

Appendix V: Declaration within the meaning of the guidelines on State aid to rescue and restructure non-financial companies in difficulty



(Version 28.02.2024)

For the purposes of the guidelines on State aid to rescue and restructure non-financial companies in difficulty (2014/C 249/01) of 31.7.2014 an company is considered to be in difficulty when, without intervention by the State, it will almost certainly be condemned to going out of business in the short or medium term. Therefore, a company is considered to be in difficulty if at least one of the following circumstances occurs:

- a. *In the case of a limited liability company¹, where more than half of its subscribed share capital² (has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital.*
- b. *In the case of a company where at least some members have unlimited liability for the debt of the company³, where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses.*
- c. *Where the company is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.*
- d. *In the case of an company that is not an SME, where, for the past two years the company's book debt to equity ratio has been greater than 7,5 and the company's EBITDA interest coverage ratio has been below 1,0.*

In order to classify units as suitable for the tender of the grid reserve according to §§ 23b ff. EIWOG 2010, APG requires the following declaration according to § 23b (4) second sentence EIWOG 2010:

We hereby declare, until further notice, that we are not a company in difficulty within the meaning of the guidelines on State aid to rescue and restructure non-financial companies in difficulty (2014/C 249/01) and none of the above-mentioned conditions are fulfilled.

Company name as per company register:

Company registration number:

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Street

Number

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Zip-Code

City

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Place, Date

Legally binding signature of the provider

First name and surname of the authorized signatories in block letters

Company stamp

¹This refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of companies, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

²Where relevant, 'share capital' includes any share premium.

³This refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.

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Confirmation by the auditor:

It is confirmed by signature that the company is not a company in difficulty within the meaning of the guidelines on State aid to rescue and restructure non-financial companies in difficulty (2014/C 249/01) and none of the conditions on page 1 are fulfilled.

Signature of the auditor

Place/date