

**DEMOCRATIC REPUBLIC OF TIMOR-LESTE**  
**VI CONSTITUTIONAL GOVERNMENT**

**Decree-Law No 23/2017 of July 12**  
**CREDIT GUARANTEE SYSTEM FOR SMALL AND MEDIUM-SIZED ENTERPRISES**

In Timor-Leste, small and medium-sized enterprises (SMEs), namely those operating in sectors relevant to the national economy such as agriculture and fisheries, face major difficulties in obtaining bank credit. Such difficulties jeopardize entrepreneurship, jobs creation, and economic growth.

The difficulties experienced by the SMEs in obtaining credit are due to several factors and among them the low business productivity and the inability to provide real securities, as required by the current legal system.

Supporting SMEs is a Government priority. Besides being a tool for social justice, it is also essential for the implementation of a solid and viable business framework that will then allow the economic and social development of the country.

Therefore, the establishment of a simple and effective credit guaranty system, in combination with risks sharing mechanisms in case of default, and with programs guaranteeing access to training and information on business management and entrepreneurship, seem to be a tool which will impact positively and support the development of small and medium enterprises.

In fact, generating a credit guarantee system properly framed, coupled with other complementary measures for the private sector, as seen in other countries, will be able to produce positive results in promoting SMEs, in supporting young entrepreneurs, and the socio-economic promotion of women. This will eventually create new job opportunities, which is the foundation of a sustainable and diversified economy led by the private sector.

Thus, the present Decree-Law is creating a public program of credit guarantee system to support the small and medium enterprises (SMEs), in which the State will share with commercial banks the risk of provision of credit up to 70% of the loans complying with the legal requirements. The Central Bank of Timor-Leste (BCTL) shall manage and develop the credit guarantee system (CGS) through the definition of the respective schemes, which shall establish the specific conditions

of access to credit for the SMEs as well as the specific parameters the banks shall follow.

The present decree also creates a Monitoring Committee integrating representatives of different government sectors, which include, finance, economy, agriculture, trade, industry, tourism, job creation and vocational training, youth and gender equality as well as representatives of banking institutions operating in Timor-Leste. This Committee shall play a significant role in the implementation of the credit guarantee system.

Having heard the Central Bank of Timor-Leste (BCTL),

The Government decrees, under the subparagraph n) of the paragraph 1 of Article 115 and subparagraph d) of Article 116 of the Constitution of Timor-Leste, the following:

## **CHAPTER I CREDIT GUARANTEE SYSTEM**

### **Article 1 Subject Matter**

The present Decree-Law creates the credit guarantee system (CGS) for the small and medium-sized enterprises (SMEs) establishing the respective legal framework.

### **Article 2 Nature**

The CGS is a credit guarantee public program, managed by the Central Bank of Timor-Leste (BCTL), under the terms foreseen in the present diploma and in the respective approved schemes.

### **Article 3 Purposes**

The CGS serves the following purposes:

- (a). To favor the creation and growth of SMEs;
- (b). To promote the productivity of SMEs and job creation by financing technological modernization and innovation mechanisms;
- (c). To facilitate credit granting and proper financing in areas and domains of activity deemed priorities for national development and economic diversification;

- (d). To foster the domestic entrepreneurship and women and young entrepreneurs participation on the creation of self-employment;
- (e). To encourage the entrepreneurship and SMEs creation in rural areas;
- (f). To contribute for expanding the access to banking and financial services and, at the same time, to encourage the responsibility for timely payment of loans.

#### **Article 4** **Scope**

1. The CGS shall apply to credits granted by officially licensed banks to:
  - (a). Individual sole traders with Timorese citizenship as so duly registered in the commercial registry and qualified as SMEs under this diploma;
  - (b). Commercial Companies incorporated and registered under the Timorese law in which individuals holding a Timorese citizenship directly or indirectly own at least 75% of the capital shares with voting right.
2. The CGS shall not apply to:
  - (a). Commercial Companies with capital shares in another company which is not SME or where a company which is not SME detain shares;
  - (b). Commercial Companies where the State or other public entities own more than 10% of the capital shares;
  - (c). Individual sole trades or commercial companies in event of default of bank credit recorded in the Timor-Leste Central Bank;
3. For the purposes of this article, the capital shares are considered to be indirectly owned whenever they are held by another commercial company whose capital shares belongs up to 75% to an individual with Timorese citizenship.

#### **Article 5** **Small and Medium-sized enterprises**

For the purposes of the CGS application, one shall considered:

- (a). Small enterprise: those who employ between 6 to 20 workers;
- (b). Medium-sized enterprise: those who employ between 21 to 50 workers;

#### **Article 6** **Eligibility**

1. The CGS shall apply to credits granted in pertinent areas that prioritizes the diversification of the economy such as, agriculture, forestry, livestock, fisheries, manufacturing, transport, tourism and their affiliated activities to be implemented in the national territory in agreement with the guidance of the Strategic Development Plan 2011-2030.
2. Without prejudice of the preceding paragraph, the Steering Committee after consulting the member of the government responsible for the economy, can then decide which areas to include and/or exclude from CGS.
3. For the purpose of the two preceding paragraphs, it is required the BCTL to divulge through adequate procedures to banks and SMEs, the areas included and excluded from the CGS.
4. To be eligible to benefit from the CGS, the SMEs must demonstrate at the moment of credit granting that:
  - (a). They fall within the criteria of article 4;
  - (b). Present feasible commercial projects in chosen areas;
  - (c). Have the means to reimburse the credit;
  - (d). Have reasonable cash flow;
  - (e). Do not have any past-due credit nor is in debt with any banking institution;
  - (f). Comply with the rules and regulations relevant to the credit guarantee proposal and its respective tax obligations;
  - (g). Fulfill the requirements established by the respective banking institution;
  - (h). Are not in any of the situations referred to in article 13;
  - (i). Comply to any additional requirements presented in their respective proposals.
5. The stipulations of subparagraph (d) shall not apply to SMEs that have been founded for less than one calendar year.
6. Changes in the structure of the business as detailed in article 4 paragraph 1 subparagraph b), during the guarantee duration period, automatically determines the joint liability of the new and former partners relative to the loan and respective interests

**Article 7**  
**BCTL**

BCTL is responsible for implementing, managing and regulating the CGS, in accordance to the law.

### **Article 8 Monitoring Committee**

1. With the objective of monitoring the implementation of the CGS, a Monitoring Committee is established and shall be composed of:
  - (a). The Member of the Government responsible for the economic sector, President of the Commission;
  - (b). The Governor of the Central Bank;
  - (c). A representative of the Government member responsible for the agriculture and fisheries sectors;
  - (d). A representative of the Government member responsible for the finance sector;
  - (e). A representative of the Government member responsible for the trade and industry sectors;
  - (f). A representative of the Government member responsible for the tourism sector;
  - (g). A representative of the Government member responsible for promoting equality;
  - (h). A representative of the Government member responsible for vocational training and employment;
  - (i). A representative of the Government member responsible for the youth;
  - (j). A representative for each of the commercial banks operating in Timor-Leste;
2. In the case of absence or impediment, the Government members can be represented by another Government member indicated by them, and the Governor of the Central Bank can be represented by one of the Deputy Governors.
3. The tasks of Monitoring Committee are as follows:
  - (a). To monitor the implementation of the CGS and solicit information from BCTL regarding guaranteed credits in the sectors supported, through statistics of defaults or any other information considered applicable;
  - (b). To be heard by the BCTL in preparation of the schemes to implement the CGS;

- (c). To issue non-binding propositions and recommendations to the BCTL on the implementation of the CGS and its respective schemes.
4. The BCTL shall provide the administrative and logistical support necessary to assure the smooth functioning of the Monitoring Committee
5. The Monitoring Committee shall meet twice a year and occasionally when a meeting is summoned by the president.
6. The Monitoring Committee shall approve its bylaws in accordance to the present Decree-Law.

**Article 9**  
**Financing and Budget Execution**

1. The amounts that shall be directed towards the implementation of the GCS will be included in the annual General State Budget.
2. The amount referred to in the previous number shall be transferred to an official account created in accordance with the law, and specifically for that purpose.

**Article 10**  
**Submission of Information**

1. The BCTL shall submit information to the Prime-Minister on the financial execution and implementation of the CGS on a semiannual basis.
2. The BCTL shall publish annually a report on the management of CGS based on the information that shall be provided under the previous paragraph.

**Article 11**  
**Schemes of access to the CGS**

1. The BCTL shall detail and elaborate the schemes to access the CGS, and define the requirements and procedures for the approval of guarantee to bank credit under the CGS.
2. The Schemes to access the CGS shall include the following limits:
  - (a). The secured loans should fit in in one of the prioritized sectors identified under the terms of article 6;
  - (b). The maximum amount covered by the guarantee given by the CGS is 70% of the capital loan, not being able to cover the respective interests;

3. In the event that the SME defaults, the CGS and the lender bank are both liable for the loss. Concurrently the CGS will only respond in proportion to rate determined in the guarantee offered, whereas the leasing bank will cover the loss proportional to the capital not covered by the guarantee.
4. The Schemes to access the CGS should at least define the following conditions:
  - (a). The scope of the activities and/or investments included in each scheme;
  - (b). The maximum amounts and time periods of the guarantees to be provided for each scheme;
  - (c). The rules concerning the compliance with the fiscal State debts;
  - (d). The requirements that need to be met by banking entities who wanted to call the guarantee granted by the CGS;
  - (e). The type and duration of labor relations, the SMEs should establish;
  - (f). The most favorable conditions to foster entrepreneurship among women and youth between the ages of 18 to 30 as measure to support the creation of jobs;
  - (g). The measures taken to oversee whether the rules of the scheme are being met.

## **Article 12 Claims and Appeal**

The decisions of the BCTL taken within the scope of the CGS implementation, including respective sanctioning regimes, are subject to claims and appeals in the general terms.

## **Article 13 Non-compliance of SMEs**

1. The SMEs that are in a situation of definitive non-compliance and have breached their contractual obligations for guaranteed credit through CGS are obstructed from its benefits for five years, starting from the date of the activation of the guarantee.
2. The SME that violate the Decree-Law or its regulations with intent or negligence will be obstructed from benefiting from GCS for a period of five years, counting from the day of the breaching.

3. The sanctions established in the paragraphs above are extended to the respective administrators and partners with dominant position as well as to any SMEs where they detain participation or effective control, unless it is proven that they act without fault or gross negligence.
4. For the purposes of this article, are considered partners with dominant positions those who individually or jointly act in an articulated manner, control more than 50% of the social capital or of the voting power and can elect more than half of the members for the administrative bodies.
5. The BCTL is responsible for certifying, under the terms of the schemes respective regulations, the non-compliance with the provisions of this Decree-Law or its regulations and for maintaining an up-to-date list of non-compliant SMEs.

#### **Article 14** **Obligations of Institutional Banks**

1. It is the obligation of the banking institutions whom benefit from the CGS under each loan granted by them to:
  - (a). Ensure that the loan is granted solely to individual sole traders of Timorese nationality, properly registered for the purpose of commercial registration and considered as SME under this diploma;
  - (b). Ensure that the credit is granted solely to Commercial Companies incorporated and registered under the Timorese law in which individuals holding a Timorese citizenship directly or indirectly own at least 75% of the capital shares with voting right.
  - (c). Verify before the credit is granted that the Individual sole trades or commercial companies are not in event of default of bank credit recorded in the Timor-Leste Central Bank;
  - (d). Ensure that the credit is financing activities within the scope of the annual list of the prioritized sectors identified in article 6;
  - (e). Define and evaluate the criteria necessary to determine the financial viability of the enterprise;
  - (f). Define and evaluate the criteria necessary to determine viability of financed project.
  - (g). Evaluate if the individual sole trader or the commercial company is able to meet the credit in accordance to criteria of valuation, that is no less demanding than those used to grant loans covered by CGS;



- (h). Adhere to the requirements established by the respective schemes approved by the BCTL.
  - (i). To reimburse the CGS in case of a supervening credit charge will be done, in a judicial or extrajudicial matter, in the proportion of the amount actually collected
2. Non-compliance of the banking institutions, by action or by omission, with the established in this article or its regulations will imply the ineffectiveness of the guarantee granted.

### **Article 15 Liability**

1. The provisions of this chapter shall be independent from the right of the State to claim return from the principal debtor, as well as from the civil, administrative or criminal liability that occurs, in general terms.
2. In the event that the CGS is activated, it is the responsibility of the BCTL to communicate to the Public Prosecutor (Ministério Público) the debtor identification, the amount paid by the CGS and any pending action that it has knowledge of.
3. It is in the capacity of the Public Prosecutor (Ministério Público) to represent the State in any judicial processes necessary to exercise the right of return and/or reimbursement of the amounts settled by the CGS.

### **Article 16**

Every four years after the Decree-Law is put into effect, the government should promote an evaluation of the impact of this Decree-Law, what should be conducted by an independent qualified entity.

### **Article 17 Regulation**

The BCTL shall regulate the present Decree-Law, through the approval of the schemes and the procedures to apply the sanctions mentioned in the previous chapter, within the maximum period of 90 days after the law enter into force.

### **Article 18**

This Decree-Law shall enter into force the day after its publication.

Approved by the Council of Ministers, on 7<sup>th</sup> of July 2017

The Prime Minister,

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Rui Maria de Araújo

The Minister of State, Coordinating Minister for Economic Affairs and Minister of  
Agriculture and Fisheries,

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Estanislau Aleixo da Silva

Promulgated on \_\_\_\_\_

For publication.

The President of the Republic,

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Francisco Guterres Lú-Olo