

**GENERAL DIRECTORATE OF THE TREASURY AND PUBLIC
ACCOUNTING**



**ISSUANCE AND MONITORING PROCESS FOR GOVERNMENT
GUARANTEES IN BURKINA FASO**

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The legal framework for guarantees in Burkina Faso is mainly made up of:

- ✚ Decree No.2009-150/PRES/PM/MEF of 27 March 2009 on the general regulations of public debt and public debt management in Burkina Faso;
- ✚ The Finance Act;
- ✚ The Organisation for the Harmonisation of Business Law in Africa (OHADA) Uniform Law on Security Interests (AUS).

Decree No.2009-150/PRES/PM/MEF of 27 March 2009

mainly governs the guarantees granted (issued) by the State to its entities or any other entity eligible in accordance with this decree as part of their debt. These guarantees take two (02) forms:

- ✚ The onlending
- ✚ The guarantee

The onlending consists in the mobilisation by the State of financial resources as a loan, grant, subsidy or public subscription, and then their provision in the form of a loan or grant, to a legal person eligible under the onlending regulations.

The guarantee is a payment pledge offered by the State to the partner in order for the latter to grant a loan to a legal entity applying for financing of an investment or equipment project.

The Finance Act of the Year

sets the maximum guarantee level in Burkina Faso for the year. This law stipulates that the minister in charge of finance, is entitled to financially commit the State. It provides a legal basis for the guarantees granted under the public-private partnerships (PPPs) and those requested from the State for its own loans.

OHADA Uniform Law on Security Interests (AUS)

aims to encourage domestic and foreign credit institutions to grant larger and less costly financing, thereby promoting firstly the development and growth of businesses and secondly, increased trade within the OHADA area.

The security interests regulated by the AUS are among other things (i) the guarantee (ii) the autonomous guarantee (on-demand guarantee), (iii) personal property securities and (iv) real estate collaterals.

Burkina Faso is currently reviewing Decree No. 2009-150/PRES/PM/MEF of 27 March 2009 on the general regulations of public debt and public debt management in Burkina Faso and Order No. 2009-457/MEF/SG/DGTCP of 02 December 2009 on the powers, organisation, functioning and referral to the National Public Debt Committee (CNDP).

Some additions or changes to the guarantees are proposed in these new texts.

• Procedures for Granting Guarantees

The granting of the guarantees defined by Decree No. 2009-150/PRES/PM/MEF of 27 March 2009 on the general regulations of public debt and public debt management follows the following three steps:

- ✚ The referral to the National Public Debt Committee (CNDP) to give a reasoned opinion on the application for guarantee;
- ✚ The management of the debt assumption;
- ✚ The signing by the Minister in charge of finance as president of the CNDP.

With regard to the guarantees granted by the State under PPPs or in connection with its own loans, their grant is made subject to the authorisation of the Minister in charge of finance following analysis by the structure in charge of the public debt.

Limitation

As part of partnerships with the private sector, the authorities have issued an order in 2018 (No. 2018-054/PM/MINEFID of 20 December 2018) prohibiting any negotiation and signing of contracts with pre-financing characteristics



• Recording and Monitoring

✚ Recording

Loan guarantees in Burkina Faso are currently registered in an Excel file. Recording in a modern database or system such as the Debt Management and Financial Analysis System (DMFAS) is planned to take place from this year onwards.

✚ Monitoring

In Burkina Faso, monitoring is currently taking place (i) in a Excel database and (ii) through designated focal points within structures receiving the loan guarantee, in addition to their obligation to convey their annual financial statements to the DDP.

Challenges faced include:

- ✚ Improving the assessment of credit risk related to guarantees;
- ✚ Setting an accounting procedure and standards for guarantees;
- ✚ Finding mechanisms to mitigate the risks associated with guarantees
- ✚ Improving the recording, monitoring and reporting (publishing) process



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