



## **Deloitte Legal Newsflash**

### **Banking and Finance**

## **Continued provision of credit during COVID-19 crisis: A EUR 50 billion arrangement in Belgium**

A deferral of payment of existing credits for Belgian companies, self-employed persons and individuals facing payment problems because of the COVID-19 crisis, and a guarantee scheme for all new credits granted to viable non-financial companies and self-employed persons have been announced on 21 March 2020. The arrangements set out below result from an agreement between the Belgian federal government, the National Bank of Belgium and the Belgian banking sector.

The measures are set to apply as of 1 April 2020 and are expected to be formally rubberstamped by the European Commission in the next few days.

### **Agreement on deferral of payment and guarantee scheme**

#### **A reinforced set of supporting measures**

The COVID-19 crisis, commonly referred to as the Coronavirus, threatens both the population's health as well as the economy.

As part of the Federal Social and Economic Protection Plan, the Belgian federal government already announced exceptional measures, such as the deferral of payment for (i) personal income tax, (ii) withholding tax on professional income, (iii) VAT and (iv) social security contributions.

Other measures have in the meantime been implemented, such as measures facilitating temporary economic unemployment ([details](#)).

In addition to these measures, an agreement was reached between the federal government and the financial sector with the support of the National Bank of Belgium on 21 March 2020, providing for a deferral of payment possibility and a guarantee scheme for all new credits granted to viable non-financial companies and self-employed persons.

### **Deferral of payment**

'Viable' (term further detailed *Infra*) non-financial companies, self-employed individuals and mortgage borrowers will be able to benefit from a deferral of payments until 30 September 2020, without any associated costs or fees.

The aim of this mechanism is to help non-financial companies, self-employed persons and mortgage borrowers overcome the severe shock caused by this pandemic, allowing them to rely on a temporarily enhanced cash flow, as it would not be applied towards repayment of existing credit lines and facilities.

This measure will take effect as of 1 April 2020.

### **Guarantee scheme**

Next to the deferral of payment possibility, the federal government and the financial sector have agreed on an ambitious plan to support access to credit and a continued financing of the Belgian economy throughout (and notwithstanding) the crisis.

A guarantee scheme will be activated by the federal government for all new credits and facilities with a duration of up to 12 months, extended to 'viable' non-financial enterprises and self-employed persons.

The total amount of the guarantee amounts to EUR 50 billion and covers all such new credits and facilities extended until 30 September 2020 (included).

Losses incurred on such new credits and facilities will be examined at the end of the guarantee scheme. These will be allocated between the financial sector and the public authorities as follows:

- A first tranche equal to 3% of losses will be borne entirely by the financial sector;
- The amount between 3% and 5% of losses will be borne equally (50-50) by the financial sector and public authorities; and
- For all losses above 5%, 80% will be borne by public authorities and 20% by the financial sector

Importantly, refinancing loans as well as undrawn amounts of existing credit lines are not covered by this guarantee scheme.

This measure will take effect as of 1 April 2020.

## **Guarantee scheme in parallel with existing regional guarantee schemes**

The new federal guarantee scheme will go hand in hand with, and will not replace, the existing regional guarantee schemes.

In particular, the 2009 statutory Flemish Gigarant guarantee arrangement managed by Participatie Maatschappij Vlaanderen (PMV) will not be substituted by, but will be in conjunction with, the new federal scheme. The federal scheme does not replace the existing general guarantee arrangements at Flemish level applicable to SMEs.

The difference between the federal and regional guarantee schemes is as follows:

- (i) The new federal guarantee scheme aims at a short term (12 month) arrangement and is granted on a portfolio basis to banks as back-to-back for extending additional credit.
- (ii) The Gigarant guarantee (and other general Flemish guarantee scheme) aims at a longer term arrangement and is granted on a file-by-file basis, as part of a three-party arrangement between the lender(s), the borrower and Gigarant/PMV.

## **The viability criteria**

There is only one requirement for companies to benefit from these measures: qualifying as 'viable'.

The viability criteria have not been specifically set (yet). It is generally understood that the viability test is to prevent (unacceptable) state aid.

However, based on publicly available information, the viability criteria would be determined by reference to existing delays in repayment. According to one reliable source, no overdue payments should have been recorded on 1 February 2020. If there were late payments by 29 February 2020, these cannot be more than 30 days overdue. According to another reliable source, a company should not have had overdue payments on 31 December 2019.

The underlying idea is that non-financial companies and self-employed individuals must have been 'economically viable' before the COVID-19 outbreak to benefit from these measures.

## **Monitoring of the Agreement**

In order to ensure the application of the guarantee scheme and the commitments made under the Agreement, a monitoring system will be set up by the National Bank of Belgium and Febelfin, the official Belgian federation of the financial sector.

It is likely that sanctions will be applied to banks if they do not meet their obligations under this Agreement.

## **Financial 'Bazooka'**

The announcement of these measures, termed as a 'financial bazooka' by the Belgian National Bank's governor, have been

widely praised by several representatives of the Belgian economy.

Johan Thijs, Febelfin's chairman, said 'Belgian banks intend to support the Belgian economy as much as possible during this difficult period. They therefore intend to make an unprecedented effort in favour of companies and individuals threatened by financial difficulties due to the coronavirus crisis. The objective is to give them a good chance to return quickly to a normal situation, and this, while taking the least possible damage. To put it succinctly: the banking sector provides maximum support for the continuity of Belgian companies and individuals'.

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