

**DECISION no. 192
of 11.06.2004**

on the notification regarding the notification of guarantee scheme for the short, medium and long term credits and the banking letters of guarantee submitted by The National Credit Guarantee Fund for Small and Medium and Enterprises S.A.

The President of the Competition Council

Based on:

1. The Decree no. 57/2004 regarding the appointment of the Competition Council;
2. The provisions of the Competition Law no. 21/1996, published in the Official Gazette no 88, I Part on 30.04.1996, with subsequent amendments and completions;
3. The provision of the Law no 143/1999 on State aid, published in the Official Gazette no 370/03.08.1999, Part I, with subsequent amendments and completions;
4. The Regulation on organisation, functioning and procedures of the Competition Council, published in the Official Gazette, no. 288, Part I, of 01.04.2004;
5. The Regulation on the form, content and others details of the State aid notification, published in Official Gazette no. 125, Part I on 24.03.2000;
6. The notification of guarantee scheme for the short, medium and long term credits and the banking letters of guarantee submitted by the National Credit Guarantee Fund for the Small and Medium Enterprises (named from now-on Fund), trough the address no. 1663/13.04.2004, 1664/13.04.2004 and 1665/13.04.2004, registered at Competition Council under the no. RS-AS 40/14.04.2004, 41/14.04.2004 and 42/14/04.2004, notifications became effective on 03.05.2004;
7. The note regarding the notification scheme of the State aid Authorisation Department.

Based on the following:

1. The Fund was established by G.D. no. 1211/2001 under art. 28-35 of the Lawno. 133/1999 regarding the stimulation of the private Entrepreneurs for establishing and developing small and medium enterprises and is a financial company entirely owned by the Romanian State through The National Agency for Small and Medium Size Enterprises and Cooperations. At the establishment, the registered

capital of the Fund was of ROL 50 billion, to be increased, during 2002-2006, by 0,4% from budgetary revenues.

2. The Fund objective is sustaining the developing the SME sector, which plays an important role in insuring a continuous and durable economic growth, creating new jobs by granting guarantees for the credit obtainable by the MSE from commercial banks.

3. The Fund grants guarantees for credits and other financial instruments, which can be obtained by the SMEs from commercial banks or from other sources within the meaning of art. 35 of the Law133/1999 regarding the stimulation of the private Entrepreneurs for establishing and developing small and medium enterprises.

4. The granting of guarantees is made under the name and in the account of the Fund based on the conventions signed with the commercial banks. In accordance with the agreements regarding the time and the amount of the guarantees payments, The Fund signed two types of conventions:

- risk division conventions, in which the guarantee payment is done in two trances (50% each) and in two moments: the first is when the bank starts the forced execution of the real guarantees made by the credit beneficiary SME and the second at the final of their forced execution.
- guarantee conventions, in which the guarantee payment is made in a single trance, at the starting of the forced execution by the bank, regarding real guarantees made by credit beneficiary SMEs.

5. The Fund grants guarantees for:

- maximum 75% from the amount of a credit or the medium and long term banking guarantee letter (with repayment time limit over 12 months);
- maximum 60% of a credit amount or the short term banking guarantee letter (with repayment time limit of at most 12 months);

6. The funds addressed to the guarantees payments are composed from:

- the cash contribution to increase the registered capital of the Fund, which the sole shareholder makes for 5 years, by 0,4% from budgetary revenues;
- guarantee commissions cashed by the Fund from the banks with which the guarantee conventions are signed;
- penalization of delay paid by the banks for not paying the guarantee commissions in due time;
- revenues from treasury investments.

7. The relevant market on which the Fund acts is the one of the guarantees for credits and other financing instruments which can be obtained by the small and medium size enterprises. Presently, on this market act two more funds: The Rural Guarantee Credit Fund SA (named from this moment RGCF) and The Romanian Credit Guarantee Fund for Private Entrepreneurs SA named from this moment RCGFPE).

8. A comparative analysis of the Fund against its two competitors on the guarantees market reveals that:

- the degree of risk associated to the granted guarantee is framed by the following limits: the maximum percentage of guarantee granted by RGCF and RCGFPE is 70% of the credit's amount for medium and long term credits and 50-70% for short term credits, compared to 75% and 60% of the amount of the credit granted by the Fund;

- The maximum amount of the guarantee that can be granted by RGCF is Euro 1,000,000, RCGFPE grants maximum Euro 550,000 while the Fund grants maximum Euro 500,000;

- The financial profit rate for RGCF is 4,06%, for RCGFPE is 4,07% and for the Fund is 5,99%;

- The invested capital profit rate for RGCF is 4,06%, for RCGFPR is 3,57%, while for the Fund is 5,83%;

9. The profit rates for the Fund's activities register superior values, their level being above the levels of the competing funds.

10. The financial status for 2003 shows that the Fund reached a turnover of ROL 3,662,737 thousands, total revenues of ROL 57,780,394 thousands, total expenses of ROL 24,924,373 thousands, obtaining a net profit of ROL 24,984,363 thousands.

11. The Fund has a profitable activity, forecasting for 2006 to obtain a profit of near 5.26 times bigger than the one in 2004. Also, the estimated profit rate follows an upward trend from 11.23% in 2004 to 28.99% in 2006. Therefore, the Fund is a profitable financial company, with the Romanian State as a private investor to its registered capital.

12. The economic and financial indexes presented by the Fund show that the State shall invest its resources in a profitable activity, the recuperation of the investment shall be made in a relatively short period of time, the investment shall be finalised in 2006 and shall be totally recuperated in 8.57 years, obtaining, in the same time, an internal profitability rate of 14.71%.

13. The effects and benefits to be obtained by the granting of the guarantees are:

- the rise of SME's number that have access for financing (by participation at auction, obtaining of contracts, assuring the participation and good execution guarantees, etc);
- the rise of financing volume regarding the sector of SMEs;
- the stimulation of SME's developing in production and services fields.

14. The financial support instituted by art. 35 from Law no. 133/1999 regarding the stimulation of private Entrepreneurs for establishing and developing small and medium size enterprises, that are granted to the Fund is do not distorts the competition on the relevant market and do not affect the appropriate enforcement of the international agreements Romania is part of.

DECIDES

Art.1. In the basis of art. 8 par. (2) corroborated with art.12 par (2) letter. a) of the Lawno. 143/1999 on State aid, with subsequent completions nad modifications, the financial support given to National Credit Guarantee Fund for Small, Medium Enterprises and Cooperation S.A., under the form of registered capital contribution, doesn't constitutes a State aid, as the State, in its quality as the Fund's sole shareholder, acts as an prudent private investor which uses his resources for obtaining profit, in accordance with the principle of the private investor acting in a market economy.

Art.2. Within the meaning of art. 10 of the Law143/1999 on the State aid, with subsequent modifications and completions, the Competition Council's decision no. 517/11.11.2003, which authorized the Sate aid scheme – the guarantees scheme for small and medium size enterprises is annuled.

Art.3. The present Decision becomes effective at the date of its communication.

Art.4. The present Decision shall be communicated by the Secretariat General of the Competition Council to:

- The National Credit Guarantee Fund for Small and Medium Enterprises, Bucharest- sector 1, 155 Calea Victoriei, block D1, section 5, fl. 6.

Art.4. The Secretariat General and the State Aid Directorate of the Competition Council shall pursue the fulfillment of the present Decision.

PRESIDENT

MIHAI BERINDE