

Large investment projects in Ukraine: requirements to applicants

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In August 2021, the Cabinet of Ministers of Ukraine adopted 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), including the requirements for the applicant's financial capacity to implement an investment project with significant investments.

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These requirements set criteria (minimum values, taking into account the size of significant investments in investment objects during the project implementation period) regarding the applicant's financial capacity to implement an investment project with significant investments. Such criteria include capital adequacy, net operating cash flow sufficiency, and availability of financing sources to cover significant investments.

1. Capital adequacy criteria

The applicant, as well as the parent companies and/or persons having control relations with the applicant, must together have capital of at least 20% of the significant investments planned amount as of the end of the last financial year, confirmed by the audit report.

2. Criteria of net operating cash flow sufficiency

The applicant, as well as the parent companies and/or persons having control relations with the applicant, must together have a net operating cash flow of at least 20% of the significant investments planned amount as of the end of the last financial year, confirmed by the audit report.

3. Criteria of financing sources availability

The applicant, as well as the parent companies and/or persons having control relations with the applicant, must together confirm the availability of financing sources to make significant investments in full at the expense of own and/or borrowed funds.

4. List of documents

Compliance with the financial capacity criteria is confirmed by submitting the relevant documents in paper form to the Ministry of Economy of Ukraine or in electronic form using the Unified State Web Portal of Electronic Services (if technically possible). The applicant submits:

- 1) a certificate containing a list of legal entities applying, indicating their full name, registration information, and authorized persons, as well as contact information;
- 2) a certificate containing a list of shareholders (members) of the applicant who own more than 5% of shares in the authorized capital of the applicant, related companies and beneficial owners, as well as the applicant's ownership structure;
- 3) a copy (copies) of the audit report prepared by the audited entity on the audit results of the applicant's financial statements for the last financial year or penultimate financial year (if the last financial year's financial statement audit results are unavailable), prepared under accounting standard of Ukraine or international financial reporting standards. The applicant shall, in any case, submit financial statements for the last financial year;
- 4) a letter of confirmation from the auditing entity regarding its compliance with the requirements for the auditing entity of the applicant;
- 5) a confirmation letter (letters) from the bank (banks) meeting the requirements of banks reliability on the readiness to provide the applicant with financing sufficient for the project in Ukraine, if the applicant intends to finance part of the investment with borrowed funds. The validity of such a confirmation letter must be at least 24 months from the date of the application submission;

6) a certificate/account statement (certificates/account statements) from the bank or another document (documents) confirming the cash availability or relevant liquid assets;

7) a certificate of the applicant's compliance with all criteria confirmed by the relevant supporting documents and information in them, as well as indicators calculations giving the sources of information confirming such compliance. Such a certificate shall be signed by the applicant's authorized person, and if several legal entities applied together, the certificate shall be signed by the authorized persons of all legal entities that have applied together.

8) the applicant – a legal entity registered in a foreign state, additionally submits:

- a copy of an official document issued by a competent authority of the foreign state where the applicant is registered, or a person providing organizational support confirming the applicant's legal status;
- a copy of the certificate of incorporation or another similar document (for example, an extract from the trade register or companies register).

Legal entities that have submitted a joint application are required to submit an agreement on cooperation in the investment project implementation as part of the application.

Documents issued by the competent authorities of a foreign state must be legalized unless otherwise provided by an international treaty of Ukraine, and submitted together with a duly certified translation into Ukrainian.

The applicant or the legal entity that applied together with the applicant, or the parent company and/or the person having control relationship with the applicant, if such a person will provide project financing at the expense of borrowed funds, must meet the requirements for ratio values according to the approved formula:

- Financial independence ratio (financial stability indicator that means the ratio of the applicant's capital to all its financial resources and allows to determine the share of own funds in total liabilities and applicant's independence degree from external financing) – not less than 0.2.
- Financial stability ratio (financial stability indicator showing the applicant's ability to meet its obligations in the medium and long term) – not less than 0.3.
- EBITDA margin (means the ratio of profit before interest deductions, taxes, and depreciation to the applicant's net income and demonstrates the applicant's profitability excluding non-monetary deductions, credit interest, and taxes) – not less than 0.1.
- Current liquidity ratio (determines applicant's ability to cover short-term liabilities from current assets) – not less than 1.

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Banks providing the applicant with confirmation of financing sufficient for the implementation of the investment project must meet banks reliability criteria.

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