
GUIDELINE FOR THE ISSUANCE OF SOVEREIGN GUARANTEES

1. Introduction

- a) This Guideline sets out the procedure to be followed by the Ministry of Finance and Treasury (MOFT) in issuing sovereign guarantees, the process of requesting for and the conditions to be fulfilled by the company requesting a guarantee. This policy aims to ensure that the process of granting sovereign guarantees is fair and transparent.
- b) The purpose of this Guideline is to fulfil the responsibilities of MOFT under Section 5 of the Public Finance Act (3/2006). This Guideline may be revised from time to time in light of changes in the development objectives and policies of the Government as well as experience gathered in implementing the policy.
- c) This Guideline does not enable the issuance of sovereign guarantees to private individuals.

2. Eligible parties and projects

- a) Sovereign guarantees may be issued for companies proposing to implement large-scale projects that are of precedence to the Government and meet the following criteria:
 - 1. State owned enterprises
 - 2. Companies registered or re-registered in the Republic of Maldives
- b) An application for the issuance of a Sovereign guarantee shall only be made for loans taken to develop the following projects.
 - 1. Tourism sector development projects
 - 2. Social housing projects that meet the criteria set out the Government
 - 3. Other developmental projects that are of a high priority to the Government
- c) Sovereign guarantee shall only be issued if the effective rate of interest of the underlying loan does not exceed 3.5% (exclusive of LIBOR)¹.

3. Guarantee application procedure

The guarantee application shall be submitted to the Ministry of Finance and Treasury. The guarantee application letter must be submitted together with the completed guarantee application and all information to be submitted with the guarantee application as stated in this Guideline. The guarantee application form may be downloaded from the website of the Ministry of Finance and Treasury (www.finance.gov.mv). The details of the supporting documents to be submitted are listed in the application form.

¹ **Translator's note:** See definitions

4. Documents to be submitted with the guarantee application

- a) The following documents must be submitted with the guarantee application. An application shall only be deemed to have been made successfully where the following documents have been completed and submitted in accordance with this Guideline.
1. Company brief and shareholding structure, organizational structure, management team, and details of the personnel involved in the planning and implementation of the project to be backed by the government guarantee.
 2. Copy of company's business registry
 3. Company board resolution. The resolution must clearly state the Board's decision to apply for a sovereign guarantee, the reason for seeking the guarantee and the intended use of the guarantee.
 4. The company business plan for the duration of the guaranteed project. The business plan must include the financial forecasts, operating plan and marketing plan of the company.
 5. Audited financial statements of the company for the past three years.
 6. A completed "Moneys owed to the Government by parties applying for a Sovereign Guarantee" form.
 7. Details of moneys owed to any financial institution, if any, by the company
 8. Details of moneys owed in respect of any legal process or other debt obligations, if any, by the company
 9. Term sheet of the loan to be guaranteed, draft loan agreement and all the documents and details related to the proposed project
 10. Details of any loans, overdrafts or any other financial exposure that is currently ongoing, the security that has been offered for those commitments, details of other securities and complete information of the exposure
 11. A board resolution of the company stating that the company submits to the provisions of this Guideline
 12. Company board resolution stating that a settlement agreement containing an alternate procedure for repayment exists for any amounts owed to the government or under a court judgment that are not being paid as scheduled
 13. Project feasibility study as detailed under section 7 of this Guideline
 14. Information relating to the loan to be guaranteed as detailed under section 8 of this Guideline
- b) MOFT reserves the right to request additional information

5. Loans not eligible for sovereign guarantees

- a) A guarantee may not be issued for the following applicants under this Guideline.
1. The guarantee applicant company is in arrears with any other government agency and has not come to an agreement with the agency for the repayment of the amount due.

2. The guarantee applicant company is in arrears with any financial institution and has not come to an agreement with the agency for the repayment of the due amount
3. The guarantee applicant company is in arrears for amounts owing under a court judgment or other debt obligations, and has not come to an agreement for the repayment of the amount due

6. Prohibited conduct

- a) Once the guarantee is issued, the company shall not undertake the following without written approval from MOFT.
 1. Undertake further borrowings
 2. Offer as security any assets or securities for the purpose of obtaining any other loan or guarantee
 3. Dispose or divest its assets or securities
 4. Transfer its shares to another party

7. Project Feasibility study

The project feasibility study, inclusive of the information specified below, must be submitted to MOFT when applying for the guarantee.

1. Project brief (including the detailed design of the project and bill of quantity) and the project feasibility report. The project feasibility report should be undertaken by an independent party agreed upon by the guarantee applicant and MOFT.
2. Value addition to the existing assets of the company due to the project
3. Economic and social benefits that would result from the project. This should include the following.
 - 3.1 Impact on economic growth and development
 - 3.2 Increase in employment opportunities resulting from the project (distinguishing employment opportunities created for Maldivians and foreign parties)
 - 3.3 Export/Import substitution and increase in foreign currency inflows
 - 3.4 Infrastructure development and expansion of addition services
 - 3.5 Expansion of the project sector, and the distribution of benefits of the project at regional, atoll and island levels
 - 3.6 Impact on the livelihood of citizens
4. Financial forecasts of the company for the duration of the guarantee, and details of key assumptions made about the project. This should include profit and loss statements, cash flow statements and forecasted financial position, including key financial ratios for the duration along with their sensitivity analysis. Additionally, the impact of the loan on the company

8. Loan Facility Information

- (a) The following information regarding the loan must be provided with the guarantee application under this guideline
1. Details of the financing institution, including a brief on the services provided by the institution
 2. Financing terms of the loan (loan amount, currency, interest rate, maturity, grace period, other fees and conditions)
 3. Loan disbursement schedule and repayment plan
 4. Draft loan agreement (A loan agreement which states that a sovereign guarantee will be provided must not be signed before the issuance of the guarantee)
 5. Details of the security offered for the loan, if any (This should include details of security ownership, its value, valuation basis, and party who conducted the valuation. Additionally, the draft security agreement should also be included)
 6. Reason for choosing the specific financing institution. To ensure that financing is being sought from the party offering the most favorable terms, The MoFT may request, at its discretion, details of communications between the company and other financing institutions expressing interest in financing the project.

9. Guarantee Limit

- a) For a company where the Government is a shareholder, in determining the limit for the issuance of a guarantee, the Government's share in the company, the company's credit risk, and the project feasibility will be considered. In addition to this, the country's economic condition, government's financial capacity and the financial impact of the guarantee on the government shall be taken into consideration. If it is determined that the risk to the government of issuing the particular guarantee is too high, a security may be demanded by the government.
- b) Where the Government is **not** a shareholder of the company, only a "last call" or "conditional guarantee" may be issued.
- c) A guarantee may only be issued for a company that the Government is **not** a shareholder of, where the company's credit risk and the feasibility of the project for which the loan is being taken has been evaluated. In addition, the country's economic condition, government's financial capacity and the financial impact of the guarantee on the government shall be taken into consideration.
- d) The following procedure must be followed in order to issue a sovereign guarantee for a company where the government is **not** a shareholder:
 1. An asset that is equal to 100% of the value of the commitment fee, management fee, the value of an estimate of the interest that will be incurred on the date that the guarantee is issued and any additional costs (total cost of borrowing), must be secured in favour of the Government

2. The project asset shall be secured as collateral in favour of the Government.
3. Once the creation or development of the project asset has been completed, the government shall conduct a valuation of the asset(s), to ensure that the value of the secured assets are maintained at 100% of the total cost of the loan. Moreover, where any of the secured assets are released, the cost of valuations that must be conducted prior to release, shall be borne by the guarantee recipient company.
4. Taking into consideration the company's credit risk, to ensure repayment of the loan, the Government may require that the guarantee recipient company must open a reserve/escrow account in a bank specified by the Government and deposit and maintain a set amount
 - e) Where the guarantee is a "last call" or "conditional guarantee" the Government may require that a security commensurate with the risk borne by the Government is provided.
 - f) The Government, at its discretion, may require that the shareholders of the company undertaking the loan, provide a personal guarantee to the Government.
 - g) The Minister of Finance will declare a guarantee issuance limit, annually.

10. Guarantee Fee, Evaluation Fee, administrative fee, other fees

- a) A sovereign guarantee may only be issued upon the payment of a guarantee fee of 1% of the loan amount to the Government. This is a one-time fee, payable to the MOFT. Details on payment of the fee would be provided to the guarantee recipient company within 3 days of the decision to issue the guarantee.
- b) A fixed fee of MVR 170,000 shall be charged to the guarantee applicant company for the completion of due diligence and administrative costs.
- c) The submissions made by eligible applicants are subject to evaluation by an independent party appointed by MOFT or an independent audit firm. The cost incurred in evaluating the guarantee application and associated documents shall be borne by the guarantee applicant company.
- d) In addition, if the applicant seeks approval to carry out activities stated in section 6 of this Guideline the company would be re-evaluated. This re-evaluation fee should also be borne by the applicant company.
- e) The guarantee applicant company is required to pay an administrative fee of 0.25% of the guaranteed amount annually. This fee is payable to MOFT.
- f) All fees paid under this section are non-refundable
- g) The Ministry of Finance and Treasury reserves the right to amend fees under this section that are charged to companies that the government is a shareholder of.

11. Guarantee Letter and Agreement

- a) A guarantee agreement will be signed between the applicant company and the Government which should clearly state all the procedures related to the issuance of the guarantee.

- b) All guarantees issued by the government should follow a standard format and must be endorsed by the Attorney General's Office.
- c) A guarantee may only be issued for the period of the guaranteed loan, and the termination or end date of the guarantee should be clearly stated in the guarantee letter.
- d) The Government may at its discretion include conditions and criteria as it sees fit in the guarantee letter, loan transaction and the scope of the guarantee.

12. Guarantee Issuance and General Conditions of the Guarantee

- a) Guarantee for the requested project would be issued under the Guidelines stated in Article 5 of law number 3/2006 (Public Finance Act of the Maldives).
- b) All administrative arrangements for the guarantee issuance would be carried out by the MOFT. After assessing all the documents provided by the guarantee applicant, if the minister decides to proceed with the guarantee issuance, the decision would be submitted for the approval of the President and issued after the President's approval is granted. If the request for the guarantee is rejected at any stage, the guarantee applicant will be notified.
- c) The Government must ensure that in addition to the sovereign guarantee, adequate additional security is provided to secure the guaranteed loan.
- d) A due diligence and financial capacity assessment of the Company should be conducted by the Ministry of Finance and Treasury or an independent party appointed upon the agreement of both parties

13. Monitoring of the Guarantee

- a) The MOFT is responsible for the recording, monitoring and conducting risk analysis for all guaranteed loans. For this purpose, the MOFT should carry out the following:
 1. The company is required to provide details of outstanding balances and debt servicing quarterly, and as requested to MOFT. In addition additional information should be provided upon request of MOFT.
 2. The status of the project financed under the guaranteed loan must also be communicated quarterly to MOFT
 3. The MOFT, or parties appointed by the MOFT, will also conduct physical inspections of the project site at least twice a year. The company shall ensure that shall facilitate inspection and ensure that MOFT is provided with all relevant permits.
 4. Monitoring loan transactions and carrying out a project audit and evaluation within a set time period

14. Guarantee Call

Where difficulties are experienced in repaying the guaranteed loan, prior to the liquidation of any security granted, the beneficiary of the guarantee and the guarantee applicant, shall at the earliest possible opportunity, bring the matter to the attention of MOFT.. In addition to this, should the Government pay any amount as a result of the guarantee being called, the amount paid by the government would become a loan between the government and the company. In the aforementioned circumstances, the Government and the company shall enter into an agreement to pay back the loan.

15. Auditing

Sovereign guarantees issued shall be audited in accordance with a set regulation, and any information required for the audit should be provided by the beneficiary of the guarantee and the guarantee applicant company.

16. Publishing

Information relating to sovereign guarantees issued by the government shall be published in accordance with the procedure set out by MOFT.

17. Definitions

For the Purpose of this Guideline, the following definitions apply:

Sovereign guarantee: A guarantee is a commitment by the Government to repay the financial liabilities of another entity, should that entity default.

Guarantor: The Government of Maldives, as the entity providing the guarantee.

Beneficiary of the guarantee: The Lender, provider of the loan to be guaranteed.

Guarantee recipient company²: The company whose debt, the Guarantor is guaranteeing.

Guarantee call: Guarantee call means the notice issued by the Beneficiary of the guarantee, for the Guarantor to make payments under the loan.

Project asset: the asset created or developed using the proceeds of the loan for which the sovereign guarantee is being issued.

² **Translator's note:** Due to the wide variation of phrasing with reference to the term "company" all references to the word company (e.g. "guarantee applicant company" "company" "guarantee recipient company" "applicant company") can broadly be construed to mean the company whose debt is to be guaranteed by the Government via the issuance of a sovereign guarantee.

Effective Interest Rate: Effective rate of interest is the rate, excluding loan repayment, that includes all charges on the loan (exclusive of LIBOR). This rate is different from the nominal interest rate. Even if the nominal interest rate of a loan is 3.5%, if the loan incurs other fees such as management fee, commitment fee, or legal fees, the effective rate of interest would likely exceed 3.5%. Thus, this effective interest rate shall not fluctuate with changes in LIBOR. Similarly, if the inter-bank offered rate of another country or region is used instead of LIBOR, that rate shall not be included in the calculation of the effective interest rate.

18. Entry into force

This guideline shall come into force upon it being published in the government gazette. All applicants, having made applications for guarantees submitted up to the date of publishing, but have not been issued guarantees must comply with this guideline.
