Client Alert | Banking / Financial Institutions Advisory

Government-backed initiatives to support businesses impacted by the Coronavirus

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The UK Government has been quick to respond to the economic shock and disruption caused by the outbreak of COVID-19 and, over the past week, the Chancellor of the Exchequer, HM Treasury and the Bank of England have announced a series of timely and comprehensive measures designed to provide financial relief to UK businesses during a time of temporary, but significant disruptions to cash flows and revenue. In this client alert we highlight the relief packages that are being made available to UK businesses, whether large corporates or SMEs. We also give a brief overview of the packages that have been announced by other countries.

Assistance for Investment Grade/Large Corporates

Joint HM Treasury and Bank of England Covid Commercial Financing Facility

On Tuesday 17 March, the Chancellor of the Exchequer announced stimulus measures specifically aimed at providing relief to large UK companies facing COVID 19-related disruptions to their cash flows. The scheme, which is coordinated jointly by HM Treasury and the Bank of England ("BoE"), is called the Covid Commercial Finance Facility ("the CCFF") and will provide funding to large UK businesses by purchasing commercial paper of up to one-year maturity. The facility is intended to provide financing on terms comparable to those prevailing in markets in the period before the COVID-19 economic shock, and will be made available to firms able to demonstrate that they were in sound financial condition prior to the shock.

During a defined period each business day, the Covid Corporate Financing Facility Limited ("the Fund"), which is operated by BoE on behalf of HM Treasury, will purchase newly issued Commercial Paper in the primary market via dealers and from eligible counterparties in the secondary market. Purchases made under the CCFF will be financed by central bank reserves. In order to qualify under the scheme, it is necessary for companies to qualify as an "eligible issuer" and for the CP they are issuing to meet the "eligible securities" criteria, which we examine below.

Who is an "eligible issuer"?

The Fund will purchase Commercial Paper issued by companies (including their finance subsidiaries) that make a material contribution to economic activity in the United Kingdom. In its Market Notice published on 18 March, BoE clarified that eligibility is not limited to businesses that operate solely in the UK, but UK incorporated companies, including those with foreign-incorporated parents and with a genuine business in the UK, would be expected to meet the criteria.

Other factors that could assist with meeting the "UK economic activity" requirement include: companies with significant employment in the UK or with their headquarters in the UK; companies operating a number of sites in the UK or generating significant revenues or serving a large number of customers in the UK. Non-bank financial companies that make a material contribution to corporate financing in the UK will also, in principle, be eligible, whereas CP issued by leveraged investment vehicles or from companies with groups that are primarily banks, investment banks or building societies will not qualify.

Eligible securities criteria

The Fund will purchase sterling denominated CP of eligible issuers, provided that it meets the following criteria:

- A maturity of between one week and 12 months if issued to BoE at issue via a dealer. Drawings can be rolled while the CCFF is open, subject to eligibility.
- Where available, a minimum short-term credit rating of A-3/P-3/F-3 from at least one of the credit rating agencies as of 1 March 2020. Any issuer that has split ratings with one or more rating below this level will not qualify. If an issuer was on the lowest rating and had been on negative watch or negative outlook, its eligibility will be reviewed by BoE and HMT on a case-by-case basis.
- If a short-term credit rating is not available, BoE will consider whether a long-term credit rating may be used to assess both eligibility and pricing or whether it can assess that the issuer is of equivalent financial strength.
- Issued directly into Euroclear and/or Clearstream.
- Issuers who are subject to a downgrade after 1 March 2020 will remain eligible, subject to HM Treasury approval.
- CP which has certain non-standard features, such as subordination or extendibility, will not qualify.
- Securities issued by a finance subsidiary will need to be guaranteed by the parent company in a form acceptable to BoE.

For secondary market offerings, eligible counterparties will need to confirm the eligibility of specific securities with BoE prior to offering them for sale. If BoE confirms eligibility before 16:00, the securities will be eligible for sale to the Fund from the next business day. Counterparties must be appropriately authorised under the Financial Services and Markets Act 2000 (FSMA).

Final documentation for the scheme, including a pricing schedule, relevant application forms and full terms and conditions, is expected to be published on Monday 23 March, which is when the facility will open for drawings. The scheme is intended to operate for an initial period of 12 months, although it will continue for as long as necessary and BoE will provide six months' notice of the withdrawal of the Facility.

Assistance for SMEs

Coronavirus Business Interruption Loan Scheme

The Coronavirus Business Interruption Loan Scheme ("CBILS") is a guarantee scheme for lenders provided by the British Business Bank, the aim of which is to encourage lenders to continue to provide financing to viable UK SMEs during the COVID-19 outbreak. At an interview with the Treasury Select Committee on Wednesday 18 March, the Chancellor of the Exchequer indicated that the scheme is expected to be available to businesses from next week.

What does CBILS mean for lenders?

CBILS offers accredited lenders a government-backed guarantee on the outstanding balance up to 80% of the facility value, subject to a per-lender annual claim limit at portfolio level. This means that, even in cases where a borrower does not meet a lender's usual requirements with regards to security, the lender should still be able to offer financing arrangements knowing that it will benefit from the government guarantee.

There are currently more than 40 accredited lenders participating in the scheme, ranging from large institutions to challenger banks and specialist providers of asset or invoice financing. The scheme supports the provision of a range of finance products including revolving facilities or overdrafts, invoice finance facilities, asset finance facilities and term loans. The tenor of the facilities range from just three months up to 10 years in the case of term loans and asset finance, or up to three years for revolving facilities and invoice financing.

Lenders who wish to be accredited under CBILS can apply by completing an Expression of Interest Form and returning it to the British Business Bank. The criteria to be accepted as an accredited lender under CBILS is based on that used for the Enterprise Finance Guarantee Scheme and, amongst other things, requires the following:

- A track record of lending to SMEs trading in the UK;
- An expectation that the lender will be able to originate around £500,000 of CBILS-backed lending per year (N.B. the original EFG scheme stipulated that this annual commitment should be provided for three consecutive years);
- Sufficient capital available to meet lending forecasts for the next three years;
- Evidence that robust systems and processes are in place for managing CBILS-backed lending, with sufficient expertise to execute the proposed strategy; and
- Confirmation of the lending entity's appropriate legal structure, tax domicile and necessary regulatory approvals.

What does CBILS offer borrowers?

The scheme means that borrowers who would otherwise have struggled to secure financing, should now be able to secure funds of up to a maximum of £5 million via one of the accredited lenders participating in CBILS. In addition to gaining access to facilities that may otherwise have been off-limits, borrowers will also benefit from lower initial repayments because the Government has stated that it will cover the first six months' of interest payments, although borrowers remain liable for the capital repayments.

The full eligibility criteria has not yet been published, but initial indications suggest that in order to be eligible an SME must meet these criteria:

- Be UK based, with turnover of no more than £41m per annum;
- Operate within an eligible industrial sector;
- Be able to confirm they have not received de minimis state aid beyond €200,000 equivalent over the current and previous two fiscal years; and
- Have a sound borrowing proposal, but insufficient security to meet the lender's standard requirements.

What constitutes an "eligible industrial sector"?

Most industrial sectors are eligible for support via CBILS, but there are a small number of excluded sectors (such as banks, building societies, insurers and reinsurers, religious or political organisations and providers of primary and general secondary education) and others, such as agriculture which, although eligible, may be restricted as a result of EU de minimis state aid rules.

How can a borrower apply for a financing arrangement under CBILS?

In order to take advantage of CBILS, a borrower should apply to one of the accredited lenders participating in the scheme in the normal way it would apply for a loan facility. If, upon reviewing the SME's borrowing proposal, the accredited lender is able to offer financing on normal commercial terms without making use of CBILS, it will do so. If, on the other hand, the SME has a sound borrowing proposal, but insufficient security then the accredited lender will consider the business for support via CBILS.

Bank of England's Term Funding Scheme

At a meeting on Tuesday 10 March, the Monetary Policy Committee voted unanimously for BoE to introduce a new Term Funding Scheme with additional incentives for SMEs ("the TFSME"), which will be financed by the issuance of central bank reserves. Over the next 12 months, the scheme will enable banks and building societies to access BoE funds equivalent to 5% of their lending to the real economy at an interest rate very close to the base rate. The TFSME is designed to ensure that the benefits of the rate cut are passed on to the real economy. The scheme will provide participating financial institutions with a cost-effective source of funding to support and incentivise additional lending to businesses, and the additional incentives for lending to SMEs should assist those companies that typically suffer the most during periods of heightened risk aversion and economic downturns. On 19 March, when the base rate was cut further to 0.1%, the Initial Borrowing Allowance for the TFSME was increased from 5% to 10% of participants' stock of real economy lending.

The quantity and price of funding available to the banks and building societies participating in the TFSME will be based on the quantity of sterling loans made to UK resident households, private non-financial corporations ("PNFCs") and certain non-bank credit providers ("NBCPs") outside of the participants TFSME Group.

The borrowing allowance for the financial institutions participating in the TFSME is made up of an Initial Allowance, equivalent to 10% of the TFSME Group stock of real economy lending, and an Additional Allowance. It is this Additional Allowance that will encourage increased lending to SMEs. The Additional Allowance is equal to the sum of the following:

- One times Non-SME Net Lending over the relevant reference period to UK resident households, large corporates and NBCPs; and
- Five times Net Lending to SMEs over the relevant reference period.

How are SMEs defined for the purposes of TFSME?

A business will be considered an SME if it is a PNFC with an annual debit turnover of less than £25 million on the business account or it is an unincorporated business entity ("UB") resident in the UK, in other words a sole trader.

Measures announced elsewhere

Country/ Institution	Relief Package
Spain	In a move that Prime Minister Pedro Sánchez described as the "biggest mobilisation of resources in Spain's democratic history", the Spanish government has announced plans that, amongst other measures, include €100bn of state loan guarantees for business, in particular small- and medium-sized companies. For further detail, please see our alert entitled "Spanish Transitory Measures".
France	President Macron has promised unlimited budgetary support to companies and employees affected by COVID-19 in a series of moves which is calculated to come at a cost of €45bn. Among the proposals there is a package of up to €300bn of French state guarantees for bank loans to businesses and €1tn of such guarantees from European institutions.
Germany	Through KfW, the state development bank, the German government is making up to €500bn in loans available to companies affected by the coronavirus. The loans, will be available to all companies from SMEs to blue-chip. In addition, the country's programme of export credits and other guarantees will be expanded and it has pledged tax deferrals. The southern state of Bavaria has launched a €10bn fund to buy stakes in struggling companies. For further detail, please see our alert entitled "Coronavirus Aid for Companies in Difficulties – Unprecedented Response from KfW, German government and EU Commission".

Italy	The Italian rescue package is set to include loan guarantees for businesses affected by the outbreak, as well as a moratorium on loan and mortgage payments. The exact detail of the structuring of these measures has not yet been made public.
ECB	On 18 March, the ECB announced a €750 billion Pandemic Emergency Purchase Programme. This is a new temporary asset purchase programme of private and public sector securities, which will continue for at least the remainder of 2020 and until the Governing Council determines that the COVID-19 crisis phase has passed.

If you have any questions on any of the topics raised in this alert, then you should reach out to your usual White & Case contact.

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