A guide to changes in European insolvency law and Government aid in response to the COVID-19 crisis

DLA PIPER

COVID-19 ALERTS

Contents

Please note that owing to the dynamic nature of the COVID-19 crisis and its effects on the economies of these jurisdictions, the governmental responses and measures that are being introduced are subject to change and ongoing assessment. This document focusses on aid packages and changes to directors duties and insolvency laws which in many cases accompanies aid packages.

This document in summary form only and the information is accurate at the time of publish on 30 March 2020. Should you require further information in terms of the eligibility of the government aid being introduced and/or the consequences for your business, please do not hesitate to get in touch with the key DLA Piper contacts noted below.

COVID-19 response: Austria

Government aid

COVID-19 Fund Act enacted 15 March 2020

CRISIS MANAGEMENT FUND

The Austrian Government has enacted a COVID-19 Fund Act, establishing a COVID-19 crisis management fund with an endowment of EUR 4 billion for small and mid-cap companies. This fund is intended to ensure that medium sized companies, family businesses and entrepreneurs as individuals (EPU) can be equipped with liquid funds quickly and unbureaucratically in order to bridge any losses and declines in sales.

FEDERAL BAD BANK

The COVID-19 Act authorizes the Federal Bad Bank (*Abbaubeteiligungsaktiengesellschaft des Bundes* (ABBAG)) to provide services and take financial measures that are necessary to help Austrian companies maintain their solvency and bridge liquidity problems that occur due to the spread of COVID-19 and the resulting economic effects.

If so directed by the Federal Minister of Finance, the Federal Bad Bank must form one or more subsidiaries whose sole purpose is to fulfil the aforementioned tasks.

OTHER MEASURES

The Austrian Government has also announced a EUR 38 billion aid package for all businesses that find themselves in a precarious situation resulting from business downturn, including tax deferrals and reductions, emergency aid for businesses and companies that are particularly affected by the imposed measures.

Insolvency laws

FILING FOR INSOLVENCY

If a business is insolvent or over-indebted within the meaning of the Insolvency Code (*Insolvenzordnung*), the company's management is required to file for insolvency without undue delay and within 120 days at the latest (extended from 60 days).

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COVID-19 response: Belgium

Government aid

Tax (federal level and regional level)

POSTPONEMENT OF TAX FILING DEADLINES

The filing deadline for corporate income tax and legal entity income tax returns has been extended to 30 April 2020. This extension applies to tax returns that should normally be filed between 16 March 2020 and 30 April 2020.

An extension of filing deadlines has also been granted for the following VAT returns:

1. Monthly VAT returns of February and March: respective filing deadlines have been extended to 6 April 2020 and 7 May 2020; and
2. Quarterly VAT returns linked to the 1st quarter of 2020.

Note that if you are a starter (i.e. a business whose activities have only been subject to VAT for less than 24 months) or hold a monthly refund license and you want to benefit from a monthly VAT refund of your VAT credit, the deadline to file such VAT refund request has been extended but only until 24 of the month following the reporting period.

An extension of the filing deadline has also been granted for the EC sales listing and annual VAT client listing.

1. EC sales listing:
   a. Monthly listings of February and March: respective filing deadlines have been extended to 6 April 2020 and 7 May 2020; and
   b. Quarterly listings linked to the first quarter of 2020: filing deadline has been extended to 7 May 2020.
2. Annual VAT client listing: the normal deadline (31 March) has been extended until 30 April 2020. In cases of termination of business activities subject to VAT, the listing should be filed at the latest at the end of the fourth month following the termination of the business activity. Filing deadline extended to 7 May 2020.

POSTPONEMENT OF TAX PAYMENTS

The Belgian Government has also introduced an automatic delay for the payment of personal income tax, legal entity income tax, corporate income tax and non-resident income tax. The normal term of payment will automatically be extended by two additional months. This means that no penalties or interest shall be due if the tax payment is made during this additional period. This measure applies for tax assessments relating to the assessment year 2019 (generally income year 2018), established as from 12 March 2020.

This automatic payment delay has also been introduced for VAT and payroll withholding taxes:

1. For VAT payments this will apply for the monthly returns of February and March (respectively postponed to 20 May 2020 and 20 June 2020) and for the quarterly returns linked to the first quarter of 2020 (postponed to 20 June 2020).
2. For payroll withholding tax payments this will apply for the monthly returns of February and March (respectively postponed to 13 May 2020 and 15 June 2020) and for the quarterly returns linked to the first quarter of 2020 (postponed to 15 June 2020).

The payment arrangements (i.e. payment plans) must be requested and can only be requested by businesses that can demonstrate that they are experiencing the negative consequences of the COVID-19 crisis (e.g. a drop in turnover, a substantial fall in orders, suffering negative consequences of commercial partners going bankrupt, etc.).

TAX RELIEF IN RELATION TO THE PAYMENT OF TAXES

The Belgian Government has introduced flexible payment arrangements for payroll withholding taxes, legal entity income tax, corporate income tax and VAT, even if these taxes have been assessed before 12 March 2020.

The request should be formally submitted by no later than 30 June 2020. For the taxes that must be paid spontaneously (payroll withholding taxes and VAT), a similar request can be filed. The request form can be found on the website of the Belgian tax authorities.

The following payment arrangements can be requested: payment by instalments, waiver of interest for late-payment and waiver of fines due to non-payment. The attribution of these payment arrangements is subject to conditions, including the obligation to file a correct and complete tax return within the filing deadline. As mentioned above, the deadline for certain tax filings has been extended. Note that these payment arrangements will be recalled in the case of insolvency proceedings or if the payment instalment schedule is not complied with.

Who is eligible?
Companies that can prove that they are facing financial difficulties directly resulting from the COVID-19 crisis can request such payment arrangements.

When?
Request to be submitted by 30 June 2020.

Finance (federal level rules)

GENERAL

The financial sector has committed to halt all payments, due dates, accrued interest, without charge from 24 March 2020 until 30 September 2020 to the benefit of all viable businesses facing major cash flow problems due to the COVID-19 crisis.

This is not an automatic payment deferral. Eligible businesses must contact their banks first.

Who is eligible?
The grace period is to be provided to viable non-financial companies with payment difficulties due to the COVID-19 crisis.

GUARANTEE SCHEME

The Belgian Government will activate a EUR 50 billion guarantee scheme for all new loans and credit facilities with a maximum duration of twelve months provided by banks to viable non-financial companies.

The guarantee scheme will not apply to refinancing facilities and will only apply to loans and credit facilities granted until 30 September 2020.

Finance (regional level)

ONE-OFF CORONAVIRUS NUISANCE PREMIUM

Businesses with physical establishment(s) in Flanders that have to close down partially or completely as a result of the federal measures imposed can apply for a one-off coronavirus nuisance premium of EUR 4,000 per closed establishment (with a maximum of five premiums per company).

If new federal measures were to extend the closure period beyond 5 April 2020, an additional closure premium amounting to EUR 160 per additional mandatory closing day could be claimed by businesses affected.

Who is eligible?
The company must:

1. have a physical establishment(s) in Flanders; and
2. have closed down partially or completely as a result of federal measures imposed.

PMV/Z GUARANTEE

In order to mitigate the economic impact of the COVID-19 crisis the Flemish Government has decided to extend the existing PMV/z guarantee scheme with the so-called COVID-19 crisis guarantee 'Waarborg corona crisis'. Through this extension, companies and the self-employed can also have a bridge loan guaranteed by PMV/z for existing non-bank debts (up to twelve months old) in this crisis period up to a maximum of EUR 1.5 million.

Anyone wishing to make use of the crisis guarantee will have to justify to the bank (the guarantor) that the guaranteed credit will be used to solve problems resulting from the current crisis.

Insolvency rules

As a result of the negative economic impact of the COVID-19 crisis, businesses will inevitably face cash flow problems and even become near insolvent in the form of illiquidity (i.e. the inability to pay debts when they become due).

A lasting inability to meet due payment obligations triggers a statutory duty for the company's management to file for insolvency within one month under Belgian insolvency law (art. XX.102 Code of Economic Law). Failing to do so in a timely manner, could give rise to personal liability and even criminal sanctions (art. 489bis, 4° of the Criminal Code).

The Belgian Government has not yet implemented a similar flexibilization of its insolvency law rules. It remains therefore mandatory for the management of Belgian companies to ensure that such companies remain solvent even in the face of current challenges and that they can meet due payment obligations at all times.

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COVID-19 response: Denmark

Government aid

Temporary tax bailout package

Extension of deadlines for payment of income taxes, labour market contributions and VAT – different extensions apply based on the size of the business.

Increase of the credit balance limit in the tax account from DKK 200,000 to DKK 10,000,000.

Compensation for business owners

COMPENSATION SCHEME FOR BUSINESS OWNERS

Covers revenue loss in the period from 9 March 2020 until 9 June 2020.

Digital application – not open for applications yet.

Who is eligible?

1. Self-employed with 25% ownership or more of the business;
2. The business must have no more than ten employees; and
3. The COVID-19 crisis must have led to a revenue reduction of 30% or more.

When?

These measures have not yet been adopted in full by the Danish Parliament but were outlined in an agreement on 19 March 2020 between the Government and the political parties represented in Parliament.

COMPENSATION FOR UNDERTAKINGS' OVERHEADS

Expenses covered by the tripartite agreement on compensation of wages and salaries between the Government, the Danish Employers' Confederation and the Danish Trade Union Confederation.

The scheme will cover overheads e.g. rent, interest, financial leasing, etc. from 9 March 2020 until 9 June 2020.

Expected compensation percentage of overheads will be dependent on the businesses' revenue loss (e.g. 80% compensation if revenue loss of 80–100%, 50% compensation if revenue loss of 60–80%, and 25% compensation if revenue loss of 40–60%) but 100% compensation for businesses obliged to shut completely down during the period.

The maximum compensation for each business during the period of the scheme is DKK 60,000.

The scheme has not yet been finalized but is expected to be finalized within a short period of time.

Note that at the end of the COVID-19 crisis, the compensation will be adjusted to the actual loss of revenue suffered by the business over the period, based on the businesses VAT reports, and if necessary the business may be required to pay back some of the compensation received.

Digital application – not open for applications yet.

Who is eligible?

Businesses with overheads exceeding DKK 25,000 each month.

Businesses are to file a financial statement to the Danish Business Authorities on which an auditor has rendered an unqualified opinion.

When?

These measures have not yet been adopted in full by the Danish Parliament but were outlined in an agreement on 19 March 2020 between the Government and the political parties represented in Parliament.

Government guaranteed credit schemes

LARGE BUSINESSES

The guarantee is issued and handled by the Danish Growth Fund (*Vækstfonden*). Only financial institutions may apply, and not distressed businesses.

The maximum duration of a guarantee is six years, with annual deduction (linear). Each business can receive more than one guarantee, but not in relation to the same period of time.

The cost of the guarantee is 0.25% of the guarantee plus a yearly provision dependent on the credit rating of the business.

The loan/credit may not exceed the loss of revenue the business has suffered as a result of the COVID-19 crisis.

Who is eligible?

1. A large business is one which:

   a. employs more than 250 people; and

   b. has an annual revenue exceeding EUR 50 million; and/or

   c. with a balance sum of more than EUR 43 million.

2. The business must suffer or expect to suffer more than a 30% loss of revenue due to the COVID-19 crisis (calculated from 1 March and for at least 14 days).

3. The scheme is only available for businesses which were not distressed in the fiscal year 2019/2020.

When?

The scheme is valid until 1 October 2020 and may be extended.

SMALL BUSINESSES

The guarantee is issued and handled by the Danish Growth Fund (*Vækstfonden*). Only financial institutions may apply, and not distressed businesses.

The maximum duration of a guarantee is seven years, with annual deduction (linear).

The cost of the guarantee is a base fee of DKK 2,500 and a yearly provision of 1% of the guarantee amount.

This guarantee scheme is only applicable for completely new loans/credits.

The loan/credit may not exceed the loss of revenue the business has suffered as a result of the COVID-19 crisis.

Who is eligible?

1. A small business is a business that does not fall within the category of being a large business (please see above).

2. The business must suffer or expect to suffer more than a 30% loss of revenue due to the COVID-19 crisis (calculated from 1 March and for at least 14 days).

3. The scheme is only available for businesses which were not distressed in the fiscal year 2019/2020.

When?

The scheme is valid until 15 October 2020 and may be extended.

Changes to insolvency laws and duties of management

There have been no formal changes to the Danish insolvency legislation, and consequently the general rules still apply. However, the management team in Danish businesses – like in most other jurisdictions – is under an obligation to take measures and if necessary file for bankruptcy or in-court restructurings once the business can no longer fulfil its obligations in due time and there is no realistic prospect of turning the business around.

In this ongoing assessment by the management, the liquidity forecasts of the business are highly relevant and possibly the most important tool for the management in making their assessment. Therefore, the above bailout packages by the Danish Government are indirectly but significantly affecting the insolvency law and the duties of management.

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COVID-19 response: Finland

Government aid

Government measures

The following measures were decided by the Finnish Government:

1. EUR 12 billion of new financing (loans, guarantees) for SMEs through Finnvera plc (a specialized financing company owned by the State of Finland).
2. EUR 150 million of new financing through Business Finland's financing services to travel & tourism sectors, creative sectors and for financing of subcontractor chains.
3. Additional financing for Finnish Industry Investment's investee companies.
4. EUR 50 million of new financing through the Centres for Economic Development, Transport and the Environment by increasing the authorizations to provide grants for business development projects.
5. EUR 0.5 million for wellbeing and financial guidance services for business owners.
6. Facilitating the payment of pension insurance contributions through earnings-related pension insurance (TyEL) relending by having Finnvera provide companies with the collateral (guarantee covering 80% of the financing) required for refinancing.

Agreed by Finnish Government on Friday 20 March 2020.

Finnish Financial Supervisory Authority

The Finnish Financial Supervisory Authority (FIN-FSA) has taken measures to increase the lending capacity of the Finnish banks. The board of FIN-FSA decided on 17 March 2020 to lower Finnish credit institutions' capital requirements. The reduction is implemented by removing the systemic risk buffer and by adjusting credit institution-specific requirements so that the structural buffer requirements of all credit institutions will fall overall by one percentage point.

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COVID-19 response: Germany

Government aid

Government rescue programme: "Protective shield for employees and companies"

KFW SPECIAL COVID-19 AID PROGRAMME

The Government provides the KfW (a government development bank) with a guarantee framework of around EUR 460 billion, which can be increased by up to a further EUR 93 billion.

The new KfW special aid programme is implemented through the programmes KfW Entrepreneur Loan (037/047) and ERP Start-up Loan – Universal (073/074/075/076). The conditions are modified and considerably extensive. In addition, the special programme "Direct Participation for Syndicated Financing" (855) enables large syndicated financings with risk participation by KfW.

Companies may apply for those loans through their usual local or syndicated banks. The KfW provides a guarantee framework to the banks of up to 90% of the loans granted.

Who is eligible?

The programmes are available to all companies that have temporarily run into financial difficulties due to the COVID-19 crisis and are to be implemented unbureaucratically and at short notice. That means companies are in principle only eligible if they were not in financial difficulties on 31 December 2019.

The company must have had sound financial circumstances, the local bank or consortium bank was not aware of any unregulated payment arrears of more than thirty days on the part of the applicant, and there were no deferral agreements or breaches of covenant.

The application should be accompanied by a detailed presentation of the company's own situation with a corresponding presentation of the effects of the COVID-19 crisis in order to ensure the prospects of success for such measures (at least up until 31 December 2020).

When?

Available since 23 March 2020.

Economic stabilization fund (*Wirtschaftsstabilisierungsfonds*)

The Government decided to raise a fund to provide alternative funding for companies to overcome a liquidity shortage. The instruments include:

- Guarantee framework of EUR 400 billion to facilitate refinancing on the capital markets for companies;
- Recapitalization measures in the amount of EUR 100 billion for capital strengthening to ensure the solvency of companies; and
- Credit of up to EUR 100 billion to refinance the aforementioned KfW special aid programme.

Who is eligible?

These measures are addressed to companies fulfilling at least two of the following three requirements:

- Balance sheet total of more than EUR 43 million;
- Revenues of more than EUR 50 million; or
- More than 249 employees on an annual average.

When?

The economic stabilization fund is expected to run until end of 2021. However, it is still subject to approval of the Federal Council (*Bundesrat*) and approval of the European Commission.

Suspension of insolvency filing duties

Suspension of insolvency filing duties until 30 September 2020 (which may be extended).

Suspension does not apply if (i) insolvency is not due to the COVID-19 crisis and (ii) there is no prospect of overcoming an existing cash flow insolvency (*Zahlungsunfähigkeit*).

Presumption of eligibility for suspension (i.e. that insolvency is due to COVID-19 and that there are prospects of overcoming an existing cash flow insolvency) if the company was not cash flow insolvent on 31 December 2019.

When?

Adopted on 27 March 2020 with retrospective effect from 1 March 2020.

Limitation of directors' liability for payments after insolvency occurred

No liability for payments after insolvency:

1. To the extent insolvency filing duty is suspended per the above (until 30 September 2020; which may be extended); and
2. To the extent payments are made in the proper course of business, in particular payments serving for the continuity and resumption of the business as well as for reorganization measures.

When?
Adopted on 27 March 2020 with retrospective effect from 1 March 2020.

Limitation of right of creditors to apply for insolvency proceedings

Additional requirement for creditor's application between 28 March 2020 and 28 June 2020: if the debtor's insolvency occurred on or before 1 March 2020.

When?
Adopted on 27 March with retrospective effect from 1 March 2020.

Limitation of lenders' liability and avoidance risks – loans, trade credits, deferred payments and services

Limitation of lenders' liability and avoidance risks in relation to loans provided in the suspension period, i.e. until 31 September 2020 (which may be extended).

This includes not only loans but also trade credits and other forms of deferred payments and services.

The provision applies also to the repayment of shareholder loans. However, it does not apply to security granted for shareholder loans; security for shareholder loans is not privileged.

AVOIDANCE RISKS
Until 30 September 2023 repayment of newly granted loans and the granting of security during the suspension period will not be regarded as a disadvantage for the creditors and will therefore be privileged from avoidance risks.

LENDERS' LIABILITY
The granting, extension and novation of loans as well as the granting of security during the suspension period is not to be regarded as *contra bonos mores* (*sittenwidrig*) and (at least generally) privileged from lenders' liability.

When?
Adopted on 27 March 2020 with retrospective effect from 1 March 2020.

Suspension of equitable subordination

Suspension of equitable subordination regarding the repayment of shareholder loans provided in the suspension period, i.e. until 30 September 2020 (which may be extended).

The repayment claim of a shareholder loan provided in the suspension period is not subject to equitable subordination in insolvency proceedings which have been applied for on or before 30 September 2023.

When?
Adopted on 27 March 2020 with retrospective effect from 1 March 2020.

Limitation of avoidance actions

Limitation of avoidance actions in relation to transactions performed in the suspension period which (i) are granting or facilitating satisfaction or security to third parties and which the third party was eligible to claim in that kind and at that time.

Such transactions also includes performance in lieu of or on account of performance (*Leistung an Erfüllungs statt oder erfüllungshalber*), payments by a third party on the instruction of the debtor, the provision of security other than the one originally agreed if not of higher value, the shortening of payment terms and the relaxation of payment terms.

To the extent performed in the suspension period, such transactions are not subject to avoidance in a later insolvency proceedings of the debtor. However, this privilege does not apply if the third party was aware that the debtor's restructuring and financing efforts were not suitable to cure an existing cash flow insolvency.

When?
Adopted on 27 March 2020 to enter into force on 1 April 2020.

Protection of tenants against dismissal

In the area of residential and commercial tenancies, the right of the landlord to terminate existing tenancies is to be restricted.

The tenant's obligation to pay the rent on time will remain in force. However, the landlord's right of termination due to rent arrears shall be excluded if (i) the rent arrears arise in the period between 1 April 2020 and 30 June 2020 (which may be extended) and (ii) the non-payment is due to the consequences of the COVID-19 crisis.

When?
Adopted on 27 March 2020 to enter into force on 1 April 2020.

Deferral of payments/services for micro enterprises

The draft law provides for the possibility for micro enterprises to temporarily refuse to provide payments/services until 30 June 2020 (which may be extended) in relation to significant contracts which were entered into before 8 March 2020 if (i) the inability to provide payments/services is due to the consequences of the COVID-19 crisis and (ii) the performance would jeopardize a fair standard of living of the consumer, respectively the economic foundations of the business.

This is intended in particular to prevent those affected from being cut off from basic services if they are no longer able to meet their payment obligations as a result of the crisis.

When?
Adopted on 27 March 2020 to enter into force on 1 April 2020.

Tax

The liquidity of companies may be improved by the following tax measures which have been introduced in connection with the COVID-19 crisis:

1. Tax payments may be deferred;
2. Advance payments may be reduced; and
3. Enforcement and late payment surcharges may be waived.

The companies have to contact and apply for these measures with the relevant tax authorities.

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COVID-19 response: Hungary

Government aid

Payment moratorium

PAYMENT MORATORIUM AS OF 19 MARCH 2020 UNTIL 31 DECEMBER 2020 BY WAY OF GOVERNMENT DECREE 47/2020. (III. 18.) ("DECREE")

The payment moratorium is a payment holiday for principal, interest and fees under credit facilities, loans and financial leasing provided in a business-like manner. Any contracts maturing during the state of danger shall be prolonged until 31 December 2020. The moratorium also amends the accessory and non-accessory secondary obligations (e.g. security interest, guarantees).

The debtors continue to have the right (but not the obligation) to make payments under the original terms.

The parties can contractually agree not to apply the moratorium to their contract.

In our view, unless agreed otherwise by the parties, the suspended obligation, in particular, accrued and otherwise due and payable interests and fees, become due and payable immediately after 31 December 2020 (or whenever the state of danger is lifted). However the Decree provides that the deadlines for performing the contractual obligations as well as the duration of the obligations shall be prolonged by the moratorium. This could also be interpreted to extend the tenor of the contract (and its principal repayment schedule, if applicable) with the duration of the moratorium after the moratorium ends. This aspect will require further assessment and consultations with the National Bank of Hungary and can result in a need for amendment of all existing contracts to ascertain the post-moratorium terms of the contracts. We expect further legislative actions to avoid the need for the individual modifications of contracts.

Interest and fees will accrue during the moratorium. There is no waiver on any of those provided in the Decree. We believe that interest calculations and notices on accrued interest shall be shared with the debtors subject to the applicable contractual arrangement.

Interest and fees will not capitalize during the moratorium. There is no indication of this in the Decree.

Applies to:

1. All debtors (private persons and legal entities) in Hungary;

   The Hungarian state, the local governments and the enterprises subject to the legislations listed in section 39 of Act CXXXIX of 2013 on the National Bank of Hungary (e.g. financial institutions, insurance companies, investment funds, the Hungarian Development Bank and the Hungarian Export Import Bank) do not qualify as debtors for the purposes of the moratorium.

2. In respect of loans already drawn under contracts existing at midnight 18 March 2020.

   Credit facilities, loans and financial leasing provided in a business-like manner (i.e. as part of a financial service business activity). Therefore, in our view the moratorium does not apply to bonds, hedging transactions, etc.

When?

It is yet unclear on the duration. The Decree suggests that the moratorium will last until 31 December 2020.

However it also mentions that the moratorium stands during the state of danger.

The moratorium can also be prolonged further by the decree of the Government. Currently the state of danger ends on 26 March 2020, however, everyone expects that the prolongation of the state of danger will be authorized by Parliament soon.

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COVID-19 response: Ireland

Government aid

Strategic Banking Corporation of Ireland working capital scheme

A EUR 200 million Strategic Banking Corporation of Ireland (SBCI) working capital scheme for eligible businesses impacted by the COVID-19 crisis.

Loans of up to EUR 1,500,000 will be available at reduced rates, with up to the first EUR 500,000 unsecured with a maximum interest rate of 4%. The loan needs to be to fund future working capital requirements or to fund innovation, change or adaptation of the business to mitigate the impact of the COVID-19 crisis. The maximum duration of the loan cannot exceed three years.

Applications are open now and can be made through the SBCI website. The process is in two stages:

- The Eligibility Application form needs to be completed and if deemed eligible the applicant will receive an eligibility letter; and
- The applicant needs to engage with the banks (AIB, Bank of Ireland or Ulster Bank) who are involved in the scheme and begin their standard loan application process.

Who is eligible?
Applications are open to viable micro, small and medium sized enterprises (SMEs) and small mid-cap enterprises (other than those involved in the primary agriculture and/or aquaculture sector) that meet the eligibility criteria.

To qualify for eligibility to the scheme, businesses need to meet one criterion related to the impact of the COVID-19 crisis on their business and one innovation criterion: details of the criteria are set out here.

When?
Applications are open now.

Package for enterprise support

A EUR 200 million package for enterprise support including a rescue and restructuring scheme available through Enterprise Ireland for vulnerable but viable firms that need to restructure or transform their business.

The details of these supports are being finalized.

MicroFinance Ireland

The maximum loan available from MicroFinance Ireland has been increased from EUR 25,000 to EUR 50,000 as an immediate measure to specifically deal with exceptional circumstances that micro enterprises are facing.

The terms include a six months interest free and repayment free moratorium, with the loan to then be repaid over the remaining thirty months of the 36-month loan period.

Loans are available at an interest rate of between 6.8% and 7.8%. Businesses can apply through their Local Enterprise Office or directly here.

Who is eligible?

1. Micro enterprise (Sole Trader, Partnership or Limited Company) which is a business with:

   a. fewer than 10 full-time employees;

   b. less than EUR 2 million annual turnover; and

   c. a Balance Sheet with Net Worth/Capital Account/Equity that does not exceed EUR 2 million.

2. The micro enterprise must be currently trading and not in a position to avail itself of bank finance and experiencing a COVID-19 negative impact on its business. The negative impact must be a minimum of 15% of actual or projected in turnover or profit.

Credit guarantee scheme

The purpose of the SME credit guarantee scheme is to encourage additional lending to SMEs by offering a partial Government guarantee (currently 80%) to banks against losses on qualifying loans to eligible SMEs.

Facilities of EUR 10,000 up to EUR 1,000,000, for a term of up to seven years which can take the form of term loans, demand loans and performance bonds, are eligible for the credit guarantee scheme.

Currently, Ulster Bank, Bank of Ireland and AIB are participating in the scheme and all lending decisions are made by the participating lenders.

Interest is charged at the bank's SME lending rates and a premium is also charged for the benefit of the guarantee (currently 0.5%). The premium is collected annually or quarterly throughout the life of the guarantee (max. seven years) based on loan balance.

Who is eligible?

1. Viable micro, small and medium sized enterprises (SMEs) (other than those involved in primary agriculture, horticulture and fisheries); and
2. The scheme is targeted at companies who are unable to access credit due to one of the following reasons:
   a. Inadequate collateral;
   b. Novel business market, sector or technology which is perceived by lenders as higher risk under current credit risk evaluation practices; or
   c. Need for refinancing caused by the exit of an SMEs lender from the Irish market.

Irish Revenue

The Irish Revenue have also implemented a number of measures to assist Irish SMEs, these include:

TAX RETURNS

Businesses experiencing temporary cash flow difficulties should continue to send in tax returns on time.

APPLICATION OF INTEREST

The application of interest on late payments is suspended for January/February VAT and both February and March PAYE (Employers) liabilities.

DEBT ENFORCEMENT

All debt enforcement activity is suspended until further notice.

TAX CLEARANCE

Current tax clearance status will remain in place for all businesses over the coming months.

Forbearance and support from the banks – exceptional measures for exceptional circumstances

The Minister for Finance met with the five Irish domestic retail banks and the BPFI in relation to the crisis on 18 March. They outlined a joint plan to support the thousands of businesses and employees across Ireland impacted by the COVID-19 crisis. The measures agreed include the following:

1. The implementation of a payment break for up to three months for business and personal customers affected by the COVID-19 crisis, to be followed by ongoing reviews depending on the scale and extent of the situation;
2. Ensuring that any customer application for a payment break (and further reviews) will not adversely impact the customer's credit record, and the reporting of these facilities, including on the Central Credit Register;
3. The deferral of court proceedings for three months;
4. Support for buy-to-let customers of the banks with tenants affected by the COVID-19 crisis – allowing them to exercise due levels of forbearance to their impacted tenants; and
5. Adopting a customer-focused approach to SMEs, with a wide variety of tailored supports, including extensions of credit lines, risk guarantees and trade finance.

Central Bank of Ireland – shock absorption measures

The CBI released a statement on 18 March confirming that it has decided to reduce the Counter Cyclical Capital Buffer (CCyB), a time varying capital requirement applicable to banks and certain investment firms, in order to support the continued provision of credit by the Irish banking system to households and businesses during the COVID-19 crisis.

The CCyB will be reduced from 1% to 0% no later than 2 April 2020 (subject to notification to the European Central Bank), in order to support the sustainable flow of credit to the Irish economy. This reduction will free up in excess of EUR 1 billion of bank capital. In a recent statement, the Department of Finance indicated that this has the potential to support approximately EUR 13 billion of restructured lending to bank customers. The CBI has indicated that it does not intend to increase the CCyB until the first quarter of 2021, at the earliest, and that any such increase would be contingent upon prevailing macroeconomic and financial conditions.

In another measure to help maintain liquidity, it has been announced by the Minister for Finance, Paschal Donohoe TD (Minister for Finance) that the introduction by Ireland of the Systemic Risk Buffer (SyRB), one of the four Capital Buffers provided for in the Capital Requirements Directive IV and which forms part of the Macroprudential Toolkit, will now be postponed.

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COVID-19 response: Italy

Government aid

Debt payment moratorium

Italian micro, small and medium sized enterprises which face temporary liquidity shortfalls directly due to the COVID-19 crisis can present a written request to the lending banks (or other financial institutions) for the following financial support measures:

1. In relation to open end credit facilities (*aperture di credito a revoca*) and the loans granted upon assignment of receivables (*prestiti accordati a fronte di anticipi su crediti*) in place as at 29 February 2020, the undrawn or not utilized facility cannot be revoked, nor cancelled, in whole or in part, until 30 September 2020;
2. In relation to bullet repayment facilities (*prestiti non rateali*) which fall due before 30 September 2020, the maturity of the loan is automatically extended, along with any further accessories, until 30 September 2020; and
3. In relation to loans and other credit facilities to be repaid in instalments, the repayment of the instalments or of lease rents (*canone di leasing*) which fall due before 30 September 2020 is automatically postponed, along with repayment of any interests, in a manner that does not create new obligations and make the existing ones too onerous for either party, provided that the debtors may ask to suspend the repayment of the principal only (thus continuing to pay interests).

The financial creditors who granted the facilities noted above may apply for an order to obtain a partial guarantee to be issued by a special guarantee fund.

Who is eligible?

1. SME businesses;
2. Facing temporary liquidity shortfalls directly due to the COVID-19 crisis (this has to be self-declared by the relevant enterprises);
3. Debtors of banks and other financial intermediaries in respect of loans outstanding and having payment obligations falling due before 30 September 2020; and
4. The debtors must be performing (i.e. position not classified as NPL (non-performing loan), UTP (unlikely to pay) or past-due for more than 90 days) at the time of the issuance of the law decree (i.e. 17 March 2020).

When?

From 17 March 2020.

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COVID-19 response: Netherlands

Government aid

Tax related measures

DEFERRAL OF PAYMENT OF TAX
Immediate deferral of payment for Dutch personal income tax, corporate income tax, value added tax and wage tax is immediately granted upon request thereto to the Dutch tax authorities.

Term of deferral: Three months.

Deferral for a period exceeding the three-month period can be requested.

Who is eligible?
Available for companies and self-employed experiencing liquidity issues.

A third-party expert declaration does not have to be provided immediately.

The merits of the request are assessed at a later stage.

REDUCTION OF INTEREST ON TAX (*BELASTINGRENTE*)
The interest on tax (*belastingrente*) is reduced to 0.01% (from 8% for the Dutch corporate income tax and 4% for all other taxes) for all taxes except for the Dutch personal income tax, effective as per 23 March 2020.

The interest on Dutch Personal Income tax will be reduced to 0.01%, effective as per 1 July 2020.

Available for companies and self-employed.

REDUCTION OF INTEREST ON OVERDUE TAX (*INVORDERINGSRENTE*)
The interest on overdue tax (*invorderingsrente*) is reduced to 0.01% (from 4%).

Available for companies and self-employed.

FREEZING FINES FOR LATE PAYMENT OF TAX
Administrative fines for late payment of tax are no longer imposed or frozen in the short term.

Available for companies and self-employed.

POTENTIAL FREEZING OF LEVYING OF DUTCH ENERGY TAX AND SURCHARGE FOR SUSTAINABLE ENERGY
The Dutch Government will consider whether the levying of Dutch energy tax and/or the surcharge for sustainable energy for companies in the second, third and fourth quarters of the calendar year 2020 should be deferred.

The deferral for energy and gas suppliers should result in an enhanced liquidity position for the users of such electricity and gas.

Available for companies active in the industrials and energy sectors.

SIMPLIFICATION OF THE PROCEDURE FOR REVISION OF PROVISIONAL ASSESSMENT (*VOORLOPIGE AANSLAG*)
Taxpayers requesting a revised provisional assessment (*voorlopige aanslag*) will be automatically granted a revised provisional assessment.

A lower provisional assessment allows for lower periodical payments of tax or a may even result in a refund of tax.

Available for companies and self-employed.

Financing related measures

EXTENDED RULING ON GUARANTEED CORPORATE LENDING (*GARANTIE ONDERNEMINGSFINANCIERING-REGELING*) (“GO-RULING”)
Financiers can apply for the (extended) GO-Ruling when providing “fresh” financing to large companies.

Total cap applying to the GO Ruling is increased from EUR 400,000,000 to EUR 1,500,000,000.

Minimum threshold: EUR 1,500,000 per company/group.

Maximum threshold: increased from EUR 50,000,000 to EUR 150,000,000 per company/group.

Governmental authorities guarantee 50% of company’s/group’s outstanding bank loans and bank guarantees towards the relevant financier(s) (up to an amount of EUR 75,000,000).

Maximum term of state guarantee: Eight years.

Financiers that can apply for the state guarantee are: ABN AMRO, Rabobank. ING, MUFG, Deutsche Bank, NIBC Bank, Triodos, RBS, and Societe Generale.

Who is eligible?

The GO-Ruling applies to large companies in the Netherlands conducting a business with positive prospects for profitability and continuation, whereby the financing must meet the following conditions:

1. It is newly attracted and used for own business (*eigen bedrijfsactiviteiten*); and
2. No excessive funds having been withdrawn from the business for the benefit of a third party in the twelve-month period before issuance of the guarantee.

LOWERING OF BUFFER REQUIREMENTS FOR LENDING BY SELECTED LARGE DUTCH FINANCIAL INSTITUTIONS

Systemic buffers are lowered from current 3% as follows:

- ING: 2.5%
- Rabobank: 2%
- ABN AMRO: 1.5%.

Introduction of a floor for mortgage loan weighting is postponed.

Measures to limit the consequences of the COVID-19 crisis on pension funds and pension funds are being considered.

Applies to ING, Rabobank and ABN AMRO.

MEASURE FOR THE BENEFIT OF AGRICULTURAL AND HORTICULTURAL COMPANIES

Temporary extended suretyship for working capital facilities under the already existing ruling suretyship agricultural loans small and medium sized companies (*Borgstelling MKB-Landbouwkredieten*).

Available to small and medium sized agricultural and horticultural companies.

DEFERRAL OF REPAYMENT UNDER LOANS UP TO EUR 2,500,000 OUTSTANDING BY SMALLER COMPANIES

Smaller companies can apply for deferral of repayment under loans outstanding with the financiers up to an amount of EUR 2,500,000.

Term of repayment deferral: Six months.

Available to smaller companies.

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COVID-19 response: Norway

Government aid

There will be established a new loan guarantee scheme in order to support and enable banks to grant new loans to small and medium sized enterprises. It is proposed that the scheme will receive a guarantee framework of NOK 50 billion, subject to increase if the Government finds it necessary. The intent is to provide security in respect of loans to borrowing enterprises, the scheme applies to loans up to MNOK 50 per company with a maturity date not falling later than three years from the date of disbursement. The scheme will only be applicable to new loans extended because of sudden lack of liquidity, and until 1 June 2020. The guarantee is meant to cover 90% of the loan to each borrower, which in turn leaves the bank that extends the loan with only 10% of the risk.

The governmental bond fund will be reintroduced, with a capital of NOK 50 billion. The bond will be managed by the Government Pension Fund, and is aimed at financing bonds issued by the larger enterprises with center of main interests in Norway. The detailed mandate for the fund remains to be determined.

A governmental loan guarantee of NOK 6 billion for loans to airlines with a Norwegian operating license has been established. One half of that amount is aimed at Norwegian Air Shuttle, whilst NOK 1.5 billion at SAS. In addition is the passengers fees waived from 1 January until 31 October 2020.

The amount of days the employers are obliged to pay salary to their employees in case of temporally lay-offs is reduced from fifteen to two days. The employees will retain 100% of their pay up to 6G (1G is NOK 99,858) from day three and up to and including day twenty.

The unemployment benefit for people who have lost their job or are laid off has been raised to 80% of their income for an income up to 3G and 62.4% of income between 3G and 6G.

The VAT low rate is reduced from 12%–8%, and the deadline for payment of the first VAT period for 2020 is postponed from 14 April to 20 June 2020.

Loss-making companies in 2020 can carry back losses for that year against the two previous years' taxable profit. This allows companies to carry back up to NOK 30 million of corporate losses in 2020 and get a refund for taxes. Companies will also be allowed to defer payment of wealth tax on business assets for the 2020 financial year.

Changes to insolvency laws

There are at the moment no proposed or actual changes to the Norwegian insolvency law.

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COVID-19 response: Poland

Government aid

Anti-crisis shielding

On Saturday (28 March), the Sejm (the lower house of the Polish Parliament) passed a number of bills that form the so-called anti-crisis shield. They include the Bill on Special Solutions Related to Preventing, Counteracting and Combating COVID-19 and an amendment to the Act on the System of Development Institutions, which contains solutions enabling the full participation of the Polish Development Fund (PFR) in actions taken in connection with the COVID-19 crisis. The bills have been submitted to the Senat (the upper house of the Polish Parliament) for approval.

As part of the anti-crisis shield, the Polish Government also presented a bill on granting state aid for rescuing, restructuring and temporarily restructuring enterprises (the R&R Bill). The R&R Bill sets out the conditions and procedures for receiving aid as well as the forms that the aid may take. It has not yet been passed by the Sejm.

Who is eligible?

The aid is intended for enterprises that are threatened with insolvency or that are already insolvent. These enterprises must meet the following conditions set out in the R&R Bill:

1. They have conducted economic activity in a given sector for at least three years before the date of submitting the application for aid;
2. They do not conduct economic activity in the iron and steel, coal or financial sectors; and
3. They do not conduct economic activity on a market in which long-term structural overproduction occurs or may occur.

The R&R Bill also regulates specific conditions for granting aid to an enterprise that belongs to a capital group, making the aid conditional on the occurrence of external and serious reasons (i.e. not internal reasons related to the division of costs within the group).

In order to qualify for rescue or restructuring aid, an enterprise threatened with insolvency must demonstrate that it has lost more than half of its capital. With respect to large enterprises, they must demonstrate that during the last two years their debt to equity ratio was greater than 7.5, while the ratio of operating profit increased by depreciation to interest was lower than 1.

Aid for temporary restructuring may be granted to micro, small and medium sized enterprises that are in a difficult economic situation and that meet the conditions referred to above.

The R&R Bill states that aid may be granted only if it prevents or leads to the reduction of social difficulties or to overcoming market imperfections and if, without its granting, this objective would not be achieved or would be achieved to a lesser extent. By social difficulties and market imperfections, the R&R Bill means the risk of the market exit of a micro, small or medium sized enterprise whose activity is innovative, or that has a high potential for growth or strong links with other local or regional enterprises, if this would lead to restrictions or result in an increase in the number of enterprises going bankrupt.

In the case of other (large) businesses, there are important social issues such as regional unemployment that is higher than the EU or national average, the risk of interrupting the provision of an economically significant service, or the negative consequences of a business leaving the market – if it is significant for a region or sector. It should be stressed that for all businesses, the basis for receiving aid is the risk of exit from the market as a result of the difficulties caused by the COVID-19 crisis.

Types of aid

Rescue aid is granted in the form of a loan. Collateral constituting no less than 50% of the planned amount of state aid should be provided for the repayment of the loan amount. The collateral may include a mortgage, a pledge or security transfer, a blank promissory note, or a statement on submission to execution. The amount of rescue aid is limited to the amount necessary to maintain the enterprise's core business for a period of no longer than six months.

Temporary restructuring aid is also granted in the form of a loan. It may be granted to a micro, small or medium sized enterprise that is in a difficult economic situation to enable it to conduct business activity for the time necessary to implement restructuring measures aimed at restoring its long-term ability to compete on the market. Temporary restructuring aid may also be granted to a micro, small or medium sized enterprise that is not in a difficult economic situation, but which requires urgent liquidity support due to the occurrence of exceptional and unforeseen circumstances.

The amount of temporary restructuring aid is limited to the amount necessary to continue the activity of the micro, small or medium sized enterprise in the period for which the aid was granted, but not longer than eighteen months.

Restructuring aid may be granted to an enterprise that is in a difficult economic situation in order for it to implement a restructuring plan that will enable it to restore its long-term ability to compete on the market.

Restructuring aid may be granted if it prevents social difficulties or leads to overcoming market imperfections, and without the aid the enterprise would be restructured, sold or liquidated in such a way that the objective referred to above would not be achieved or would be achieved to a lesser extent.

Restructuring aid is limited to the minimum amount necessary to restore the long-term viability of the enterprise and it may only supplement the enterprise's own contribution. This contribution may comprise the enterprise's own resources or the resources of its shareholders or creditors. The contribution must constitute at least 50% of the restructuring costs.

With regard to a micro, small or medium sized enterprise that is in a difficult economic situation, the contribution to restructuring costs is as follows: 25% for a micro or small enterprise; and 40% for a medium sized enterprise.

Restructuring aid may be granted in the form of a loan, taking up shares or stocks in the increased share capital or a share in the increase of the share capital by increasing the nominal value of existing shares or stocks, or taking up bonds. It may also consist in changing the dates of loan repayments to the entity granting the aid or converting the loan into shares of the enterprise. Restructuring aid may also be granted, for example, by postponing the date of execution of an administrative fine or by dividing it into instalments.

Aid may be granted up to the amount of funds allocated for this purpose in the state budget. The amount of funds may not exceed PLN 120 million per year. Aid will be granted until the funds are exhausted, and applications will be considered in the order in which they are received.

Aid is granted by the minister responsible for the economy, who may entrust the granting of aid to the Industrial Development Agency (in Polish: *Agencja Rozwoju Przemysłu S.A.* (ARP)). The aid is granted from the state budget on the basis of a written application submitted by the enterprise.

The aid package is a positive step; however, much will depend on how quickly the applications are processed and the aid forthcoming. Moreover, it is necessary to change or temporarily suspend the prerequisites for declaring bankruptcy for enterprises that apply for state aid.

Self-regulatory relief actions of Polish banks

The Association of Polish Banks (ZBP) has presented relief measures planned to be taken by the Polish banks. The banks associated with ZBP declared that among others the principles listed below will be immediately implemented and applied by them:

1. Up to three-month repayment and interest holidays for borrowers under loan agreements;
2. Up to three-month lease installment holidays for debtors under leasing agreements;
3. Up to three-month payment holidays for debtors under factoring agreements;
4. Renewal of credit lines for up to six months;
5. Facilitated access to short-term liquidity loans; and
6. Non-charging of bank fees and commissions.

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COVID-19 response: Portugal

Government aid

EUR 200 million corporate treasury credit facility

The credit facility Linha de Crédito Capitalizar 2018 – COVID-19, managed by PME Investimentos and in partnership with the Banks and the Mutual Guarantee System, is intended for micro, small and medium sized enterprises (SMEs), certified by the IAPMEI Electronic Declaration, IP but it can also be used for the benefit of large companies.

This credit facility is available to finance working capital needs and to finance treasury needs.

Who is eligible?

The eligibility conditions are as follows:

1. The company's registered office must be in Portugal;
2. The company must not have outstanding debts to the Fund to Support Financing for Innovation ("FINOVA") at the date of execution of the agreement and not be in breach of the terms and conditions of the loan from the Bank;
3. The company must not have debts to the Tax Authorities and Social Security at the date of the execution of the agreement;
4. The company must have had a positive net position in its last approved balance sheet. Where a company has a negative equity in its last approved balance sheet, it will only be able to access the funding line, if it presents a positive net position in an improved interim balance sheet as at the date of the operation's classification;
5. In the case of large companies, the company must, at a minimum, have a B- (or comparable) credit rating;
6. The companies must submit a declaration attesting to the negative impact of the COVID-19 crisis on the company's business, i.e evidence that there has been a drop in turnover in the last thirty days of at least 20% compared to the immediately preceding thirty days.

Applications

1. Companies whose sales, verified on the date of execution of the agreement, have decreased by at least 20% in the last thirty days compared to the immediately previous thirty days, can apply.
2. Applications are submitted directly to the participating commercial banks, the list of banks is available here.

EUR 60 million credit facility for micro enterprises in the tourism sector

The credit facility is designed to support working capital needs through repayable financing. It is intended for micro enterprises and individual entrepreneurs ("ENI"), duly certified by the Electronic Declaration of IAPMEI, I.P. The maximum amount of funding per company is EUR 750 per month, for each employee in the company as at 29 February 2020, multiplied by three months, up to EUR 20,000. It has a maximum term of up to three years, a grace period of up to twelve months for capital repayments and a 100% interest rate subsidy.

Who is eligible?

The eligibility conditions are the following:

1. The micro enterprise's registered office must be in Portugal;
2. The micro enterprise must be regulated by the Tax Administration, Social Security and Tourism of Portugal, I.P.;
3. The micro enterprise must be duly licensed for the exercise of its respective activity and duly registered in the National Tourism Register, where legally required;
4. The micro enterprise must demonstrate that its activity has been negatively affected by the COVID-19 crisis;
5. The micro enterprise must not previously have been in a distressed economic situation;
6. In the two years prior to the date of the application, the micro enterprise must not have been subject to an administrative or judicial sanction relating to the payment of taxes and social security contributions (either in Portugal or in the State of which it is a national or in which its main establishment is located);
7. The micro enterprise must not have been convicted in the last two years from the application date, for illegal dismissal in certain situations.

Applications can be submitted on the Tourism of Portugal website here.

Credit facilities (EUR 3 billion overall)

In addition, the Government has also announced on 13 March 2020 four new credit facilities, made available through banking institutions and guaranteed by the State, which add to the general facility, which covers all economic sectors, commerce, industry and services:

1. Catering and similar sectors (EUR 600 million, of which EUR 270 million will be for micro and small companies);
2. Tourism – travel agencies; animation; organization of events and similar sectors (EUR 200 million, of which EUR 75 million will be for micro and small companies);
3. Tourism – enterprises and accommodation (EUR 900 million, of which EUR 300 million will be for micro and small companies);
4. Industry – textile, clothing, footwear, extractive industries (ornamental rocks, wood and cork) (EUR 1.3 billion, of which EUR 400 million will be for micro and small enterprises).

These credit facilities are available for micro companies, SMEs, mid cap (with up to 500 workers) and small to mid cap (with up to 3,000 workers).

Who is eligible?

The eligibility conditions are as follow:

1. A positive net position in the last approved balance sheet; or
2. A negative equity and settlement in the approved interim balance sheet up to the date of the transaction.

Additional measures – six-month moratoriums

The Government announced on 26 March 2020 two additional measures are to be implemented:

1. In relation to financing agreements, a six-month moratorium, until 30 September 2020, which also foresees the prohibition of the cancellation of contracted credit facilities and the extension or suspension of the credit facilities until the end of this period; and
2. In relation to lease agreements, a six-month moratorium, which creates a special and temporary default regime, allowing certain lessees not to pay rent (for housing or non-housing purposes) in this period.

The specific terms have yet to be announced. Please contact us for further information.

No changes to insolvency laws

No specific amendments to insolvency laws have been announced so far, but in light of the current emergency state relating to the COVID-19 crisis the Portuguese Government has suspended the deadlines in relation to presenting information before the judicial courts until the termination of the COVID-19 crisis, which includes the deadlines in the insolvency proceedings (with some exceptions).

There are some dissenting voices who have been questioning the suspension of the deadlines and whether it is possible to perform the judicial/procedural acts through electronic means. This is still an ongoing discussion, without any case law to help point to a definitive interpretation it is likely that each case will be analysed on a case by case basis by the courts.

The directors' mandatory duty to present the company as being insolvent within thirty days after becoming aware of the insolvency situation (or from the date they should have become aware of such situation), remains unchanged, meaning such deadline has not been suspended.

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COVID-19 response: Spain

Government aid

Financial and liquidity measures – Spanish Royal Decree-Law 8/2020

Comes into force from 18 March 2020 for a one-month term, and the Decree allows for this term to be extended.

GUARANTEE LINES (*AVALES*)

Spanish Royal Decree-Law 8/2020 approved a line of guarantees (*avales*) to be granted by the Ministry of Economic Affairs and Digital Transformation of a maximum amount of EUR 100,000 million, in respect of financing granted by credit institutions, financial credit establishments, electronic money institutions and payment institutions to small and medium companies ("SMEs") and self-employed workers to meet their needs arising, among others, from the management of invoices, working capital requirements, maturities of financial or tax obligations or other liquidity requirements.

The Council of Ministers will develop the applicable requirements and conditions for access to these guarantees, which in any case must comply with European regulations on State aid.

EXTENSION OF THE ICO'S NET DEBT LIMIT

The net debt limit for the Instituto de Crédito Oficial ("ICO") in the State Budget Law (*Ley de Presupuestos del Estado*) is increased by EUR 10,000 million in order to provide additional liquidity to companies, especially SMEs and self-employed workers, and directly by the ICO itself in the case of its direct financing policy for larger companies.

In any case, the ICO will adopt measures to make the financing available more flexible and extensive, and to improve companies' access to credit, while preserving the financial balance provided for in its articles of association.

EXTRAORDINARY LINE OF INSURANCE COVERAGE

Royal Decree-Law 8/2020 creates an extraordinary line of insurance coverage of up to EUR 2,000 million to be charged to the Internationalization Risk Reserve Fund (*Fondo de Reserva de los Riesgos de Internacionalización*), for a period of six months from the date of entry into force of the decree (i.e. until 18 September 2020) for export companies.

The percentage of credit risk coverage in operations under this line shall not exceed the EU limits for State aid.

It is established that the decision mechanisms for operations must be effective, making risk analysis more flexible, and taking into account (especially in the case of SMEs) the extraordinary market situation created by the crisis.

Coverage will be provided by CESCE (*Compañía Española de Seguros de Crédito a la Exportación, S.A. Cía. de Seguros y Reaseguros, S.M.E.*), in its own name and on behalf of the State.

Who is eligible?

It will apply to working capital loans required by the export company, provided that these meet new financing needs and not pre-crisis situations, without the need for a direct relationship with one or more international contracts.

The beneficiaries of this line will be Spanish SMEs, as well as larger unlisted companies, in which the following circumstances are met:

1. Internationalized companies or companies in the process of internationalization:
   a. companies whose international business comprises at least 33%; or
   b. companies that are regular exporters, i.e. those companies that have regularly exported during the last four years in accordance with the criteria established by the Secretariat of State for Trade (*Secretaría de Estado de Comercio*).
2. Companies with liquidity problems or lack of access to financing as a result of the impact of the crisis.

Insolvent or pre-insolvent companies are excluded, as well as companies with incidents of non-payment with public sector companies or debts with the administration.

Extension of time limits provided for in the Companies Act

1. If, before the State of Alarm period, the term of duration of the company expires, the company will not be automatically dissolved until two months have elapsed since the end of the State of Alarm.
2. If, before or during the period of State of Alarm, a cause for dissolution arises, the legal period the administrative body is

entitled to for convening the shareholders meeting with the aim of passing any agreement towards the dissolution of the company, will be suspended until the end of State of Alarm.

3. If a cause for dissolution arises during the term of the State of Alarm, the administrative body will not be held liable for any corporate debt during this period.

Please note the State of Alarm was declared on 14 March 2020 and extended on 25 March 2020 until 11 April 2020.

Extension of time limits provided for in insolvency laws

1. A stay on the duty for filing for insolvency as long as the State of Alarm is in force (even if the debtor filed for the pre-insolvency mechanism provided in Article 5b is of the Spanish Insolvency Act).
2. For a two-month period after the end of the State of Alarm, the insolvency courts will not admit any filings for necessary insolvency proceedings which have been submitted by creditors/third parties during the State of Alarm or during such two-month period.
3. During the post-State of Alarm two-month period, the debtor's filing for insolvency proceedings will be admitted by the court with priority.

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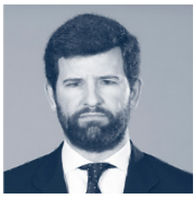

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COVID-19 response: UK

Government aid

COVID Corporate Financing Facility (CCFF)

Liquidity support for large investment grade businesses will be provided by the COVID Corporate Financing Facility Limited (Fund) operated by the Bank of England ("BOE") on behalf of HM Treasury.

The Fund will provide finance to businesses across a range of sectors by purchasing commercial paper with an initial term of up to twelve months. The CCFF scheme itself will operate for at least twelve months and "for as long as steps are needed to relieve cash flow pressures". The BOE will provide six months' notice of the withdrawal of the CCFF.

The Fund will purchase commercial paper in sterling during a defined period each business day. The Fund will purchase, at a spread based on pre-COVID-19 spreads over the current sterling overnight index swap rate, newly issued commercial paper in the primary market and after issuance from eligible counterparties in the secondary market.

Who is eligible?
In a letter from the BOE to the Chancellor, it is suggested that the funding will be available to:

1. "Non-financial companies who make a material contribution to the UK economy"; and
2. That had, prior to being affected by the COVID-19 crisis, a short or long term rating of investment grade, or financial health equivalent to an investment grade rating.

UK incorporated companies (even those with parent companies incorporated overseas) with a genuine business in the UK will, most likely, satisfy the "material contribution to the UK economy" test. Eligibility decisions will be considered by a risk management team taking into account a number of factors. While all these factors are not presently known, companies with significant employment in the UK, with headquarters in the UK, significant revenues in the UK, significant UK customer base or a number of operating sites in the UK are expected to meet that requirement.

Companies that do not currently issue commercial paper but are capable of doing so will in principle be eligible to utilize the facility provided that they meet the eligible securities criteria. Issuers must have a minimum short term credit rating of A-3/P-3/F-3/R3 or above or a long-term rating of BBB-/Baa3/BBB-/BBB low or above from at least one of Standard & Poor's, Moody's, Fitch and DBRS Morningstar as at 1 March 2020. This reference point is deliberately set prior to the possible impact of the COVID-19 crisis on businesses' credit rating. Where an existing credit rating is not available, companies should speak to their existing lenders and if those banks advise that the company was viewed internally as equivalent to investment grade as at 1 March 2020, then the BOE should be contacted to discuss potential eligibility. The BOE will then make an assessment of whether the BOE can assess that the issuer is of equivalent financial strength. This rating or equivalent requirement means that access to the facility will not be available to sub-investment grade issuers and hence not available to leveraged loan and high yield issuers.

Such companies must be "fundamentally strong" but be experiencing short-term funding pressures caused by the current economic conditions. As yet, there is no guidance on how this can be demonstrated as part of the application process. However, we would suggest that companies interested in the CCFF get a clear view (as far as possible) on liquidity requirements so that they are able to make an appropriate and measured request for funding.

When?
The application process opened on Monday 23 March 2020.

Coronavirus Business Interruption Loan Scheme (CBILS)

Loans for smaller business will be made available through the CBILS which will be delivered by the British Business Bank ("BBB") (a government-owned business development bank).

The maximum facility amount available has been increased significantly since it was first announced on 11 March 2020 from £1.2 million to £5 million and may be in the form of a term facility, an overdraft, invoice finance facility or an asset finance facility.

The term of the facility will be up to six years for term loans and asset finance facilities and up to three years for revolving facilities and invoice finance. The first twelve months of the facility will be interest free for borrowers (the Government will cover that first twelve months' interest for them).

The application is to be made in the first instance through an existing accredited bank. A list of the accredited banks can be found here.

Who is eligible?

1. Be UK-based with turnover of no more than £45 million per annum;
2. Operate within an eligible industrial sector – a list has been published on the BBB website of business which are not eligible or have "restricted eligibility";
3. Not have received de minimis State aid beyond EUR 200,000 equivalent over the current and previous two fiscal years; and
4. The borrower must have a borrowing proposal which, were it not for the current pandemic, would be considered viable by the lender, and for which the lender believes the provision of finance will enable the business to trade out of any short-to-medium term difficulty.

But note if the lender can offer finance on normal commercial terms without the need to make use of the scheme, they will do so.

Decision-making on whether a business is eligible for CBILS is fully delegated to the 40+ accredited CBILS lenders.

When?

The application process opened on Monday 23 March 2020.

Business rates relief and grants

The measures announced by the Chancellor include:

1. Giving all retail, hospitality and leisure businesses in England a 100% business rates holiday for the next twelve months, regardless of their size;
2. Increasing grants to small businesses eligible for Small Business Rate Relief from £3,000 to £10,000; and
3. Providing grants of £25,000 to retail, hospitality and leisure businesses operating from smaller premises with a rateable value between £15,000 and £51,000.

The Welsh Government has announced that all retail, leisure and hospitality businesses with a rateable value of £51,000 or less will receive 100% non-domestic rates relief and pubs with a rateable value of between £51,000 and £100,000 will receive a £5,000 reduction on their bill.

The Welsh Government is offering a grant of £25,000 to retail, hospitality and leisure businesses with a rateable value of between £12,001 and £51,000 and are offering a £10,000 grant to all businesses eligible for small business rates relief with a rateable value of £12,000 or less.

The Scottish Government has given a 100% rates relief for retail, hospitality and leisure sectors and all non-domestic properties in Scotland will get a 1.6% rates relief. This relief effectively reverses the change in poundage for 2020–21.

The Scottish Government is offering a one-off grant of £25,000 to retail, hospitality and leisure businesses with a rateable value between £18,001 and up to and including £50,999 and a one-off grant of £10,000 will also be available to small businesses who get small business bonus scheme relief or rural relief.

When?

These reliefs will be available to non-domestic properties from 1 April 2020 to 31 March 2021. It will be possible to apply for the grants from 24 March 2020 and they will be available to 31 March 2021.

Changes to insolvency laws

On Saturday 28 March 2020 the Government announced the suspension of the wrongful trading regime which applies to directors with retrospective effect from 1 March 2020. In summary wrongful trading and thereby personal liability for directors can arise in a subsequent insolvency process where directors continue to trade a business notwithstanding it is unable to pay its debts (insolvent). Personal liability may arise where such action has resulted in harm to creditors.

With the suspension of wrongful trading rules, directors will have greater latitude to continue to trade despite their business being technically insolvent if this is a result of the impact of the COVID-19 crisis. However, directors should still act with due care and diligence and, where possible, minimise loss to creditors. The rules on fraudulent trading and director disqualification remain in place and so directors should continue to take advice and minute their decisions, particularly on incurring new credit, carefully.

The Government also introduced plans to fast track proposals to amend UK insolvency laws which were expected to have been significantly delayed due to Brexit. Those changes include:

- A moratorium for companies giving them breathing space for from creditors enforcing their debts for a period of time whilst they seek a rescue or restructure;
- Protection of their supplies to enable them to continue trading during the moratorium;
- A new restructuring plan, binding creditors to that plan; and
- The proposals will include key safeguards for creditors and suppliers to ensure they are paid while a solution is sought.

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COVID-19 response: European Union measures

European Union aid

Temporary Framework for State Aid Measures – From 19 March to 31 December 2020

On 19 March 2020, the EU's Competition Commissioner Margrethe Vestager presented the Commission's "Temporary Framework for State Aid Measures" ("Framework") to help businesses get access to the liquidity and financial support they require to survive the economic crisis caused by the COVID-19 crisis. Emphasizing the need for a close European coordination of national aid measures, the Framework outlines various ways in which EU governments may support business with a focus on ensuring liquidity, which are outlined below.

The Framework confirms the earlier Communication of 13 March 2020, which pointed out the ways in which Member States can support the economy by measures that do not qualify as State aid. These include any measures such as wage subsidies, suspension of tax and social security payments granted to all companies (these are general, not selective measures). Any financial support given directly to consumers is not State aid.

Member States can also design additional support measures in line with the General Block Exemption Regulation without the involvement of the Commission. Member States can notify the Commission of the aid schemes under the rules for rescue and restructuring aid to meet acute liquidity needs and support undertakings facing financial difficulties.

Very importantly, sectors that have been particularly hit by the outbreak (e.g. transport, tourism, culture, hospitality and retail) and/or organizers of cancelled events for damages suffered due to and directly caused by the outbreak can be compensated as well (directly under Article 107(2)(b) TFEU). For this support, the principle of "one time last time" (applicable to rescue and restructuring aid) does not apply.

The Temporary Framework adds to the above by introducing additional support measures that can be approved swiftly under Article 107(3)(b). It emphasizes that the Member States can combine aid schemes with individual cases. So if your particular circumstances do not fit into a scheme, you should not hesitate to ask for bespoke measures.

The additional measures, most of which can be granted cumulatively, fall into five groups:

1. AID IN THE FORM OF DIRECT GRANTS, REPAYABLE ADVANCES OR TAX ADVANTAGES

Such aid can be granted up to EUR 800 per undertaking (meaning a corporate group). It must be granted by 31 December 2020.

The undertaking must not have been in financial difficulty on 31 December 2019. Special rules apply to undertakings in the agricultural and fisheries sectors.

2. AID IN THE FORM OF GUARANTEES ON LOANS

The guarantee may relate to investment and working capital loans.

The Commission will approve State aid in the form of new public guarantees on loans compatible, under certain conditions, that depend on the size of the company (SME or large enterprises) and the maturity of the loan.

3. AID IN THE FORM OF SUBSIDIZED INTEREST RATES FOR LOANS

The conditions for such aid also depend on company size and maturity.

4. AID IN THE FORM OF GUARANTEES AND LOANS CHANNELLED THROUGH CREDIT INSTITUTIONS OR OTHER FINANCIAL INSTITUTIONS

If aid in the form of public guarantees and reduced interest rates is provided through credit institutions and other financial institutions as financial intermediaries, special conditions must be complied with to ensure such aid does not indirectly benefit those intermediaries.

5. SHORT-TERM EXPORT CREDIT INSURANCE

Under existing rules, marketable risks cannot be covered by export-credit insurance with the support of Member States. Due to the crisis, in certain countries cover for marketable risks could be temporarily unavailable. Member States may provide sufficient evidence of the unavailability of cover for the risk in the private insurance market, such as (i) a large well-known international private export credit insurer and a national credit insurer produce evidence of the unavailability of such cover; or (ii) at least four well-established exporters in the Member State produce evidence of refusal of cover from insurers for specific operations.

Dictionary of insolvency terms in EU Member States

For further details of insolvency terms as used in EU Member States, please refer to the below dictionary:

https://www.dlapiper.com/en/us/focus/dictionary-european-insolvency-terms/introduction/