

## CORONAVIRUS – GUARANTEE SCHEME IN SPAIN

Governments and central banks around the world have approved different measures to provide financial support to businesses in order to mitigate the economic impact of the coronavirus outbreak. This support includes measures to ensure the continued flow of credit to business, through guaranteed or subsidised loans or central bank asset purchase programmes.

In Spain, amongst other measures, the Government has approved a guarantee scheme of up to 100bn euros. The European Commission has already cleared the Spanish guarantee scheme under the State aid Temporary Framework.

### 1. INTRODUCTION

The Coronavirus Disease 2019 ("**COVID-19**") outbreak is causing a major economic shock with short-term effects on both the liquidity of companies and their ability to safeguard jobs. In order to mitigate those impairing consequences and support businesses, the Spanish Government, amongst other measures<sup>1</sup>, has announced a guarantee scheme for a maximum amount up to 100bn euros (the "**Guarantee Scheme**").

The Guarantee Scheme will be divided into different tranches. On 24 March, the Spanish Government approved the first tranche for an amount of up to 20bn euros (the "**First Tranche**") and on 10 April a second tranche for an additional amount of 20bn euros (the "**Second Tranche**").

Whilst other COVID-19 measures are targeted at self-employed individuals, small and medium-sized enterprises or particular sectors, the First Tranche of the Guarantee Scheme is also available to larger businesses in any sector which have been negatively impacted by COVID-19. Conversely, the Second Tranche is addressed to self-employed individuals and small and medium-sized enterprises only.

### 2. HOW IS THE GUARANTEE SCHEME STRUCTURED?

Those financings complying with the relevant conditions (the "**Qualifying Financings**") will be partially guaranteed by the Spanish Government through the Official Credit Institute (*Instituto de Crédito Oficial*, "**ICO**").

#### Key issues

- The Spanish Government has launched a guarantee scheme to support the short-term liquidity needs of businesses impacted by COVID-19.
- The Guarantee Scheme is available not only to SMEs but also to larger businesses.
- The purpose is to grant access to the liquidity needed to pay wages, working capital requirements and taxes.
- The European Commission has cleared the first €20bn tranche of the Guarantee Scheme under the State aid Temporary Framework.

<sup>1</sup> In this regard, we refer you to our Client Briefing entitled "[Coronavirus: Support measures to help Spanish companies in need](#)"

Accordingly, the Guarantee Scheme provides for a risk-sharing mechanism between the public sector (through the guarantees) and the credit institutions in the private sector (in the non-guaranteed portion).

For these purposes, ICO will enter into collaboration agreements with the credit institutions in order to facilitate the granting of the Qualifying Financings.

### **3. WHO MAY BENEFIT FROM THE FIRST TRANCHE OF THE GUARANTEE SCHEME?**

The First Tranche of the Guarantee Scheme benefits:

- self-employed individuals (*autónomos*);
- micro, small and medium-sized enterprises ("**SMEs**" or, in Spanish, "**PYMEs**"), being enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million; and
- corporates not qualifying as SMEs.

However, applicants must comply with the following requirements:

- their registered office is located in Spain;
- their business have been negatively impacted by COVID-19;
- at 31 December 2019, it is not included on the "credit blacklist" held by CIRBE, the Bank of Spain Risk Information Centre;
- at 17 March 2020, it is not the subject of "insolvency proceedings";

For these purposes, it will be regarded as "subject to insolvency proceedings" if:

- it has voluntarily applied for insolvency; or
- it is in any of the circumstances described in article 2.4 of Spanish Insolvency Act (that is, failure to pay, over the previous three (3) months, tax obligations, social security contributions, employees' wages and severance or indemnity payments).

### **4. IS THERE ANY DIFFERENCE BETWEEN SMES AND OTHER CORPORATES?**

The First Tranche of the Guarantee Scheme benefits self-employed individuals, SMEs and any other corporate not qualifying as an SME. Conversely, the Second Tranche only benefits self-employed individuals and SMEs.

However, a distinction should be made between, on the one hand, self-employed individuals and SMEs and, on the other, any other corporate not qualifying as an SME for the purposes of:

- Amount of the First Tranche: the First Tranche is divided into two sub-tranches:
  - a sub-tranche of 10bn euros for the benefit of, exclusively, self-employed individuals and SMEs; and
  - a sub-tranche of 10bn euros for the benefit of, exclusively, corporates not qualifying as SMEs.
- Amount covered by the guarantee (please see Question 9 below); and
- Remuneration of the Guarantee (please see Question 11 below).

### **5. WHO MAY GRANT THE QUALIFYING FINANCINGS?**

Credit institutions, financial credit institutions (*establecimientos financieros de crédito*), electronic money institutions and payment institutions.

### **6. WHAT MUST BE THE PURPOSE OF THE QUALIFYING FINANCINGS?**

The purpose of the Qualifying Financings can only be to pay wages, invoices, working capital requirements or other liquidity needs including repayment of financial or tax obligations.

## 7. DOES ANY KIND OF FINANCING QUALIFY?

Yes, loans and any other kind of financing transactions, including both new and renewals of existing transactions.

## 8. WHEN MUST THE QUALIFYING FINANCINGS BE ENTERED INTO?

Only those Qualifying Financings entered into or renewed between 17 March 2020 and 30 September 2020 may benefit from the Guarantee Scheme.

## 9. HOW MUCH IS COVERED BY THE GUARANTEE?

The amount of the guarantee will be different depending on the beneficiary:

- in the case of self-employed individuals and SMEs, the guarantee will secure up to 80% of new loans and renewals; and
- in any other case, the guarantee will cover up to 70% of new loans and up to 60% in the case of renewals.

## 10. WHAT IS THE MAXIMUM AMOUNT TO BE APPLIED PER BENEFICIARY?

Depending on the aggregate amount of the Qualifying Financings per beneficiary, certain conditions should be met:

- For financings up to an amount of 1,500,000 euros (either in a single or multiple transactions), the requirements of the State aid de minimis Block Exemption Regulation ([Regulation \(EU\) n° 1407/2013](#)) should be met, which include that the beneficiary not be subject to collective insolvency proceedings nor fulfil criteria for being placed in collective insolvency proceedings (and, in the case of large undertakings, the beneficiary is in a situation comparable to a credit rating of at least B-); and that the guarantee not exceed 80% of the underlying loan and the duration of the guarantee not exceed five years.
- For financings in excess of 1,500,000 euros (either in a single or multiple transactions), a cap will be applied in accordance with the following criteria set forth by the [State aid Temporary Framework to support the economy in the context of the COVID-19 outbreak](#):
  - if the maturity goes beyond 31 December 2020, the principal amount should not exceed:
    - i. twice the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertaking's site but formally on the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or
    - ii. 25% of total turnover of the beneficiary in 2019; or
    - iii. with appropriate justification and based on a self-certification by the beneficiary of its liquidity needs, the amount of the loan may be increased to cover the liquidity needs from the moment of granting and for the following 18 months for SMEs and for the following 12 months for large enterprises.
  - if the maturity does not go beyond 31 December 2020, the principal amount may be higher than under the paragraph above with appropriate justification and provided that proportionality of the aid remains assured;

## 11. WHAT IS THE TERM THE GUARANTEE?

The term of the guarantee will match the term of the Qualifying Financing but subject to a maximum term of five (5) years.

## 12. WHO ASSESSES THE CREDIT QUALITY OF THE BENEFICIARY?

Qualifying Financings up to an amount of 50,000,000 euros will automatically benefit from the Guarantee provided that the transaction and the beneficiary comply with the credit risk policies of the granting credit institution. In any event, ICO will be entitled to review the eligibility of the transaction subsequently.

Qualifying Financings in excess of 50,000,000 euros will only benefit from the Guarantee upon clearance by ICO of the eligibility criteria and provided that they comply with the credit risk policies of the granting credit institution.

### 13. ARE THE QUALIFYING FINANCINGS MORE EXPENSIVE?

The economic terms applicable to the new loans and renewals benefiting from the Guarantee Scheme will remain aligned to those applicable prior to the COVID-19 crisis and will take into account the public guarantee and its cost (please see Question 14).

### 14. WHAT IS THE COST OF THE GUARANTEE?

The cost of the guarantee varies depending on the type of borrower, amount, nature of the transaction and its term:

Borrower	Amount (€)	Type of Transaction	Term	Cost (bps)
All	< 1,500,000	All	N/A	20
Self-employed and SMEs	> 1,500,000	All	< 1 year	20
			1 to 3 years	30
			3 to 5 years	80
Other than SMEs	> 1,500,000	New Loans	< 1 year	30
			1 to 3 years	60
			3 to 5 years	120
	> 1,500,000	Renewals	< 1 year	25
			1 to 3 years	50
			3 to 5 years	100

### 15. WHEN MAY A BORROWER APPLY FOR THE GUARANTEE?

Beneficiaries may apply for a guarantee until 30 September 2020 (unless this date is extended by the Government; based on the State aid Temporary Framework, in principle, extensions cannot go beyond 31 December 2020).

### 16. MAY A CREDIT INSTITUTION REFUSE TO ENTER INTO A QUALIFYING FINANCING?

Credit institutions should approve Qualifying Financings in accordance with their standard internal processes and credit risk policies.

It is worth noting that up to 30 September 2020 credit institutions must maintain the quantitative limits to working capital facilities applicable to all their clients including, without limitation, those clients benefiting from the Guarantee Scheme.

### 17. DOES THE GUARANTEE SCHEME QUALIFY AS STATE AID?

The European Commission has [found](#) the First Tranche to be in line with EU State aid rules in accordance with the [State aid Temporary Framework to support the economy in the context of the COVID-19 outbreak](#).

Executive Vice-President Margrethe Vestager, in charge of competition policy, said: "*The economic impact of the coronavirus outbreak is severe. Together with Member States, we are working to alleviate this impact as much as we can. And we need to act in a coordinated manner. With these two Spanish guarantee schemes on new loans and refinancing operations Spain will support self-employed workers and small and medium-sized enterprises affected by the coronavirus outbreak to weather the crisis. The schemes have a total budget of approximately €20 billion and we have approved them today under the new State aid Temporary Framework. We continue working closely with Member States to ensure timely support to their economy through these difficult times*".

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