

Incentive Guidelines
Micro Guarantee 2017 - 2020



Issue Date: 1st January 2017

Version: 1

<http://support.maltaenterprise.com>

It is recommended that potential applicants contact Business First prior to submitting their application. Business First staff will support interested applicants to understand the objectives of the incentive; explain details relevant to the scheme and address any problems applicants might encounter when completing their application. Business First may be contacted by calling 144 or by email on info.businessfirst@maltaenterprise.com

Contents

1.1	Scope	2
1.2	Duration of the Incentive	2
1.3	Legal Basis	2
1.4	Designated Authority	2
2.	Definitions	3
2.1	Bank	3
2.2	Family Business	3
3.	Eligibility	5
3.1	Eligible Undertakings	5
3.2	Exclusions	5
4.	Incentive Details	6
4.1	The Guarantee	6
4.1.1	Loan Terms	7
4.2	Value of Aid	7
4.3	Eligible Costs	7
4.5	Ineligible Costs	7
4.6	Additional Provisions	7
5.	Application Process and Assignment of Aid	9
5.1	Supplementary information	9
5.2	Assignment of Aid	9
5.3	Guarantee	9
6.	Monitoring and Control	10
6.1	Monitoring	10
6.2	Recovery	10
6.3	Penalties	10
7.	State Aid Rules and Obligations	11
7.1	Applicable State Aid	11
7.2	Applicability of the Aid	11
7.4	Cumulation	12
8.	Contact Details	13

1. Introduction

1.1 Scope

Limited availability of funds many times prohibits small business from carrying out new investment projects and may consequently lead to the loss of business opportunities. The Micro Guarantee Scheme has the objective to accelerate growth by facilitating access to debt finance for smaller business undertakings.

This Micro Guarantee Scheme shall provide eligible undertakings with a guarantee of up to 70% on loans required to finance business enhancement, growth and development.

1.2 Duration of the Incentive

The scheme is available until 31st December 2020.

Malta Enterprise may periodically update and amend these Incentive Guidelines.

1.3 Legal Basis

Malta Enterprise Corporation may issue and publish the official Incentive Guidelines covering this aid scheme in terms of Article 8 (3)(a) of the Malta Enterprise Act, Chapter 463 of the Laws of Malta.

Micro Loan Guarantee Regulations as Subsidiary Legislation 463.08 to the Malta Enterprise Act, mentioned in the previous paragraph, form the national legal basis of this aid scheme.

1.4 Designated Authority

This incentive is administered by Malta Enterprise (hereinafter referred to as the 'Corporation').

2. Definitions

2.1 Bank

For the purpose of this incentive, a bank is understood to be a commercial bank or other licensed financial institution providing debt finance.

2.2 Family Business

For the purpose of this incentive, a Family business is an undertaking as defined in Article 3 of the Family Business Act (Chapter 565 of the Laws of Malta) that is duly registered as a Family business and holds an updated certificate issued by the Regulator for Family Businesses.

2.3 Letter of Intent

For the purpose of this incentive, a *Letter of Intent* means a certificate issued in line with Part 6 Section 28 et seq. of the Malta Enterprise Act, outlining the support granted and any applicable terms and conditions.

2.4 Letter of Guarantee

For the purpose of this incentive, a *Letter of Guarantee* means a document issued to beneficiary specifying the terms of the guarantee.

2.5 Start-up

A 'small start-up' undertaking shall be defined as an unlisted small undertaking that has been established for less than five (5) years and which has not yet distributed profits and has not formed through a merger. A start-up would not include any undertakings that close down and re-open. Undertakings controlled by owners of previously closed down businesses cannot be considered as a start-up undertaking under this incentive if the new undertaking is operative in the same or related sectors as that of the closed down firm. This restriction applies for a period of twelve (12) months following such closure.

A small start-up undertaking must employ less than fifty (50) Full Time Equivalent FTE employees and have a turnover or balance sheet total which does not exceed €10 million.

The audited accounts of the undertaking shall be used to determine whether the company actually distributed profits.

2.6 Single Undertaking

For the purpose of these Incentive Guidelines, the terminology single undertaking shall be defined as follows:

As per Commission Regulation EU No 1407/2013 of 18 December 2013 on the application of the Treaty on the Functioning of the European Union to de minimis aid, 'Single Undertaking' includes, for the purposes of this Regulation, all undertakings having at least one (1) of the following relationships with each other:

a) one undertakings has a majority of the shareholders' or members' voting rights in another undertaking;

- b) one undertaking has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another undertaking;
- c) one undertaking has the right to exercise a dominant influence over another undertaking pursuant to a contract entered into with that undertaking or to a provision in its memorandum or articles of association;
- d) one undertaking, which is a shareholder in or member of another undertaking, controls alone, pursuant to an agreement with other shareholders in or members of that undertaking, a majority of shareholders' or members' voting rights in that undertaking.

Undertakings having any of the relationships referred to in points (a) to (d) of the first subparagraph through one or more other undertakings shall also be considered to be a single undertaking.

The same regulation states that a group of linked undertakings is considered as one single undertaking for the application of the *de minimis* rule, but those undertakings which have no relationship with each other except for the fact that each of them has a direct link to the same public body or bodies are not treated as being linked to each other. The specific situation of undertakings controlled by the same public body or bodies, which may have an independent power of decision, is therefore taken into account. 1

3. Eligibility

3.1 Eligible Undertakings

This incentive is open to all business undertakings, including self-employed, start-ups and family businesses, which at the point of application satisfy all of the following criteria:

- a. The applicant must have 50 or less (full-time equivalent) employees calculated on the fiscal year preceding the application¹.
- b. The applicant's turnover and balance sheet total for the fiscal year preceding the application must not exceed €10 Million¹.
- c. Except in the case of start-ups, at application stage the applicant must have one person employed on a full time basis. At the discretion of the Corporation, a self employed person duly register with *Jobsplus* may be considered to satisfy this condition.
- d. The applicant should be in a possession of a valid VAT number issued by the VAT department.
- e. The operations related to the investment and the investment itself should be based in Malta and /or Gozo.
- f. The applicant will be required to demonstrate that the loan is linked to one or more of the following outcomes:
 - i. Establishment of new business.
 - ii. New or improved products, services or processes.
 - iii. Adoption of new technology.
 - iv. Reduction in costs.
 - v. Increase in sales.
 - vi. Retention and/or generation of new/additional jobs.
 - vii. Increased productivity.
 - viii. Potential of growth in foreign markets.

3.2 Exclusions

- a. Public entities defined as: "Ministries, Departments, Entities, Authorities, Public Commissions Public Sector Foundations and similar organisations that carry out a public or regulatory function which does not involve the carrying out of an economic activity, whether or not such organisations are established by law" and Commercial undertakings in which Government has a direct or indirect holding of more than 25% are not eligible.
- b. Undertakings engaged in activities specifically excluded under the applicable State Aid Regulations (vide Section 6.1) are not eligible for this incentive.
- c. Undertakings subject to collective insolvency proceedings and fulfil the criteria for being placed in collective insolvency proceedings at the request of its creditors, under domestic law.
- d. Undertakings that have not honoured/rectified any obligations or conditions set by the Corporation with respect to previously granted support or that are linked to such undertakings are ineligible for this incentive.
- e. Undertakings engaged in gaming including online gambling (NACE rev. 2 Class 92).
- f. Undertakings engaged in financial and insurance activities (NACE rev. 2 Section K).

- g. Defaulters on Value Added Tax (VAT), Income Tax, National Insurance, and rent payment to government are deemed ineligible for this incentive.
- h. Voluntary organisations.

4. Incentive Details

Micro Guarantees may be utilised for accessing funds required for the acquisition of tangible assets and working capital linked to such acquisitions.

4.1 The Guarantee

The Micro Guarantee may only be used to support a new loan, required to finance eligible costs approved by the Corporation. The amount guaranteed shall be established in accordance to the below parameters

- a) The guarantee shall relate only to new banking facilities (that is, re-financing of existing loans is not eligible), which are required by the business undertaking to carry out the approved activity. The guarantee may not be used to support overdrafts or other revolving credit facilities.
- b) Maximum loan covered by guarantee:
The guarantee may be used to cover a specific percentage of a loan which may not exceed €100,000 unless the applicant is a Family Business in which case the guarantee may be used to cover a specific percentage of a loan which may not exceed €500,000 only in respect to tangible assets.
- c) Maximum Value of guarantee:
The maximum value of the guarantee shall be of €50,000 which may be increased by €20,000 per full time employee at time of application.
- d) Maximum percentage of loan covered:
The maximum presentation of any loan that may be cover shall be capped at 50% provided that:
 - I. The capping shall be increased by 10% for undertakings:
 - a. operating in the production, manufacture, improvement, assembly, processing, repair, preservation or maintenance of any goods, materials, commodities (including computer software), equipment, plant or machinery; or
 - b. rendering services of an industrial nature analogous to the activities referred to above, such as repair, maintenance, commissioning, installation, inspection or testing of plant machinery or equipment and the recycling or treatment of waste material.
 - II. The capping shall be increased by a further 10% if an undertaking as described above requires the financing for an initiative that is expected to generative additional/new jobs or growth in foreign markets.

e) Implementation period

The implementation period is the period of up to twenty four (24) months during which the beneficiary may drawdown costs covered by the guarantee. This period shall commence on the date the beneficiary affects the first drawdown from the guaranteed loan. The final amount guaranteed shall be consequently established at the end of the 24th month.

4.1.1 Loan Terms

The guaranteed loan should have a distinct term with a predetermined fixed repayment schedule that would not be expected to exceed ten (10) years.

4.2 Value of Aid

The value of aid¹ shall be calculated at 27% of the guaranteed amount.

4.3 Eligible Costs

Eligible expenses shall relate to the approved activity and may include the financing of:

- a. Investments in acquiring tangible assets defined as, new (or first time use in Malta) machinery, equipment or instruments required to commence or enhance business operations. New equipment (or first time used in Malta) purchased from an undertaking that has closed down may also be considered as eligible.
- b. Acquisition of intangible assets acquired from third parties who are neither linked to, nor partners of the applicant².
- c. Wages.
- d. Working capital.

4.4 Ineligible Costs

Costs incurred in relation to the following items will not be considered as qualifying:

- a. Acquisition of works of art, antiques and any assets that are not directly related to the trade and business of applicant.
- b. Acquisition of road freight transport vehicles granted to undertakings performing road freight transport for hire or reward.
- c. Immovable Property.

4.5 Additional Provisions

The following additional provisions shall apply to any costs supported through this incentive:

- a. The Corporation will issue a Micro Guarantee under this scheme to secure only loan accounts. The Micro Guarantee cannot support overdraft or other revolving facilities.
- b. The letter of intent issued by the Corporation shall be valid for a period of six (6) months.

1 The value of aid is the amount of assistance in Euro notified for State Aid purposes.

2 The definition of linked and partner enterprises as specified in Annex I of the Commission Regulation (EC) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

- c. The guaranteed loan will be utilised to finance the implementation of an activity project approved by the Corporation.
- d. The aid shall be considered awarded as soon as the Corporation issues the Letter of Intent. The value awarded must still be considered by the beneficiary as awarded de minimis aid even if the beneficiary fails to utilise the Guarantee. The Guarantee itself will become effective when the Corporation issues a letter of Guarantee to the bank that issues the loan in favour of the beneficiary.
- e. Beneficiaries should inform the Corporation immediately if at any time they are unable to honour the repayments stipulated in the bank's sanction letter.
- f. The Corporation reserves the right to take any action deemed necessary to protect its interests, in terms of the Micro Guarantee issued.
- g. The Corporation may request an audit of the project. The audit may be carried out by the Corporation or subcontracted to third parties.
- h. Applicants consent that data and information may be acquired from or forwarded to Government Departments, entities and/or agencies for the scope of assessing and implementing this incentive and ensuring adherence to any applicable regulation including State Aid.
- i. Applicants have to also ensure that they have the adequate consent from employees in regard of which the wages will be claimed for. Such information may also be acquired from or forwarded to Government Departments, entities and/or agencies for the scope of assessing and implementing this incentive.

5. Application Process and Assignment of Aid

Eligible undertakings applying for the Micro Guarantee facility should submit their request on the official application form which may be downloaded from www.maltaenterprise.com

5.1 Supplementary information

The Corporation may request the applicant to provide any additional information that may be of use in the evaluation of the application.

5.2 Assignment of Aid

The Corporation will review the applications submitted for eligibility so as to confirm that the:

- a. applicant is eligible for this scheme in terms of these Incentive Guidelines;
- b. costs which will be covered by the loan are eligible in terms of these Incentive Guidelines;
- c. project is in line with the scope of these Incentive Guidelines; and
- d. the investment is justified in terms of the applicant's business.

Applications that do not conform to any of the above conditions will be rejected. Applicants that are in line with these Guidelines and demonstrate a feasible business proposal shall receive a Letter of Intent which may be used for accessing a loan from a bank.

5.3 Guarantee

The Letter of Intent issued by the Corporation may be presented to any bank.

Before the Corporation may proceed with the issuance of any guarantee, the applicant shall provide the Corporation with a sanction letter from the bank issuing the loan to finance the project with terms and conditions as imposed in these guidelines or as maybe further specified in the Letter of Intent issued by the Corporation under this incentive.

6. Monitoring and Control

The Corporation shall keep track of the performance of undertakings being supported under any of the Micro Guarantee Scheme.

6.1 Monitoring

The Corporation shall have the right to regularly monitor all facilities extended under the Micro Guarantee scheme.

In this respect, the beneficiary will be asked to provide their written consent to enable both the Corporation and the Bank to freely exchange and divulge information pertaining to the customer and investment, and to exempt the Corporation and the Bank from the effects of the Professional Secrecy Act, the Data Protection Act and any other Law regulating Professional Secrecy.

6.2 Recovery

In cases of default where the bank shall opt to immediately call in the Micro Guarantee and not proceed against the beneficiary for the recovery of funds, the Corporation shall, simultaneously with the honouring of the guarantee be subrogated into the banks security and other rights such that the Corporation will be in a position to claim the dues and exercise the remedies previously pertinent to the Bank. The Corporation will also have the benefit of the security interest previously available to the Bank to secure the original debt. The Corporation reserves the right to take any and all remedial action available to it in terms of the Laws of Malta, to recover the sum of the guarantee paid following call in of same as a result of beneficiary default. In this respect the Corporation reserves the right to:

- i. Exclude the beneficiary and any linked or related entity from receiving any form of aid administered by the Corporation; and
- ii. Withhold any incentive (including tax credits) which may be due to the beneficiary or to any entity linked or related to the applicant.

6.3 Penalties

If the beneficiary uses the guaranteed loan to fund actions beyond those specified in the corporation's approval the Corporation reserves the right to:

- Suspend the applicant for receiving further assistance for a period of no longer than five (5) years.
- Impose the payment of a penalty which in any case may not exceed the value of aid of the awarded guarantee. Any aid in favour of the beneficiary may be suspended until such payment is settled.

7. State Aid Rules and Obligations

7.1 Applicable State Aid

These Incentive Guidelines are in line with the *Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid* (the *de minimis* Regulation)³

The total amount of *de minimis* aid granted to a single undertaking shall not exceed the amount of €200,000 over any period of three consecutive fiscal years.

This aggregate maximum threshold applies in principle to all economic sectors with the exception of the road transport, agriculture and fisheries sectors for which different thresholds and criteria apply. The term 'undertaking' includes also all companies in a group (which fall under the direct or indirect ownership or control of the same ultimate parent company) and relevant partner and linked enterprises as defined in Annex I of Commission Regulation (EC No 651/2014). This period covers the fiscal year concerned as well as the previous two fiscal years. 'Fiscal year' means the fiscal year as used for tax purposes by the undertaking concerned.

This maximum threshold would include all State aid granted under this aid scheme and any other State aid measure granted under the *de minimis* rule including that received from any entity other than Malta Enterprise. Any *de minimis* aid received in excess of the established threshold will have to be recovered, with interest, from the undertaking receiving the aid.

The *de minimis* declaration form⁴ must be filled in and submitted together with the application form.

7.2 Applicability of the Aid

Assistance approved under this aid scheme is NOT:

- a. Aid granted to undertakings active in the fishery and aquaculture sector, as covered by Council Regulation (EC) No. 104/2000⁵;
- b. Aid granted to undertakings active in the primary production of agricultural products;
- c. Aid granted to undertakings active in the sector of processing and marketing of agricultural products, in the following cases:
 - i. Where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned;
 - ii. Where the aid is conditional on being partly or entirely passed on to primary producers;
- d. Aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;
- e. Aid contingent upon the use of domestic over imported goods;
- f. Aid for the acquisition of road freight transport vehicles granted to undertakings performing road freight transport for hire or reward.

³ [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_379/l_37920061228en00050010.pdf]

⁴ The *de minimis* Aid Declaration may be downloaded from <http://www.maltaenterprise.com/en/support/docs/de-minimis-declaration>

⁵ Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L 17, 21.1.2000, p. 22).

Where an undertaking is active in the sectors referred to in points (1), (2) and (3) above as well as in other sectors falling within the scope of the *de minimis* Regulation, the Corporation will ensure a separation of the activities or distinction of costs. Only those sectors eligible for assistance under the *de minimis* Regulation will be assisted. Activities in the sectors excluded from the scope of the *de minimis* Regulation will not benefit from assistance under this aid scheme.

7.3 Cumulation

In terms of Article 5 of the *de minimis* Regulation, *de minimis* aid granted under this incentive may be cumulated with *de minimis* aid granted in accordance with Commission Regulation (EU) No 360/2012⁶ up to the ceiling laid down in that Regulation. It may be cumulated with *de minimis* aid granted in accordance with other *de minimis* regulations up to the relevant ceiling fixed in terms of these Incentive Guidelines.

De minimis aid approved under the **Micro Guarantee 2017 – 2020 Scheme** shall not be cumulated with State aid in relation to the same eligible costs or with State aid for the same risk finance measure, if such cumulation would exceed the highest relevant aid intensity or aid amount fixed in the specific circumstances of each case by a block exemption regulation or a decision adopted by the European Commission. *De minimis* aid which is not granted for or attributable to specific eligible costs may be cumulated with other State aid granted under a block exemption regulation or a decision adopted by the Commission.

⁶ Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

8. Contact Details

Further information on the scheme, as well as information and guidance on the filling in of the application form may be obtained by contacting Business First during office hours.

Postal Address: Malta Enterprise
Gwardamangia Hill,
Pieta`, MEC 0001
Malta.

Tel: 144

Websites: <http://www.maltaenterprise.com>
www.businessfirst.com.mt

Email: info.businessfirst@maltaenterprise.com