EU Policy Alert

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Expanded EU State Aid Framework Yields U.K. & German Stimulus Programs

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- Extension of the existing State aid scheme would enable support for research, testing and production of products to tackle COVID-19.
- It would also allow tax payment deferrals and wage subsidies to help avoid layoffs.
- U.K. and German Stimulus programs provide significant measures to inject liquidity and increase job security, with material corporate finance available and direct payments intended to support SMEs and the self-employed.

On March 27, the European Commission (**EC**) has sent the now 27 Member States a draft proposal to extend the State aid temporary framework for consultation.[1]

The EC had recently adopted the temporary framework to support the economy in the context of the coronavirus outbreak. As of Friday, the EC has adopted 14 decisions approving 22 national aid measures, including key elements of the United Kingdom and German stimulus programs.[2]

Germany, France and the other 25 European Union (EU) Member States are now providing comments on the EC's proposed additional five aid measures, which provide more support for: (i) coronavirus related research and development; (ii) the construction and upgrading of testing facilities for products relevant to tackle the coronavirus outbreak (for example vaccines, medical equipment or devices, protective material and disinfectants); (iii) the production of products relevant to tackle to coronavirus outbreak (such as those listed above); (iv) targeted support in the form of deferral of tax payments and/or suspensions of employers' social security contributions to help avoid lay-offs in specific regions or sectors that are hardest hit by the coronavirus outbreak; and (v) targeted support in the form of wage subsidies for employees in the same regions or sectors as above.

EC Executive Vice-President and Competition Commissioner Margrethe Vestager stated that: "*We will add to this toolbox to enable Member States to support companies that develop, test and produce much needed products to fight the coronavirus, such as vaccines, medical devices and protective equipment... We will also enable Member States to give targeted support to save jobs in sectors and regions that are hit particularly hard by the outbreak, by relieving them from tax*

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payment and social contributions or giving wage subsidies". The amended EU framework is due to be in place next week. As we saw with the Global Financial Crisis, the EC can move very quickly in emergencies.

The targeted support measures give Member States greater flexibility to intervene selectively and swiftly on the basis of greatest need. On March 27, the EC also decided temporarily to remove all countries from the list of 'marketable risk' countries under the short-term export-credit communication. This step will allow companies affected by the coronavirus outbreak to obtain short-term export-credit insurance from public insurers, and is a response to indications from Member States that they expect a global contraction of the private insurance market for exports.

UK Stimulus Package

On March 17, 2020, U.K. Chancellor Rishi Sunak announced "*an unprecedented package of government-backed and guaranteed loans to support businesses*". The package, worth >£350 billion, included (i) a COVID-19 Corporate Financing Facility (CCFF) to assist with cash flow pressures following the COVID-19 shock; (ii) a Coronavirus Business Interruption Loan Scheme (CBILS) to support the continuation of a wide range of business financing during the crisis; and (iii) £20 billion in relief, including grants of up to £25,000 for small firms, and a full year without business rates for certain retail, hospitality and leisure businesses.[3]

Subsequent measures announced to support businesses include a Coronavirus Job Retention Scheme (allowing certain U.K. employers to access support to continue paying part of their employees' salary for those that would otherwise have been laid off during this crisis) and deferral of Value Added Tax payments and of certain income tax payments (both part of a "workers' support package"[4]). Support for the self-employed has also been announced in the form of a taxable grant worth 80 percent of their trading profits for the next three months (up to a maximum of £2,500 per month).[5]

Separately, the Bank of England has introduced its own parallel measures to address the specific challenges faced by the U.K. banking sector. These include cancellation of the 2020 annual stress tests for the eight major banks and building societies.

German Protective Shield

The German Government has implemented the largest government support program ever enacted in Germany, in order to protect companies and their employees against the economic impact of the coronavirus – the so-called "protective shield".

The shield consists of four pillars, namely (i) increasing flexibility in the short time work/reduced hours compensation benefit (*Kurzarbeitergeld*) to ensure that employees will not lose their jobs; (ii) tax-related liquidity assistance measures to allow businesses affected by the coronavirus to defer tax payments more easily; (iii) the so-called "protective shield for companies", which aims to provide liquidity injections into affected businesses; and (iv) attempts to instigate coordinated action with other European states.

In particular, as part of the "protective shield for companies", the German Government has significantly expanded existing liquidity assistance programs from the state-owned German Development Loan Corporation (*Bank der Kreditanstalt für Wiederaufbau*) to make it easier for more companies to access cheap loans. It has also implemented a

€400 billion state fund that will allow it, *inter alia*, to guarantee bonds/loan notes and liabilities for larger, strategically important companies, with a further €100 billion intended to acquire interests in distressed companies in order to stabilize them. For small businesses (with up to 10 employees) and the self-employed, a €50 billion fund has been formed for emergency aid (comprising direct grants of up to €15,000 for ongoing operating costs), and regional governments will have access to it from today.

On March 27, 2020, the Federal Council passed a bill that included changes to insolvency laws for companies affected by the coronavirus. This suspended the obligation for company directors to file for insolvency promptly and within 21 days of a company becoming illiquid or over-indebted. The suspension will last until the end of September 2020 (which may be extended until March 31, 2021, by ministerial order). It introduces a presumption that the insolvency of companies that were not illiquid on December 31, 2019, was caused by the coronavirus pandemic, and that they can be restructured. The ability of creditors to file for insolvency has also been temporarily curtailed.

It is clear that European states will be taking unprecedented steps over the coming weeks in order to mitigate the economic effects of the coronavirus outbreak, and the extension of the temporary State aid regime will be a necessary first step.

[1] The Temporary Framework, adopted on March 19, 2020, can be found here: https://ec.europa.eu/competition/state_aid/what_is_new/sa_covid19_temporary-framework.pdf. The EC's statement relating to the proposal to extend this framework can be found here: https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_20_551.

[2] These 14 decisions were as follows: Case SA.56690 (*State guarantee to support debt moratorium by banks to SME borrowers*) – Italy; Case SA.56708 (*Danish guarantee scheme for SMEs affected by COVID-19*) – Denmark; Case SA.56709 (*France – COVID-19: Plan de sécurisation du financement des entreprises*) – France; Case SA.56714 (*Germany - COVID-19 measures*) – Germany; Case SA.56722 (*COVID-19: Loan guarantee scheme and subsidied loan scheme*) – Latvia; Case SA.56742 (*Scheme for enterprises in temporary financial difficulties due to COVID-19*) – Luxembourg; Case SA.56755 (*Guarantee schemes related to Covid-19*) – Portugal; Case SA.56786 (*Production of medical equipment and masks*) – Italy; Case SA.56787 (*COVID-19: Bundesregelung Bürgschaften 2020*) – Germany; Case SA.56790 (*DE - Federal Framework "Small amounts of aid 2020"*) – Germany; Case SA.56791 (*Temporary compensation scheme for self-employed financially affected by the COVID 19*) – Denmark; Case SA.56792 (*U.K. COVID 19 measure CBILS Guarantee*) – U.K.; Case SA.56794 (*Coronavirus Business Interruption Loan Scheme (CBILS) Grant*) – U.K.; and Case SA.56803 (*COVID-19 - Guarantee scheme to companies and self-employed to support the economy in the current COVID-19 outbreak*) – Spain.

[3] Please see our alert dated March 20, 2020, here: https://www.akingump.com/en/news-insights/covid-19-corporate-financing-facility-and-coronavirus-business-interruption-loan-scheme-to-help-fight-covid-19-impact-on-uk-businesses.html. The Government's website including further details on all schemes can be found here: https://www.gov.uk/government/publications/guidance-to-employers-and-businesses-about-covid-19/covid-19-support-for-businesses#support-for-businesses-through-the-coronavirus-business-interruption-loan-scheme.

[4] See the Government announcement on March 20, 2020, here: https://www.gov.uk/government/news/chancellor-announces-workers-support-package.

[5] See the Government announcement on March 26, 2020, here: https://www.gov.uk/government/news/chancellor-gives-support-to-millions-of-self-employed-individuals.

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