

SRBIJA

USVOJEN ZAKON O UTVRĐIVANJU GARANTNE ŠEME KAO MERA PODRŠKE PRIVREDI ZA UBLAŽAVANJE POSLEDICA PANDEMIJE BOLESTI COVID-19

Narodna skupština Republike Srbije 17. decembra 2020. godine usvojila je Zakon o utvrđivanju garantne šeme kao mera podrške privredi za ublažavanje posledica pandemije bolesti COVID-19 izazvane virusom SARS-CoV-2 („**Zakon**“).

Ovim Zakonom, Republika Srbija („**RS**“) preuzima obavezu da kao **garant banaka** izmiri njihova potraživanja nastala po osnovu odobrenih kredita od strane banaka, u cilju finansiranja likvidnosti i obrtnih sredstava za kreditiranje privrede.

Članom 2. ovog Zakona definisano je da maksimalni iznos kredita, za koji RS preuzima obavezu kao garant, je iznos koji je jednak manjem od sledeća dva iznosa:

- četvrtina, odnosno 25% prihoda korisnika kredita iz 2019. godine prema finansijskim izveštajima korisnika kredita za tu godinu, ili
- iznos od 3 miliona EUR za kredite odobrene u evrima, odnosno iznosu jednakom dinarskoj protivvrednosti iznosa od 3 miliona EUR izračunatog po srednjem kursu dinara prema evru koji utvrđuje Narodna Banka Srbije („**NBS**“) važećem na dan zaključenja ugovora o kreditu, za kredite odobrene u dinarima.

Garancija regulisana ovim Zakonom izdaje se sa sledećim karakteristikama i na sledeći način:

- (1) izdaje se u korist banaka;

SERBIA

LAW ON DETERMINING THE GUARANTEE SCHEME AS AN ECONOMIC SUPPORT MEASURE FOR MITIGATING THE CONSEQUENCES OF THE COVID-19 PANDEMIC

On 17 December 2020 the National Assembly of the Republic of Serbia has adopted the Law on Determining the Guarantee Scheme as an Economic Support Measure for Mitigating the Consequences of the COVID-19 Pandemic Caused by SARS-CoV-2 Virus (the “**Law**”).

By this Law, the Republic of Serbia (“**RoS**”) undertakes the obligation as a guarantor of the banks to settle their claims arising from the credits approved by the banks in order to finance liquidity and working capital for crediting the economy.

Article 2 of this Law defines that the maximum credit amount, for which the RoS undertakes the obligation as a guarantor, is an amount equal to the lesser of the following two amounts:

- a quarter, i.e. 25% of the income of the borrower from 2019 according to the financial statements of the borrower for that year, or
- the amount of EUR 3 million for credits approved in euros, i.e. the amount equal to the dinar equivalent of the amount of EUR 3 million calculated at the middle exchange rate of the dinar against the euro, determined by the National Bank of Serbia (the “**NBS**”) valid on the day of concluding the credit contract, for credit approved in dinars.

The guarantee regulated by this Law will be issued with the following characteristics and in the following manner:

- (1) the guarantee will be issued in favour of the banks;

- (2) izdaje se kao безусловna, bez prava na prigovor i naplativa na „*prvi poziv*“;
- (3) maksimalni iznos garancije na nivou osiguranog portfolija je 480 miliona EUR;
- (4) po portfoliju svake pojedinačne banke izdaje se pojedinačna garancija („*Pojedinačna garancija*“).

Pojedinačna garancija Zakonom je definisana kao ugovor potpisan sa svakom pojedinačnom bankom, a momenat potpisivanja ovog ugovora predstavlja momenat izdavanja Pojedinačne garancije.

Zakon taksativno navodi i koja lica ne mogu biti korisnici ove pomoći. Uglavnom su to lica koja su u statusu neizmirenja obaveza u smislu propisa NBS, lica koja imaju dospele a neizmirene obaveze po osnovu poreza u RS, lica prema kojima je preduzeta mera odgovarajućeg restrukturiranja u skladu sa relevantnim propisima RS, kao i lica u kojima RS i njene organizacione jedinice imaju učešće u vlasništvu više od 50%.

Shodno Zakonu, RS može garantovati samo za kredite za finansiranje likvidnosti i obrtnih sredstava, pri čemu se krediti ne mogu koristiti za refinansiranje i prevremenu otplatu nedospelih rata postojećih kredita u portfoliju banke, niti se mogu koristiti za refinansiranje kredita kod drugih banaka.

Takođe, rok otplate kredita koji može biti obezbeđen u skladu sa garantnom šemom iznosi do 36 meseci od dana puštanja kredita u tečaj, u koji se računa i *grace* period od 9 do 12 meseci od dana puštanja kredita u tečaj.

Međutim, u isti rok se ne računa *primena moratorijuma* uvedenog propisima NBS radi ublažavanja posledica pandemije COVID-19 u cilju stabilnosti finansijskog sistema, kada se rok otplate kredita produžava za period trajanja ovog moratorijuma.

U skladu sa ovim Zakonom, RS, NBS i banke zaključuju pojedinačni ugovor o garanciji RS, pri čemu u ime RS istupa Vlada. Dodatno, Zakonom je

- (2) the guarantee will be issued as unconditional, without the right to object and chargeable upon the “*first call*”;
- (3) the maximum amount of the guarantee at the level of the secured portfolio is EUR 480 million;
- (4) an individual guarantee will be issued for the portfolio of each individual bank (the “*Individual Guarantee*”).

Individual Guarantee is defined by the Law as an agreement signed with each individual bank, and the moment of signing this agreement represents the moment of issuing the Individual Guarantee.

The Law also defines persons that cannot be beneficiaries of this aid. These are mainly persons who are in the status of non-payment of obligations in terms of NBS regulations, the persons who have overdue and unpaid tax obligations in the RoS, the persons against whom an appropriate restructuring measure has been taken in accordance with relevant RoS regulations, as well as the persons in whom the RoS and its organizational units have an ownership stake of more than 50%.

In accordance with the Law, the RoS can only guarantee for the credits approved by the banks for financing the liquidity and working capital, whereby the credits cannot be used to refinance and early repayment of the not matured instalments of existing credits in the bank's portfolio, nor can be used to refinance the credits with other banks.

Additionally, credits repayment period that can be guaranteed in accordance with the guarantee scheme is up to 36 months starting from the date of the credit's issuance, which includes a grace period from 9 to 12 months from the day of the releasing the credits.

However, in the credits repayment period is not calculated the application of the *moratorium* introduced by the decision of the NBS in order to mitigate the consequences of the COVID-19 pandemic in order to stabilize the financial system. For that matter, the credits repayment period will be extended for the duration of the said moratorium.

In accordance with this Law, the RoS, the NBS and the banks will conclude individual agreements on the guarantee of RoS, with the Government acting

eksplicitno propisano i da NBS nije garant, te da ne može imati nikakvih obaveza po osnovu potraživanja banaka u skladu sa ovim Zakonom i pojedinačnim ugovorima o garanciji.

on behalf of the RoS. In addition, the Law explicitly stipulates that the NBS is not a guarantor, and that NBS cannot have any obligations based on the bank's claims in accordance with this Law and individual guarantee agreements.

Konačno, nadzor nad primenom odredaba ovog Zakona vršiće Ministarstvo finansija.

Finally, the Ministry of Finance will supervise the application of the Law's provisions.

Stupanjem na snagu ovog Zakona prestaje da važi Uredba o utvrđivanju garantne šeme kao mera podrške privredi za ublažavanje posledica pandemije bolesti COVID-19 izazvane virusom SARS-CoV-2 („Službeni glasnik RS“, br. 57/20, 62/20 i 65/20).

With the entry into force of the Law, the Decree on Establishing a Guarantee Scheme as an Economic Support Measure for Mitigating the Consequences of the COVID-19 Pandemic caused by the SARS-CoV-2 Virus (*“Official Gazette of RoS”*, nos. 57/20, 62/20 and 65/20) ceases to apply.

Više o uslovima, postupku, visini i načinu obezbeđenja sredstava za izdavanje garancija RS u vezi sa garantnom šemom koju ovaj Zakon definiše možete pogledati [ovde](#).

More on the conditions, procedure, amount and the manner of providing funds for the issuance of the guarantees of RoS in accordance with the guarantee scheme defined by this Law, you can find [here](#).

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