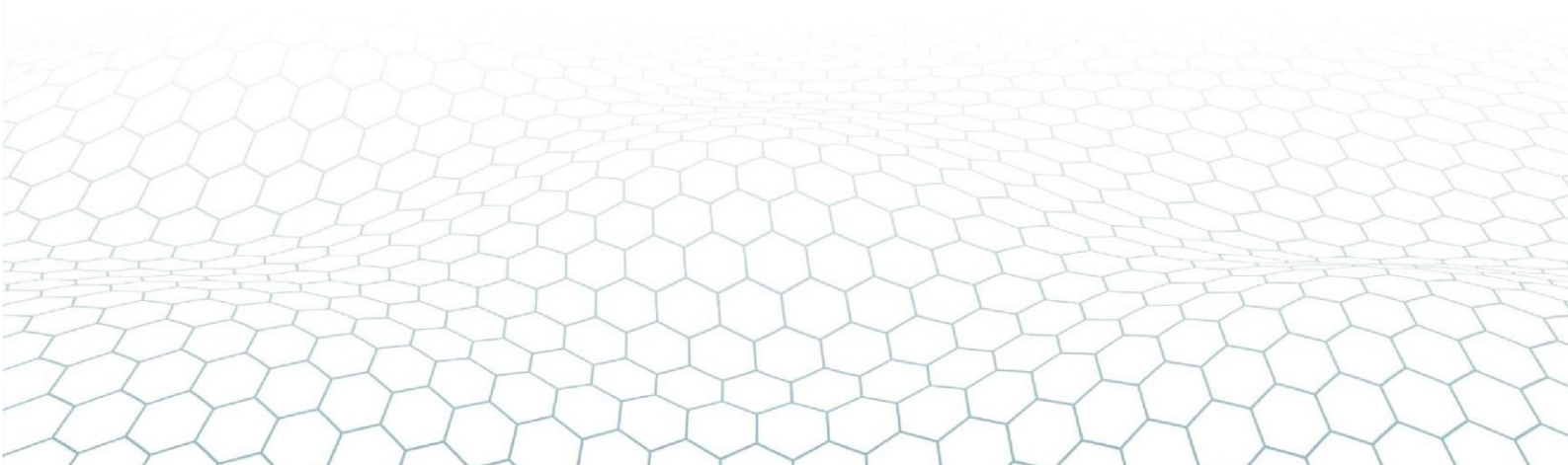




MALTA ENTERPRISE

INCENTIVE GUIDELINES

Access to Finance (Loan Guarantees for Initial Investment)



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1. Introduction

1.0.1 Limited availability of funds many times prohibits businesses from carrying out new investment projects in synergy with market requirements. This may result in loss of competitive advantage or the inability to address business opportunities. Malta Enterprise may provide assistance to undertakings through a guarantee to implement initial investment projects where such finance may not readily be available through commercial banks.

1.1 Duration of the Incentive

1.1.1 This measure shall be applicable until 31st December 2021. While the Corporation may periodically update and amend these Incentive Guidelines, the applicable Incentive Guidelines shall be those published when the request for assistance is received.

1.2 Legal Basis

1.2.1 The Corporation may issue and publish updates to 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.

1.2.2 *Access to Finance Regulations, 2020* as subsidiary legislation 463.39 to the Malta Enterprise Act, mentioned in the previous paragraph, forms the national legal basis of this aid scheme.

1.2.3 The terms and conditions covering this aid scheme shall be in line with Commission Regulation (EU) No 651/2014 of 17th June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, (OJ L 187/1, 26.6.2014) as amended by Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs, and by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments, and as may be subsequently amended.

2. Definitions

2.0.1 For the purposes of these Incentive Guidelines, the following definitions shall apply:

2.1 Adjusted aid amount

2.1.1 'adjusted aid amount' means the maximum permissible aid amount for a large investment project, calculated according to the following formula: maximum aid amount = $R \times (A + 0,50 \times B + 0 \times C)$ where:

2.1.2 R is the maximum aid intensity applicable in the area concerned established in an approved regional map and which is in force on the date of granting the aid, excluding the increased aid intensity for SMEs; A is the initial EUR 50 million of eligible costs, B is the part of eligible costs between EUR 50 million and EUR 100 million and C is the part of eligible costs above EUR 100 million.

2.2 Gross grant equivalent

2.2.1 'gross grant equivalent' means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charge.

2.3 Relocation

2.3.1 "Relocation" means a transfer of the same or similar activity or part thereof from an establishment in one contracting party to the EEA Agreement (initial establishment) to the establishment in which the aided investment takes place in another contracting party to the EEA Agreement (aided establishment). There is a transfer if the product or service in the initial and in the aided establishments, serves at least partly the same purposes and meets the demands or needs of the same type of customers, and jobs are lost in the same or similar activity in one of the initial establishments of the beneficiary in the EEA.

2.4 Large investment project

2.4.1 'large investment project' means an initial investment with eligible costs exceeding EUR 50 million, calculated at prices and exchange rates on the date of granting the aid;

2.5 The same or a similar activity

2.5.1 "The same or a similar activity" means an activity falling under the same class (four-digit numerical code) of the NACE Rev. 2 statistical classification of economic activities as laid down in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains.

2.6 Small and Medium Sized Enterprises (SMEs)

2.6.1 The definition of SME used for the purpose of this incentive shall be that provided in Annex I of Commission Regulation (EU) No 651/2014 of 17 June 2014.

2.7 Start of Works

2.7.1 'Start of Works' means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible.

2.7.2 Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered 'start of works'.

2.7.3 For take-overs, 'start of works' means the moment of acquiring the assets directly linked to the acquired establishment.

2.8 Undertaking in Difficulty

2.8.1 'Undertaking in Difficulty' means an undertaking in respect of which at least one of the following circumstances occurs:

- a) In the case of a limited liability company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU and 'share capital' includes, where relevant, any share premium.
- b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
- c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- e) In the case of an undertaking that is not an SME, where, for the past two years:
 - i. the undertaking's book debt to equity ratio has been greater than 7,5;
 - and
 - ii. the undertaking's EBITDA interest coverage ratio has been below 1,0.

2.9 Bank

2.9.1 For the scope of this incentive, a 'bank' is understood to be a commercial bank or other financial institution licensed to provide loans to businesses in Malta.

3. Eligibility

3.1 Eligible Undertakings

- 3.1.1 This measure shall be available to Small and Medium Sized Enterprises (SMEs) incorporated in the European Union as limited liability companies (or equivalent) which plan to establish or expand an operational base in Malta.
- 3.1.2 Undertakings that are defaulting on VAT, Income Tax, or Social Security payments shall be disqualified, unless they are honouring a repayment agreement with the Revenue Department in respect of any arrears signed at least six (6) months prior to the date of application.
- 3.1.3 The Undertaking must not be an 'Undertaking in Difficulty'. However, this scheme shall apply by derogation to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021.
- 3.1.4 The undertaking must not have carried out a relocation to the establishment in which the initial investment for which aid is requested is to take place, in the two (2) years preceding the application for aid and must commit that it will not carry out a relocation up to a period of two (2) years after completion of the supported initial investment.
- 3.1.5 Support shall not be provided to any undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted to the undertaking by Malta as illegal and incompatible with the internal market.

3.2 Eligible Activities

- 3.2.1 The Corporation shall consider supporting investments resulting in the establishment or expansion of:
- a) Manufacturing activities (NACE Category C);
 - b) Computer programming activities (NACE Category J 62.01);
 - c) Technical testing and analysis activities (NACE Category M 71.20);
 - d) Research and experimental development activities on natural sciences and engineering (NACE Category M 72.1).
- 3.2.2 In order to determine the activity of the undertaking, the Corporation:
- a) shall review the project as described in the application
 - b) shall analyse the Memorandum and Articles of Association; and
 - c) may consult public sources of information; and
 - d) may conduct onsite visits; and
 - e) may request any relevant permits and additional documentation as deems necessary to conduct its determination;

4. The Incentive.

- 4.0.1 An Eligible Undertaking may be supported through a guarantee to be used against a bank loan required for:
- a) the setting-up of a new establishment; or
 - b) the extension of the capacity of an existing establishment.

- 4.0.2 The guarantee shall not exceed ten million euro (€10,000,000) and shall be reduced annually in accordance with the repayment schedule specified in the loan agreement. At no instance shall the guarantee cover more than 80% of the supported loan.
- 4.0.3 The support may be used to finance:
- a) Construction (including excavation and other preparatory works if they are carried out within the project timeframe), refurbishing and finishing of buildings and industrial structures; and
 - b) Acquisition of plant, machinery and equipment.
- 4.0.4 The investment and resultant Economic Activity shall be retained in Malta for the minimum period of at least three (3) years after completion of the investment project. This shall not prevent the replacement of plant or equipment that has become outdated or broken within this period, provided that the economic activity is retained in the area concerned for the relevant minimum period.
- 4.0.5 The beneficiary shall provide a financial contribution of at least twenty-five percent (25%) of the eligible costs, either through its own resources or by external financing, in a form, which is free of any public support.
- 4.0.6 Support shall be limited to a value of aid that does not exceed 20% of eligible costs if the applicant is a medium-sized undertaking or 30% of eligible costs if the applicant is a small sized undertaking. The aid amount shall be the gross grant equivalent of the aid.
- 4.0.7 The value of aid shall be calculated by establishing the current value (using the applicable reference rate) of the guarantee premium which would have had to be paid on the annual outstanding amounts of the loan as scheduled. The premium shall be established by reference to the safe harbour premiums established by *Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees - Official Journal C 155 of 20.06.2008, page 10*. For undertakings that do not have a credit history or rating based on a balance sheet approach, the safe-harbour premium shall be set at 3.8%. Any guarantee premium can never be lower than the premium which would be applicable to the parent company or companies.
- 4.0.8 Any initial investment started by the same beneficiary (at group level) within a period of three years from the date of start of works on another aided investment in the same level 3 region of the Nomenclature of Territorial Units for Statistics shall be considered to be part of a single investment project. Where such single investment project is a large investment project, the total aid amount for the single investment project shall not exceed the adjusted aid amount for large investment projects.

5. Application and Adjudication

5.1 Application process

- 5.1.1 Undertakings seeking support through this measure should submit their application to the Corporation before 31st October 2021.
- 5.1.2 Applications must be submitted prior to the commencement of the investment project giving the Corporation reasonable time to evaluate prior to the intended Start of Works. It is the undertaking's responsibility to provide details and comprehensive information in the application form to enable the Corporation to determine eligibility and evaluate the application.
- 5.1.3 Applicants should submit their request for support on the official application form provided through the Corporation's [Online Application System](#). In addition, the submission should include:
- a) An independent opinion from a Certified Public Accountant, explaining why the proposed investment cannot be financed directly by the undertaking through its own funds or through an unsupported bank loan.

- b) Business proposal or business plan. (Undertaking established for less than three years are required to submit a full business plan).
- c) Audited Accounts for the previous two years unless the undertaking has been established for less than 3 years.
- d) Latest audited accounts for any linked undertaking (or audited consolidated accounts if these are available).
- e) A list of the expenditure which shall be financed through the facility, including proforma invoice/s related to specific equipment and estimates of construction and finishing cost compiled by competent persons in respect of buildings and structures.
- f) Details of Directors and Shareholders – Provide details of every Director and Shareholder and a profile of every Director holding 25% or more control in the applicant Enterprise.

5.2 Evaluation

5.2.1 Each submission will be reviewed on its own merits and any support will be awarded at the sole discretion of the Corporation. In assigning aid under this incentive, the Corporation will examine the project's potential to provide a significant contribution to the Maltese economy by examining various criteria that will include:

- a) Project Feasibility: Is the project feasible and is it reasonably likely to remain feasible in the foreseeable future?
- b) Employment: Will the project generate employment in areas where the required human capital is available and will it offer job opportunities to qualified or highly skilled personnel? Are the required skills available? How long will it take for employees to acquire the required skills?
- c) Impact: Will the investment generate a positive impact on the productivity of other domestic companies through networking and clustering opportunities?
- d) Track Record: The applicant's reputation (Is the undertaking listed on international stock-exchanges? Does the undertaking have a leading position in the same line of business/industry? Has the investor successfully executed cross-border investments?)
- e) Technology: Will the technology used and the associated technological know-how expand local capabilities, potentially providing access to technology to other local undertakings through technology transfer? Is the applicant familiar with the technology? Has the technology been proven?

5.2.2 In conducting its evaluation, the Corporation may request further information and clarifications, beyond the information requested in the application so as to determine whether the support should be awarded.

5.3 Awards

5.3.1 The outcome shall be communicated through a Letter of Approval (in line with Part VI Section 28 et seq. of the Malta Enterprise Act.) specifying the terms and conditions of the award.

5.3.2 The guarantee shall only be issued once the undertaking provides a sanction letter from a bank recognised by the Corporation and grants the Corporation a general hypothec. Should the repayment schedule agreed with the bank differ from that presented in the application, the Corporation may need to re-asses the value of aid and may opt to reevaluate the project.

5.4 Monitoring

5.4.1 Successful applicants will be subject to monitoring to ensure that the investment project is being implemented according to the applicable Regulations and Incentive Guidelines and in terms of the Letter of Approval.

5.4.2 The Corporation may request any documentation it deems relevant and conduct site visits at the applicant's place of business to ensure that the support loan is utilised in relation to the approved project and costs. On-Site visits may be carried out during and after the implementation of the investment project. Such visits may entail the verification of the documentation related to the investment project and the confirmation of the works carried out.

5.5 Revocation and suspension of aid

5.5.1 Without prejudice to the Bank in favour of whom the guarantee was issued, the Corporation may revoke or suspend an approval and may seek to recover funds with interest from the undertaking who was awarded the aid if any breach of the applicable regulations, these guidelines or the approval parameters is identified.

5.5.2 In terms of Part VII and Part VIII of the Malta Enterprise Act, Chapter 463 of the laws of Malta, the Corporation may revoke, amend or modify the Incentive Entitlement Certificate and apply penalties or request recovery of aid in the case of breach of these Guidelines or the conditions set down in the Letter of Approval issued by the Corporation and any relevant regulations.

6. State Aid Rules and Obligations

6.1 Applicable State Aid Rules

6.1.1 The terms and conditions set out in these guidelines are in line with Commission Regulation (EU) 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 and Commission Regulation (EU) No 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs, and by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments, and as may be subsequently amended.

6.1.2 The measure is based on Article 14 - Regional Investment Aid of the above mentioned regulation.

6.2 The incentive is not applicable to the following:

6.2.1 Activities listed down in Articles 1 (2), (3), (4) and (5) of Commission Regulation No 651/2014 of 17 June 2014 [where applicable].

6.2.2 Activities listed down in Article 13 (1) of Commission Regulation No 651/2014 of 17 June 2014.

6.2.3 Undertakings in difficulty defined in terms of the Commission Regulation (EU) No 651/2014 of 17 June 2014. However, those undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021, shall still be considered eligible.

6.2.4 Furthermore assistance may not be granted if the aid is:

- a) related to export activities towards third countries or Member States, namely aid directly linked to quantities exported, to the establishment and operation of a distribution network or to the other current expenditure linked to export activity;
- b) contingent upon the use of domestic in preference to imported goods,
- c) in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring any aid granted by Malta illegal and incompatible with the internal market.

6.3 Rules on cumulation of aid

- 6.3.1 Rules on cumulation of aid shall be in line with Article 8 of Commission Regulation (EU) No 651/2014 of 17th June 2014.
- 6.3.2 Aid granted under this incentive may only be cumulated with other aid under any other incentive(s), or with other Community funding, in relation to the same item of expenditure as long as such cumulation does not exceed the gross aid intensity fixed by the most favourable intensity ceiling under the applicable rules.
- 6.3.3 Investment Aid shall not be cumulated with de minimis support in respect of the same eligible item of expenditure.

6.4 Transparency Obligations

- 6.4.1 For any individual aid awarded in excess of €500,000, the details of the beneficiary, the aid awarded, and the project details shall be published as provided for in Article 9 of the Commission Regulation (EU) 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.

7. Further Information

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: Business First
Centre Joseph Grech, 2nd Floor,
'Cobalt House',
Mdina Road, Mriehel Industrial Estate,
B'Kara Malta, BKR3000

Telephone: 144

Email: info@businessfirst.com.mt

Website: www.businessfirst.com.mt