

## BANK GUARANTEES FOR FINANCIAL LOANS REFORMED

JUDr. Anna Nedasová, Slovak Guarantee and Development Bank

*The Board of Directors of Slovenská záručná a rozvojová banka, a.s. (the Slovak Guarantee and Development Bank) at its meeting on 2 December 2003 approved the bank's General Conditions for the Provision of Bank Guarantees for Financial Loans, the main principles of the new guarantee mechanism and the new table of fees for issuing bank guarantees for financial loans.*

Recipients of bank guarantees are natural and juristic persons conducting business under Article 2(2) of the Commercial Code, towns and municipalities and in specific cases also juristic persons established under the Civil Code, or specific laws. Clients shall continue to submit the application for the provision of a bank guarantee via the financial institution granting the loan.

### Two types of bank guarantee

The Slovak Guarantee and Development Bank (SZRB) will provide two types of bank guarantee. Bank guarantees may still be provided according to the hitherto indemnification principles from a bank guarantee issued, and designated as a **bank guarantee with direct security** with partial amendment to the wording of the letter of guarantee. This type of bank guarantee may be issued in an amount of up to 65% of the loan principal, at maximum up to the amount of SKK 15 million, with a repayment period of up to 6 years for agricultural entities and up to 5 years for other enterprises. In case of using this type of SZRB bank guarantee, the bank will as a rule require the client to provide security for any possible future receivable by one of the securing institutes. Where the conditions for indemnification from the bank guarantee issued are met, SZRB shall provide indemnification from the bank guarantee within the period of 60 days from the delivery of a complete demand.

A change has now been made to the table of fees for issuing this type of bank guarantee, which the client settles in a single payment prior to the issuing of the letter of guarantee.

A bank guarantee issued under the new principles

is designated as a **bank guarantee with indirect security**. Prior to issuing a first bank guarantee of this type it is necessary to conclude with the lending financial institution in whose favour the bank guarantee is to be issued, a Contract on Joint Procedure, governing on a framework basis, the mutual rights and obligations. Such a bank guarantee may be issued up to the amount of 70% of the loan principal, at maximum up to the amount of SKK 30 million, with a repayment term of up to 10 years. In the case of this type of bank guarantee SZRB will not secure its possible future claim through the establishment of a right of lien, nor any other manner, whereby the client, among other things, saves money on fees connected with their establishment. SZRB will however have a claim to a share of the proceeds from the liquidation of the securing institutes of the lending financial institution in an amount corresponding to the percentage guaranteed. Where the conditions for indemnification from a bank guarantee issued are met, SZRB will provide to the lending financial institution within 45 days from the delivery of a demand a billable deposit in the amount of the guaranteed loan, which does not bear interest in favour of SZRB. The lending financial institution may use it as indemnification from the bank guarantee after the elapsing of three years from the date of its delivery, other than in cases specified in the letter of guarantee, where it is possible to use the billable deposit also prior to this term (for example in the case of a rejection of a declaration of insolvency, cancellation of a bankruptcy following the fulfilment of a schedule resolution, a suspension of an execution order due to lack of assets).

It depends then mostly on the lending financial institution as to how quickly it can manage to perform all the legal steps related to recovering the receivable, in order to gain title to use the billable deposit as indemnification from the bank guarantee already prior to the elapsing of the three-year term. During this period the lending financial institution is obliged to recover the receivable and liquidate the assets of the client, or guarantor and use the proceeds in the manner stated in the letter of guarantee. In the case of the settlement of the principal from funds gained in this way, the lending financial institution shall send



to SZRB, from the billable deposit, an amount equaling the percentage in which SZRB issued the bank guarantee. SZRB shares proportionally in any potential loss at the percentage rate it provided the bank guarantee, other than in cases where it has not been possible to liquidate assets in the three-year term or to use revenue from the liquidation of the assets for the repayment of the principal. In such a case, the loss to SZRB may be higher. The fee for issuing a bank guarantee also in this case is settled by the client through a single payment prior to the letter of guarantee being issued and its amount is lower than in the case of using the first type of bank guarantee. Compared to the situation before, the fee for issuing this type of bank guarantee, with a duration up to 4 years, is substantially lower than in the case of bank guarantees according to the previous table of fees.

**Agricultural entities**, to which a bank guarantee is to be provided in the framework of programmes operated by the SR Ministry of Agriculture will in the case of both types of bank guarantee receive advantages over other businesses through a lower rate of the fee. For example, under the new guarantee mechanism, with a term of up to one year the client pays a single fee in the amount of 0.7%, compared to the previous fee of 1%, for a two-year guarantee the client pays 1%, compared to the previous rate of

1.5%. The amount of the fee for bank guarantees of a longer duration has, however, been partially increased, though to nowhere near as much as the commercial rate, as would cover SZRB's costs connected with potential indemnification from the bank guarantee.

SZRB's General Conditions for the Provision of Bank Guarantees for Financial Loans apply primarily to small- and medium-sized enterprises. They are applied accordingly to the provision of bank guarantees to large clients for projects of a project financing nature (e.g. infrastructure and environmental projects). To such clients a bank guarantee may be provided under the mechanism to date, or under the new mechanism, up to the amount of SKK 200 million.

In such cases it is possible to agree, on an individual basis, specific conditions (e.g. the percentage of the bank guarantee provided, the amount of the fee, the term of the bank guarantee, etc.), which however are subject to approval by the SZRB Board of Directors.

The granting of exceptions from the principles stated above, which are reflected in SZRB's General Conditions for the Provision of Bank Guarantees for Financial Loans is within the competence of the SZRB Board of Directors.

## SZRB SUPPORTS THE CONSTRUCTION OF APARTMENTS, INFRASTRUCTURE DEVELOPMENT AND RENOVATION OF THE HOUSING STOCK

Alena Groschová, Slovak Guarantee and Development Bank

*The Slovak Guarantee and Development Bank (Slovenská záručná a rozvojová banka, a.s. - SZRB), as has now become a tradition, on 30 March to 3 April 2004 participated at the international construction industry fair CONECO 2004. In the framework of its accompanying programme, SZRB prepared for visitors the seminar "Support for Small- and Medium-Sized Enterprises", at which it informed the public about its new products.*

SZRB in its product portfolio has several programmes supporting the development of apartment con-

struction, local infrastructure and renovation of the housing stock.

Through the guarantee programme of state support for the development of apartment construction the conditions are created not only for the development of apartment construction, but also the restoration of the housing stock. The guarantee relates to projects for the construction and completion of apartments, the reconstruction of non-residential premises into apartments, the construction and completion of water-supply and sewerage networks, roads and pavements, gas and electricity supply networks, where these are conditional for the use of apart-



ments in apartment blocks and houses. The guarantee is also intended for the repair, modernisation and reconstruction of common parts, facilities and equipment of apartment blocks.

**Loan Programme Development II – apartments** enables the financing of up to 80% of the project costs in the construction, reconstruction, modernisation and renovation of apartments and houses. The maximum amount of a loan is SKK 80 million. The repayment period of the loan is set at 15 years, including two years' deferred repayment of the principal. The loan is realised either directly in SZRB at an average interest rate of 8% p.a. or via a commercial bank, in which case the interest rate is 3.9% p.a. + the commercial bank's margin.

Another loan realised via commercial banks is the **Loan Programme Development II – SMEs** with an interest rate of 3.5% p.a. The programme gives the opportunity to small- and medium- sized enterprises, as well as towns and municipalities to refinance their medium-term and long-term investments up to the amount of 75% of eligible costs. Towns and municipalities may use this programme, for example, to finance the development of urban and local infrastructure. The maximum amount of a loan is SKK 60 million, where the repayment period is 10 years. For municipalities, housing associations, apartment owners' associations and developers there is available the loan Financing Programme for Municipality Infrastructure and Apartment Construction for People on Low Incomes by means of a loan from the Development Bank of the Council of Europe (variant A). It is possible by means of the loan to finance up to 50% of acquisition costs, provided that the loan applicant has gained a state subsidy for the acquisi-

tion costs. The loaned funds must be used for the construction of rented apartments, the reconstruction of non-residential premises into rented apartments, the construction of short-term accommodation units and social services accommodation facilities having the nature of rented housing, and for building technical infrastructure.

A loan for the development of apartment construction and local infrastructure may however be drawn also in the framework of the General Conditions for the Provision of Direct Loans.

SZRB offers to municipalities and local authorities applying for support from the EU Structural Funds in the framework of the "Operating Programme Basic Infrastructure", which is aimed at contributing to improving civic infrastructure in regions in the public sector framework (education, healthcare, social care and culture), advantageous **capital and operating loans** as a form of acquiring own funds.

A municipality, or local authority, may gain a long-term capital loan in the amount of at minimum 5% of a project's eligible costs. The repayment period of a loan is up to 10 years, the interest rate is 6.1% p.a. and deferment of repayment of the principal is 1 year. The fee for issuing a loan ranges up to 1% of the loan amount.

A short-term to medium-term operating loan serving to bridge a time gap between the payment of an invoice and a refund payment from the structural funds, for pre-financing, as well as the settlement of ineligible costs (VAT, etc.) may be provided by SZRB in the amount of 20% of the project's eligible costs. The repayment period is up to 2 years, the interest rate is at the level of 6.5% p.a. The fee for issuing a loan is up to 1% of the loan amount.