterprise
- contains information correlated with the information from the ascertaining certificate, the financial statements, the investment plan, the business plan, the identity document of the person authorized to legally represent the enterprise and the power of attorney, if applicable.

WARNING!

If the legal representative of the enterprise, as per the Ascertaining Certificate, is unable to sign the necessary documentation in order to access the State aid, it is allowed to appoint another person to legally represent the enterprise in relation to the Ministry of Finance, the application for financing agreement being accompanied by a power of attorney in this respect, as presented at letter f).

b) **ascertaining certificate** issued at most 10 business days before the date of registration of the application for financing agreement, either in its original counterpart, issued by the Trade Register Office attached to the tribunal where the enterprise is seated, or electronically, with information obtained from the services portal of the National Trade Register Office - RECOM Online.

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

- is attached in its original counterpart, if issued by the Trade Register Office with the tribunal where the enterprise is seated, or in electronic form,
- is updated with data valid on the date of registration of the application for financing agreement,
- contains at least the following information: identification details, sole registration code, shareholders and legal representatives of the enterprise, main field of activity and all secondary fields of activity, working units of the enterprise.

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

The approved annual financial statements must contain:

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

WARNING!

If the turnover return is lower than 0 in the last concluded financial year shall be also submitted the approved annual financial statements corresponding to one of the two financial years prior thereto, when the turnover return is bigger than 0.

For the fulfillment of compliance requirements, the financial statements submitted and approved in accordance with the legal provisions in force are attached in copies.

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

DEFINITION:

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

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

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

WARNING!

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

- it should be concise, complete, it should contain basic information about the enterprise's activity,
- it should present an objective analysis, based on realistic proposals,
- It should include the investment plan presented in accordance with sub-point d¹),
- it should contain the financial projections:
 - on paper, in case of submission to the General Registrar's Office of the Ministry of Finance or in pdf format in case of on-line submission,
 - and
 - in Microsoft Excel format, with all formulas, both in case of submission to the General Registrar's Office of the Ministry of Finance and in case of on-line submission,
- it should be structured in accordance with the model presented in annex 3 to this Guide,
- it should include the Index of transmitted documents.

d¹) **investment plan** - the document included in the business plan which comprises the eligible and ineligible expenses corresponding to the initial investment with determination of the total investment value, as well as of the schedule of performance of the investment

DEFINITION:

Schedule of performance of the investment - period of implementation of the investment plan as of the starting date of the investment and until December 31 of the year when the investment is completed.

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

- observes the model in annex no. 4,
- the value of eligible expenses, total and by years, shall be correlated with the corresponding information from the Application for financing agreement.

DEFINITIONS:

The moment of execution of the constructions represents the moment when the construction works are partially or totally executed, are partially or totally received and have at least the following documents attached thereto: work status reports, invoice, payment order, account statement, reception protocol.

The moment of purchase of the assets is the moment when the asset is received in the location of performance of the investment and at least the following documents are attached to it: invoice, payment order, account statement, reception protocol.

WARNING!

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

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

- comprises all the information,
- is dated and signed in the original counterpart, or electronically in case of on-line submission by the person authorized to legally represent the enterprise,
- includes the investment plan elaborated in accordance with the model in the Applicant's Guide,
- contains information correlated with the information from the Application for financing agreement;
- is sent including in electronic form.

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

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

- is signed by the legal representative of the applicant enterprise,
- is attached in its original counterpart or electronically, in case of on-line submission.

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

In order to fulfill the compliance requirements, the identity document of the person authorized to legally represent the enterprise is attached in copy or electronically in case of on-line submission.

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

In order to fulfill the compliance requirements, the index shall mention the denomination of every document and the page where it is filed.

WARNING!

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

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

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

The aforementioned applications shall be also valid if submitted on-line with the mention that the person authorized to legally represent the enterprise shall sign electronically.

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

Shall not be considered the documents transmitted by the enterprise on its own initiative, for the

purpose of completing the application for financing agreement.

Checking list for the compliance requirements

The application for financing agreement	- observes the model in annex no. 2.1
	- has all its rubrics filled in
	- is dated and signed by the person authorized to legally represent the enterprise
The Certificate Ascertaining	- is issued at most 10 business days before the date of registration of the application for financing agreement, attached in its original counterpart or electronically
	- is updated with data valid on the date of registration of the application for financing agreement
	- contains all the information in accordance with the provisions of art. 3 letter a) in the procedure
The Financial statements	- are submitted and approved in accordance with the legal provisions in force
	- are submitted in copies
The Business plan	- includes the investment plan elaborated in accordance with the model in the Applicant's Guide
	- comprises all the information according to the definition and instructions in the Applicant's Guide
	- presents the financial projections for the period of implementation of the investment and 5 years as of completion thereof
	- contains information correlated with the information from the application for financing agreement
	- is dated and signed by the person authorized to legally represent the enterprise
The supporting documents corresponding to the business plan	- documents are submitted to support the turnover
The power of attorney	- is signed by the legal representative if another person that the legal representative signs the application for financing agreement,
	- is attached in its original counterpart or in electronic form
The identity document of the person authorized to sign the application	- is attached in copy
The index	- mentions the denomination of every document and the page where it is filed

1.3. Assessment of the Application for financing agreement and of the documents attached thereto for fulfillment of the eligibility requirements and criteria

a) The application for financing agreement

It shall be analyzed if **the eligibility requirements** are fulfilled:

- it makes an initial investment in Romania with a total value of minimum 4.5 million Lei, in one of the eligible fields of activity,
- it does not fall into the category of "enterprises in distress",
- it is not undergoing the procedure of forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation, or temporary activity suspension,
- it is not subject to decisions of recovery of State aid or if such decisions have been issued they

have been enforced,

- it has not benefited of regional State aid for eligible costs of the type of salary costs within the same single investment project;
- it has not made a relocation to the unit where the initial investment for which the aid is requested shall be made in the last 2 years prior to the registration of the application for financing agreement and, at the time of registration of the application, it offers a commitment that it shall not do this for a period of up to 2 years after completion of the initial investment for which the aid is requested,
- it does not belong to shareholders who hold or have held in the last 2 years prior to the date of registration of the application for financing agreement another enterprise registered in accordance with Law no. 31/1990, which performs or has performed the activity for which financing is requested, in the case of newly incorporated enterprises,
- it is not resident in fiscal terms in the jurisdictions registered on the list of the European Union of non-cooperating jurisdictions or it is subject to the fiscal legislation thereof;
- it is not controlled, either directly or indirectly, by shareholders from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions, the analysis going through to the level of the real beneficiary, as defined by art. 3 point 6 in Directive 849/2015;
- it does not control, either directly or indirectly, own subsidiaries or permanent seats in the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions;
- it does not exercise the right of joint ownership with the enterprises from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions;

b) the Ascertaining Certificate

In order to fulfill the **eligibility criteria shall be verified if the enterprise:**

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

c) the Financial statements

In order to fulfill the **eligibility criteria shall be verified if the enterprise:**

- has a turnover return > 0 in one of the last 3 concluded financial years, in the case of operating enterprises ($= 100 \times \text{Net profit/Turnover}$),
- has positive own capitals in the last concluded financial year, in case of operating enterprises (shall be taken from the Financial Statements - Form 10),
- has a subscribed and paid-up share capital of minimum 100,000 Lei, in the case of newly incorporated enterprises (shall be taken from the Financial Statements - Form 10, if applicable, or from the Ascertaining Certificate issued by the Trade Register Office).

d) the Business plan

The eligibility criteria that must be fulfilled by the business plan are detailed in Annex 3 to this Guide.

d¹) The Investment plan

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

2. Assessment results of the Application for financing agreement

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

- a) financing agreement,
- b) request of information and/or documents to supplement the application for financing agreement,
- c) letter of rejection of the application for financing agreement.

WARNING!

The Ministry of Finance shall verify and assess in terms of:

- existence and compliance
- the eligibility requirements and criteria

The application for financing agreement and the documents attached thereto shall be assessed within 30 business days as of the date of registration thereof with the Ministry of Finance.

3. Under what circumstances is the Financing Agreement issued?

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

WARNING!

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

4. Under what circumstances is the filling in of the Application for Financing Agreement requested?

If:

- the documents do not observe the compliance requirements,
 - there are inconsistencies in the provided information,
 - it is found that it is necessary to provide additional documents in order to settle the application,
- The implementation unit shall send a request of information and/or documents to supplement the application for financing agreement.

WARNING!

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

If the documents transmitted for supplementation of the Application for financing agreement require additional information, the term of analysis of the Application for financing agreement is of 30 business days as of the date of filling in thereof. The circuit of analysis shall be resumed by the date when the application is considered completed.

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

WARNING!

Shall not be considered the documents transmitted by the enterprise on its own initiative, for the purpose of completing the documentation corresponding to the application for financing agreement.

5. Under what circumstances is issued the Letter of rejection of the Application for Financing Agreement?

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

- **The application for financing agreement is not accompanied by the following documents:**
 - a) ascertaining certificate issued at most 10 business days before the date of registration of the application for financing agreement, either in the original counterpart issued by the trade register office attached to the tribunal where the enterprise has its seat, or electronically, with information obtained from the services portal of the National Trade Register Office - RECOM Online, mentioning at least the following data: identification details, sole registration code, shareholders and legal representatives of the enterprise, main field of activity, all secondary fields of activity, and the working units of the enterprise;
 - b) approved annual financial statements corresponding to the last concluded financial year and, as applicable, to the financial year of the last 3 concluded financial years where the turnover return is bigger than 0;
 - c) the business plan revealing the viability of the initial investment and the economic efficiency of the enterprise;
 - d) power of attorney signed by the legal representative of the applicant enterprise, if another person that the legal representative signs the application for financing agreement;
 - e) identity document of the person authorized to legally represent the enterprise;
 - f) schedule of the transmitted documents.
- **The eligibility criteria of the investment are not fulfilled:**
 - a) they should be considered initial investments, respectively initial investments in favor of a new economic activity, in the case of large enterprises which make investments in the region Bucharest-Ilfov;
 - b) they should have a total value without V.A.T. of minimum 4.5 million Lei;
 - c) they must prove their economic efficiency and viability throughout the implementation of the investment and 5 years as of the date of completion thereof in accordance with the business plan;
 - d) they must prove the fulfillment of the stimulative effect of the State aid;
 - e) they must fulfill the quantitative and qualitative indicators;
 - f) they must generate contributions to regional development, through the payment of taxes and charges to the consolidated budget of the State and to the local budgets, throughout the period of implementation of the investment and 5 years as of completion thereof;
 - g) they must generate a quantifiable multiplier effect in the economy by driving other related investments and the development of local suppliers of products and services.

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

<u>General</u>	a) they are registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented;
	b) they make an initial investment in Romania, in one of the eligible fields of activity;
	c) they do not fall into the category of " <i>enterprises in distress</i> ";
	d) they are not undergoing the procedure of forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation, or temporary activity suspension;
	e) they are not subject to decisions of recovery of State aid or if such decisions have been issued they have been enforced, in accordance with the legal provisions in force;
	f) they have not benefited of other regional State aid for eligible costs of the type of salary costs within the same single investment project;

	g) they have not made a relocation to the unit where the initial investment for which the aid is requested shall be made in the last 2 years prior to the registration of the application for financing agreement and, at the time of registration of the application, they offer a commitment that they shall not do this for a period of up to 2 years after completion of the initial investment for which the aid is requested.
<u>Supplementary for operating enterprises</u>	h) their turnover return is bigger than zero in one of the last three concluded financial years i) they have positive own capitals in the last concluded financial year
<u>Supplementary for newly incorporated enterprises</u>	j) they have a share capital subscribed and paid up of minimum Lei 100,000; k) they do not belong to shareholders who hold or have held in the last 2 years prior to the date of registration of the application for financing agreement another enterprise registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented, which performs or has performed the activity for which financing is requested.
<u>Supplementary, provided by Recommendation (EU) 2020/1039 of the Commission of July 1, 2020², both for operating enterprises and for newly incorporated enterprises</u>	l) they are not residents in fiscal terms in the jurisdictions registered on the list of the European Union of non-cooperating jurisdictions or they are subject to the fiscal legislation thereof; m) they are not controlled, either directly or indirectly, by shareholders from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions, the analysis going through to the level of the real beneficiary, as defined by art. 3 point 6 in Directive 849/2015; n) they do not control, either directly or indirectly, own subsidiaries or permanent seats in the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions; o) they do not exercise the right of joint ownership with the enterprises from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions.

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

6. Under what circumstances is the draft Financing Agreement issued?

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

WARNING!

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

² Directive (EU) no. 849/2015 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

The draft financing agreements issued in the last year of validity of the scheme shall be approved by order of issuance, after supplementation of the annual budget allocated to the scheme in the current year, in accordance with the annual budget law.

WARNING!

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

CHAPTER III - START OF THE INVESTMENT

DEFINITION:

Start of the investment - either the start of the construction works corresponding to the investment, or the first commitment of mandatory legal nature of order of equipment or any other commitment through which the investment becomes irreversible, according to which one occurs first.

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

The start of the construction works represents the conclusion of the agreement, firm orders of execution of construction works.

WARNING!

Enterprises are required to start the investment for which they requested financing within 6 months as of the date of issuance of the financing agreement, under observance of the schedule undertaken in the documentation attached to the application.

The enterprise may start the investment after the registration at the General Registrar's Office of the Ministry of Finance of the Application for financing agreement, but shall do this on its own risk. The start of the investment after registration of the Application for financing agreement does not oblige the Ministry of Finance to issue a Financing Agreement.

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

WARNING!

The Ministry of Finance shall be entitled to continuously verify the fulfillment of the enterprise's eligibility requirements, and those of the investment project throughout the entire period of implementation of the investment plan.

CHAPTER IV - MAINTENANCE OF THE INVESTMENT

The enterprise is required to maintain the initial investment in operation for a term of at least 5 years as of the date of completion thereof.

At the request of the enterprise the mandatory minimum period of maintenance of 5 years can be extended by up to 2 years after the analysis and approval by the Ministry of Finance of the plan of recovery of the delay caused exclusively by the pandemic generated by the new coronavirus, as sent by the enterprise.

WARNING!

Enterprises which received a Financing agreement may request the extension by maximum 2 years of the mandatory minimum period of maintenance of 5 years by sending to the Ministry of Finance a request in this respect by December 31, 2021.

The plan of recovery of the difference caused exclusively by the pandemic generated by the new coronavirus sent by the enterprise must include at least the following elements:

- the period of extension of the mandatory minimum period of maintenance of 5 years,
- the substantiation of the decision to extend the mandatory minimum period of maintenance of 5 years.

If it is found, within the mandatory minimum period of maintenance of 5 years, extended by maximum 2 years, as applicable, the physical or moral wear of the assets that correspond to the initial investment made, it is allowed to replace them in order to ensure continuity for the financed activity, subject to informing the Ministry of Finance.

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

- the substantiation of the replacement decision revealing that the asset/assets that shall be replaced are physically or morally worn;
- the denomination of the assets to be replaced,
- the denomination of the assets that shall replace those physically or morally worn,
- a short description of the assets that shall replace those physically or morally worn, with placement thereof within the technological flow.

By July 1 of the year following the completion of the investment, respectively of performance of the last payment of approved State aid, as applicable, the enterprise shall submit to the Ministry of Finance a report audited by the authorized enterprise which is not affiliated to the enterprise benefiting of State aid, which shall certify the fact that following the implementation of the investment the enterprise is performing the activity which was financed through the project.

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

1. General identification details of the enterprise - the data shall be correlated with the information from the Ascertaining certificate, the Financial statements;
2. The general framework of the investment project - description of the general and specific objectives of the investment project;
3. The implementation of the investment plan - presentation of the investment plan which formed the basis of issuance of the Financing agreement and of the investment plan as it was implemented;
4. The contribution of the project to regional development - presentation and substantiation of the level of the contributions to the general consolidated budget of the State;
5. Supporting documents that certify the implementation of the investment plan, like: The Inventory Register and the Summary table of fixed assets corresponding to the (eligible and ineligible) assets from the investment plan.
6. Demonstrating the fact that following the implementation of the investment the enterprise is performing the activity that was financed through the project.

WARNING!

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

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

WARNING!

Considering the obligation of maintaining the initial investment for a period of at least 5 years as of the date of completion thereof, with possibility of extension by maximum 2 years, the Ministry of Finance shall make an annual verification on the spot in order to establish the fulfillment of this requirement.

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

Between July 15, 2021 and December 31, 2021, the Ministry of Finance shall not make verifications on the spot.

CHAPTER V - AMENDMENT OF THE INVESTMENT PLAN AND OF THE FINANCING AGREEMENT

WARNING!

Applicant enterprises are required to complete the investment for which they have requested financing in accordance with the schedule of performance of the investment which formed the basis of issuance of the financing agreement.

DEFINITION

Schedule of performance of the investment - period of implementation of the investment plan as of the starting date of the investment and until December 31 of the year when the investment is completed

WARNING!

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

If the schedule of performance of the investment is amended, the enterprise shall be required to request to the Ministry of Finance to approve those amendments throughout the implementation of the initial investment, within 30 days as of the date when it becomes aware of that amendment, and to attach a substantiation in this respect and the following supporting documents:

a) ascertaining certificate, issued at most 10 business days before the date of registration of the request, either in the original counterpart issued by the trade register office attached to the tribunal where the enterprise is seated, or electronically, with information obtained from the services portal of the National Trade Register Office - RECOM Online, mentioning at least the following data: identification details, sole registration code, shareholders and legal representatives of the enterprise, main field of activity, all secondary fields of activity, and the working units of the enterprise;

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

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

WARNING!

The enterprise must present the **Comparative analysis on the initial investment plan and the amended investment plan**, in accordance with the model presented in Annex 5 to this Guide, with separate mentioning of the eligible and ineligible expenses corresponding to the implementation period, as they were provided in the documentation which formed the basis of issuance of the Financing agreement relative to the eligible and ineligible expenses, as they are found in the new schedule of performance of the investment.

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

WARNING!

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

- the justification of the need to amend the schedule of performance of the investment,
- the economic and financial analysis of the investment project,
- quantitative indicators,
- the qualitative indicator *Contribution of the enterprise to economic growth and regional development*.

- e) power of attorney signed by the legal representative of the applicant enterprise, if another person than the legal representative signs the request for amendment of the investment plan;
- f) copy of the identity document of the person authorized to legally represent the enterprise;
- g) index of the transmitted documents.

WARNING!

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

- the existing situation at the time of request of the amendment,
- the main factors which led to the request of approval of the amendments occurring in the implementation of the investment plan,
- the amendments occurring in the implementation of the investment plan.

If:

- there are inconsistencies in the provided information,
 - it is found that it is necessary to provide additional documents in order to settle the request,
- The Ministry of Finance shall send a request of information and/or documents to supplement the request for amendment of the investment plan.

WARNING!

The enterprise shall send the supplementation of the documentation within maximum 10 business days as of receipt of the request for information.

WARNING!

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

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

WARNING!

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

CHAPTER IV - REVOCATION OF THE FINANCING AGREEMENT

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

- a) the enterprise failed to start the investment within 6 months as of the date of issuance of the financing agreement, under observance of the schedule undertaken in the documentation attached to the application;
- b) the enterprise fails to observe the requirement of maintenance of the initial investment for a term of at least 5 years as of the date of completion thereof;

WARNING!

If it is found, within the mandatory minimum period of maintenance of 5 years, extended by maximum 2 years, as applicable, the physical or moral wear of the assets that correspond to the initial investment made, it is allowed to replace them in order to ensure continuity for the financed activity, subject to informing the Ministry of Finance.

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

- the substantiation of the replacement decision revealing that the asset/assets that shall be replaced are physically or morally worn;
- the denomination of the assets to be replaced,
- the denomination of the assets that shall replace those physically or morally worn,
- a short description of the assets that shall replace those physically or morally worn, with placement thereof within the technological flow.

- c) the enterprise fails to submit to the Ministry of Finance by July 1 of the year following the completion of the investment, respectively of performance of the last payment of approved State aid, as applicable, a report audited by an authorized enterprise which is not affiliated to the enterprise benefiting of State aid, which shall certify the fact that following the implementation of the investment the enterprise is performing the activity which was financed through the project;
- d) the applicant enterprise does not complete the investment for which it requested financing in accordance with the schedule of performance of the investment;
- e) the enterprise fails to request to the Ministry of Finance to approve the amendment of the schedule of performance of the investment within 30 days as of the time when it becomes aware of that amendment;
- f) the investment no longer fulfills the requirements provided by this scheme in case of amendment of the schedule of performance of the investment within the investment plan;
- g) the value of the investment without V.A.T. decreases below the minimum level of 4.5 million Lei, respectively the equivalent of approximately 1 million EUR;
- h) the enterprise has made a relocation to the unit where the initial investment for which the aid is requested shall be made in the last 2 years prior to the registration of the application for financing agreement and it has not observed the commitment of not doing this for a period of up to 2 years after completion of the initial investment for which the aid was requested,
- i) the enterprise does not fulfill the requirements provided in the financing agreement, for which the revocation thereof is specified;
- j) the enterprise informs the Ministry of Finance that it finds it impossible to perform the investment or requests the revocation of the financing agreement;
- k) the Ministry of Finance finds, after issuing the financing agreement, that the investment started prior to the submission of the application for financing agreement;

l) the enterprise does not prove the existence of the financing source within 6 months as of issuance of the financing agreement;

WARNING!

Supporting documents sent within 6 months as of issuance of the financing agreement in order to prove the existence of the certain financing source must be correlated with the information presented in the business plan which formed the basis of issuance of the financing agreement.

No supporting documents are accepted that correspond to another type of financing source than the one mentioned in the business plan which formed the basis of issuance of the financing agreement.

m) the enterprise fails to prove the existence of a right in rem over the location of performance of the investment within 6 months as of issuance of the financing agreement.

WARNING!

Supporting documents sent within 6 months as of issuance of the financing agreement in order to prove the existence of a right in rem (ownership, lease, concession/assignment, etc.) over the location of performance of the investment must be correlated with the information presented in the application for financing agreement and the business plan.

No supporting documents are accepted that correspond to another location than the one mentioned in the application for financing agreement and in the business plan which formed the basis of issuance of the financing agreement.

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

CHAPTER VII – RECOVERY OF THE STATE AID

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

- the enterprise does not make the contribution to regional development in an amount equal to the State aid paid in total;

WARNING!

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

- the enterprise does not fulfill other requirements provided in the mentions rubric of the financing agreement.

WARNING!

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

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

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

- a) the enterprise fails to observe the requirement of maintenance in operation of the initial investment for a term of at least 5 years as of the date of completion thereof,
- b) the enterprise fails to submit to the Ministry of Finance by July 1 of the year following the completion of the investment, respectively of performance of the last payment of approved State aid, as applicable, a report audited by an authorized enterprise which shall certify the fact that following the implementation of the investment the enterprise is performing the activity which was financed through the project,
- c) the applicant enterprise does not complete the investment for which it requested financing in accordance with the schedule of performance of the investment;
- d) the enterprise fails to request to the Ministry of Finance to approve the amendment of the schedule of performance of the investment within 30 days as of the time when it becomes aware of that amendment;
- e) the investment no longer fulfills the requirements provided by this scheme in case of amendment of the schedule of performance of the investment within the investment plan;
- f) the total value of the investment without V.A.T. decreases below the minimum level of 4.5 million Lei, respectively the equivalent of approximately 1 million EUR;
- g) the enterprise has made a relocation to the unit where the initial investment for which the aid is requested shall be made in the last 2 years prior to the registration of the application for financing agreement and it has not observed the commitment of not doing this for a period of up to 2 years after completion of the initial investment for which the aid was requested;

h) the enterprise has not fulfilled the requirements provided in the financing agreement, for which the revocation thereof is specified;

i) the enterprise informs the Ministry of Finance that it finds it impossible to perform the investment or requests the revocation of the financing agreement;

j) the Ministry of Finance finds, after issuing the financing agreement, that the investment started prior to the submission of the application for financing agreement;

WARNING!

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

The State aid that must be recovered also includes the related interest, owed as of the date of payment and until the date of recovery.

The mechanism of establishment of the interest is provided in the Regulation EC no. 794/2004 implementing Regulation (EC) No. 659/1999 of the Council laying down detailed rules for the application of Article 93 of the EC Treaty.

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

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

The interest shall be calculated as of the date when the State aid was made available to the beneficiary until the date of actual recovery, being applicable the principle of capitalization.

The recovery decision shall be sent to the beneficiary economic operator and for application to the competent fiscal bodies that administer the beneficiaries of State aid.

CHAPTER VIII - RETURN OF UNDULY COLLECTED AMOUNTS

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

WARNING!

If any undue amount is found, the enterprises shall be required to inform the Ministry of Finance at once for the amount's return.

The amounts unduly collected shall be returned into the budget expense accounts from which they were collected, if the amounts are returned in the year when they were collected, respectively into the account provided under art. 8 para. (1) in Government Emergency Ordinance no. 37/2008 on the regulation of certain financial measures in the budgetary field, approved as amended through Law no. 275/2008, as subsequently amended and supplemented, if the amounts are returned in the years following the year they were collected in.

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

No.	NACE Code	NACE code denomination
SECTION A - AGRICULTURE, FORESTRY, AND FISHING		
1	01	Agriculture, hunting, and related services
2	02	Forestry and forest exploitation
3	03	Fishing and aquaculture
SECTION B - EXTRACTIVE INDUSTRY		
4	05	Mining of superior and inferior coal
5	06	Extraction of crude oil and natural gas
6	0892	Peat extraction and agglomeration
7	091	Activities of related services to crude oil and natural gas extraction
SECTION C - PROCESSING INDUSTRY		
8	102	Processing and preserving of fish, crustaceans and mollusks
9	1101	Distilling, rectifying and blending of spirits
10	1102	Manufacture of wine from grape
11	1103	Manufacture of cider and other fruit wines
12	1104	Manufacture of other non-distilled fermented beverages
13	1105	Manufacture of beer
14	1106	Manufacture of malt
15	12	Manufacture of tobacco products
16	131	Preparation and spinning of textile fibers
17	19	Manufacture of coke and refined petroleum products
18	2014	Manufacture of other organic basic chemicals
19	2051	Manufacture of explosives
20	206	Manufacture artificial and synthetic fibers
21	24	Metallurgical industry
22	254	Manufacture of weapons and ammunition
23	2591	Manufacture of recipients, containers, and other similar steel products
24	301	Construction of ships and boats
25	304	Manufacture of military fighting vehicles
26	33	Repair, maintenance and installation of machines and equipment
SECTION D - PRODUCTION AND SUPPLY OF ELECTRICITY AND HEAT, GAS, HOT WATER AND AIR CONDITIONING		
27	35	Production and supply of electricity and heat, gas, hot water and air conditioning
SECTION G - WHOLESALE AND RETAIL TRADE; REPAIR OF MOTOR VEHICLES AND MOTORCYCLES		
28	45	Wholesale and retail trade, maintenance and repair of motor vehicles and motorcycles
29	46	Wholesale trade, except of motor vehicles and motorcycles
30	47	Retail trade, except of motor vehicles and motorcycles
SECTION H - TRANSPORT AND STORAGE		

No.	NACE Code	NACE code denomination
31	49	Land transport and transport via pipelines
32	50	Water transport
33	51	Air transport
34	522	Support activities for transportation
SECTION J - INFORMATION AND COMMUNICATIONS		
35	60	Programming and broadcasting activities
36	61	Telecommunications
SECTION K - FINANCIAL INTERMEDIATION AND INSURANCE		
37	64	Financial intermediation, except for insurance activities and pension funds
38	65	Insurance, reinsurance and pension fund activities (except for those from the public social insurance system)
39	66	Activities auxiliary to financial intermediation, insurance and pension funds
SECTION L - REAL ESTATE TRANSACTIONS		
40	68	Real estate transactions
SECTION N - ADMINISTRATIVE AND SUPPORT SERVICE ACTIVITIES		
41	77	Rental and leasing activities
42	78	Service activities regarding labor force
SECTION O - PUBLIC ADMINISTRATION AND DEFENSE; SOCIAL INSURANCE FROM THE PUBLIC SYSTEM		
43	84	Public administration and defense; social insurance from the public system
SECTION R - SHOWS, CULTURAL AND LEISURE ACTIVITIES		
44	92	Gambling and betting activities
45	93	Sports, recreational and leisure activities
SECTION S - OTHER SERVICE ACTIVITIES		
46	94	Miscellaneous associative activities
SECTION T - ACTIVITIES OF HOUSEHOLDS AS EMPLOYERS OF DOMESTIC PERSONNEL; GOODS- AND SERVICES-PRODUCING ACTIVITIES OF PRIVATE HOUSEHOLDS FOR OWN USE		
47	97	Activities of households as employers of domestic personnel
48	98	Goods- and services-producing activities of private households for own use
SECTION U - ACTIVITIES OF EXTRATERRITORIAL ORGANIZATIONS AND BODIES		
49	99	Activities of extraterritorial organizations and bodies

Date of registration _____

Registration number _____

APPLICATION FOR FINANCING AGREEMENT

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

I. Presentation of the enterprise

Enterprise name: _____

Date of registration of the enterprise: _____

Registration no. with the Trade Register Office: _____

Tax identification code: _____

Address: _____, Zip code: _____

Telephone: _____, Fax: _____

Email: _____

Legal form: _____

Share capital: _____ Lei, held by:

- private individuals: _____ %;

- SME³: _____ %- large enterprises⁴: _____ %.

Main object of activity: _____

NACE Code: _____

Secondary object of activity⁵: _____

NACE Code: _____

II. Presentation of the current situation of the enterprise

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

- average number of employees: _____

- turnover: _____ Lei

- total asset value⁶: _____ Lei

- net profit: _____ Lei

- turnover return⁷: _____ Lei- own capitals⁸: _____ Lei

b) Data from the approved annual financial statements corresponding to the concluded financial year (one of the last 3 concluded financial years) where the turnover return is bigger than 0, as applicable:

³ The enterprise which observes the definition provided in annex no. 1 to the Regulation

⁴ The enterprise which does not observe the definition of SMEs, in accordance with the provisions of annex no. 1 to the Regulation

⁵ Shall be filled in if the financing is requested for the secondary object of activity.

⁶ Total assets means fixed assets plus current assets plus advance expenses.

⁷ Turnover return = 100 x (Net profit / Turnover)

⁸ The "Own capitals" element in the Balance

- turnover: _____ Lei
- net profit: _____ Lei
- turnover return⁹: _____ Lei

III. Brief presentation of the investment made within the scheme:

- project denomination: _____
- investment objective: _____
- classification of the investment in the category of initial investment:
 - ☐ incorporation of a new unit,
 - ☐ extension of the unit's capacity,
 - ☐ diversification of the unit's production,
 - ☐ fundamental change in the general production process of the unit
 or
- classification of the investment in the category of initial investment in favor of a new economic activity:
 - ☐ incorporation of a new unit,
 - ☐ diversification of the unit's activity;
- investment value: Lei,
- location of performance of the investment:;
- the locations of performance of the investment¹⁰:
- estimated starting date of the investment in accordance with the investment plan:
- estimated completion date of the investment in accordance with the investment plan:

IV. Presentation of the eligible costs and of the requested financing

Activity name	Type of eligible expense for which financing is requested		Value of eligible expenses ⁹⁾ - lei -				Maximum intensity of aid in the region	Value of requested State aid - lei -			
			Year I ^{**)}	Year II ^{**)}	Year ...	Total		Year I ^{**)}	Year II ^{***)}	Year ...	Total
Performance of investments in tangible and intangible assets	<input type="checkbox"/>	a) Eligible expenses for the performance of investments in tangible assets									
	<input type="checkbox"/>	a1) Execution of constructions									
	<input type="checkbox"/>	a2) Lease of constructions									
	<input type="checkbox"/>	a3) Technical installations, machines, and equipment									
	<input type="checkbox"/>	b) Eligible expenses for the performance									

⁹ Turnover return = 100 x (Net profit / Turnover)

¹⁰ In the case of investments performed in activity sectors included in section F - Constructions, as per the Classification of activities in the national economy - NACE

		of investments in intangible assets									
	<input type="checkbox"/>	b1) Expenses for patents, licenses, know-how or other intellectual property rights									
		TOTAL									

*) value of eligible expenses exclusive of V.A.T.

**) Instead of "Year I, Year II, ..." shall be mentioned the calendar years when the eligible expense is made

***) Instead of "Year I, Year II, ..." shall be mentioned the calendar years when the payment of State aid is requested

V. Statement on one's own responsibility

I, the undersigned, _____, identified with identity document series _____, no. _____, issued by _____ on _____, domiciled in the locality of _____, _____ street, building _____, entrance _____, apt. _____ district/county _____, in my capacity as legal representative of the enterprise _____, hereby declare on my own responsibility that all the information provided and registered in this application is correct and complete and that all the copies of documents that accompany the application are true to their originals.

I understand that any omission or inaccuracy in presenting the information for the purpose of obtaining monetary advantages is punished according to law.

I hereby declare on my own responsibility that the enterprise:

- ☐ is classified into the category of large enterprises;
- ☐ is classified into the category of small and medium enterprises;
- ☐ has not started the investment project for which it requests financing;
- ☐ does not fall into the category of "enterprises in distress" in accordance with the provisions of art. 2 para. (18) in the Regulation (EU) no. 651/2014 of the Commission of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of art. 107 and 108 in the Treaty;
- ☐ is not undergoing the procedure of forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation, or temporary activity suspension,
- ☐ is not subject to decisions of recovery of State aid or if such decisions have been issued they have been enforced, in accordance with the legal provisions in force;
- ☐ has not benefited and shall not benefit of regional State aid for eligible costs of the type of salary costs within the same single investment project;
- ☐ has not made a relocation to the unit where the initial investment for which the aid is requested shall be made in the last 2 years prior to the registration of the application for financing agreement and, at the time of registration of the application, it offers a commitment that it shall not do this for a period of up to 2 years after completion of the initial investment for which the aid is requested;
- ☐ does not belong to shareholders who hold or have held in the last 2 years prior to the date of registration of the application another enterprise registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented, which performs or has

performed the activity for which financing is requested, in the case of newly incorporated enterprises;

- ☐ it is not resident in fiscal terms in the jurisdictions registered on the list of the European Union of non-cooperating jurisdictions or it is subject to the fiscal legislation thereof;
- ☐ it is not controlled, either directly or indirectly, by shareholders from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions, the analysis going through to the level of the real beneficiary, as defined by art. 3 point 6 in Directive 849/2015;
- ☐ it does not control, either directly or indirectly, own subsidiaries or permanent seats in the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions;
- ☐ it does not exercise the right of joint ownership with the enterprises from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions;

I hereby declare on my own responsibility that in the last 3 years¹¹, the enterprise:

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

No.	Investment project denomination	Location of performance of the investment (county)	Year of award of the aid	Start date	Provider of the aid	The objective of award of the aid	Legislative act	Amount of aid -EUR ¹² -

Also, I hereby declare on my own responsibility that the enterprise:

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

No.	Investment project denomination	Location of performance of the investment (county)	Year of award of the aid	Start date	Provider of the aid	The objective of award of the aid	Legislative act	Amount of aid -EUR ¹³ -

Name:

Position:

Signature¹⁴:

Signing date:

¹¹ Shall be considered the last 3 years: the current fiscal year and 2 previous years.

¹² The EUR equivalent shall be taken from the legal document, or shall be determined at the currency exchange rate valid on the date of award of the aid, in accordance with the legal document.

¹³ The EUR equivalent shall be taken from the legal document, or shall be determined at the currency exchange rate valid on the date of award of the aid, in accordance with the legal document.

¹⁴ The application shall be signed by the person authorized to legally represent the enterprise.

INSTRUCTION FOR FILLING IN THE APPLICATION FOR FINANCING AGREEMENT

Registration date _____ (shall be mentioned the registration date in the enterprise's correspondence register)

Registration number _____ (shall be mentioned the registration number from the enterprise's correspondence register)

APPLICATION FOR FINANCING AGREEMENT

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

I. Presentation of the enterprise

Enterprise name: SC _____ SRL/SA

Date of registration of the enterprise: _____

Registration no. with the Trade Register Office: J _____ / _____ / _____

Tax identification code: _____

Address: _____ (county, locality, district, street, number, building, entrance, floor, apartment), Zip code: _____

Telephone: _____, Fax: _____

Email: _____

Legal form: _____ SRL/SA

Share capital: _____ Lei, held by:

- private individuals: _____ %;

- SME¹⁵: _____ %

- large enterprises¹⁶: _____ %.

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

NACE Code: _____ (4 letter code, in accordance with Order no. 337/2007, NACE Rev. 2)

Secondary object of activity¹⁷: _____ (shall be filled in if the financing is requested for a secondary object of activity)

NACE Code: _____ (4 letter code, in accordance with Order no. 337/2007, NACE Rev. 2)

WARNING!

Financing can be requested for only one economic activity, namely one NACE code. The activity for which financing is requested can be main or secondary.

¹⁵ The enterprise which observes the definition provided in annex no. 1 to the Regulation

¹⁶ The enterprise which does not observe the definition of SMEs, in accordance with the provisions of annex no. 1 to the Regulation

¹⁷ Shall be filled in if the financing is requested for the secondary object of activity.

WARNING!

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

II. Presentation of the current situation of the enterprise**a) Data from the approved annual financial statements, corresponding to the last concluded financial year, as applicable:**

- average number of employees: _____ (*shall be taken from the Financial Statements - Form 30*)
- turnover: _____ (*shall be taken from the Financial Statements - Form 20*)
- total assets value¹⁸: _____ (*= intangible assets + current assets + advance expenses - shall be taken from the Financial Statements - Form 10*)
- net profit: _____ (*shall be taken from the Financial Statements - Form 20*)
- turnover return¹⁹: _____ (*=100 x (Net profit / Turnover - shall be taken from the Financial Statements - Form 20)*)
- own capitals²⁰: _____ (*shall be taken from the Financial Statements - Form 10*)

WARNING!

All the information in section II a) shall be taken from the last approved annual Financial Statements submitted to the fiscal administrations from the territory where the enterprise has its fiscal domicile.

WARNING!

It is not allowed to present in the business plan another average number of employees than the one presented in the application for financing agreement in section II a).

b) Data from the approved annual financial statements corresponding to the concluded financial year (one of the last 3 concluded financial years) where the turnover return is bigger than 0, as applicable:

- turnover: _____ (*shall be taken from the Financial Statements - Form 20*)
- net profit: _____ (*shall be taken from the Financial Statements - Form 20*)
- turnover return²¹: _____ (*=100 x (Net profit / Turnover - shall be taken from the Financial Statements - Form 20)*)

WARNING!

All information in section II b) shall be taken from the approved annual Financial Statements submitted to the fiscal administrations from the territory where the enterprise has its fiscal domicile.

III. Brief presentation of the investment project implemented within the scheme, including the following information:

- project denomination: _____ (*shall be filled in with the denomination of the project mentioned in the Business Plan*)

¹⁸ Total assets means fixed assets plus current assets plus advance expenses.

¹⁹ Turnover return = 100 x (Net profit / Turnover)

²⁰ The "Own capitals" element in the Balance

²¹ Turnover return = 100 x (Net profit / Turnover)

- investment objective: _____ (*shall be presented the fundamental objective of the project that shall be detailed in the Business Plan*);
- classification of the investment in the category of initial investment: (*only one option shall be checked, according to the objective of the investment project, and said option shall be substantiated in the Business Plan*)
 - ☐ incorporation of a new unit,
 - ☐ extension of the unit's capacity,
 - ☐ diversification of the unit's production,
 - ☐ fundamental change in the general production process of the unit
 or
- classification of the investment in the category of initial investment in favor of a new economic activity:
 - ☐ incorporation of a new unit,
 - ☐ diversification of the unit's activity;

WARNING!

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

DEFINITIONS

Initial investment, represents the investment in tangible and intangible assets within the same perimeter, connected to the start of a new unit, the extension of the capacity of an existing unit, the diversification of the production of a unit through products that have not been previously manufactured in that unit or a fundamental change in the general production process of an existing unit, with the exception of investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE, as approved through Order of the President of the National Institute of Statistics no. 337/2007 on updating the Classification of activities in the national economy - NACE.

Initial investment in favor of a new economic activity represents the investment in tangible and intangible assets related to the incorporation of a new unit or the diversification of a unit's activity, provided the new activity is not identical or similar to the activity previously performed in that unit; the investment must be within the same perimeter, with the exception of investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE, as approved through Order of the President of the National Institute of Statistics no. 337/2007

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

The extension of the capacity of an existing unit represents the increase of the production capacity in the existing location due to the existence of unmet demand.

The diversification of the production of an existing unit represents obtaining products or services that were not previously made in that unit. Eligible costs must exceed by at least 200% the accounting value of the reused assets, as they were registered in the financial year preceding the start of the works.

The diversification of a unit's activity represents the obtaining of products or services as a result of a new activity, which is not identical or similar to the activity previously carried out in that unit (a new four figure NACE code).

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

WARNING!

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

- a) have approved the activity for which financing is requested for capacity extension;
- b) prove that the degree of use of the existing capacity cannot ensure the coverage of additional demand of products/services.
- c) prove that there is uncovered demand of products/services on the market.

In the case of investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE, the enterprise must substantiate the need to extend the capacity for every location where the investment is made.

WARNING!

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

a) prove that the products/services that correspond to the investment project are not obtained in the company's current activity, in accordance with the Order of the President of the National Institute of Statistics no. 337/2007 on the update of the Classification of activities in the national economy - NACE, as follows:

- present the list of products/services it performs in its current activity,
- present the list of products/services it shall perform through the investment project.

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

- should identify every asset that shall be reused by denomination, inventory number in the Register of Fixed Assets and accounting value, as they were registered in the financial year preceding the start of the works,
- should identify every new asset that shall be purchased, which is considered for activity diversification,
- should present the value of every new asset.

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

WARNING!

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

WARNING!

In the case of large enterprises which make initial investments in favor of a new economic activity in the Bucharest - Ilfov development region, only the investments related to the incorporation of a new unit or the diversification of a unit's activity shall be eligible, provided the new activity is not identical or similar to the activity previously performed in that unit.

DEFINITIONS:

Initial investment in favor of a new economic activity - the investment in tangible and intangible assets related to the incorporation of a new unit or the diversification of a unit's activity, provided the new activity is not identical or similar to the activity previously performed in that unit; the investment must be within the same perimeter, with the exception of investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE, as approved through Order of the President of the National Institute of Statistics no. 337/2007;

Identical or similar activity - activity part of the same class (four-digit numeric code), in accordance with the Order of the president of the National Institute of Statistics no. 337/2007 on the update of the Classification of activities in the national economy - NACE.

- investment value: _____ Lei/ (*total value of eligible and ineligible expenses*)
- location of performance of the investment: _____ (*registered office or one of the working units of the enterprise where the investment is made*);
- the locations of performance of the investment²²: _____ (*registered office or one of the working units of the enterprise where the investment is made*);

DEFINITIONS:

The location of performance of the investment represents the registered office or one of the working units of the enterprise, which are registered or shall be registered with the Trade Register Office, where the investment is made.

Same perimeter - placement of the assets within the same cadastre plot or neighboring cadastre plots.

WARNING!

When establishing the location of performance of the investment shall be considered that it should be valid at least for the period of implementation of the investment and for the following 5 years as of completion of the investment, with possibility of extending the validity by at least 2 years.

WARNING!

Shall be filled in for investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE.

WARNING!

Supporting documents sent within 6 months as of issuance of the financing agreement in order to prove the existence of a right in rem (ownership, lease, concession/assignment, etc.) over the location of performance of the investment must be correlated with the information presented in the application for financing agreement and the business plan which formed the basis of issuance of the financing agreement.

No supporting documents are accepted that correspond to another location than the one mentioned in the application for financing agreement and in the business plan which formed the basis of issuance of the financing agreement.

- estimated starting date of the investment in accordance with the investment plan: _____ (*start date of the investment*);

DEFINITION:

The start of the investment represents either the start of the construction works corresponding to the investment, or the first commitment of mandatory legal nature of order of equipment or any other commitment through which the investment becomes irreversible, according to which one occurs first.

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

²² Shall be filled in for investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE

WARNING!

Start of construction works - represents the conclusion of the agreement or any firm order of commencement of construction works, according to which one occurs first.

- estimated completion date of the investment in accordance with the investment plan:
 _____ (date of commissioning of the last assets that shall be purchased in accordance with the investment plan);

IV. Presentation of the eligible costs and of the requested financing

WARNING!

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

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

WARNING!

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

Value of eligible expenses without V.A.T. within one year = value of expenses actually incurred in accordance with the investment plan in that calendar year

Value of State aid requested in one year = value of eligible expenses incurred by the date of submission of the last payment request of State aid of that year x maximum intensity of State aid %

The value of State aid corresponding to the eligible expenses incurred in quarter/quarters IV of the years of implementation of the investment project shall be filled in on the following calendar year/years, as applicable.

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

V. Statement on one's own responsibility

I, the undersigned, _____ (*first and last name of the legal representative of the enterprise*), identified with identity document series _____, no. _____, issued by _____ on _____, domiciled in the locality of _____, _____ street, building _____, entrance _____, apt. _____ district/county _____, in my capacity as legal representative of the enterprise _____ (*enterprise name*), hereby declare on my own responsibility that all the information provided and registered in this application is correct and complete and that all the copies of documents that accompany the application are true to their originals.

I understand that any omission or inaccuracy in presenting the information for the purpose of obtaining monetary advantages is punished according to law.

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

- ☐ is classified into the category of large enterprises;
- ☐ is classified into the category of small and medium enterprises;

DEFINITIONS:

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

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

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

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

The large enterprise is the enterprise which does not fulfill the criteria for being classified as a SME.

- ☐ has not started the investment project for which it requests financing;
- ☐ does not fall into the category of "enterprises in distress", as defined in accordance with the provisions of art. 2 para. (18) in the Regulation (EU) no. 651/2014 of the Commission of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of art. 107 and 108 in the Treaty;

DEFINITION:

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

(a) In the case of a limited liability company (other than a SME existing for at least three years or, within the meaning of eligibility for risk financing aid, a SME which made its first commercial sale 7 years before and qualifies for risk financing investments following a diligence process performed by a selected financial agent), when more than half its subscribed share capital has disappeared due to accumulated loss. This situation occurs when the deduction of accumulated loss from the reserves (and from all the other elements generally considered to be part of the company's own funds) leads to a negative result which exceeds half of the subscribed share capital. Within the meaning of this provision, "limited liability companies" refers especially to the types of companies mentioned in annex I to Directive 2013/34/EU (1), and "share capital" includes, if applicable, any additional capital.

b) In the case of a limited liability company where at least some of the shareholders have unlimited liability for the company's debt (other than a SME existing for at least three years or, within the meaning of eligibility for risk financing aid, a SME which made its first commercial sale 7 years before and qualifies for risk financing investments following a diligence process performed by a selected financial agent), when more than half its own capital as results from the company's accounting records has disappeared due to accumulated loss. Within the meaning of this provision, "a trading company where at least some of the shareholders have unlimited liability for the company's debt" refers especially to those types of companies mentioned in annex II to Directive 2013/34/EU.

c) When the enterprise is subject to a collective insolvency procedure or fulfills the criteria provided in

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

(d) When the enterprise has received rescue aid and has not yet returned the loan or the guarantee has not ended or it has received restructuring aid and still forms the object of a restructuring plan.

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

1. the debt/own capital ratio of the enterprise is bigger than 7.5, and
2. the interest coverage capacity calculated on EBITDS base is under 1.0.

WARNING!

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

- from the balance shall be added the reported loss, the loss of the financial year and other elements considered to be part of own funds in accordance with the balance (profit distribution, own shares, losses related to own capital instruments); the resulting amount represents the total loss;
- the total loss shall be deducted from the total obtained by adding up the capital premiums with the reevaluation reserves, with reserves and other elements considered to be part of own funds according to the balance (the profit of the financial year, the profit carried forward, the earnings related to own capital instruments);
- if the result is negative, it shall be deducted from the value of the paid-up subscribed capital;
- if the result is lower than half the value of the paid-up subscribed capital, **the company is in distress.**

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

- from the balance shall be compared the value of total own capitals from the last financial year with the value of the same indicator from the previous financial year;
- if own capitals have decreased by more than half compared to the previous financial year, **the company is in distress.**

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

point 1:

- from the balance shall be added the total debt that must be paid within a period of up to 1 year to the total debt that must be paid within a period longer than 1 year;
- the result shall be divided by the value corresponding to own capitals;
- shall be verified if the resulting value is bigger than 7.5.

point 2:

- from the profit and loss account the sum of the net profit, the expenses for taxes and charges, the interest expenses and the expenses for depreciation shall be related to the interest expenses;
- shall be verified if the result is under the value of 1.0.

If both requirements are cumulatively met for the last two financial years, **the company is in distress.**

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

WARNING!

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

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

DEFINITIONS

Single investment project is any initial investment started by the same beneficiary, at group level, within a time interval of 3 years as of the starting date of the works at another investment that benefits of aid in the same region of level 3 in the Common nomenclature of territorial statistical units (NUTS 3), respectively county.

Group = the mother company and all its subsidiaries.

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

DEFINITIONS

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

WARNING!

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

- ☐ does not belong to shareholders who hold or have held in the last 2 years prior to the date of registration of the application another enterprise registered in accordance with the Companies Law

no. 31/1990, as subsequently amended and supplemented, which performs or has performed the activity for which financing is requested, in the case of newly incorporated enterprises

WARNING!

This situation shall be ticked only by newly incorporated enterprises.

- ☐ it is not resident in fiscal terms in the jurisdictions registered on the list of the European Union of non-cooperating jurisdictions or it is subject to the fiscal legislation thereof;
- ☐ it is not controlled, either directly or indirectly, by shareholders from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions, the analysis going through to the level of the real beneficiary, as defined by art. 3 point 6 in Directive 849/2015;
- ☐ it does not control, either directly or indirectly, own subsidiaries or permanent seats in the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions;
- ☐ it does not exercise the right of joint ownership with the enterprises from the jurisdictions which are registered on the list of the European Union of non-cooperating jurisdictions;

I hereby declare on my own responsibility that in the last 3 years²³, the enterprise: *(shall be checked one of the two options)*

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

No.	Investment project denomination	Location of performance of the investment (county)	Year of award of the aid	Start date	Provider of the aid	The objective of award of the aid	Legislative act	Amount of aid -EUR ²⁴ -

WARNING!

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

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

Also, I hereby declare on my own responsibility that the enterprise:

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

Current No.	Investment project denomination	Location of performance of the investment (county)	Year of award of the aid	Start date	Provider of the aid	The objective of award of the aid	Legislative act	Amount of aid -EUR ²⁵ -

²³ Shall be considered the last 3 years: the current fiscal year and 2 previous years

²⁴ The EUR equivalent shall be taken from the legal document, or shall be determined at the currency exchange rate valid on the date of award of the aid, in accordance with the legal document.

²⁵ The same as 8

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Name: _____ (*first and last name of the legal representative of the enterprise*),

Position: _____ (*shareholder, administrator, attorney-in-fact*)

Authorized signature of the applicant²⁶: _____

Signing date: _____

WARNING!

By filling in this statement shall be assumed all provided information, in awareness of the fact that false statements is punished in accordance with art. 326 in the Criminal Code.

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

²⁶ The application shall be signed by the person authorized to legally represent the enterprise

BUSINESS PLAN

WARNING!

The document shall not exceed 50 pages, excluding the annexes

Shall be also transmitted as editable document.

TITLE PAGE

Enterprise name: _____

Investment project denomination: _____

Name: _____ (*first and last name of the legal representative of the enterprise*),

Position: _____ (*shareholder, administrator, attorney-in-fact*)

Authorized signature of the legal representative of the enterprise: _____

Signing date: _____

1. BUSINESS DESCRIPTION

1.1. Presentation of the enterprise

Enterprise name: _____

Date of registration of the enterprise: _____

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

Tax identification code: _____

Address: _____ (*county, locality, district, street, number, building, entrance, floor, apartment*)

Telephone: _____, Fax: _____

Email: _____

Legal form: _____ (SRL/SA)

Share capital: _____ Lei, held by:

- private individuals: _____%

- SME: _____%

- large enterprises: _____%.

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

NACE Code: _____ (*4 letter code, in accordance with Order no. 337/2007, NACE Rev. 2*)

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

NACE Code: _____ (4 letter code, in accordance with Order no. 337/2007, NACE Rev. 2)

Working unit: _____ (county, locality, district, no. street, shall be filled in if the investment is made at the working unit)

WARNING!

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

1.2. Objectives of the enterprise

Shall be presented the economic objectives which synthesize and quantify the purposes considered on the long term and which refer to the evolution of the turnover, of the profit, to the quality of the offered products and services.

1.3. Presentation of the current activity

Shall be presented the activity the enterprise is currently performing, with mentioning of the NACE code/codes, the products or services offered, clients and providers, the evolution of the number of employees, etc.

1.4. Presentation of the activity for which financing is requested

Shall be presented:

- the activity corresponding to the NACE code for which financing is requested, as it was mentioned in the Application for financing agreement,
- the need to implement the investment project,
- the starting date of the investment (estimated), but without exceeding 6 months as of the date of issuance of the financing agreement
- the date of completion of the investment
- the products obtained or services offered,
- the number of newly created jobs,
- the experience in the field,
- the location of performance of the investment,
- the locations of performance of the investment, in the case of investments performed in activity sectors included in section F - Constructions, as per the Classification of activities in the national economy - NACE,

WARNING!

In the case of investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE, the products obtained/services offered can also be made outside of the location/locations of performance of the investment.

2. PRESENTATION OF THE INVESTMENT PROJECT

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

Shall be substantiated the version selected in chapter III of the application for financing agreement.

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

- the activity for which financing is requested for capacity extension is authorized,
- the degree of use of the existing capacity cannot ensure the coverage of additional demand of products/services,
- there is uncovered demand of products/services on the market.

WARNING

In the case of investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE, the enterprise must substantiate the need to extend the capacity for every location where the investment is made.

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

a) prove that the products/services that correspond to the investment project are not obtained in the company's current activity, in accordance with the Order of the President of the National Institute of Statistics no. 337/2007 on the update of the Classification of activities in the national economy - NACE, as follows:

- present the list of products/services it performs in its current activity,
- present the list of products/services it shall perform through the investment project.

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

- should identify every asset that shall be reused by denomination, inventory number in the Register of Fixed Assets and accounting value, as they were registered in the financial year preceding the start of the works.

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

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

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

- lei -

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

2.2. Investment plan

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

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

WARNING!

The value of the eligible and ineligible costs that correspond to the categories of assets that are presented in the investment plan shall be filled in without decimals.

WARNING!

When presenting the main constructions shall be also considered the presentation of the General estimate and the Itemized estimate for every construction body.

WARNING!

In the case of investments made in the activity sectors included in section F - Constructions, according to the Classification of activities in the national economy - NACE, which are performed in several locations, shall be presented separate investment plans for every location.

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

2.3.1 Analysis of the relevant market where the enterprise shall perform activity as a result of the manufacturing of products/provision of services resulting from the implementation of the investment project

DEFINITIONS:

The relevant market comprises a product or group of products and the geographical area where they are manufactured and/or sold.

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

The relevant product market comprises all the products which are considered by the purchasers as interchangeable or substitutable, due to the characteristics, price, and use thereof. These products must be sufficiently alike, so that the consumers or beneficiaries should take them into account when making their purchase decisions.

The identification of the relevant market of the product presupposes the performance of an analysis establishing the products which are part of the market in question, considering decisive factors, like sustainability, prices, the elasticity of demand for the product according to the prices of other products, etc.

The relevant geographical market comprises the area where the economic operators involved in the delivery of the products/services included in the product's market are located, the area where the competition conditions are sufficiently homogeneous and which can be differentiated into neighboring geographical areas mainly due to substantially different competition conditions.

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

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

(see:

- COMMISSION COMMUNICATION on defining the relevant market within the meaning of Community competition law (97/C 372/03) and
- ORDER of the president of the Competition Council no. 388 of August 5, 2010 on the implementation of the Instructions regarding the definition of the relevant market)

WARNING!

The analysis of the relevant market must reveal a surplus of demand still not covered by the existing offers on the market.

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

2.3.2 Justification of the need to make the investment

Enterprises are required to present data related to:

a) The production capacity

The enterprise is required to present and substantiate through calculations, explaining every component thereof:

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

DEFINITION:

The production capacity represents the maximum production of a certain structure and quality which can be obtained by a production unit within a certain period of time, under optimal technical and organizational conditions and using as fully as possible the productive fixed assets, the most adequate work and production and labor organization regime.

b) Achievement of the turnover

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

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

WARNING!

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

WARNING!

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

The supporting documents that are presented must substantiate a turnover which shall be achieved after the submission of the request.

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

2.3.3. The economic and financial analysis of the investment project

The enterprise must prove the investment project's viability, as follows:

In the case of **newly incorporated enterprises**, shall be elaborated financial projections per project with State aid.

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

WARNING!

The **operating enterprises** shall make the projects starting from the Financial statements approved and submitted in accordance with legal provisions, corresponding to the last concluded financial year.

Newly incorporated enterprises shall make the projections by considering the established objectives.

WARNING!

Shall be presented projections of the Profit and loss account, the Balance and Cash flow, for the period of implementation of the investment and for the following 5 years as of completion of the investment.

It is necessary to substantiate the revenues and expenses, respectively every component of the financial projections, in order to prove the reality of the used data.

WARNING!

The elaboration of the financial projections and the manner of implementation shall be in accordance with the model presented in Microsoft Excel format, which shall be downloaded from the website of the Ministry of Finance.

2.3.4 Quantitative indicators

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

Quantitative indicators	Indicator limits
General solvency rate $Gsr = \text{Total assets} / \text{Total debt}$	$Gsr > 1.66$
Turnover return $Rot = 100 \times (\text{Net profit} / \text{Turnover})$	$Rot \geq 2.5\%$
Current liquidity rate $CLR = (\text{Current assets} / \text{Current debt})$	$(R_{lc}) \geq 1.00$
Indebtedness degree indicator* $Idi = (\text{Borrowed capital} / \text{Committed capital}) \times 100$	$(R_{ig}) \leq 65\%$

*) Borrowed capital = loans over one year

Committed capital = borrowed capital + own capital

WARNING!

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

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

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

During the period of implementation of the investment shall be accepted the non-achievement of the quantitative indicators within the recommended limits, provided a substantiation is presented in this respect.

WARNING!

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

2.3.5 Qualitative indicators

a) Ensuring the financial resources necessary for performing the investment

DEFINITION:

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

WARNING!

The beneficiary of the State aid must **ensure a financial contribution equal to the total investment value (eligible expenses + ineligible expenses), less the value of State aid**, under a form that is not subject to any other public aid.

At the time of submission of the application for financing agreement the company must mention in the Business Plan the type of every financing source and the value thereof, which shall be used to implement the investment project and considered when elaborating the projections of the financial statements.

WARNING!

Supporting documents sent within 6 months as of issuance of the financing agreement in order to prove the existence of the secure financing source must be correlated with the information presented in the business plan.

Supporting documents necessary to prove the existence of a secure financing source which must be presented by the enterprise within 6 months as of issuance of the financing agreement:

Financing source	Documents
Increase of the subscribed and paid-up share capital, in the case of shareholders private individuals or legal entities	<ul style="list-style-type: none"> ▪ Decision of the G.M.S. on the assurance of the financing sources, with mentioning of the object of capital increase ▪ Ascertaining certificate revealing the subscribed and fully paid-up share capital. ▪ The trial balance that corresponds to the month prior to the date of presentation of the certain financing source
Reinvested profit	<ul style="list-style-type: none"> ▪ Decision of the G.M.S. on the assurance of the financing sources, approving the reinvestment of the profit with precise use for financing the investment project ▪ The trial balance that corresponds to the month prior to the date of presentation of the certain financing source ▪ Approved annual financial statements corresponding to the last concluded financial year
Loan from the shareholders legal entities or other associated enterprises	<ul style="list-style-type: none"> ▪ Decision of the G.M.S. on assuring the financing sources, which approves the conclusion of a loan agreement in favor of the enterprise that applies for State aid, with precise use for financing the investment project ▪ Loan agreement from the shareholder or associated enterprises

	with precise use for financing the investment project with mention of the value, etc.
Bank credit	▪ Loan agreement

b) Experience in the field for which financing is requested

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

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

Under these circumstances, the enterprise shall present supporting documents, like, for example:

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

c) Contribution of the enterprise to economic growth and regional development

DEFINITION

The contribution to regional development represents the value of the contributions to regional development of the type of taxes and charges to the general consolidated budget of the State corresponding to the initial investment and to the jobs created directly by the investment, effectively paid by the enterprise benefiting of State aid throughout the implementation and 5 years as of the date of completion thereof.

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

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

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

WARNING!

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

all the formulas.

It shall also be presented in table format the estimate of all contributions to the budget that form the general consolidated budget for the period of implementation of the investment and 5 years as of completion thereof.

Contribution:	Year I	Year II	Year ...	Total
1	2	3	4	5
Employee's contributions				
Employer's contributions				
Corporate income tax				
Local taxes (land, constructions)				
Other types of taxes and charges which represent a revenue to the budget forming the general consolidated budget (exclusive of VAT)*				
Grand total				

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

WARNING!

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

WARNING!

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

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

WARNING!

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

DEFINITIONS:

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

The creation of jobs represents the net increase of the number of jobs created directly by the enterprise benefiting of State aid in order to reach the objectives of the investment project after receipt of the financing agreement relative to the average of the 12 months prior to the month when the application for financing agreement is registered, after deducting from the apparent number of created jobs the jobs canceled relative to the average.

WARNING!

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

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

Shall be mentioned:

- the activities of social nature in which the enterprise shall be involved, like activities in educational, medical, sports units, etc., or collaborations at local level with the AJOFM in order to recruit unemployed and organize professional training courses,
- the activities of social nature in which shall be involved the enterprise throughout the entire period of time, respectively during the period of implementation and maintenance of the investment.

g) the multiplier effect of the investment quantifiable in the economy by driving other related investments and the development of local suppliers of products and services.

Shall be presented and quantified:

- the economic and social implications of the performance of the investment project on the area where it is implemented,
- the estimated number of jobs newly created by including other related investments and the development of local suppliers of products and services throughout the period of implementation and maintenance of the investment.
- the estimated value of the agreements concluded with local suppliers as a result of the implementation of the investment project, throughout the term of implementation and maintenance of the investment.

f) The judicial situation of the location of performance of the investment, respectively proving the existence and a right in rem over the location where the investment shall be made

At the time of submission of the application for financing agreement, the company must mention in the Business plan the location where the investment project shall be implemented (at least the locality and the county), as well as the type of right in rem over the location (ownership, lease, concession/assignment, etc.).

WARNING!

Supporting documents sent within 6 months as of issuance of the financing agreement in order to prove the existence of a right in rem (ownership, lease, concession/assignment, etc.) over the location of performance of the investment must be correlated with the information presented in the application for financing agreement and the business plan which formed the basis of issuance of the financing agreement.

No supporting documents are accepted that correspond to another location than the one mentioned in the application for financing agreement and in the business plan which formed the basis of issuance of the financing agreement.

For the purpose of supporting the judicial status of the location where the investment shall be performed the enterprise shall present **within 6 months as of issuance of the financing agreement** the following documents, as applicable:

- sale-purchase agreement/inheritance certificate, etc., and land book excerpt,
- lease agreement,
- concession/assignment agreement or any other document of legal nature proving the existence and holding of the location,
- other supporting documents.

WARNING!

When establishing the location of performance of the investment shall be considered that it should be valid at least for the period of implementation of the investment and for the following 5 years as of completion of the investment, with possibility of extending the validity by at least 2 years.

The enterprise must prove within 6 months as of the issuance of the financing agreement a right in rem (ownership, lease, concession/assignment, etc.) over the location where the investment shall be performed.

The documents presented for the purpose of demonstrating a right of ownership over the location where the investment shall be performed must prove that the land plot on which the initial investment is made and the constructions which are part of the performance of the initial investment are unencumbered, except for the situation in which the registration of the encumbrance is made after the submission of the application for financing agreement and has the object of performance of the investment for which financing is requested.

WARNING!

If the enterprise presents a land book excerpt showing encumbrances after the submission of the application for financing agreement and the object thereof is the performance of the investment for which financing is requested, a copy of the commitment/commitments for which those encumbrances are registered shall be presented as well.

The legal documents which prove the holding of the location must be valid throughout the period of implementation of the investment and 5 years as of the date of completion thereof, with possibility of extension by at least 2 years.

WARNING!

The initial investment must be performed within the same perimeter.

Perimeter - the same cadastre plot or neighboring cadastre plots.

2.4. Stimulative effect of the State aid

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

- transmitting the Application for financing agreement,
- starting the investment after submitting the Application for financing agreement with the General Registrar's Office of the Ministry of Finance, but not later than 6 months as of the time when it obtains the financing agreement.

INVESTMENT PLAN

- Lei, exclusive
of VAT -

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

WARNING!

The values of the eligible and ineligible costs that correspond to the categories of assets that are presented in the investment plan shall be filled in without decimals.

Instead of Year 1, Year 2, Year ... shall be mentioned the calendar years when the eligible or ineligible expense is made.

Comparative analysis of the initial investment plan and the amended investment plan

- Lei, exclusive of VAT -

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

WARNING!

The values of the eligible and ineligible costs that correspond to the categories of assets that are presented in the Comparative analysis of the investment plan and the amended investment plan shall be filled in without decimals.

Instead of Year 1, Year 2, Year ... shall be mentioned the calendar years when the eligible or ineligible expense is made.