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Item 208

**NOTICE
OF THE MARSHAL OF THE SEJM OF THE REPUBLIC OF POLAND**

of 17 January 2019

on the publication of the consolidated text of the Act on subsidies to interest on export credits with fixed interest rates

1. Pursuant to the provisions of Article 16, section 1, first sentence of the Act of 20 July 2000 on the publication of normative acts and certain other legal acts (Journal of Laws of 2017, item 1523 and of 2018, item 2243), the consolidated text of the Act of 8 June 2001 on subsidies to interest on export credits with fixed interest rates (Journal of Laws No. 73, item 762), is hereby published in the appendix to this notice, including amendments introduced by the Act of 6 March 2018 - Regulations introducing the Act - Entrepreneur Law and other Acts on business activities (Journal of Laws item 650), as well as amendments resulting from the regulations published before 17 January 2019.

2. The consolidated text of the Act published in the appendix to this notice does not include Article 236 of the Act of 6 March 2018 - Regulations introducing the Act - Entrepreneur Law and other Acts on business activities (Journal of Laws item 650), which provides as follows:

“Article 236. The Act shall enter into force 30 days after its promulgation, with the exception of:

- 1) Article 184, which shall enter into force on 1 July 2018;
- 2) Article 185, which shall enter into force on 11 July 2019;
- 3) Article 188, which shall enter into force on 1 October 2018.”

Marshal of the Sejm *M. Kuchciński*

Appendix to the notice of the Marshal of the Sejm of the Republic of Poland of 17 January 2019 (item 208)

ACT

of 8 June 2001

on subsidies to interest on export credits with fixed interest rates

Chapter 1

General provisions

Article 1 The Act lays down the principles of granting subsidies from the state budget to interest on export credits with fixed interest rates extended for the period of at least two years for the purpose of financing export contracts concluded by domestic suppliers.

Article 2 Whenever used in the Act, the following terms and abbreviations shall have the following meaning:

- 1) DOKE Programme (Interest-Rate Support for Export Credits Programme) – a system of periodical mutual settlements between Bank Gospodarstwa Krajowego and banks extending export credits under DOKE Agreements, whereby such banks are eligible for subsidies to interest on export credits from the state budget via Bank Gospodarstwa Krajowego;
- 2) DOKE Agreement – an agreement on covering an export credit with the DOKE Programme, concluded by Bank Gospodarstwa Krajowego and a bank;
- 3) bank – a domestic bank, a foreign bank or an international financial institution within the meaning of the Act of 29 August 1997 - Banking Law (Journal of Laws of 2018, items 2187, 2243, and 2354), which extend export credits;
- 4) export credit – a credit for a foreign buyer or its bank, extended by a bank for the purpose of financing an export contract, as well as a credit extended to a domestic supplier with a view to refinance the credit granted by that supplier to a foreign buyer in the same currency, at the same interest rate and with the same repayment schedule;
- 5) fixed interest rates – CIRR rates (commercial interest reference rates) or other fixed interest rates for various currencies as published periodically by the Secretariat of the Organization for Economic Cooperation and Development (OECD), setting the minimum level of interest rates applicable to export credits in the signatory countries of the OECD Arrangement on Guidelines for Officially Supported Export Credits of 1 April 1978;
- 6) financing costs – an element of calculations of the periodical mutual settlements between Bank Gospodarstwa Krajowego and a bank in the course of performance of the DOKE Agreement, being the sum of the bank margin rate and the market short-term interest rate in the currency of the export credit;
- 7) bank margin – a percentage remuneration due to a bank for extending the export credit;
- 8) export contract – a sale contract, supply contract or other civil law contract entailing payment, concluded by a domestic supplier and a foreign buyer or an entity acting for the latter's behalf, whereby domestic goods or services are purchased;
- 9) export contract value – an amount to be paid by a foreign buyer or an entity acting on its behalf to a domestic supplier for the purchase of domestic goods and services under an export contract, net of local costs and interest on export credit, where local costs are understood as expenses on goods and services in the buyer country that are necessary for the performance of the export contract, excluding costs of commission of trade intermediaries in the buyer country;
- 10) ¹⁾domestic supplier – an entrepreneur referred to in the Act of 6 March 2018 - Entrepreneur Law (Journal of Laws, items 646, 1479, 1629, 1633, and 2212), with a residence or registered office in the territory of the Republic of Poland, conducting business activity in the area of exportation of domestic goods or services;
- 11) ¹⁾ foreign buyer - a foreign person or a foreign entrepreneur within the meaning of the provisions of the Act of 6 March 2018 on the rules for the participation of foreign entrepreneurs and other foreign persons in business transactions on the territory of the Republic of Poland (Journal of Laws, items 649 and 1293), purchasing domestic goods or services from a domestic supplier under an export contract;
- 12) Corporation – Export Credit Insurance Corporation Joint Stock Company (Korporacja Ubezpieczeń Kredytów Eksportowych), operating under provisions of the Act of 7 July 1994 on export insurance guaranteed by the State

¹⁾ In the wording laid down in Article 65 of the Act of 6 March 2018 - Regulations introducing the Act - Entrepreneur Law and other Acts on business activities (Journal of Laws item 650), which entered into force on 30 April 2018.

Treasury (Journal of Laws of 2018, item 1378);

- 13) domestic goods – goods within the meaning of Article 4, point 1, of the *Act of 8 January 1993 on the tax on goods and services, and on the excise tax (Journal of Laws item 50, as amended²⁾*³⁾, that have been fully obtained or manufactured in the territory of the Republic of Poland by a domestic supplier, excluding any proportion of goods imported from outside of that territory or including their proportion capped at the percentage set forth in the regulations issued pursuant to the provisions of the Act referred to in point 12;
- 14) domestic services – services within the meaning of Article 4, point 2, of the Act on the tax on goods and services, and on the excise tax, provided by a domestic supplier.

Article 3. 1. Export credits referred to in Article 1 are granted by banks for the period of at least two years in currencies for which CIRR rates are determined, to foreign buyers or their banks, as well as to domestic suppliers for the purpose of refinancing credits granted by them to foreign buyers.

2. The export credit may be covered by the DOKE Programme provided that the export contract provides for a cash advance payment to be made by a foreign buyer in the amount of at least 15% of the export credit value until the day such export credit is made available.

3. The export credit may be covered by the DOKE Programme provided that the Corporation insures the credit granted by a bank to a foreign buyer or its bank, or the credit granted by a domestic supplier to a foreign buyer, against the political or commercial risk specified in the Act referred to in Article 2, point 12.

4. At a justified request of Bank Gospodarstwa Krajowego, the Committee for Export Insurance Policy, acting on the basis of the Act referred to in Article 2, point 12, may consent to waive the condition referred to in section 3 if the Corporation refuses insurance due to the value of the export contract.

Chapter 2

Principles of DOKE Programme administration by Bank Gospodarstwa Krajowego

Article 4. 1. The subsidies under the DOKE Programme are provided from:

- 1) budget funds specified in the Budget Act;
- 2) interest referred to in section 4;
- 3) funds referred to in Article 8, section 1, point 2;
- 4) interest on the funds referred to in Article 8, section 1, point 2.

2. Every year, the Budget Act allocates funds that may be provided in a given budget year to Bank Gospodarstwa Krajowego for the provision of subsidies under the DOKE Programme.

3. The budget funds allocated for subsidies are transferred by the minister responsible for public finances to a dedicated account at Bank Gospodarstwa Krajowego, by the 5th day of each month, in the amount corresponding to the needs communicated by the Bank two months in advance.

4. The funds referred to in section 3 are subject to interest on terms applicable to current accounts at Bank Gospodarstwa Krajowego.

Article 5. 1. If the funds referred to in Article 4, section 1, are depleted, Bank Gospodarstwa Krajowego may use its own funds or borrow money from the State Budget or take out a bank credit with the repayment of principal and interest guaranteed by the minister responsible for public finances acting for and on behalf of the State Treasury.

2. The credit referred to in section 1 shall be repaid, along with the interest thereon, from the budget funds referred to in Article 4, section 2, during the next budget year.

Article 6 The subsidies referred to in Article 4, section 1, are provided to banks by Bank Gospodarstwa Krajowego acting for and on behalf of the State Treasury under DOKE agreements signed with those banks.

²⁾ Amendments to the Act in question have been published in the Journal of Laws of 1993, items 127 and 599, of 1994, item 670, of 1995, items 231, 702 and 703, of 1996, item 640, of 1997, items 722, 776, 780, 926, 943 and 1104, of 1998, items 905 and 1076, of 1999, items 499, 596 and 1100, of 2000, items 805 and 1107, of 2001, items 92, 459, 580, 639, 858, 995, 1150 and 1324, of 2002, items 185, 365, 794, 1272, 1387, 1800 and 1803, of 2003, items 79, 774, 874, 1188, 1302, 1934 and 2277, of 2004, items 535, 1162 and 2382, and of 2007, item 657.

³⁾ The act expired on 1 May 2004 pursuant to the provisions of Article 175 of the Act of 11 March 2004 on the tax on goods and services (Journal of Laws item 535), which entered into force on 20 April 2004.

Article 7. 1. The minister responsible for public finances shall enter into an agreement for administering the DOKE Programme with Bank Gospodarstwa Krajowego, which shall in particular lay down:

- 1) procedure for transferring budget funds allocated for subsidies to Bank Gospodarstwa Krajowego by the minister responsible for public finances;
- 2) procedure for submission by Bank Gospodarstwa Krajowego to the minister responsible for public finances of periodical information about the amounts of subsidies granted and paid out, as well as annual financial reports on the use of budget funds allocated for subsidies in a given budget year;
- 3) principles of settlements between Bank Gospodarstwa Krajowego and banks under DOKE agreements;
- 4) terms and conditions of using own funds by Bank Gospodarstwa Krajowego in the situation referred to in Article 5, section 1;
- 5) remuneration due to Bank Gospodarstwa Krajowego for the administration of the DOKE Programme.

2. The minister responsible for public finances, in consultation with the minister responsible for the economy, shall lay down, by way of regulation, the method of calculating the financing costs and applying market short-term interest rate for individual currencies, the principles of applying fixed interest rates, as well as the table of fees and commissions applied by Bank Gospodarstwa Krajowego during the term of DOKE agreements.

3. At the request of Bank Gospodarstwa Krajowego, the minister responsible for public finances, in consultation with the minister responsible for the economy, may consent to the waiver, when concluding a DOKE agreement, of conditions which must be fulfilled for an export credit to be covered by the DOKE Programme, to the extent the foregoing does not breach any international agreements to which the Republic of Poland is a party.

4. The minister responsible for public finances, in consultation with the minister responsible for the economy, shall lay down, by way of regulation:

- 1) subject scope of export contracts and other detailed terms and conditions applicable to export credits and export contracts which must be fulfilled for export credits to be covered by the DOKE Programme;
- 2) procedure for the submission and handling of the applications referred to in section 3, taking into account the need to consider such applications within no more than 30 days after submission of a complete application; and
- 3) cases in which the DOKE Programme may cover a credit granted by a bank for financing local costs related to an export contract covered by that Programme.

Chapter 3

Operation of the DOKE Programme

Article 8. 1. Pursuant to the provisions of the concluded DOKE Agreement, when the fixed interest rate of a given export credit is:

- 1) below its financing costs – Bank Gospodarstwa Krajowego shall be obliged to transfer to a bank the amount of subsidy calculated in accordance with the DOKE Agreement;
- 2) above its financing costs – a bank shall be obliged to transfer the surplus, calculated in accordance with the DOKE Agreement, to Bank Gospodarstwa Krajowego.

2. The minister responsible for public finances shall lay down, by way of regulation, the level of bank margin for export credits that shall depend on the repayment period, the amount and currency of the export credit, as well as the buyer country and the country where the bank is headquartered, taking into account the need to cover the costs of raising funds by banks on the domestic and international financial markets.

Article 9. 1. The fixed interest rates, in particular the CIRR rates referred to in Article 2, point 5, for individual currencies, must be published in a communication by the President of Bank Gospodarstwa Krajowego not later than by 15th day of a given month, and shall remain in force from that day until 14th day of the following month. The communication of the President of Bank Gospodarstwa Krajowego must be published in the Official Journal of the Republic of Poland “Monitor Polski”.

2. The fixed interest rates published in accordance with the procedure set forth in section 1, shall be applied by Bank Gospodarstwa Krajowego while making the promise referred to in Article 10, section 1, point 1, extending its term and signing a DOKE agreement in the manner laid down in the regulations referred to in Article 7, sections 2 and 4.

3. The minister responsible for public finances shall set forth and notify Bank Gospodarstwa Krajowego and the OECD

Secretariat, by 5th day of each month, of the fixed interest rates for the Polish zloty, in particular for the CIRR rates. Provisions of section 1 shall apply accordingly.

Article 10. 1. The export credit shall be covered by the DOKE Programme at the written application submitted to Bank Gospodarstwa Krajowego, within the framework of a two-step procedure entailing:

- 1) receipt by the applicant of a Bank Gospodarstwa Krajowego promise to sign a DOKE Agreement with a bank, hereinafter referred to as the “promise”;
- 2) signing of a DOKE Agreement by Bank Gospodarstwa Krajowego and a bank.

2. Applications for a promise to sign an agreement by Bank Gospodarstwa Krajowego may be submitted by: domestic suppliers, foreign buyers or banks.

3. On the basis of the received promise, a bank shall submit an application for signing a DOKE Agreement with it. If the applicant was an entity other than that bank, then the application for signing a DOKE Agreement with it shall be submitted by a bank acting in agreement with the applicant within 30 days after signing the export contract.

Article 11. 1. The minister responsible for public finances shall lay down, by way of regulation, detailed information which should be included in the application referred to in Article 10, section 2, as well as the list of documents to be attached to the application, and the application form itself.

2. The application referred to in Article 10, section 2, shall include, in particular:

- 1) bank data;
- 2) domestic supplier data;
- 3) foreign buyer data;
- 4) detailed information on the planned export contract;
- 5) detailed information on the planned export credit;
- 6) information on the planned export credit insurance with the Corporation.

Article 12. 1. Bank Gospodarstwa Krajowego shall review the application referred to in Article 10, section 2, along with the documents attached thereto, and shall establish whether the export contract and the export credit contract or drafts thereof meet the requirements set forth in the Act and the regulations referred to in Article 7, sections 2 and 4.

2. Depending on the findings referred to in section 1, Bank Gospodarstwa Krajowego shall be obliged, within 10 working days after receipt of the application, to:

- 1) make the promise, or
- 2) request the applicant to supplement or correct the application, or
- 3) apply to the Committee for Export Insurance Policy for the consent referred to in Article 3, section 3 or 4, or to the minister responsible for public finances for the consent referred to in Article 7, section 3; or
- 4) refuse the promise.

3. Bank Gospodarstwa Krajowego shall immediately notify the applicant of the steps taken in accordance with section 2.

4. The promise shall include, in particular:

- 1) name of the applicant;
- 2) commitment of Bank Gospodarstwa Krajowego to enter into a DOKE Agreement with the bank;
- 3) term of the promise, which cannot exceed 120 days;
- 4) fixed interest rate applicable to the export credit;
- 5) terms and conditions of the export contract, credit contract and export credit insurance contract, accepted by Bank Gospodarstwa Krajowego.

5. If the export contract, export credit contract or export credit insurance contract with the Corporation is not signed during the term of the promise, the applicant may apply to Bank Gospodarstwa Krajowego for the extension of that term, however for no more than 60 days. In such a case, the fixed interest rate applicable to the export credit shall be determined again.

Article 13. 1. The application referred to in Article 10, section 3, shall include:

- 1) bank data;
- 2) data of the applicant referred to in Article 10, section 2, if it is an entity other than a bank;
- 3) information about the promise made by Bank Gospodarstwa Krajowego;
- 4) fixed interest rate applicable to the export credit;
- 5) bank declaration that the terms and conditions of the export contract, credit contract and export credit insurance contract as accepted by Bank Gospodarstwa Krajowego, have been met.

2. The bank shall attach contracts referred to in section 1, point 5, to the application.

3. After the bank has submitted the application referred to in section 1, Bank Gospodarstwa Krajowego shall be obliged to sign a DOKE Agreement with that bank during the term of the promise, provided that the terms and conditions of the export contract, export credit and export credit insurance contract as accepted by Bank Gospodarstwa Krajowego have not been amended or amendments thereto have been approved by Bank Gospodarstwa Krajowego.

Article 14 The DOKE agreement must be made in writing and lay down, in particular:

- 1) parties to the agreement;
- 2) principles of periodical settlements between Bank Gospodarstwa Krajowego and a bank, including the method of calculating the financing costs and applying of the market short-term interest rate;
- 3) bank margin rate;
- 4) fixed interest rate applicable to the export credit;
- 5) data of the export credit contract, including indication of the contracting parties, amount of the credit granted, credit currency, purpose of the credit, as well as the terms and dates of the repayment of consecutive credit installments;
- 6) data of the insurance contract, including indication of the contracting parties, as well as the scope and terms and conditions of the export credit insurance;
- 7) data of the export contract, its value, as well as indication of the contracting parties, subject matter, performance deadlines and amount of the cash advance payment;
- 8) fees and commissions due to Bank Gospodarstwa Krajowego for the performance of the DOKE Agreement;
- 9) terms and conditions of the agreement termination.

Article 15 The DOKE Agreement shall expire upon repayment of the export credit or notice of termination of the credit contract by a bank as a result of late repayments, termination of the export credit insurance contract, or if a bank approaches the Corporation with a request to pay out the amount insured.

Article 16 Provisions of the Act shall not apply to export contracts that were concluded prior to the effective date of the Act and continue after its entry into force.

Article 17 The Act shall enter into force three months after its promulgation⁴⁾.

⁴⁾ The Act was promulgated on 18 July 2001.