

Large Investors in Ukraine: state support and feasibility study

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In August 2021, all necessary bylaws for the practical implementation of the Law of Ukraine "On State Support of Investment Projects with Significant Investments in Ukraine" (hereinafter – the Law) were adopted by the Ukrainian Government.

The requirements for the feasibility study of an investment project, the institution for investor support, and the methodology for calculating the amount of state support for the implementation of an investment project were also approved.

1. Requirements for a feasibility study

A feasibility study report for an investment project with significant investments is submitted by an applicant to the Ministry of Economy in Ukrainian, in one copy, both in paper and electronic form in PDF format or electronic form using the Unified State Web Portal of electronic services (if technically possible). The applicant is responsible for the accuracy of the information provided.

The applicant has the right to classify the information contained in the feasibility study as confidential by agreeing to the dissemination of such information as part of the project appraisal.

The feasibility study should contain the following information about the project:

- feasibility study summary;
- assessment of the project's technical feasibility and description of technical solutions;

- the amount of significant investment and the estimated cost of the investment object maintenance (operation);
- results of the project's legal analysis;
- analysis of the project's social and economic indicators and assessment of the project implementation social effect based on the results of cost-benefit analysis;
- description of the market;
- results of the project's commercial attractiveness analysis;
- results of the project's fiscal impact (budget efficiency) analysis;
- general characteristics of state support, description of forms, and the total amount of state support offered for project implementation;
- results of the project's ecological aspects analysis;
- list of identified project risks, their assessment, as well as determination of the risk management's form;
- the term and stages of project implementation, the results of the organization and works management preliminary assessment;
- analysis of financial indicators and the project's financial analysis based on the results of the project's financial model analysis.

The following should be taken into account during the preparation of the project's financial model:

1) implementation of cash flow modeling based on assumptions about:

- macroeconomic indicators and key parameters for long-term forecasting;
- construction terms;
- preliminary project implementation deadline;
- the expected start date of the project and revenue;
- terms of operating activities (operating income and expenses, maintenance costs);
- requirements of the tax and accounting legislation of Ukraine, including the terms of the assets depreciation and all the taxes to be applied;

2) project technical data;

3) capital and operating expenses data;

4) income data indicating the method of setting product (goods, works, services) tariff/price;

5) data on financing (borrowed capital or equity).

2. Institution to support an investor

State institution "Office for investment attraction and support" (hereinafter – the Institution) is authorized to support an applicant and investor with significant investments in the preparation and implementation of the investment project in Ukraine, facilitate the implementation of a special investment contract, and perform other functions provided by the Law.

The Ukrainian Government approved the "Procedure for the interaction of the authorized institution with applicants, investors with significant investments, public authorities, local governments on issues related to the support of preparation and implementation of investment projects with significant investments" (hereinafter – the Procedure). This Procedure defines the mechanism of interaction on the principles of legality, non-discrimination, openness, transparency, and free of charge.

Institution and applicants, investors with significant investments may:

- sign a memorandum of cooperation to provide organizational, informational and advisory assistance on the projects' preparation, and implementation;
- enter into an agreement on non-disclosure of confidential information on the project's preparation and implementation.

Ministry of Foreign Affairs of Ukraine, Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv, and Sevastopol city state administrations:

- 1) provide information on potential applicants to the Institution;
- 2) assist in carrying out activities to attract potential applicants for projects implementation;
- 3) provide information necessary for the Institution to support the project's preparation.

The Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv, and Sevastopol city state administrations also provide information on state-owned land plots that can be transferred to ownership or provided for use (lease) for projects' implementation.

Local self-government bodies shall submit to the Institution information on:

- 1) potential applicants who are interested in implementing investment projects in Ukraine;

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- 2) land plots of communal property that can be transferred to ownership or provided for use (lease) for projects' implementation;
- 3) the possibility of setting reduced land tax rates and rent for land plots, an exemption from land tax;
- 4) the possibility to transfer communal property land plots defined by a special investment contract for project implementation for use (lease);
- 5) obtaining information that is necessary for the development of the project's feasibility study;
- 6) the possibility of the related infrastructure facilities construction required for project implementation at the expense of the relevant local government budgets.

The Institution also:

- 1) timely submits reports on the status of project support to the Ministry of Economy of Ukraine;
- 2) develops proposals, recommendations, action plans to improve the project preparation process;
- 3) provides answers to requests for additional information and/or documents required for the project assessment.

Due to the Institution's interaction with applicants and investors, it shall:

- 1) inform potential applicants about the possibilities of investment projects preparation and implementation;
- 2) provide potential applicants, investors with organizational, informational, and advisory assistance on project preparation, in particular, on the preparation and submission of applications and other documents, free of charge;
- 3) provide advisory assistance on:
 - preliminary verification of the project's potential compliance with the requirements of the Law;
 - search for potential investment objects, land plots of state or communal property that can be used for project implementation;
 - the possibility of providing for use (lease) of state or communal property land plots, defined by a special investment contract for project

- implementation;
 - the possibility of providing related infrastructure construction necessary for the project at the expense of state and local budgets and other sources not prohibited by law;
- 4) ensure the arrangement and holding of meetings with the participation of the officials of public authorities, local governments, applicants, investors with significant investments, representatives of international organizations, foreign states;
- 5) at the applicant's request, provide organizational, informational, and advisory assistance to the applicant in the process of finalizing the draft special investment contract, taking into account the comments of the authorized body.

3. Calculation of the state support amount

The amount of state support provided for more than 1 year, for each form of state support specified in the Law, is calculated taking into account the discount rate according to a certain formula.

The discount rate of state support is determined taking into account the cost of government borrowing at the current yield of long-term foreign government bonds with the longest maturity in the relevant currency on the date of the discount rate determination (date of feasibility study preparation), and in the absence of such securities in the relevant currency – at the yield of domestic government bonds with the longest maturity on the date of the discount rate determination in the relevant currency.

In the absence of foreign government bonds and domestic government bonds in the relevant currency, state support calculations are made in UAH equivalent using the official exchange rate of hryvnia to the relevant currency as of the settlement date and the discount rate for hryvnia is used.

When calculating the total amount of state support, it is taken into account that the planned amount of significant investments in the investment project includes all funds (own and/or borrowed) that will be invested in the investment object during the project under the special investment contract, and doesn't include reinvestments that will be made at the expense of income received from operating activities during the project implementation.