

## **Unofficial Translation**

Pursuant to Article 12, paragraph 2, Article 13, paragraph 3, Article 14, paragraph 2. Of the Law on Investment (“Official Gazette of RS”, No 89/15) and Article 17, paragraph 1 and Article 42, paragraph 1 of the Law on the Government (“Official Gazette of RS”, No 55/05, 71/05 - correction, 101/07, 65/08, 16/11, 68/12 - CC, 72/12, 7/14 - CC and 44/14),

the Government adopts

### **REGULATION ON TERMS AND CONDITIONS FOR ATTRACTING DIRECT INVESTMENT**

#### **I. INTRODUCTORY PROVISIONS**

##### **Scope**

##### **Article 1**

This regulation governs direct investment and investment of special importance in line with the rules regulating investment and the criteria, terms and conditions for attracting direct investment and investment of special importance in line with the rules regulating investment and granting of state aid, monitoring and control of the realisation of investment projects for which incentive funds are granted, procedure, amount and timeframe for the realisation of relief and exemption from customs and other duties paid for importing of equipment by a foreign investor, except from the value added tax, and other issues of importance for granting incentive funds and the realisation of investment projects in order to encourage direct investment with the aim to increase employment and strengthen economic growth and the overall economic development.

##### **Terms**

##### **Article 2**

The following terms used in this regulation shall have the following meaning:

1) *Direct investments* are investments in material and non-material assets of companies, in line with this regulation, in order to begin performing new business activities, expand the existing capacities or expand the production to new products or manufacturing processes, and acquire property directly related to the company which terminated its operation or would terminate its operation, unless bought by a third person under the requirements of the market, and which provide new employment. Acquisition of shares in a company shall not be considered as investment in terms of this regulation;

2) *Investment project* is a project which implementation shall realize a direct investment, and which is described in the business plan submitted along with the application form for granting incentive funds and which shall contain a detailed description of elements of the direct investment, as well as the elements for the investment project quality analysis, in line with this regulation;

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

4) *Beneficiary of Incentive Funds* is a company registered in line with the regulations of the Republic of Serbia. In case when the Funds Beneficiary to whom incentive funds are awarded is founded as a company, that company shall be a direct or indirect subsidiary of the Investor;

5) *Small enterprise* is an enterprise which employs less than 50 people, whose total annual turnover and/or total annual balance is less than EUR 10 million, in line with the rules regulating state aid;

6) *Medium enterprise* is an enterprise which employs between 50 and 250 people, whose total annual turnover is less than EUR 50 million and/or total annual balance is less than EUR 43 million in line with the rules regulating state aid;

7) *Large enterprise* is an enterprise which employs over 250 people and whose total annual balance is over EUR 43 million in line with the rules regulating state aid;

8) *Investment in material assets* is an investment in land, buildings, manufacturing plant, machinery and equipment, in line with the rules regulating state aid, and which are recognised as reasonable investment costs, if used only by the Funds Beneficiary (greenfield or brownfield investments);

9) *Investment in non-material assets* are investments in patents and licenses in line with the rules regulating state aid, which are recognised as reasonable investment costs, if they are subject to depreciation, if they are used only by the Funds Beneficiary, if they are kept in the balance of the beneficiary for minimum five years, or three years for small and medium companies, and if they are procured under requirements of the market by third persons;

10) *New employees related to an investment project* is a net increased number of domestic citizens employed for an indefinite period of time with full-time job at the Funds Beneficiary in the period of realisation of an investment project, compared to the total number of domestic citizens employed for a definite and an indefinite period of time, on the day of the application for granting incentive funds;

11) *Unique investment project* is every direct investment realized by a Funds Beneficiary or a subsidiary directly or indirectly related to it, in the period of three years starting from the day of beginning of realisation of the previous investment project for which incentive funds are granted, in line with the previously concluded contract on granting incentive funds in the territory of the same or neighbouring local self-government unit;

12) *Level of development of a local self-government unit* in which an investment project is realized, or classification of local self-government units according to the level of development, is the level defined by the rules regulating a unique list of development of local self-government units applicable on the day of the application for granting incentive funds;

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

14) *Period of guaranteed investment and employment* is a time period of three or five years after the realisation of an investment project, during which the Funds Beneficiary shall be obliged not to reduce the value of fixed assets achieved by the realisation of the investment project, as well as the achieved number of employees, and during which it shall be obliged, in line with the contract on granting incentive funds, to regularly perform the payment of contracted salary to all employees;

15) *Contracted salary* is a basic salary defined as not less than the amount of minimum salary in line with the rules regulating labour relations, and contains all other salary elements (salary increase, performance, rewards, bonuses, etc.), and other earnings which have a character of a salary (meal allowance, regress, etc.), so that the contracted salary of an employee amounts to at least 120% of such defined minimum salary;

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

17) *International sales services* which may be subject to granting of incentive funds, in line with this regulation, are services provided through information and communication technologies primarily to the users outside of the territory of the Republic of Serbia (development of accounting programs, consolidated and/or assigned performance of administrative processes of corporations, storage and processing of data, custom support and project centres).

## **Reasonable Costs**

### **Article 3**

Reasonable costs are:

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

2) gross salaries for new employees related to the investment project in the period of two years after achieving full employment (hereinafter referred to as: reasonable costs of gross salaries).

Reasonable investment costs shall also include costs of lease of business premises on which the investment project is realized, provided that the rental period must last for at least five years for large enterprises, or three years for small and medium enterprises, following the envisaged completion date of the investment project.

Excluding land and building, costs which are related to the acquiring of a leased property are taken into consideration only in the case of a financial leasing and only if there is the obligation to purchase the property at the end of the rental period, which must end before the expiry of the period of guaranteed investment and employment.

In case of procuring the property of an enterprise which terminated its operations, or would terminate its operations unless being bought, reasonable costs are costs of procurement of the property by a third person under the requirements of the market.

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

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

Excluding land and building, property acquired by an enterprise based on investment after submitting the application form for granting incentive funds, must be new.

Limitations referred to in paragraph 7 of this Article shall not apply to small and medium enterprises, nor to the case of procuring an enterprise referred to in Article 2, paragraph 1, item 1) of this regulation.

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

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

### **Sources and Purpose of Funds for Attracting Direct Investment**

#### **Article 4**

Incentive funds for attracting direct investments are provided from the budget of the Republic of Serbia (hereinafter referred to as: funds).

Funds may be used for financing of investment projects in the manufacturing sector and service sector which may be subject to international sales, in line with this regulation.

Funds may not be used for financing of investment projects in the sector of transportation, software development, hospitality, game of chance, trade, production of synthetic fibres, coal and steel, tobacco and tobacco products, weapons and ammunition, shipbuilding (manufacturing of self-propelling merchant vessels – minimum 100 gross registered tons), airports, utilities sector and energy sector, broadband network, and enterprises in difficulty.

Funds granted for investments of special importance may be used also for financing of the needs of investors who realise investments of special importance or joint company, such as infrastructure and other investments necessary for performance of the respective activity and realisation of an investment project, which particularly cover acquiring of land and other immobile property, infrastructure equipment of land, and recovery of possible environmental damages caused in the period preceding the investment of special importance on the location on which the respective investment is performed, in line with the rules for granting state aid for individual investment of special importance

### **Eligibility to participate in the procedure of granting funds**

#### **Article 5**

Right to participate in the procedure of granting funds shall have the investors with investment projects in the sectors for which, pursuant to Article 4, paragraph 2 of this regulation, funds may be granted, and who, prior to the beginning of the realisation of the investment project, apply for granting funds in the manner and under the requirements defined by this regulation.

For the realisation of an investment project, the Funds Beneficiary shall be obliged to provide the share of minimum 20% of reasonable costs from own funds or other sources which do not involve state aid.

Large company shall not be granted funds unless, upon an insight into the documentation, it is defined that granting funds has effective incentive effect, or influence on:

- 1) a significant increase of project size, or
- 2) a significant increase of the total amount of funds invested in the project by the Funds Beneficiary, or
- 3) a significant increase of momentum of the project realisation, or
- 4) realisation of a project which, without the granting of funds, could not be realised.

### **Exceptions regarding eligibility criteria**

#### **Article 6**

The following investors and beneficiaries of funds shall be excluded from the right to granting funds:

- 1) enterprises in difficulty, in terms of regulations governing the rules for granting state aid;
- 2) those enterprises with outstanding obligations towards the Republic of Serbia;
- 3) those enterprises which in the past 12 months preceding the submission of the application form for granting funds, reduced the number of employees by 10% and more;
- 4) those in which the Republic of Serbia, autonomous province or local self-government unit has share in ownership;
- 5) those enterprises which are obliged to refund the unauthorised state aid;
- 6) those enterprises to which contract on granting incentive funds was terminated.

Notwithstanding paragraph 1, point 4) of this Article, Investor, or Funds Beneficiary may be an enterprise founded by the Republic of Serbia, autonomous province or local self-government unit, if it obtains the approval by the Government prior to submitting the application form for granting funds (for realisation of the investment project).

Approval referred to in paragraph 2 of this Article shall contain the approval for provision of collateral for the funds, in line with this regulation.

### **Enterprises eligible to granting funds**

#### **Article 7**

Funds shall be granted to an enterprise meeting the criteria and requirements defined by this regulation, and:

- 1) which is registered in the Business Registers Agency and not registered in the Central Record of temporarily restrictions on rights of entities registered in the Business Registers Agency;
- 2) which has submitted the application form for granting funds and the business plan for the investment project for which incentive funds shall be granted in line with this regulation;
- 3) which is not subject to a bankruptcy procedure, reorganisation, insolvency or liquidation, in line with the rules regulating bankruptcy and liquidation;
- 4) which has not been convicted for a criminal offence committed in the exercise of economic activity;
- 5) which has settled all its obligation regarding taxes and other public liabilities in the Republic of Serbia;
- 6) which in the past 12 months preceding the submission of the application form for granting funds did not reduce the number of employees in the Republic of Serbia by 10% and more;

- 7) which was not granted funds for the same purpose from the budget of the Republic of Serbia;
- 8) which is not in difficulty in line with the rules regulating the rules for control and granting of state aid;
- 9) which has obtained previous approval by the Government, if the Republic of Serbia, autonomous province or local self-government unit has share in ownership, and
- 10) which is not obliged to refund the unauthorised state aid.

### **Maximum allowed amounts of incentive funds**

#### **Article 8**

Maximum allowed amount of incentive funds for attracting direct investment may be defined in line with the regulations governing the rules for granting state aid and the criteria defined by this regulation.

Maximum allowed amount of incentive funds for large enterprises may be defined as up to 50% of reasonable costs for the realisation of an investment project.

Maximum allowed amount of incentive funds for medium enterprises may be defined as up to 60% of reasonable funds, and for small enterprises up to 70% of reasonable costs for the realisation of an investment project.

When defining the amount of funds to be granted, the cumulation with previously granted state aid shall be taken into consideration, in line with the regulations defining the rules for granting state aid.

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

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

For a direct investment considered as a unique investment project the maximum allowed amount of funds to be granted to the Funds Beneficiary or a subsidiary, shall be defined up to the percentage referred to in paragraph 5, points 1) and 2) of this Article.

### **III. ELIGIBILITY FOR GRANTING AND REQUIREMENTS FOR GRANTING FUNDS**

#### **Investment projects for which funds may be granted**

#### **Article 9**

Funds may be granted for:

- 1) investment projects in the manufacturing sector where reasonable investment costs amount to at least EUR 100.000 and which ensure employment of minimum 10 new employees for an indefinite period of time or creation of minimum 10 new jobs related to the investment project in local self-government units which, according to the level of development, are classified as devastated areas;

2) investment projects in the manufacturing sector where reasonable investment costs amount to at least EUR 200.000 and which ensure employment of minimum 20 new employees for an indefinite period of time or creation of minimum 20 new jobs related to the investment project in local self-government units which, according to the level of development, are classified to belong to the fourth group;

3) investment projects in the manufacturing sector where reasonable investment costs amount to at least EUR 300.000 and which ensure employment of minimum 30 new employees for an indefinite period of time or creation of minimum 30 new jobs related to the investment project in local self-government units which, according to the level of development, are classified to belong to the third group;

4) investment projects in the manufacturing sector where reasonable investment costs amount to at least EUR 3400.000 and which ensure employment of minimum 40 new employees for an indefinite period of time or creation of minimum 40 new jobs related to the investment project in local self-government units which, according to the level of development, are classified to belong to the second group;

5) investment projects in the manufacturing sector where reasonable investment costs amount to at least EUR 500.000 and which ensure employment of minimum 50 new employees for an indefinite period of time or creation of minimum 50 new jobs related to the investment project in local self-government units which, according to the level of development, are classified to belong to the first group;

6) investment projects in the service sector which may be subject to international sales which minimal value amounts to EUR 150.000 and which ensure employment of minimum 15 new employees for an indefinite period of time or opening of minimum 15 new jobs related to the investment project;

7) investment projects in the sector of agriculture and fishery which minimal value amounts to EUR 2.000.000 and which ensure employment of minimum 25 new employees for an indefinite period of time or creation of minimum 25 new jobs related to the investment project.

## **Requirements for granting funds**

### **Article 10**

Funds may be granted only under the following requirements:

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

2) if the achieved number of employees at the Funds Beneficiary, following the realisation of the investment projects, is not reduced in the period of five years for large enterprises or three years for small and medium enterprises.

Funds Beneficiary, upon achieving the full employment, in line with the contract on granting incentive funds referred to in Article 29 of this regulation, shall be obliged to pay every employee a regular salary referred to in Article 2, paragraph1, point 15) of this regulation.

## **Deadline for investment project realisation**

### **Article 11**

Deadline for the investment project realisation and employment of new employees related to the investment project shall not exceed three years following the day of the application for granting incentive funds, and which, upon concluding the contract on granting incentive funds, may be extended to the period up to five years, following the day of the application for granting funds, upon an elaborated request of the Funds Beneficiary, if the Economic Development Council (hereinafter referred to as: Council) assesses that the circumstances which brought to the need for the extension of the deadline are objective and that the deadline extension is justified and practical, or that it is the most efficient way to achieve the objectives of the investment and economic development.

For investments of special importance, the deadline for the realisation of an investment project and employment of new employees related to the investment project shall not exceed ten years following the day of application for incentive funds.

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

### **Criteria for an investment project quality analysis**

#### **Article 12**

Criteria for an investment project quality analysis are the following:

- 1) references of the Investor (recognition in the market, references of the clients, previous experience and success in the realisation of investment projects, etc.);
- 2) percentage of unemployed persons whose qualifications correspond to the activity of the Investor, or Funds Beneficiary in the total number of people who are in the list of the National Employment Service in the territory of local self-government units in which the investment is performed;
- 3) number, or percentage of highly qualified persons employed by the realisation of an investment project;
- 4) amount and type of the investment (greenfield or brownfield investment), or the level of engagement of construction industry in the realisation of an investment project;
- 5) technological level of activity which is subject to investment, in line with the qualification of Eurostat;
- 6) previous cooperation with suppliers and planned share of domestic suppliers;
- 7) effects of the investment on the employees (training of employees and the average amount of the salary);
- 8) previous and planned volume of international and total turnover (before and after the investment project);
- 9) financial-market assessment of the investment project (sources of financing, liquidity, profitability, sustainability, the investment payback period, etc.);

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

## **IV. TYPE AND AMOUNT OF FUNDS TO BE GRANTED**



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

### **Article 13**

Funds Beneficiary who creates new jobs related to the investment project in local self-government units belonging to the first classification group according to the level of development, shall be granted funds in the amount of 20% of reasonable costs of gross salaries referred to in Article 3 of this regulation, and in the maximum amount of EUR 3.000 in dinar equivalent per a newly created job.

Funds Beneficiary who creates new jobs related to an investment project in a local self-government unit classified to belong to the second group of local self-government units according to the level of development, shall be granted funds in the amount of 25% of reasonable costs of gross salaries referred to in Article 3 of this regulation, with the maximum amount of EUR 4.000 in dinar equivalent per newly created job.

Funds Beneficiary who creates new jobs related to an investment project in a local self-government unit classified to belong to the third group of local self-government units according to the level of development, shall be granted funds in the amount of 30% of reasonable costs of gross salaries referred to in Article 3 of this regulation, with the maximum amount of EUR 5.000 in dinar equivalent per newly created job.

Funds Beneficiary who creates new jobs related to an investment project in a local self-government unit classified to belong to the fourth group of local self-government units according to the level of development, shall be granted funds in the amount of 35% of reasonable costs of gross salaries referred to in Article 3 of this regulation, with the maximum amount of EUR 6.000 in dinar equivalent per newly created job.

Funds Beneficiary who creates new jobs related to an investment project in a local self-government unit classified as a devastated area according to the level of development, shall be granted funds in the amount of 40% of reasonable costs of gross salaries referred to in Article 3 of this regulation, with the maximum amount of EUR 7.000 in dinar equivalent per newly created job.

Total funds to be granted in line with this regulation and other incentives shall be defined as an absolute amount, while not exceed the upper limit that is allowed to grant the total amount of state aid in line with the regulations governing the rules for granting state aid.

## **Incentives for reasonable costs of investment in fixed assets**

### **Article 14**

Funds Beneficiary who realises an investment project in a local self-government unit classified to belong to the first group of local self-government units according to the level of development, may be granted an increased amount of the funds referred to in Article 13 of this regulation in the amount of maximum 10% of reasonable costs of investment in fixed assets.

Funds Beneficiary who realises an investment project in a local self-government unit classified to belong to the second group of local self-government units according to the level of development, may be granted an increased amount of the funds referred to in Article 13 of this regulation in the amount of maximum 15% of reasonable costs of investment in fixed assets.

Funds Beneficiary who realises an investment project in a local self-government unit classified to belong to the third group of local self-government units according to the level of

development, may be granted an increased amount of the funds referred to in Article 13 of this regulation in the amount of maximum 20% of reasonable costs of investment in fixed assets.

Funds Beneficiary who realises an investment project in a local self-government unit classified to belong to the fourth group of local self-government units according to the level of development, may be granted an increased amount of the funds referred to in Article 13 of this regulation in the amount of maximum 25% of reasonable costs of investment in fixed assets.

Funds Beneficiary who realises an investment project in a local self-government unit classified as a devastated area according to the level of development, may be granted an increased amount of grants referred to in Article 13 of this regulation in the amount of maximum 30% of reasonable costs of investment in fixed assets.

Total funds to be granted in line with this regulation and other incentives shall be defined as an absolute amount, while not exceed the upper limit that is allowed to grant the total amount of state aid in line with the regulations governing the rules for granting state aid.

### **Additional incentives for labour-intensive investment projects**

#### **Article 15**

Labour-intensive investment project is an investment project which creates minimum 200 new jobs related to the investment project, within the timeframe defined for the realisation of the investment project.

Funds Beneficiary who realises a labour-intensive investment project may be granted an increased amount of the grant referred to in Article 13 of this regulation by 10% of the amount of reasonable costs of gross salaries referred to in Article 3 of this regulation for every increase of the number of new jobs related to the investment project over 200 new jobs related to the investment project.

Funds Beneficiary who realises a labour-intensive investment project may be granted an increased amount of the grant referred to in Article 13 of this regulation by 15% of the amount of reasonable costs of gross salaries referred to in Article 3 of this regulation for every increase of the number of new jobs related to the investment project over 500 new jobs related to the investment project.

Funds Beneficiary who realises a labour-intensive investment project may be granted an increased amount of the grant referred to in Article 13 of this regulation by 20% of the amount of reasonable costs of gross salaries referred to in Article 3 of this regulation for every increase of the number of new jobs related to the investment project over 1000 new jobs related to the investment project.

Total funds to be granted in line with this regulation and other incentives shall be defined as an absolute amount, while not exceed the upper limit that is allowed to grant the total amount of state aid in line with the regulations governing the rules for granting state aid.

## **V. INVESTMENTS OF SPECIAL IMPORTANCE**

### **Idea of an investment of special importance for the Republic of Serbia**

#### **Article 16**

Investment of special importance for the Republic of Serbia (hereinafter referred to as: investment of special importance) is:

1) an investment which realisation has a significant impact on the future economic development of the Republic of Serbia, contributing to an improvement of competitiveness of the economy and the Republic of Serbia as an investment location and which realisation encourages regional development regarding the subject of investment and territorial concentration of certain economic sectors and economic activities, and which invests in fixed assets of the Funds Beneficiary minimum EUR 5 million or creates more than 500 new jobs related to the investment project, if the investment is realised in a local self-government unit classified to belong to the first or second group according to the level of development, or which invests in fixed assets of the Funds Beneficiary more than EUR 2 million or creates more than 100 new jobs related to the investment project, if the investment is realised in a local self-government unit classified to belong to the third or fourth group according to the level of development, or classified as a devastated area;

2) an investment realised in the territory of one or more local self-government units and which encourages realisation of development priorities of one or more local self-government units in the function of increasing their competitiveness. Decision defining a development priority of a local self-government unit shall be made by the assembly or the council of the local self-government units, and if the investment is realised in the territory of several local self-government units, the decision made by the competent authorities of those local self-government units shall define a common development priority upon previously obtained opinion of the Agency;

3) an investment based on an adopted bilateral agreement;

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

### **Criteria for analysis and amount of funds**

#### **Article 17**

Criteria for investment project quality analysis referred to Article 12 of this regulation shall apply to investment of special importance.

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

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

## **VI. PROCEDURE FOR GRANTING FUNDS**

### **Public announcement**

#### **Article 18**

Granting funds in line with this regulation shall be conducted through a public announcement for granting funds.

Ministry of Economy (hereinafter referred to as: Ministry), upon the previously obtained consent by the ministry competent for finances, shall publish a public announcement at its web page.

Text of the public announcement shall be published at the web page of the Agency.

A public announcement shall in particular contain the following:

- 1) name and seat of the body publishing the public announcement;
- 2) name and seat of the body which receives the applications for granting funds;
- 3) criteria for granting funds;
- 4) deadline for application submission;
- 5) address at which information regarding participation in the procedure of granting funds and contact person's details can be obtained;
- 6) other information of importance and interest for Investors and Funds Beneficiaries.

Decision on granting funds for investment of special importance shall be made without a public announcement.

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

#### **Article 19**

Investor shall submit to the Agency the Letter of Intent regarding the realisation of the investment project.

Letter of Intent shall in particular contain the data on Investor, activity, previous investment activities, planned amount of investment in fixed assets, number of employees or jobs related to the investment project, planned costs of gross salaries for new jobs related to the investment project in two-year period following the achievement of full employment, as well as the data referred to in Article 12 of this regulation, excluding the data referred to in points 2) and 5) of that Article.

If the Letter of Intent does not contain the elements referred to in paragraph 2 of this Article, the Agency shall request from the Investor to provide additional documents, and it may also request from the Investor to provide additional information, in line with this regulation.

Based on the data in the Letter of Intent, the Agency shall provide the Investor with the information notice on the possible level of incentives, leaving him the period of 30 days to make a statement on it.

If the Agency identifies that the project is the one referred to in Article 16, paragraph 1, points 1), 3) or 4) of this regulation, with the information notice provided to the Investor referred to in paragraph 4 of this Article, the Agency shall notify the Ministry and the Council on the existence of the project of special importance.

Information notice on the possible level of incentives is legally non-binding and contains the information that granting and the amount of funds shall be defined by the Council upon considering all conditions for granting funds in line with this regulation, which decision shall be confirmed by the Committee for state aid control.

### **Application for granting funds and professional analysis**

#### **Article 20**

Upon the receipt of the statement referred to in Article 19, paragraph 4 of this regulation, the Investor shall submit to the application for granting incentive funds to the Agency on the defined form, in Serbian language (hereinafter referred to as: Application for granting funds) for defining the fulfilment of requirements for granting funds.

Based on the Application for granting funds, the Agency shall perform a professional analysis of the investment project quality, notify the Investor on the amount of the incentives to be proposed to the Council, and provide a draft contract on granting incentive funds.

Agency shall perform the analysis referred to in paragraph 2 of this Article by applying the criteria referred to in Article 12 of this regulation, both for the project for which the Application for granting funds is submitted in line with the public announcement, and for the investment of special importance.

Professional analysis of the investment project quality shall contain the analysis of a possible amount of the investment funds.

## **Application Form for granting funds**

### **Article 21**

Application Form for granting funds shall be defined by the minister competent for economy (hereinafter referred to as: Minister).

In addition to the Application Form, the following shall be submitted:

1) business plan for an investment project which realisation is subject of granting funds based on a public announcement:

2) original or certified copy of registered financial reports of Investor for the previous three business years, with the findings of the authorised auditor (if there is a legal obligation to obtain the findings of an authorised auditor), and a foreign legal entity shall submit the original or a certified copy and certified translation into Serbia language (along with the findings of an authorised auditor, if that is in line with the national legislation of a foreign proponent of an investment project, or a statement of the Investor that he/she is not obliged to obtain the report from an authorised auditor);

3) original or certified copy of a certificate from the Registry of Business Entities, submitted by an Investor with the seat in the Republic of Serbia, or a certificate from a relevant registry of the country in which a foreign Investor has a seat, not older than three months, certified by a competent authority, and a certified translation of the statement into Serbian language;

4) evidence that the enterprise is not subject to a bankruptcy procedure, reorganisation, insolvency or liquidation in line with the rules regulating bankruptcy and liquidation;

5) statement in writing that for the realisation of the investment project, or the same reasonable costs the state aid was not granted, and if it was granted, the grounds for granting and in which form and amount the state aid was granted from the budget of the Republic of Serbia, autonomous province, or a local self-government;

6) evidence of settlement of the obligations related to taxes, customs and contributions in the Republic of Serbia, and for foreign investors who did not operate in the Republic of Serbia, a signed statement that the Investor did not operate in the Republic of Serbia and that it has not the tax identification number assigned in line with the rules regulating the tax procedure and tax administration;

7) certificate from the Central register of mandatory social insurance confirming the number of employees and type of labour engagement at the Funds Beneficiary at the moment of submitting the Application Form for granting funds;

8) evidence that a responsible person in the enterprise has not been sentenced for criminal acts against economy, property, illegal trade and official duty;

9) evidence that a responsible person in the enterprise has not been not subject to a criminal procedure;

10) evidence that an enterprise has not been sentenced for a criminal act committed in performing the economic activity.

Agency may request the submission of other documents, if it considers it necessary.

Documents submitted by a foreign enterprise shall be certified in line with the regulations of the country issuing them and translated into Serbian language by a certified translator.

Day of submitting the Application Form for granting funds shall be considered the day of receipt of the Application Form for granting funds by the Agency.

Agency shall be obliged to immediately provide the Ministry with a copy of the Application Form for granting funds.

## **Determining the fulfilment of formal requirements for granting funds**

### **Article 22**

Agency shall determine the fulfilment of formal requirements for granting funds.

Agency shall reject untimely Applications for granting funds.

If an Application fails to meet the requirements referred to in Article 21 of this regulation, the Agency shall reject the application as incomplete and submit it to the applicant with an explanation, within 30 days from the day of its receipt.

If an Application Form fails to meet the requirements referred to in Article 4, but meets the requirements referred to in Article 6 of this regulation the Agency shall reject this Application as incomplete and submit it to the applicant with an explanation, within 30 days from the day of its receipt.

Complaint to the decision of the Agency referred to in paragraphs 2, 3 and 4 of this Article may be lodged to the Ministry within eight days from the day of receiving the decision of the Agency.

Ministry shall decide on the complaint referred to in paragraph 5 of this Article and submit the response to the applicant within 30 days from the day of receiving the complaint.

Untimely, incomplete, approved and rejected Applications shall be submitted to the Council by the Agency not later than 30 days from the day of receipt.

## **Decisions of the Council**

### **Article 23**

Agency shall submit to the Council the Application for granting incentive funds, notifications and statements referred to in Article 19, paragraph 5 of this regulation, together with the professional analysis of the investment project quality, proposed amount of the incentives and a draft contract on granting incentive funds, and in case of an investment of special importance referred to in Article 16, paragraph 1, point 2) of this regulation, the Agency shall submit also the decision of the assembly, or the council of a local self-government unit.

## **Submission of the Decision of the Council and Draft Contract**

### **Article 24**

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

Ministry shall submit the decision of the Council and the text of the Draft Contract on granting incentive funds to the Committee for State Aid Control for the purpose of defining the regularity of granting funds, prior to its submission to the Government for providing the necessary approval for the Draft Contract.

### **Relations between Agency and Council**

### **Article 25**

Agency shall perform administrative and technical and professional tasks for the Council, propose to the President of the Council convening of the Council sessions, prepare materials for discussion and decision making in the sessions of the Council, provide necessary information on the status of investment projects, prepare minutes for the sessions and act upon the decisions of the Council.

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

### **Decisions on granting funds and other proposed measures**

### **Article 26**

Council's Decision on granting funds shall contain the data on the investment project and its important elements, on the Investor, or Funds Beneficiary, and on the amount of granted funds.

Decision by which the Council rejects to grant funds shall contain reasons why the funds are not granted.

Council shall decide on proposed measures for the most effective manner of achieving the objectives of the investment and economic growth, which include changes of the manner of realisation of an investment project defined in concluded contracts on granting funds, change of deadlines, reduction of the amount of granted funds according to the recognition of a partial fulfilment of contractual obligations, based on the elaborated proposal of the Funds Beneficiary, including the proposals referring to the amendments to, or termination of the contract on granting incentive funds.

Proposed measures referred to in paragraph 3 of this Article shall be prepared by the Ministry based on the reports referred to in Articles 32 and 33 of this regulation, which shall submit them to the Council via the Agency.

Ministry, following the decision by the Council made in line with paragraph 1 of this Articles, shall prepare the text of the contract on granting incentive funds amending (Annex) or terminating the contract. In case of recognition of partial fulfilment of contractual obligations, Annex of the Contract on granting incentive funds shall contain a reduced amount of granted, but not disbursed funds defined by the contract on granting incentive funds, or the obligation of the Funds Beneficiary to refund the part of disbursed granted funds.

Agency shall make minutes on the decisions of the Council, to be submitted to the Council members and the Ministry.

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

Provision of paragraph 5 of this Article shall be accordingly applied to the procedure related to the decision of the Council referred to in paragraph 7 of this Article.

At the moment of signing the contract on amendments to the contract on granting incentive funds (Annex), contract on mutual regulation of rights and obligations, or settlement agreement, the Funds Beneficiary shall be obliged to provide the amendments to the business plan.

## **VII. CONTRACT AND MANNER OF FUNDS DISBURSEMENT**

### **Contract on granting incentive funds**

#### **Article 27**

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

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

Contract shall contain: subject, amount and dynamics of investment and the number of new jobs related to the investment project with the employment dynamics, planned costs of gross salaries for new jobs related to the investment project in the two-year period after achieving full employment, obligation of disbursement of contracted salary, deadline for realisation of the investment project, amount of granted funds, dynamics of disbursement of granted funds, and information on the collateral, obligation of reporting, of control of fulfilment of contractual obligations, termination of the Contract, Force Majeure, environmental protection and protection at work, settlement of disputes and other issues of importance for the realisation of the Contract.

An integral part of the Contract shall be the part of the business plan referring to the amount, structure, and dynamics of investment, plan and dynamics of employment and projected gross earnings and the planned share of domestic investors in the basic raw material.

Ministry may terminate the Contract in any phase of realisation, if determines that the Funds Beneficiary fails to meet the requirements defined by the Contract and if the Council made a decision on termination. If there are justified reasons the Ministry may, prior to the Council session, terminate the Contract and charge the guarantee funds, on which it shall notify the Council in the first following session of the Council.

### **Disbursement of granted funds**

#### **Article 28**

Disbursement of granted funds shall be performed at the submitted request (hereinafter referred to as: Disbursement request) submitted by the Funds Beneficiary to the Ministry, in line with the Contract.



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

Amount of an instalment shall be defined as a percentage amount regarding the granted funds, in the following manner:

1) in the amount which is proportional to the percentage of performed investment in fixed assets in each year of realisation of the investment project, compared to the total investment in fixed assets defined by the investment project, and

2) in the amount which is proportional to the percentage of newly employed in each year of realisation of the investment project, compared to the total number of newly employed defined by the investment project.

In addition to the Disbursement request, the following shall be submitted:

1) report of an authorised auditor holding insurance for professional responsibility and possible additional evidence on fulfilment of the requirements for disbursement of an instalment, and

2) bank guarantee which guarantees the return of disbursed funds.

Along with the Disbursement request for the first instalment, in addition to the documents referred to in paragraph 4 of this Article, two signed blank promissory notes with a signed letter of authorisation for the purpose of collecting of statutory default interest or a bank guarantee covering the amount of a possible statutory default interest.

For the disbursement of the last instalment, the Funds Beneficiary shall be obliged to provide a bank guarantee stating the total amount of granted funds with the validity time period of three years and six months after the day of submitting the Disbursement request for small and medium enterprises, Funds Beneficiaries, or with the validity period of five years and six months after the day of submitting the Disbursement request for large enterprises.

Ministry shall define the grounds and regularity of the Disbursement request, in line with the documentation submitted by the beneficiary.

## **Collateral**

### **Article 29**

The Funds Beneficiary has to provide a bank guarantee issued by a commercial bank registered on the territory of the Republic of Serbia that is unconditional and payable on the first demand for the benefit of the Republic of Serbia.

Disbursed funds shall be guaranteed by a bank guarantee, in line with the Contract.

In addition to the bank guarantee, the Funds Beneficiary shall be obliged to provide two registered and signed blank promissory notes with a signed letter of authorisation for the purpose of collecting of statutory default interest, in line with the law regulating the amount of statutory default interest rate, in case of a failure to fulfil the contractual obligations.

Funds Beneficiary shall not be obliged to provide the blank promissory notes referred to in paragraph 3 of this Article if it provides a bank guarantee covering the amount of a possible default interest.

In case referred to in paragraph 4 of this Article the Funds Beneficiary shall be obliged, when paying of every instalment, in addition to the bank guarantee guaranteeing the amount of that instalment, to also provide a bank guarantee covering the amount of a possible statutory default interest.

Statutory default interest shall be calculated also for the period from the day of payment of individual instalment until the day of refund of the total amount of disbursed funds.

In case of a failure to fulfil the contractual obligation or partial fulfilment of contractual obligations the Ministry may, on the grounds of issued bank guarantees and blank promissory notes, claim the funds up to the amount of disbursed funds and defined statutory default interest.

## **VIII. CONTROL OF FULFILMENT OF CONTRACTUAL OBLIGATIONS**

### **Reports submitted by Funds Beneficiary**

#### **Article 30**

Funds Beneficiary shall be obliged to report to the Ministry on the realisation of an investment project for which funds are granted.

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

1) within 60 days from the day of payment of the final instalment, or from the day of completion of the investment project, and

2) within 60 days from the day of expiry of the time period of guaranteed investment and employment.

Report on the realisation of an investment project shall contain the following:

1) report by an independent authorised auditor on the audit of the project containing the control of compliance with all provisions of the Contract;

2) data on the number of employed based on the report by the Central Register of mandatory social insurance;

3) report by an independent authorised auditor on the amount of paid salaries, taxes and contributions for all the employees in line with the Contract;

4) report by an independent appraiser on the current value of transferred used equipment.

Funds Beneficiary shall be obliged to provide the independent authorised auditor with smooth performance of control of the fulfilment of investment obligations (amount and structure of investment during the project realisation), obligation of employment and retaining the number of employees defined by the contract (during the realisation and during the period of guaranteed investment and employment), costs of salaries defined by the investment project, as well as the fulfilment of other contractual obligations, and, for that purpose, ensure an insight in the documentation of the beneficiary.

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

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

If the report of an independent authorised auditor states that the Funds Beneficiary fails to perform the contractual obligations within the period of guaranteed investment and employment (negative opinion, qualified opinion, refraining from providing opinion), the Ministry shall provide a written information notice to the Funds Beneficiary on the obligation to eliminate the identified irregularities.

If the Funds Beneficiary fails to eliminate the irregularities within 30 days after receiving the information notice referred to in paragraph 6 of this Article, the Ministry may terminate the contract on granting incentive funds and require a refund of granted funds disbursed to the Funds Beneficiary, increased by the amount of the relevant statutory default interest, or, according to the decision of the Council referred to in Article 28, paragraph 5 of this regulation, conclude an Annex to the Contract with the Funds beneficiary.

## **Control and Monitoring of fulfilment of contractual obligations**

### **Article 31**

At the request of the Ministry, the Central Register of mandatory social insurance shall provide reports on the number of newly employed and the type of work engagement at the Funds Beneficiary on the day of submitting the request for disbursement of every individual instalment of granted funds, not later than 10 days from the day of receiving the request.

At the request of the Ministry, the Central Register of mandatory social insurance shall provide the Ministry with reports on the number of employees and the type of work engagement at the Funds Beneficiary during the realisation of an investment project, as well as during the period of guaranteed investment and employment.

Ministry shall provide the Central Register of mandatory social insurance with the list of funds beneficiaries according to the Contracts.

Central Register of mandatory social insurance shall be obliged to provide the Ministry with reports on the number of employees and types of work engagement at the funds beneficiaries, at the end of every three-month period, according to the list referred to in paragraph 3 of this Article.

Ministry shall perform the control of fulfilment of obligations by funds beneficiaries referred to in Article 10, paragraph 2 of this regulation, based on the reports of an authorised independent auditor.

Ministry may, at any moment during the realisation of an investment project, to perform the control of amount, dynamics and structure of investment defined by an investment project, or Contract, in order to control the fulfilment of contractual obligations of funds beneficiaries.

Ministry and person hired by the Ministry, shall conduct the control also after the expiry of the deadline for realisation of an investment project in line with Article 10, paragraph 1, point 1) of this regulation and Contract.

Copies of reports and data referred to in paragraphs 1, 2, 4, 5, 6 and 7 of this Article shall be provided to the Agency by the Ministry.

Based on the reports and data referred to in paragraph 8 of this Article, the Agency shall monitor the dynamics of the realisation of an investment project during the realisation of the investment project.

If it is determined that, for the purpose of further activities regarding the investment project in question, a decision of the Council is necessary, the Agency shall, based on the documentation referred to in paragraph 8, create a report on the progress of the realisation of the investment project, and submit it to the Council for consideration and deciding, upon previously obtained proposed measure from the Ministry.

Report referred to in paragraph 10 of this Article shall contain the data and information on all the elements of the investment project, and the following is obligatory:

- 1) summary of the report by an independent auditor on project audit containing the control of compliance with all the provisions of the Contract;
- 2) information on the amount of investment made by a funds beneficiary regarding the elements of the investment stated in the Application, Contract or the investment project;
- 3) information on the dynamics of creation of new jobs, or on the dynamics of employment of newly employed for an indefinite period of time at the Funds Beneficiary;
- 4) review of blockades of current accounts of Funds Beneficiary, if they occurred;
- 5) information on issues faced by the Investor or Funds Beneficiary during the realisation of an investment project, and
- 6) other information of importance for preserving financial, development and bilateral and economic interests of the Republic of Serbia which might be jeopardised by the actions taken by the Funds Beneficiary.

Ministry shall provide the Business Registers Agency with the list of funds beneficiaries according to the Contract.

In case of a registration of changes at funds beneficiaries, the Business Registers Agency shall be obliged to immediately notify the Ministry.

Control of the amount of investment in fixed assets referred to in paragraph 6 of this Article shall be performed in line with the Addendum on the manner and procedure of control of investment amount, printed with this regulation and which is its integral part.

Control referred to in this Article shall accordingly apply also to an investment of special importance.

## **IX. EXEMPTION FROM CUSTOMS AND OTHER DUTIES FOR IMPORTING EQUIPMENT BY A FOREIGN INVESTOR**

### **Requirements for exercising benefits**

#### **Article 32**

Exemption from payment of customs and other fees for import of the equipment referred to in Article 2, paragraph 1, point 16) of this regulation, except from the value added tax, shall be exercised:

- 1) in line with the rules for granting regional state aid, for enterprises which are funds beneficiaries according to the Contract;
- 2) in line with the rules for granting *de minimis* state aid, for enterprises which are not funds beneficiaries according to the Contract.

Exemption from customs and other fees for import of the equipment referred to in Article 2, paragraph 1, point 16) of this regulation shall be used up to the amount of registered foreign investment in kind in an enterprise if:

- 1) the total amount of the incentive funds does not exceed the amount referred to in Article 8, paragraphs 2 and 3 of this regulation, for enterprises which are funds beneficiaries according to the Contract;
- 2) the amount of exemption from customs and other fees on import of the equipment referred to in Article 2, paragraph 1, point 16) does not exceed the upper limit of *de minimis* state aid in the amount of RSD 23,000,000.00 per one foreign investor at any moment during three consecutive fiscal years, in line with the rules regulating granting state aid.

Exemption referred to in paragraphs 1 and 2 of this Article shall be exercised within the period of:

- 1) two years from the day of registration of the articles of association, or the decision of increasing the equity for a joint-stock enterprise in line with the law regulating enterprises;
- 2) five years from the day of registration of the articles of association, or the decision of increasing the equity for other enterprises, in line with the law regulating enterprises.

### **Procedure for exercising the benefits**

#### **Article 33**

For the purpose of exercising the right to exemption from customs and other fees on import of equipment on the basis of investment by a foreign investor, except from the value added tax, the benefit beneficiary shall provide the customs authority with the following:

- 1) certificate on registered data on an enterprise registered in the Registry of enterprise on the amount of registered investment in kind by a foreign investor in the equity of the enterprise, and the date of the registration of the annotation of the contract or decision on a foreign investment;
- 2) warranty or other relevant documentation which may serve for defining the year of manufacturing and statement that the equipment is new, or that the imported equipment is less than three years old;
- 3) Contract referred to in Article 29 of this regulation, if the benefits beneficiary is also a funds beneficiaries according to the Contract;
- 4) statement that it is not a beneficiary of *de minimis* state aid, or statement on realised amount of *de minimis* state aid in the current fiscal year and in the previous two consecutive fiscal years, if it is not a funds beneficiary according to the Contract;
- 5) statement that the imported equipment serves for performing the activity of a benefit beneficiary.

Based on the submitted request and provided evidence, the customs authority shall make a decision on the exemption from paying customs and other fees on import of equipment.

Customs Administration shall provide a copy of the decision referred to in paragraph 2 of this Article to the Ministry, without a delay, not later than 15 days from the day of making the decision.

### **Restraint on alienation**

#### **Article 34**

Equipment referred to in Article 32 of this regulation shall not be alienated, transferred to other for use or be used for other purposes in the period of three years from the day of releasing the goods for free circulation in line with Article 108 of the Customs Law (“Official Gazette of RS”, No 18/10, 111/12 and 29/15).

If equipment referred to in paragraph 1 of this Article is alienated, transferred to other for use or used for other purposes before the expiry of the deadline referred to in paragraph 1 of this Article, import duties shall be paid for that equipment. The amount of import duties shall be calculated according to the state of the goods and according to the rules applicable on the day of submission of the request for calculation and payment of import duties, or on the day of making

the decision on collection of import duties if the application for calculation and payment of import duties is not submitted.

Equipment referred to in Article 32 of this regulation which is released for free circulation in line with the provisions of this regulation shall remain under the customs control. The customs control shall end when the conditions for which the equipment is released for free circulation without the payment of import duties cease to exist, when the equipment is exported or destroyed or allowed to be used for other purposes different from those defined by this regulation and when the import duties are paid.

## **X. TRANSITIONAL AND FINAL PROVISIONS**

### **Expiry of Regulation Validity**

#### **Article 35**

Control of performed contractual obligations according to concluded contracts on granting incentive funds, as well as the decision making according to performed control, shall be performed according to the provisions of this regulation.

The requests for the refund of costs invested in infrastructure submitted before the day of entry into force of the Regulation on Terms and Conditions for Attracting Direct Investment (“Official Gazette of RS”, No 28/15), and concluded contracts on refund of the funds invested in infrastructure, shall be solved in the manner and procedure defined by the Regulation on Terms and Conditions for Attracting Direct Investment (“Official Gazette of RS”, No 55/14 and 65/14).

For the purpose of realisation of investment projects implemented in line with this regulation, which plan the employment of up to 100 people, the funds allocated by the Decision on the use of funds of the current budget reserve 05 Number: 401-12547/2016 from December 26, 2016, in the amount of RSD 420.000.000, shall be transferred to the Agency by December 31, 2016 and realised until the funds are spent.

On the day of entry into force of this regulation, the Regulation on Terms and Conditions for Attracting Investment (“Official Gazette of RS”, No 27/16) shall cease to be valid.

### **Entry into force**

#### **Article 36**

This regulation shall enter into force on the day following the day of its publication in the “Official Gazette of the Republic of Serbia”.

05 Number:  
In Belgrade, December \_\_\_\_, 2016

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

**PRIME MINISTER**

Addendum

MANNER AND PROCEDURE OF CONTROL OF INVESTMENT AMOUNT

1. REPORT ON PERFORMED INVESTMENT PLANNED IN THE BUSINESS PLAN

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

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

- 1) introduction: basic information on the funds beneficiary and Contract, as well as annex / annexes to the Contract, if they exist, the name of the fund beneficiary, identification number, tax identification number, contract number, subject of the contract, amount and dynamics of investment and the deadline for the completion of the investment project, Application for granting incentive funds, auditor's report/s, report/s of authorised appraisers used in the control process, and other data,
- 2) provided documentation and possible subsequently provided documentation based on which the control of the amount of the investment is performed, in line with point 2 of this addendum,
- 3) data on the documentation which is not provided at the request of an authorised auditor performing the control, if such documentation exists,
- 4) findings on the investment amount, based on the analysis of the documentation which is subject to the control of the investment amount, in line with point 2 of this addendum.

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

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

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

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

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

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

c) For tangible assets:

A) For land:

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

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

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

B) For buildings and manufacturing plants:

- For greenfield investments:

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

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

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

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

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

- For brownfield investments:

Not covering reconstruction of existing facilities:

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

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

Covering reconstruction/adaptation of existing facilities:

1) permit for reconstruction/adaptation,

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

3) utilisation permit,

4) contract on reconstruction/adaptation,

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

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

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

C) Plants, machines, equipment:

- New equipment:

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

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

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

- Used equipment:

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

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

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



- 4) evidence that the beneficiary of assets has become the owner of the assets,
- 5) evidence on the registration in business books of the funds beneficiary.

D) For intangible assets:

- 1) legal grounds for acquisition,
- 2) invoices of the supplier,
- 3) evidence that the intangible assets are registered in business books of the funds beneficiary,
- 4) review of calculated amortisation from the acquisition,
- 5) certificate by an authorised appraiser (court expert) that the intangible assets have been procured under market conditions,
- 6) statement of the funds beneficiary and investor under material and criminal liability that the intangible assets have not been procured from a person related to them,
- 7) statement by a person in charge at the funds beneficiary that the intangible assets are used only by the funds beneficiary.

E) Services which might be subject to international trade:

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