

Unofficial translation

Act on Credits and Guarantees Provided by the State-Owned Specialist Financing Company

(445/1998; amendments up to 526/2001 included)

By decision of Parliament, the following is enacted:

Section 1 - Scope of application

This Act contains provisions on the credit, guarantee and other financing operations of the company referred to in the Act on the State-Owned Specialist Financing Company (443/1998), specifically aimed at the establishment, development and expansion of small and medium-sized enterprises and at improvement of the prerequisites for their operations.

Additional provisions on commitments made by the company are given in the Export Guarantee Act (479/1962), the Act on State Guarantees Granted to Companies Engaged in Shipbuilding or Shipowning Operations (573/1972), the Act on State Guarantees and Export Guarantees Granted to Industry for Investments Promoting Environmental Protection (609/1973), the Act on State Guarantees Granted to Ensure the Supply of Basic Raw Materials (651/1985). *(Amended June 14, 2001, effective as of September 1, 2001)*

Funds from the Structural Funds of the European Communities can be targeted at the business operations referred to in this Act. What is stated in this Act of the credit and guarantee operations provided by the State-owned specialist financing company, will be applied to to-be-allocated funds of the Structural Funds, unless otherwise regulated by the Community legislation. *(Added April 20, 2000, effective as of April 27, 2000)*

Section 2 - Targeting of operations

Having regard to the aims referred to in section 1 of the Act on the State-Owned Specialist Financing Company, the credits, guarantees and other financial services provided by the company can be targeted at business operations and, if promotion of these aims so requires, at local authorities. However, the company cannot target these financial services at ordinary agriculture and forestry or at construction business. Retail trade and transport can only be targeted insofar as they involve tourism projects. A service enterprise engaged in operations based on regional or local demand can be targeted provided that it produces services needed for business activities. Notwithstanding the provisions of this subsection, the company can target the guarantee, venture capital guarantee and service operations referred to in sections 4, 4a and 5 at projects undertaken by enterprises not engaged in ordinary agriculture and forestry, and the company

can grant credits for activities undertaken by small enterprises, with the exception of ordinary agriculture and forestry. (*Amended June 14, 2001, effective as of September 1, 2001 (526/2001)*)

The company shall target the credit and guarantee operations referred to in this Act primarily at small and medium-sized enterprises. Credits and guarantees may be granted to large enterprises only on special grounds. The company can grant venture capital guarantees only for capital investments made in small and medium-sized enterprises (*Amended June 14, 2001, effective as of September 1, 2001 (526/2001)*)

In this Act, 'small and medium-sized enterprise' shall mean an enterprise as defined in Commission Recommendation 96/280/EC on the definition of small and medium-sized enterprises, as it stands on April 3, 1996, which employs less than 250 people and has an annual turnover of not more than EUR 40 million or a corresponding amount in Finnish marks or a balance sheet total of not more than EUR 27 million or a corresponding amount in Finnish marks, and which meets the criteria for an independent enterprise and other criteria for a small and medium-sized enterprise as referred to in the Recommendation. (*Amended June 14, 2001, effective as of September 1, 2001 526/2001*)

With the exception of ordinary agriculture and forestry, what is provided in subsection 1 concerning the limitations on sectoral targeting of the company's operations does not apply to loan receivables to be purchased from Asset Management Company Arsenal - SBF Ltd or Asset Management Company Arsenal - SBF Ltd guarantee liabilities to be taken over by the specialist financing company in connection with the purchase. (*Validity 30.12.1999-31.12.2004. Applicable to financing decisions concerning the loan and guarantee portfolio to be transferred from Asset Management Company Arsenal - SBF Ltd made during the validity period.*)

Section 3 - Credits provided by the company

The company can provide credits and arrange other forms of financing. It can also engage in operations in which, as the provider of financing, it obtains assets or rights indicated by the recipient of the financing and leases these to said recipient (*financial leasing*). Financing can be granted without fully securing collateral or without any security.

Section 4 - Guarantees provided by the company

The company can issue guarantees as security for credits or contingent liabilities. The guarantee can be issued as an unconditional guarantee as for own debt, as a conditional guarantee or as some other contingent liability. To reduce the guarantee-related risk of loss, collateral or other collateral-security arrangements may be required, which need not be fully securing.

A guarantee can be issued to secure a credit granted by a credit institution to a domestic supplier or a buyer for the purpose of financing a domestic delivery of capital goods, even if the borrower is not an enterprise referred to in section 2(3).

The guarantee is subject to approval by the Ministry of Trade and Industry should the amount of such credit exceed EUR 35 million. (*Amended June 14, 2001, effective as of September 1, 2001 (526/2001)*)

The guarantee can be issued by the company as security for the guaranteed credit principal, interest and other charges in accordance with the credit terms, or as counter-security for a guarantee to be issued as security for the guaranteed credit or a contingent liability. The guarantee may cover the risk of loss, entirely or in part, arising from the guaranteed credit or the contingent liability.

The State is liable for the guarantees granted by the company and referred to in this Act, if it is established in a lawful procedure that the company is insolvent and unable to pay its commitments on their maturity.

Section 4a - Venture capital guarantees provided by the company

The company can grant guarantees against the risk of loss in connection with venture capital investments made by credit institutions, venture capital funds and other corporations or private individuals.

More detailed provisions concerning the granting and targeting of venture capital guarantees as well as the indemnity payment are given by a degree by the Ministry of Trade and Industry. (*Added June 14, 2001, effective as of September 1, 2001 (526/2001)*)

Section 5 - Services provided by the company

The company may carry out research and surveys related to business financing, engage in the development of enterprises and provide them with services and advice.

Section 6 - Matters to be taken into account in the provision of credits and guarantees

When credits and guarantees are provided, the general economic importance of the operations receiving financing, their appropriate regional location and their effects on employment shall be considered. Special consideration should be given to the economic preconditions and development potential of the operations engaged in by the recipient of the credit or guarantee and to the ability of the enterprise's management or private entrepreneur to manage the business successfully.

When credits and guarantees are provided, the aims set out in the Regional Development Act (1135/1993) and the relevant provisions of the Act on the General Terms and Conditions of Business Subsidy (786/1997), concerning the general aims and preconditions for business subsidy and business subsidy programmes, should be considered. While engaging in the activities referred to in this Act, the company shall take the varying levels of development in different parts of the country into account when applying various financing measures and their terms and conditions.

When credits and guarantees are provided, activities shall focus on rectifying shortcomings in the availability of financial services. Moreover, any sharing of risk of loss arising from the said financial activities between the company and other providers of financial services shall also be taken into account.

Section 7 - *Guaranteeing loans taken by the company*

The Council of State is authorized, without requiring any counter-security but otherwise on terms and conditions imposed by it, to grant unconditional State guarantees as security for the repayment of domestic and foreign credits taken by the company and for compliance with the terms and conditions agreed therein. For this purpose, the aggregate principal amount of credits outstanding may not exceed EUR 1.2 billion at any one time. The equivalent value of credit in any other currency than euro shall be calculated in accordance with the middle exchange rate quoted by the Bank of Finland valid at the time the guarantee is issued. *(Amended June 14, 2001, effective as of September 1, 2001 (526/2001))*

Section 8 - *State commitments*

Under terms and conditions imposed by it, the Council of State may undertake towards the company that:

- (1) the State will pay the company annual interest subsidies to be transferred to borrowers; the level of the subsidy to be granted will be regionally graded (regional interest subsidy); *(Amended April 20, 2000, adapted as of January 1, 2000)*
- (2) the State will pay the company interest subsidies to be transferred to borrowers on credits granted for specific business policy reasons (special interest subsidy);
- (3) the State will compensate the company for any credit or guarantee losses arising from the activities referred to in sections 3 and 4 (credit and guarantee loss subsidy); and
- (4) the State will compensate the company for expenses arising from specific services referred to in section 5 (operating subsidy).

The interest subsidy referred to in subsection 1(1)-(2), above shall be based on the credit portfolio comprising credits granted annually by the company and referred to in the said subsections. The annual State Budget shall contain decisions on the maximum amount of financing that the company can grant each year subject to the interest subsidy scheme in the years following the year the financing was granted. The undertaking to pay interest subsidy may be limited to a fixed term by the Council of State.

The outstanding aggregate principal amount of credits and guarantees referred to in sections 3 and 4, and covered by the undertaking referred to in subsection 1(3), above, shall not exceed EUR 2.3 billion at any given time. *(Amended June 14, 2001, effective as of September 1, 2001 (526/2001))*

Section 9 - *Further provisions*

Further provisions on the implementation of this Act may be given by decree.

Section 10 - *Entry into force*

This Act will enter into force on a date to be defined by decree.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.