

State Liquidity Assistance During the Corona Pandemic

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The state measures to suppress the Corona pandemic have resulted in significant restrictions on social and business life in Germany and throughout the world. These restrictions are also having their effects on businesses. The Federal Government has taken measures to reduce these economic effects on Germany's economy.

I. Liquidity assistance supported by the Federal Government

The Federal Government has first approved amendments and relaxations of numerous economic support conditions in order to make liquidity assistance available. Support programmes available through the KfW and guarantee banks (*Bürgschaftsbanken*) are now available to significantly more businesses and in a much larger scope:

- Support and financing programmes available through KfW will be expanded
- Conditions for economic support on the guarantee banks will be relaxed
- The large-scale guarantee programme (combined Federal Government and Federal State guarantees) will be relaxed
- Introduction of additional special programmes at KfW for all businesses that have encountered serious financing difficulties on an interim basis as a result of the crisis
- Export guarantees (so-called Hermes coverage) for the flexible, effective and comprehensive support of cross-border trade in goods and services.

These amendments provide for support and subsidy measures for businesses of any size, sector and origin. However, it needs to be reviewed in each individual case what specific support programme is sen-

sible and what conditions are met by the affected business. The assistance is normally provided via the principal bank of the business or a guarantee bank. Please contact us if you would like a specific review of what programmes may be available to you.

Modifications to existing KfW programmes

The terms for "KfW Business Loans" (for existing businesses) and "ERP Founder Loans – Universal" (for businesses younger than 5 years) will be relaxed. Risk assumption guarantees (indemnifications on the part of KfW for principal banks) for operational business loans of up to EUR 200 million will be increased by up to 80 %. This measure is intended to stimulate the readiness to grant loans. These loans will also now become available to large businesses with turnovers of up to EUR 2 billion. In addition, it is presently being discussed whether the Federal Government can provide a fund solution to fully support the residual risk profile taken on by the principal banks.

The terms of "KfW Growth Loans" will be modified. The turnover cap for businesses supported will be raised from EUR 2 billion to EUR 5 billion. In addition, the loan will – in future – be available for consortium financing projects without limitation in a specific sector. To date, only projects in the areas of innovation and digitalisation were able to be supported. The risk assumption by KfW vis-a-vis principal banks will be increased to 70 % (to date 50 %). The fund solution mentioned above with respect to principal banks could be relevant here as well.

Assistance may be available to businesses with more than EUR 5 billion in turnover subject to individual review (as to date).

This assistance and these loans will be provided by the respective principal banks.

Measures by the guarantee banks

The maximum amount of guarantees issued by guarantee banks will be doubled to EUR 2.5 million. In addition, the Federal Government will take further measures to increase the numbers of the guarantees issued by the guarantee banks (increase in the risk proportion assumed by the Federal Government for these guarantees by 10 %; increase to the maximum amount of 35 % of total liabilities secured by the guarantee banks to 50 %). The Federal Government has also allowed for the possibility that the guarantee banks will take guarantee decisions on amounts of up to EUR 250,000 on their own and in the space of 3 days.

Large-scale guarantee programmes

The large-scale guarantee programme (combined Federal Government and Federal State guarantees) will now be expanded to be available to all businesses. To date, this programme was limited to businesses in structurally-weak regions. The Federal Government is now permitting the securing of operational business financing and investments as of a guarantee threshold need of EUR 50 million and with a guaranteed amount of up to 80 %.

NRW Guarantee Bank (North Rhine-Westphalia)

The NRW Guarantee Bank is offering a 72-hour express guarantee.

Small businesses and founders in NRW also have the opportunity to apply for investment capital of up to EUR 75,000 directly at Kapitalbeteiligungsgesellschaft (KBG) in Neuss.

Introduction of new special programmes at KfW

New special programmes at KfW are intended to provide businesses that – as a result of the crisis – have encountered temporary and serious financing difficulties (and which cannot otherwise access existing support programmes) with assistance and support programmes. Risk assumption guarantees for investment funding in the context of liability indemnifications are expected in which the KfW will guarantee operative funds loans by up to 80 % and investment funding by up to 90 %. The fund solution mentioned above with respect to principal banks could be rele-

vant here as well in order to reduce or exclude their risks.

These special programmes have already been consulted on and agreed to with the EU Commission in terms of subsidies laws.

II. Tax liquidity assistance for businesses

In order to approve the liquidity situation for businesses, the Federal Government has stated that there will be deregulation in terms of tax deferrals, tax prepayments and tax enforcement.

- The grant of tax deferrals will be relaxed. The tax authorities may grant deferrals of tax payments where collection would amount to significant prejudice. The tax authorities have been advised to refrain from imposing strict requirements on this.
- Prepayments of tax may be adjusted more easily. As soon as it is clear that taxable income will likely be less for the current year, tax prepayments will be quickly reduced on an uncomplicated basis.
- Enforcement measures (e.g. liens on bank accounts) and penalty charges for non-compliance are waived until 31 December 2020 as long as the debtor of a tax payment that is due and payable is directly affected by the effects of the Corona virus.

Customs administration (responsible for energy taxes and air traffic taxes) and the Federal Office for Taxation (responsible for insurance tax and VAT) have been advised to act accordingly.

Each business should otherwise contact its responsible tax office to consult with it on specific actions in the context of these measures. Please contact us if you need advice on securing tax liquidity assistance.

III. Temporary suspension of the duty to file for insolvency

This liquidity assistance should be flanked by a temporary and substantively-limited duty to file for insolvency. This measure is intended to prevent affected

businesses from having to file for insolvency only because the processing of applications for state aid or financing or restructuring measures are not able to be concluded within the three-week filing period under present unusual circumstances. These plans contain the following provisions:

- Stay of insolvency filing duties under § 15a of the German Insolvency Act (InsO) for the period until 30 September 2020
- Authorisation of the Federal Ministry of Justice to extend this measure until 31 March 2021
- The stay is conditional upon the insolvency grounds being based on Corona epidemic effects and that applications for state aid or significant financing or restructuring negotiations on the part of a business (otherwise) required to file are based on founded views that the business can be restructured.

The Federal Government is intending on introducing draft legislation making use of comparable use of similar provisions passed in 2002, 2013 and 2016 based on flooding catastrophes

Note

This overview is solely intended for general information purposes and may not replace legal advice on individual cases. Please contact the respective person in charge with GÖRG or respectively the authors. For further information about the authors visit our website www.goerg.com.

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