

THE PRIME MINISTER

No. 58/2013/QĐ-TTg

THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

Hanoi, October 15, 2013

DECISION

**PROMULGATING THE REGULATIONS ON ESTABLISHMENT, ORGANIZATION AND
OPERATION OF CREDIT GUARANTEE FUNDS FOR MEDIUM AND SMALL
ENTERPRISES**

Pursuant to the Law on Government Organization dated December 25, 2001;

Pursuant to the Law on State Budget dated December 16, 2002;

Pursuant to the Law on Credit Institutions dated June 16, 2010;

Pursuant to the Law on Enterprises dated December 12, 2005;

Pursuant to the Government's Decree No. 56/2009/ND-CP dated June 30, 2009 on supporting the development of medium and small enterprises;

At the request of the Minister of Finance;

The Prime Minister hereby decide to promulgate the regulations on establishment, organization and operation of credit guarantee funds for medium and small enterprises,

Article 1. Promulgating together with this Decision the “Regulations on establishment, organization and operation of credit guarantee funds for medium and small enterprises”.

Article 2. The Minister of Finance shall assume the responsibility for providing guidance on the enforcement of this Decision.

Article 3. This Decision has taken effect since December 02, 2013 and replaces the Prime Minister’s Decision No. 193/2001/QĐ-TTg dated December 20, 2001 on issuing the Regulations on establishment, organization and operation of Credit Guarantee Funds for medium and small enterprises; the Prime Minister’s Decision No. 115/2004/QĐ-TTg dated June 25, 2004 on amendment and supplement to the Regulations on establishment, organization and operation of Credit Guarantee Funds adopted together with the Prime Minister’s Decision No. 193/2001/QĐ-TTg dated December 20, 2001.

Ministers, Heads of ministerial-level regulatory agencies, Heads of Governmental agencies, Presidents of the People’s Committees of centrally-affiliated cities and provinces (hereinafter

referred to as provinces) and other entities concerned shall be responsible for implementing this Decision./.

THE PRIME MINISTER

Nguyen Tan Dung

REGULATIONS

ESTABLISHMENT, ORGANIZATION AND OPERATION OF CREDIT GUARANTEE FUNDS FOR MEDIUM AND SMALL ENTERPRISES

(Issued together with the Prime Minister's Decision No.58/2013/QD-TTg dated October 15, 2013)

Chapter 1.

GENERAL PROVISIONS

Article 1. Governing scope and applied entities

1. Governing scope

The Regulations hereby provide for the establishment, organization and operation of credit guarantee funds for medium and small enterprises located in centrally-affiliated cities and provinces (hereinafter referred to as Credit Guarantee Fund).

Credit Guarantee Funds established and managed by the People's Committees of centrally-affiliated cities and provinces with the aim of extending the credit guarantee (loan guarantee) to those stipulated in Article 13 of these Regulations.

2. Applied entities

a) Credit Guarantee Funds for medium and small enterprises located in centrally-affiliated cities and provinces whose establishment, organization and operation comply with these Regulations;

b) Credit institutions whose establishment and operation adhere to the Law on Credit Institutions;

c) Entities extended the credit guarantee in accordance with the provisions laid down in these Regulations;

d) Agencies, organizations and individuals pertaining to the implementation of these Regulations.

Article 2. Operating model

Credit Guarantee Fund is a non-profit financial institution; performs its function to guarantee credits for entities stipulated in Article 13 of these Regulations. Credit Guarantee Fund must have independent legal status, charter capital, balance sheet, stamp, and is eligible to open its account at the State Treasury and domestic commercial banks that legally operate within the same domain.

Article 3. Interpretation of terms

In these Regulations, the terms shall be construed as follows:

1. Credit guarantee refers to the written commitment of a Credit Guarantee Fund to a credit institution to act on behalf of the obligor to take on financial obligations that the obligor fails to fulfill or does not comply with as agreed upon to the obligee. The obligor is bound to run up debts and is obliged to repay the sum of money that the Credit Guarantee Fund has paid to recover debts on their behalf.
2. Guarantor refers to the Credit Guarantee Fund for medium and small enterprises located in centrally-affiliated cities and provinces whose establishment, organization and operation comply with these Regulations.
3. Obligor refers to those, as stipulated in Article 13 of these Regulations, who are provided with the credit guarantee.
4. Obligee refers to credit institutions whose establishment and operation comply with the law on credit institutions, and who extends credits to the obligor.
5. Credit guarantee contract refers to the written agreement amongst the guarantor, the obligee and the obligor under which the guarantor shall be bound to act on behalf of the obligor to take on financial obligations that the obligor fails to fulfill or does not comply with as agreed upon to the obligee.
6. Guarantee certificate refers to the unilateral written commitment of the guarantor to the obligee on which the guarantor agrees to act on behalf of the obligor to fulfill their financial obligations under which the obligor fails to repay or makes insufficient and late repayment on the agreed loan to the obligee.

Article 4. Operating capital of the Credit Guarantee Fund acquired from the following sources

1. Charter capital:
 - a) Allocation from the local government budget of centrally-affiliated cities and provinces;
 - b) Paid-in capital of credit institutions;
 - c) Paid-in capital of other enterprises;
 - d) Paid-in capital of trade associations, or organizations in charge of representing and supporting medium and small enterprises.
2. Legal aids granted by domestic and foreign organizations or individuals (including ODA fund) with the objective of developing medium and small enterprises.
3. Supplementary capital generated from the operating outcome of Credit Guarantee Fund in accordance with legal regulations.
4. Other legal capital sources as stipulated by applicable laws.

Chapter 2.

ESTABLISHMENT OF CREDIT GUARANTEE FUND

Article 5. Rigorous conditions for establishment of Credit Guarantee Fund

1. Have a minimum sum of VND 30 billion allocated for the charter capital by the local government budget of centrally-affiliated cities and provinces.
2. Have the proposal for establishment of Credit Guarantee Fund, adopted and approved by the People's Council of centrally-affiliated cities and provinces; draw up the draft Charter and alternatives for the organization and operation of Credit Guarantee Fund which must conform to provisions laid down in these Regulations and other laws.
3. Provide the proposed list of the Management Council, Control Board and Steering Committee served by those who are fully capable of their civil acts and have their proven professional skills and competences that conform to the accepted standards for the operation of Credit Guarantee Fund.
4. Recommend potential candidates to hold the post as a Director, Vice Director and Head of the Control Board of the Credit Guarantee Fund who are required to obtain the university or higher degree in the banking and finance major, and gain at least 05 years of experience in the economy, finance and banking sector.

Article 6. Processes of establishment of Credit Guarantee Fund

1. The People's Committee of centrally-affiliated cities and provinces shall prepare the proposal for establishment of Credit Guarantee Fund for submission to the People's Council of centrally-affiliated cities and provinces for consideration and approval. The proposal for establishment of Credit Guarantee Fund shall include:

a) A report on the necessity of establishing the Credit Guarantee Fund; extent and scope of operation; organization structure of the Credit Guarantee Fund;

b) Plans to allocate the state budget for charter capital of Credit Guarantee Fund from the People's Committee of centrally-affiliated cities and provinces, and plans to mobilize the paid-in capital of credit institutions, enterprises, trade associations and organizations in charge of representing and supporting medium and small enterprises;

c) Draft Charter for the organization and operation of Credit Guarantee Fund in conformity with provisions set out in these Regulations and other relevant laws;

d) Demonstration of organizational structure and operating mechanism of Credit Guarantee Fund as stipulated in these Regulations.

2. Given the proposal for establishment of the Credit Guarantee Fund approved by the People's Council of centrally-affiliated cities and provinces, the President of the People's Committee of centrally-affiliated cities and provinces shall grant the establishment decision and approve the Charter for the organization and operation of Credit Guarantee Fund.

3. Within a period of 30 working days that begins on the issuing date of establishment decision, the People's Committee of centrally-affiliated cities and provinces shall notify the Ministry of Finance, the State bank of Vietnam and the Ministry of Planning and Investment as well as publicly announce the establishment of Credit Guarantee Fund through locally and centrally-governed means of mass media.

Article 7. Charter for the organization and operation of Credit Guarantee Fund

The Charter for the organization and operation of Credit Guarantee Fund shall be approved by the President of the People's Committee of centrally-affiliated cities and provinces, and consists of the following information:

1. Name and address of main office.

2. Content and scope of operation.

3. Hours of operation.

4. Charter capital, list and paid-in capital rate of organizations participating in the Credit Guarantee Fund.

5. Rights and duties of the Management Council, Control Board and Steering Committee of Credit Guarantee Fund as prescribed in provisions set out in Articles 9, 10 and 11 of these Regulations.
6. Principles of financial management, applied to the Credit Guarantee Fund.
7. Procedures for any amendment to the Charter of Credit Guarantee Fund.
8. Partnership of Credit Guarantee Fund with regulatory authorities, obligee and obligor.
9. Approaches to dispute and dissolution to be taken by the Credit Guarantee Fund.
10. Other related contents in accordance with legal regulations.

Chapter 3.

ORGANIZATION, MANAGEMENT AND OPERATION STRUCTURE OF CREDIT GUARANTEE FUND

Article 8. Organization, management and operation structure of Credit Guarantee Fund

1. The management and operation of Credit Guarantee Fund shall be structured with the inclusion of the Management Council, Control Board and Steering Committee.
2. The designation, dismissal, reward and punishment of members working for the Management Council, Director and Vice Director of Credit Guarantee Fund shall be decided by the President of the People's Committee of centrally-affiliated cities and provinces.

Article 9. Management Council of Credit Guarantee Fund

1. Management Council of Credit Guarantee Fund must include 03 full-time members: President of Management Council, 01 Vice President of the Management Council cum Director of Credit Guarantee Fund, and 01 Head of the Control Board; part-time members: representatives of organizations contributing their capital towards the Credit Guarantee Fund.
2. Management Council of Credit Guarantee Fund shall be charged with the task of:
 - a) Requesting the President of the People's Committee of centrally-affiliated cities and provinces to approve, amend, adjust the Charter, operating mechanism and annual operating outcome of Credit Guarantee Fund as well as other related tasks under their authority as stipulated by applicable laws;
 - b) Adopting operational and financial plan and report on annual settlement of Credit Guarantee Fund;

c) Performing tasks and exercising powers in accordance with provisions set out in the Charter of Credit Guarantee Fund;

d) Monitoring and supervising all operations of Credit Guarantee Fund under provisions laid down in the Charter and the decision of the Management Council of Credit Guarantee Fund;

dd) Making a decision to designate, dismiss, commend and punish members of the Control Board;

e) Reviewing the report made by the Control Board, and dealing with complaints in accordance with specified regulations.

3. Work regime of the Management Council of Credit Guarantee Fund shall comply with provisions laid down in applicable laws and the Charter of Credit Guarantee Fund.

4. All expenses incurred during the operation of the Management Council of Credit Guarantee Fund shall be accounted for in the operating expenditure of the Credit Guarantee Fund.

5. The Management Council of Credit Guarantee Fund shall be entitled to use the stamp of Credit Guarantee Fund during their performance of tasks and exercise of powers.

Article 10. Control Board of Credit Guarantee Fund

1. Control Board of Credit Guarantee Fund shall be held accountable to the Management Council of Credit Guarantee Fund for their overall control of the Credit Guarantee Fund's operations. Control Board of Credit Guarantee Fund shall have a maximum of 03 members out of which the Head of the Board is a full-time member. Members of the Control Board of Credit Guarantee Fund must hold a university or higher degree in economic, financial and banking sectors, and adhere to professional ethics as well as gain 3-year experience of the similar position.

2. The Control Board of Credit Guarantee Fund shall be charged with the task of:

a) Examining and supervising the compliance with guidelines, policies, regime and rules applied to the Credit Guarantee Fund in order to improve the efficiency of their operations, ensure the safety of assets of the State and Credit Guarantee Fund; reporting the result of examination and supervision to the Management Council;

b) Working independently on the programs approved by the Management Council of the Credit Guarantee Fund;

c) Bearing responsibility for presenting their report or recommendation concerning the result of control work, and the report on the assessment of financial statements in the conference of the Management Council of the Credit Guarantee Fund, but being granted no voting right in the conference;

d) Considering any request before being sent to the Management Council of the Credit Guarantee Fund for possible solutions to complaints received from organizations or individuals who have contact with Credit Guarantee Fund.

Article 11. Steering Committee of Credit Guarantee Fund

1. The Steering Committee of Credit Guarantee Fund shall be established if the Credit Guarantee Fund directly administers all related tasks under provisions set out in these Regulations and others laid down in relevant legislative documents. The Steering Committee of Credit Guarantee Fund shall include Director, Vice Directors and several assistant officials.

2. The Steering Committee of Credit Guarantee Fund shall be charged with the task of:

a) Requesting the Management Council to issue the rules of Credit Guarantee Fund's operations;

b) Administering the Credit Guarantee Fund's operations in conformity with the Charter of Credit Guarantee Fund, the State's laws and decisions made by the Management Council;

c) Conducting periodic and on-demand reports on the performance of Credit Guarantee Fund;

d) Other duties according to provisions set out in the Charter of Credit Guarantee Fund.

3. Director shall represent the legal status of Credit Guarantee Fund, assume their accountability to the Management Council and take their legal responsibility for all of Credit Guarantee Fund's operations. Duties and powers of the Director of Credit Guarantee Fund must conform to the Charter of Credit Guarantee Fund.

Article 12. Administration of Credit Guarantee Fund's operations

1. Administration of Credit Guarantee Fund's operations shall be carried out through the application of one of the following methods:

a) Directly administer all related tasks under provisions set out in these Regulations and others laid down in relevant legislative documents;

b) Entrust Branches of the Vietnam Development Bank at the same area to fulfill the task of administering Credit Guarantee Fund's operations under the entrustment contract and the decision of the Management Council of the Credit Guarantee Fund;

c) Assign or entrust local financial funds to perform the capital management, and fulfill their task of credit guarantee for medium and small enterprises if they show their competence in performing such tasks and bearing legal responsibility for their own operations. In the case of assigning local financial funds, the Credit Guarantee Fund is not required to establish the Management Council, Control Board and Steering Committee. In the case of entrusting local financial funds, the Credit Guarantee Fund and local financial funds are required to comply with the terms and conditions agreed in the entrustment contract.

2. Depending on the current status, the President of the People's Committee of centrally-affiliated cities and provinces shall decide on the way in which the Credit Guarantee Fund performs their operation and management tasks provided that this is appropriate and ensures the efficiency.

Chapter 4.

OPERATIONAL ACTIVITIES OF CREDIT GUARANTEE FUND

Article 13. Entities provided with credit guarantee

Entities provided with credit guarantee by the Credit Guarantee Fund are medium and small enterprises as prescribed in regulations laid down in applicable laws, and take out the loan in Vietnamese dong at credit institutions whose establishment and operation comply with the Law on credit institutions (herein referred to as obligors).

Article 14. Requirements for the grant of credit guarantee

Entities provided with credit guarantee in accordance with Article 13 hereof must meet the following requirement before the Credit Guarantee Fund considers extending them the credit guarantee:

1. Prepare their effective and creditworthy investment projects, production and business plans. Investment projects, production and business plans shall be assessed and subject to the decision to extend the credit guarantee made by the Credit Guarantee Fund in accordance with provisions set out in these Regulations.
2. Has pledged a total value of collateral that accounts for at least 15% of the loan to the credit institution.
3. Hold at least 15% of the owner's equity capital when participating in investment projects, production and business plans.
4. At the time of applying for the credit guarantee, the aforesaid obligors do not have any outstanding debt obligation to be fulfilled to the State budget, or bad debts at credit institutions or other economic organizations.

Article 15. Scope of credit guarantee

1. Credit Guarantee Fund is able to offer a partial or full guarantee for the total difference between the value of loans and value of pledged or mortgaged assets of the obligor held at credit institutions.
2. The Credit Guarantee Fund shall offer guarantee for the obligor's obligation to repay the loan principal and interest to the obligee.

Article 16. Credit guarantee term

The credit guarantee term shall be defined to conform to the loan term as agreed in the loan contract between the obligor and credit institution.

Article 17. Credit guarantee limit

1. The maximum rate of a credit guarantee extended to a client provided with credit guarantee must not exceed 15% of the owner's equity capital of the Credit Guarantee Fund.
2. Total maximum rate of a credit guarantee extended to an obligor is not more than 5 times higher than the actual charter capital of Credit Guarantee Fund.

Article 18. Fees for credit guarantee offer

1. Fees for credit guarantee offer shall include:
 - a) Fee for the assessment of applications for credit guarantee shall be paid to the Credit Guarantee Fund, at the same time with submission of the application for credit guarantee;
 - b) Fee for the credit guarantee shall be calculated on the basis of the guaranteed sum and guarantee term. The expiry date of fee payment specified in the guarantee contract under the agreement between Credit Guarantee Fund and obligor shall conform to the credit guarantee term.
2. The amount of fee for the credit guarantee shall be decided by the President of the People's Committee of centrally-affiliated cities and provinces with reference to the request of Credit Guarantee Fund.

Article 19. Application documents for the offer of credit guarantee

1. Application form for the offer of credit guarantee prepared by the obligor.
2. Documentary evidence that proves that the obligor has fulfilled all necessary requirements for the credit guarantee under provisions set out in Article 14 of these Regulations and other relevant documents stipulated by the Credit Guarantee Fund.
3. The obligor shall be responsible for providing correct and true information, related documents relating to the loan guarantee, and assume their statutory responsibility for ensuring the accuracy of information and documents provided for the guarantor.

Article 20. Assessment of the application and credit guarantee decision

1. The guarantor shall be responsible for assessing the legitimacy of documents, efficiency and effectiveness, and loan repayment competence of investment projects, production and business plans submitted by the obligor.

2. The guarantor shall be responsible for formulating the process for assessing the efficiency and effectiveness, and loan repayment competence of investment projects, production and business plans submitted by the obligor, which sticks to the principles that the autonomy, sole and joint responsibility of persons concerned at the stage of credit guarantee assessment and decision must be respected.

3. No later than 15 working days since valid application documents for the offer of credit guarantee were fully received, the guarantor must complete the consideration process for granting the credit guarantee to the obligor. The decision to grant the credit guarantee to the obligor shall be documented in the form of a guarantee contract between the guarantor and the obligor. Where the application for the offer of credit guarantee is rejected, the guarantor must send a written notification to the applicant in which reasons for such rejection must be clearly stated.

Article 21. Credit guarantee contract

1. Credit guarantee contract entered into by parties (two parties including the guarantor and the obligor, or three parties including the guarantor, the obligor and obligee) shall consist of the following contents:

- a) Name and address of the guarantor, the obligee and the obligor;
- b) Location and date of the conclusion of credit guarantee contract;
- c) Credit guarantee amount, validity and fee;
- d) Credit guarantee purposes and clauses;
- dd) Conditions for the guarantor's securing guarantee obligations;
- e) Method of security and collateral value;
- g) Rights and obligations of contracting parties;
- h) Agreed terms and conditions applied to the case in which the guarantor shall act on behalf of the obligor to repay debts (including interest, time limit, etc.), which must conform to the regulations set out in applicable laws;
- i) Agreement on handling of disputes;
- k) Other relevant agreements stipulated by laws.

2. Whenever there is any change to contractual terms and conditions of credit contract, the obligor shall be responsible for notifying the guarantor for consideration and approval of such change. Any amendment and supplement to or termination of the guarantee contract must be agreed upon by contracting parties.

Article 22. Guarantee certificate

1. The loan guarantee of the guarantor shall be documented in the form of a guarantee certificate.
2. Guarantee certificate shall consist of the following information:
 - a) Name and address of the guarantor, the obligee and the obligor;
 - b) Date of issuance and guarantee amount;
 - c) Conditions for the guarantor's securing the guarantee obligations; cases in which the guarantee obligations shall be rejected;
 - d) Validity of guarantee certificate;
 - dd) Apart from the abovementioned contents, guarantee certificate can enclose additional contents such as contractual rights, obligations, dispute settlement and other agreements.
3. Any amendment and supplement to or termination of the guarantee certificate must be agreed upon by contracting parties.

Article 23. Measures to be taken to guarantee a loan

The obligor must put up his/her own existing or future-acquired assets that are not banned from trading by laws as collateral for the loan granted by the guarantor in accordance with the law on secured transactions.

Article 24. Guarantor's rights

1. Guarantor shall be vested with the right:
 - a) Request the obligor to provide documentary evidence that proves that the obligor has matched all necessary requirements for the credit guarantee under provisions set out in Article 14 of these Regulations;
 - b) Request the obligee to withhold the loaning and collect loans ahead of maturity date whenever any signs of violation committed by the obligor against laws or terms and conditions agreed in the credit guarantee contract are detected;
 - c) Collect the fee for the credit guarantee as agreed;
 - d) Exercise the contractual rights agreed in the contract between the obligee and the obligor;
 - dd) Have the right to refuse to offer the credit guarantee to those who are not the right entities or fail to conform to requirements set out in Articles 13, 14, and decline to take on their obligations regulated in Clause 4 Article 28 of these Regulations;

e) Initiate legal proceedings against the obligor due to the failure to fulfill contractual obligations.

f) Other rights agreed by contracting parties in accordance with legal regulations.

2. The guarantor shall be also vested with other rights in accordance with legal regulations.

Article 25. Guarantor's obligations

1) The guarantor assumes obligations as follows:

a) Assess the financial plan and debt repayment plan of the investment project, production and business plan submitted by the obligor;

b) Cooperate with the obligee to inspect the process of loan capital utilization and loan repayment of the obligor;

c) Fulfill the obligations agreed in the contract between the obligee and the obligor;

d) Provide information and periodic or spontaneous reports for regulatory authorities in accordance with laws;

dd) Other obligations agreed by contracting parties in accordance with legal regulations.

2. The guarantor shall assume other obligations in accordance with legal regulations.

Article 26. Rights and obligations of the obligee

1. Oblige shall be vested with the right to:

a) Request the guarantor to fulfill their obligations as agreed upon with the obligor and the obligee as well as other relevant agreements in accordance with applicable laws;

b) Request the guarantor to dispose of the right to receive and deal with assets being held as a security for the grant of guarantee in case the guarantor refuses to take on their guarantee obligations;

c) Initiate legal proceedings against those who default on terms and conditions agreed in the contract;

d) Request the guarantor to take on their guarantee obligations if the obligor does not pay or insufficiently pay their debts;

dd) Exercise other rights agreed by contracting parties in accordance with legal regulations.

2. The obligee shall assume their obligations as follows:

- a) Take on the obligations of a credit institution who grant loans to consumers and to the guarantor in accordance with the law on credit institutions, Civil code and other applicable legal documents;
- b) Examine and supervise the utilization of loans, assets acquired from loans, repayment of loans made by obligors as an assurance about the loan utilization, assets acquired from loans used for the right purpose and loan repayment made under contractual terms and conditions agreed in the credit contract;
- c) Provide all necessary documentary evidences for the loan disbursement for the guarantor; examine and supervise the loan utilization and assets acquired from the obligor's loan whenever the discharge of guarantee obligations is required by the guarantor;
- d) Rigorously monitor the receipts of the obligor in order to speed up the loan collection.
- dd) Provide information, periodic or spontaneous reports on facts about secured loans for competent authorities;
- e) Other obligations agreed by contracting parties in accordance with legal regulations.

Article 27. Rights and obligations of the obligor

1. Obligor shall be vested with the right:

- a) Request the guarantor, obligee to secure their obligations as agreed upon in the credit guarantee contract and guarantee certificate;
- b) Other rights agreed by contracting parties in accordance with legal regulations.

2. The obligor assumes the following obligations:

- a) Provide sufficient information and supporting documents about the provision of guarantee at the request of the guarantor, obligor as well as bear responsibility for ensuring accuracy and legitimacy of such information and documents;
- b) Be inspected and supervised by the guarantor, the obligee and the obligor;
- c) Fulfill their commitments as agreed upon in the credit guarantee contract, and use the loan to serve the right purpose;
- d) Pay fee for the credit guarantee to the guarantor in a sufficient and timely manner;
- dd) Reimburse the guarantor for the debts, interests and fees that the guarantor has paid on behalf of the obligor;
- e) Other obligations agreed by contracting parties in accordance with legal regulations.

Article 28. Fulfilling commitments to the credit guarantee

1. By the expiry date on which the debt repayment shall be due, if the obligor fails to repay or insufficiently repay their debts to the obligee, the obligee must clarify the reasons for this insolvency and apply regulated measures to collect debts.
2. The obligee shall be responsible to apply all necessary measures to collect debts (including adjustments to loan repayment term and loan renewal); in case the obligor is still unable to repay their debts after all of debt collection measures are failed, the obligee must send a written notice to the guarantor.
3. After receiving such notice, the guarantor must verify the current condition of debt repayment and proofs of the obligee's fulfillment of debt recovery during the process of debt collection, based on which the decision to act on behalf of the obligor to repay debts as agreed upon in the contract shall be considered.
4. The guarantor shall be entitled to withhold their obligations to offer the guarantee in the following cases:
 - a) The obligee infringes upon the law on credit institution's rules for the grant of loans to clients in the course of extending credits to the obligor;
 - b) The obligor uses loans and assets acquired from such loans to serve the purpose in breach of terms and conditions agreed in the contract, which is caused by the obligee's failure to carry out the inspection, supervision, or untimely inspection, supervision.

Article 29. Liability for debts and claim on reimbursement under the guarantee

1. The obligor shall be responsible for being liable for coerced debts and reimbursing the guarantor for the sum of money that the Fund has acted on behalf of the obligee to make repayment. After fulfilling their guarantee obligations, the guarantor shall request the obligee to confirm their liability for the debt, which the guarantor has acted on their behalf to redeem, at the maximum interest rate of 150% of interest on the loan being repaid within a specified term that commercial banks in the area are applied for the loan that shall be repaid within an equivalent term.
2. Where the obligor fails to repay the forced loan by the maturity date, the guarantor shall be vested with the right to take control of assets put up as collateral for the grant of the guarantee, or apply necessary measures to collect debts that have been paid by the guarantor, or else the guarantor has the right to request the economic Court's bankruptcy proceedings against enterprises or file a lawsuit against the obligor to the Court in accordance with applicable laws and regulations.

Article 30. Termination of obligations to guarantee loans

The guarantor's obligations to guarantee loans shall be terminated in the following cases:

1. The obligor has fulfilled their obligations to make a full payment on debts to the obligee.
2. The guarantor has discharged their guarantee obligations as agreed upon with the obligee in the credit contract or guarantee certificate.
3. The loan guarantee shall be cancelled or replaced by other guarantee methods if the mutual agreement entered into by interested parties is reached.
4. The term of loan guarantee has expired.
5. The obligee has agreed to exempt the guarantor from fulfilling their guarantee obligations, or the guarantee obligations have been terminated in accordance with laws.
6. Pursuant to the agreement signed by contracting parties in compliance with laws.

Chapter 5.

FINANCE, ACCOUNTING, INFORMATION AND REPORT

Article 31. Financial regime of Credit Guarantee Fund

1. The Credit Guarantee Fund shall comply with their financial regime, perform accounting, statistical and reporting tasks in accordance with applicable laws and instructions from the Ministry of Finance.
2. Fiscal year of Credit Guarantee Fund begins on January 01 and ends on December 31 every calendar year.
3. Annual financial report prepared by Credit Guarantee Fund must be audited by an independent auditor in accordance with applicable laws.

Article 32. Principles for the capital management and utilization of a Credit Guarantee Fund

1. The utilization of operating capital of the Credit Guarantee Fund must be based on the principle that it will serve the right purpose, ensure efficiency, capital and asset safety as follows:
 - a) Extending the credit guarantee to obligors in accordance with the provisions laid down in these Regulations;
 - b) Investing in the purchase of fixed assets used for the operation of Credit Guarantee Fund at the investment rate of less than 7% of charter capital of Credit Guarantee Fund.
2. The Credit Guarantee Fund shall be eligible to open their deposit account at the State Treasuries, domestic credit institutions at the same area.

3. Idle sums of Credit Guarantee Fund shall be used to serve the purpose of purchasing government bonds.

Article 33. Salary and allowances

Salary and allowances paid to officials, staff and members of the Management Council and Control Board of the Credit Guarantee Fund shall comply with the State's regulations applied to single member limited companies of which 100% of charter capital is held by the State.

Article 34. Marginal income and distribution of marginal income

1. Annual marginal income of Credit Guarantee Fund means the difference between total revenue and total costs, which shall be used for the following purpose:

- a) Retain 15% of marginal income to set up the supplementary reserve fund of charter capital;
- b) Retain 20% of marginal income to set up the financial contingency fund;
- c) Retain 30% of marginal income to set up the investment fund for professional development;
- d) Retain a maximum rate of marginal income equal to realized 03-month pay within a specified year with the intent of setting up the welfare fund;
- dd) Use the remainder of marginal income amount to pay dividends to organizations that contribute their paid-in capital to the Credit Guarantee Fund, and supplement a sum of dividends on the contributed capital derived from the budget of centrally-affiliated cities and provinces for the charter capital of the Credit Guarantee Fund under the decision made by the President of the People's Committee of centrally-affiliated cities and provinces with reference to the consent and approval from the People's Council of these cities and provinces.

2. Use purpose of aforementioned funds

- a) The reserve fund for supplement to the charter capital shall be used to provide supplementary fund for the charter capital;
- b) The financial contingency fund shall be used to make up for any loss or damage to assets or any bad debt incurred during the fund's operation;
- c) The investment fund for professional development shall be used to make good progress in professional tasks relating to credit guarantee activities;
- d) The welfare fund shall be used to offer periodic or spontaneous reward to officials and staff with reference to their productivity and achievements in task performance.

Article 35. Communication and reporting regime

1. The Credit Guarantee Fund shall perform their communication and reporting tasks on the yearly or quarterly basis; send periodic reports to the Ministry of Finance, the State Bank of Vietnam, the Ministry of Planning and Investment, the People's Committees, the Department of Finance, Branches of the State Bank located at the city or province where the Credit Guarantee Fund is operating.

2. The Credit Guarantee Fund shall be responsible and obliged to provide spontaneous information and spontaneous reports for competent authorities in accordance with laws.

Article 36. Establishment or dissolution of Credit Guarantee Funds

The People's Committee of centrally-affiliated cities and provinces shall refer to the business outcome of Credit Guarantee Fund, current status and actual demand in the area in order to request the People's Council of centrally-affiliated cities and provinces to approve the establishment or dissolution of Credit Guarantee Fund in accordance with laws.

Chapter 6.

IMPLEMENTATION

Article 37. Responsibility of the Ministry of Finance

The Ministry of Finance is the regulatory organ in charge of the State management of the Credit Guarantee Fund whose tasks are assigned as follows:

1. Direct and inspect the implementation of regulations on establishment, organization and operation of Credit Guarantee Fund.
2. Cooperate with the People's Committees of centrally-affiliated cities and provinces in monitoring, summarizing and evaluating the business outcome of Credit Guarantee Fund.
3. Take charge of working with the People's Committees of centrally-affiliated cities and provinces, relevant Ministers, sectors and agencies to improve legal documents about organization and operation of such funds and send a written request to the Prime Minister for consideration and decision.

Article 38. Responsibility of the State Bank of Vietnam

1. Provide guidance on capital contribution for credit institutions as well as cooperate with Credit Guarantee Fund in complying with guarantee provisions laid down in these Regulations.
2. Inspect and supervise the process of guarantee performance as stipulated in these Regulations.
3. Cooperate with the Ministry of Finance in amending and complementing the guarantee provisions as prescribed in these Regulations.

Article 39. Responsibility of the Ministry of Planning and Investment

Cooperate with the Ministry of Finance, relevant Ministries and sectors in implementing this Decision in accordance with laws.

Article 40. Responsibility of the People's Committees of centrally-affiliated cities and provinces

1. Establish and dissolve Credit Guarantee Funds in accordance with laws and these Regulations.
2. Bear responsibility for directing, providing guidance on, managing, examining and supervising the operation of Credit Guarantee Fund, and ensure the efficiency, capital conservation and development for the Credit Guarantee Fund according to legal regulations.
3. Send quarterly and spontaneous reports to the Ministry of Finance and the State Bank of Vietnam on the operating outcome and condition of Credit Guarantee Fund, and propose any solution to handling difficulties during the Fund's operation; request any amendment or modification to policies and statutes for the operation of Credit Guarantee Fund.

Article 41. Implementation

1. With respect to the case in which the Credit Guarantee Fund and credit institutions have agreed on the guarantee contract and loan guarantee certificate before the effective date of this Decision, all agreements thereupon shall be continued to take effect as stipulated in the Prime Minister's Decision No. 193/2001/QD-TTg dated December 20, 2001 on issuing the Regulations on establishment, organization and operation of credit guarantee fund for medium and small enterprises; the Prime Minister's Decision No. 115/2004/QD-TTg dated June 25, 2004 on amendment and supplement to the Regulations on establishment, organization and operation of credit guarantee fund adopted together with the Prime Minister's Decision No. 193/2001/QD-TTg dated December 20, 2001.
2. With respect to the case in which the Credit Guarantee Fund and credit institutions have agreed on the guarantee contract and loan guarantee certificate after the effective date of this Decision, provisions laid down in this Decision must be strictly observed./.

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