Universities Act 1997
Framework for Borrowing and Loan Guarantees

1. Provision in the Universities Act

"38 (1) A university may borrow money by means of a bank overdraft or otherwise and may guarantee or underwrite a loan taken or borrowing undertaken by a person or body of persons.

(2) Borrowing, guaranteeing and underwriting under subsection (1) shall be in accordance with a framework which shall be agreed from time to time between the universities and An tÚdarás, following consultations by An tÚdarás with the Minister [for Education and Science] and the Minister for Finance".

2. Purposes of Framework

As stated in the Department of Education letter dated 16th December, 1996 to Dr. Michael Mortell, Chairman, Conference of Heads of Irish Universities, the intent of the framework is

- That a university can engage in borrowing, underwriting and guaranteeing activities provided that they impose no threat to, and do not create any contingent liabilities for, the public purse.
- To ensure that the capacity of a university to function effectively is not endangered.
- That advanced approval by An tÚdarás or the ministers, of individual instances of borrowing, underwriting or guaranteeing by a university would not be required.

3. Understanding

The framework is set in the context of the current scheme operated by An tÚdarás for the funding of universities.

4. Budgetary Context

The wider budgetary arrangements which set the financial context for this framework are outlined in Section 37 of the Universities Act, 1997. This section requires a university to operate within an annual budget agreed with the HEA and stipulates that where a university incurs expenditure in excess of its budget that excess shall be a first charge on the budget for next succeeding financial year.

5. Framework Criteria

A university shall not be required to obtain prior consent from An tÚdarás to engage in borrowing, underwriting, and guaranteeing activities if the exercise of its powers under Section 38 (1) of the Universities Act, 1997 involves either

(1) short-term activities by way of overdraft or otherwise within existing arrangements and practices established by the university; or
(2) long-term activities for capital purposes only.

In either case the activities must comply with the following conditions:

I the purpose of the transaction is in accordance with the objects and functions of the university;
II any new capital investment is in accordance with the university's strategic plan;
III the university is able to demonstrate the benefit of the transaction, whether it be refinancing or new investments;
IV the university is able to meet annual servicing costs without recourse to additional grants from An tÚdarás;
V the university's ability to maintain financial and academic viability and structural and general service is not impaired;
VI the university has ensured that the servicing costs of the transaction represent value for money;
VII the level of charge against the core teaching and research funds of the university in respect of the annual servicing cost of capital, defined as the cost of capital repayment and total interest costs spread evenly over the period of the borrowing, based on a ten year repayment period, shall not exceed 4% of the University's annual income, as defined at paragraph 8 below.
VIII borrowing to finance additional student capacity where such capacity gives rise to the need for additional exchequer funding may only take place with the prior approval An tÚdarás;
IX borrowing arising from fully financed or tax financed projects approved under the Finance Acts, are not subject to the borrowing limit established under this framework and may take place provided the servicing of these borrowings has no impact on the annual income of the University, as defined in paragraph 8;
X the borrowing capacity of an individual university under this framework may not be transferred to another university.

6. Reporting/Recording Requirements

Full details of borrowing, underwriting and guaranteeing arrangements (including repayment periods and interest rates) and implications for recurrent expenditure, as certified by the Accounting Officer for the university, must be submitted with the annual budget to An tÚdarás. Although excluded from the calculation of the 4% limit the annual borrowing report should include borrowings in respect of fully financed and tax financed projects. Recording in the audited accounts should be in accordance with standard reporting practice and in accordance with the openness, transparency and accountability obligations of a publicly funded institution.

7. Review

The framework shall be reviewed by An tÚdarás and the universities every three years, or earlier as may be required by either side.

8. Annual Income

For the purpose of this Framework, a university's annual income is defined as core teaching income – comprising recurrent State grant, student fees and sundry income – and research income as reported in the University's funding statements. Income derived from self-funded ancillary operations is excluded from this definition of annual income for the purposes of calculating the borrowing limit as are the related borrowings.

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