

APPLICATION FOR THE COMMENCEMENT OF A SAFEGUARD PROCEDURE

The safeguard procedure concerns companies which are not in a state of insolvency (the company being unable to pay its debts) but are facing difficulties that they can not overcome and may lead them to insolvency.

The aim of this procedure is to enable the company to continue its y, maintain its jobs, and discharge its liabilities by reorganizing the company under the Court's supervision.

[Click here to read the original law \(in french\)](#)

The application for the introduction of a safeguard procedure can only be made by the company's legal representative or the company's debtor (natural person).

The application coming from any other person will be refused, if the legal representative has not granted a proxy to that person.

Documents required

Proxy:

The proxy must specifically indicate:

- the agent's capacity to apply for the commencement of a safeguard procedure.
- And / or
- the agent's capacity to sign the application

The proxy has to be granted to a designated individual, not to a general entity or corporate body (a law firm for instance: the firm must indicate its partner's or assistant's name). The individual who received the proxy must be able to account for his/her identity and his/her professional y.

Regarding joint-managers:

The application has to be dated and signed by at least one of the joint-managers. If a proxy is granted, the same rule applies. The applicant must account for his/her identity when making the application.

Regarding the applicant

A proof of the applicant 's identity has to be provided.

The application

- Six original copies must be submitted (including the original; a copy will be sent to the prosecutor's office).

- The complete form has to be submitted; if one page or insert has not been filled, the applicant must mention it.
- The exact nature of the difficulties faced has to be indicated, as well as the reasons why the company cannot overcome those difficulties.
- All figures appearing on the documents provided have to be added up.

ALL DOCUMENTS PROVIDED HAVE TO BE DATED, SIGNED, AND CERTIFIED TRUE BY THE APPLICANT.

Required documents (in six original copies):

A copy of the identity card/passport of the legal representative or sole trader.

A certificate of incorporation at the Trade and Companies Register (RCS) issued on the application day and/or a certificate of registration at the Trade Directory, depending on the situation (one original copy and five copies).

« un état d'endettement », document stating the company's debts, issued on the application day (one original copy and five copies)

The annual accounts from the last financial year

A recent cash position (less than eight days old)

A sworn statement certifying that during the last 18 months before the application day no ad hoc agent was appointed nor a conciliation procedure opened. If not, you must provide a statement mentioning the past procedures with opening and closing dates, and the names of the judges in charge of the case.

If the debtor wishes to suggest an administrator to the court, he/she must mention the identity and address of the person concerned.