

Government of Spain approves Law on Promoting Business Finance

The Council of Ministers approved, for submission to Parliament, the Draft Law on Promoting Business Finance, which aims to improve the financing tools made available to companies, especially SMEs.

The Vice-President of the Government, Soraya Sáenz de Santamaría, said that "this will make it easier for SMEs, which represent the majority of our business fabric and job creation potential, to overcome the problems stemming from a lack of financing".

She explained that the objectives for the law are "to make bank financing more flexible and more accessible, lay the groundwork for strengthening other sources of non-bank financing and strengthen the supervisory powers of the Spanish Securities Market Commission".

Along the same lines, the Minister for Economic Affairs and Competition, Luis de Guindos, recalled that companies in Spain obtain 75% of their financing from banks. He therefore believes it important to diversify the sources of financing so as to reduce dependency on the banks.

The regulations approved on Friday state that any credit entity wishing to reduce the financing it provides to an SME that is fully up-to-date with its payment obligations will be required to notify the SME of said decision three months in advance. Luís de Guindos stressed that the SME will be entitled to request its payment history from the bank, including a credit score.

The minister also announced that the law establishes a "faster, more effective and more flexible" regime to govern mutual guarantees. Furthermore, the regulations extend the supervision and solvency criteria applicable to banks to include all financial establishments issuing credit.

Luis de Guindos said that the legal system governing securitisations is being reformed in order to simplify them and make them more transparent. "The underlying asset used to be based on mortgage debt. We are trying to encourage the underlying asset to also be based on loans to SMEs".

In order to foster new financing instruments, the minister said that the Alternative Stock Market (Spanish acronym: MAB) is being strengthened. To that end, increased flexibility is being added to the requirements for companies wishing to move from the MAB to the official Spanish Stock Market. Hence, when the share capital of a company listed on the MAB reaches a threshold of 500 million euros, it will automatically be required to transfer to the Spanish Stock Exchange.

In this regard, the Minister for Economic Affairs and Competition announced that the Audit Act being drafted by his department contains a requirement for companies listed on the MAB to be audited by companies with a certain level of standing and comply with a series of conditions. "Those which are referred to as public interest companies", he said.

The draft law approved on Friday will also help limited liability companies issue fixed-income securities. It also strengthens the supervisory, inspection and penalisation powers assigned to the National Securities Market Commission (Spanish acronym: CNMV).

"Crowdfunding"

For the first time in Spain, regulations have been drafted to govern the Internet platforms that promote so-called participatory funding or crowdfunding. "We are establishing regulations for these platforms to ensure they are transparent, provide or facilitate a connection between investors and the investment projects in such a way for them to require authorisation and supervision by the CNMV with support - especially in terms of loan activity - from the Bank of Spain", said Luis de Guindos.

The minister explained that a distinction is made between two different types of investor: accredited and non-accredited. Accredited investors are institutions, companies with over one million euros of assets, a turnover of two million euros or 300,000 euros of equity and any individual or legal entity whose income level exceeds 50,000 euros per annum or have an asset value in excess of 100,000 euros and expressly request to be treated as such. The rest are non-accredited investors and will not be permitted to globally invest more than 10 billion euros per year in projects that do not exceed the 3,000 threshold.

Luís de Guindos argued that 'crowdfunding' is a new financing method that requires transparency and a series of controls so that "investors who may be less financially aware receive special protection".