

Client Alert | Corporate and Banking – Hong Kong

COVID-19: Hong Kong Government Financial Assistance Measures

April 2020

In response to the challenges arising from the novel coronavirus (“**COVID-19**”) pandemic, the Hong Kong Government (the “**Government**”) has introduced financing support, tax and other temporary relief measures intended to help Hong Kong businesses survive the dramatic short term effects of COVID-19 and assist the Hong Kong economy in recovering after the COVID-19 crisis passes. Measures include providing financing support in the form of the SME Financing Guarantee Scheme, the Employment Support Scheme as well as introducing reduction in profits tax, income tax, property tax, specific-industries subsidies and other relief measures.

Daniel Yeh

Partner, Hong Kong
T +852 2822 8786
daniel.yeh@whitecase.com

Katy Lau

Associate, Hong Kong
T +852 2822 8731
katy.lau@whitecase.com

Government Loan Guarantees for SMEs

- **Eligibility Requirements:**

A small and medium enterprise (“**SME**”)¹ shall meet the following minimum requirements to be eligible for applying for the SME Financing Guarantee Scheme (“**SFGS**”):

- a company, sole proprietorship, partnership or unincorporated body of persons which has business operation in Hong Kong and remains unchanged under the Business Registration Ordinance (Cap. 310);
- not carrying on the business of a lender or otherwise providing funds available for borrowing in any way;
- not an affiliate of the Lender;

¹ Under the definition of the Government, a SME is a manufacturing business which employs fewer than 100 persons in Hong Kong; or a non-manufacturing business which employs fewer than 50 persons in Hong Kong.

- not a company or corporation which has any of its shares listed on The Stock Exchange of Hong Kong Limited or any similar exchange in or outside Hong Kong. For the 80% and the 90% Guarantee Products, the eligibility criteria is extended for one year to cover publicly listed companies in Hong Kong subject to personal guarantee by individual shareholder(s) directly or indirectly holding more than 50% of the equity interest of the enterprise; and
- must have business operation in Hong Kong for at least one year (for 80% Guarantee Product), and at least three months (for 100% Guarantee Product).

To be eligible for the Special 100% Guarantee Product, SMEs in all sectors must have suffered at least a 30% decline in sales turnover in any month since February 2020 compared with the monthly average of any quarter in 2019.

- **Purpose:** The SFGS helps eligible SME from all sectors to secure loans from participating lenders (“Lenders”) where the Government will provide guarantee coverage, to ease their cash flow difficulties. Loans that originate from Lenders will be transferred to the HK Mortgage Corporation Limited (a wholly owned entity of the Government through the Exchange Fund) after drawdowns, and all default risks will be borne by the Government with a 100% guarantee (if the SME applicant applies for the Special 100% Loan Guarantee Product), greatly enhancing the chances for businesses in securing loans.
- This scheme would still require a person (who is an individual) or a group of persons who, directly or indirectly, hold(s) or is/are beneficially entitled to more than 70% (for the Special 100% Loan Guarantee) or more than 50% (for other Guarantee Products) of the issued share capital or equity interest of the SME to enter into an irrevocable, unconditional and legally binding guarantee in favor of the Lender in relation to the relevant facility (if more than one person, on a joint and several basis). Such persons are usually required to be permanent residents in Hong Kong.
- A Special 100% Loan Guarantee was launched on 20 April 2020, which aims to alleviate the burden of paying employee wages and rents by SMEs which are suffering from reduced income to help minimizing layoffs. Prior to the outbreak of the COVID-19, the Government had previously launched 90%, 80%, 70%, 60% and 50% Guarantee Products, which are similar to the Special 100% Loan Guarantee, and they are still available for application.
- **Key features:**

Guarantee Products			
Guarantee Product	80% Loan Guarantee	90% Loan Guarantee	Special 100% Loan Guarantee
Risk Sharing Factor	80%	90%	100%
Application Period	Until June 2022	Until June 2022	Until April 2021
Annual Guarantee Fee Rates	0.45%	Up to 0.36% of loan amount: if business operation is more than 3 years. Up to 0.45% of loan amount: if business operation is 3 years or less.	Not applicable
Maximum Facility Amount	HKD 18 million (or foreign currency equivalent)	HKD 8 million	(i) HKD 4 million or (ii) the total amount of employee wages and

			rents ² for 6 months, whichever is lower
Facility Type	Revolving and non-revolving facility without any restriction on the proportion between them	Term loan only	Loans of non-revolving nature
Repayment Term	Borrower may pay interest only in the first 6 months after the starting date of the facility, and repay principal and pay interest by instalments thereafter	Borrower may pay interest only in the first 12 months after the starting date of the facility, and repay principal and pay interest by instalments thereafter	
Maximum Guarantee Period	5 years; 7 years for applications received by end-June 2022	5 years	3 years
Maximum Overall Interest Rate	10% per annum Interest subsidy of an interest rate minus 2.75% (subject to a cap of 3%) for one-year period is provided Final overall interest rate will be determined by the lenders	8% per annum: if operating history of more than 3 years 10% per annum: if operating history is 3 years or less Interest subsidy of an interest rate minus 2.75% (subject to a cap of 3%) for one-year period is provided	Annual interest rate at 2.5% below the prime lending rate for HKD

SME Export Marketing Fund (“EMF”)

- **Eligibility Requirements:**

The Trade and Industry Department has absolute discretion to determine eligibility. The SME must fulfil the following requirements:

- registered in Hong Kong under the Business Registration Ordinance (Cap. 310);
- meet the Government’s definition of an SME, i.e. a manufacturing business which employs fewer than 100 persons in Hong Kong; or a non-manufacturing business which employs fewer than 50 persons in Hong Kong;
- have substantive business operations in Hong Kong at the time of making the application;
- no limit on the number of applications. If funding support is previously received under EMF, the cumulative amount of funding must not exceed a cumulative cap of HKD 800,000; and
- must not be the organizer, co-organizer, service provider or a related company of the organizer, co-organizer, service provider of the export promotion activity and the related services covered by the application.

Export promotion activities eligible for funding include:

² If the SME does not have any employee and rented office in 2019, proxy is made to the 50% of the highest monthly net income in 2019 multiplied by six.

- trade fairs/ exhibitions outside Hong Kong;
- business missions outside Hong Kong;
- local trade fairs/ exhibitions which mainly target at markets outside Hong Kong;
- placing advertisements on trade publications which mainly target at markets outside Hong Kong;
- export promotion activities (such as placing advertisements, keyword search, listing product information, setting up or enhancing online shops, etc.) which are conducted through electronic platforms/ media and which mainly targeted at markets outside Hong Kong; and
- setting up or enhancement of a corporate website or mobile application of the applicant enterprise which mainly targets at markets outside Hong Kong,

and such activities must be organized or operated by organizations with a good track record.

- **Purpose:** The EMF aims to encourage SMEs to expand their markets outside Hong Kong by providing financial assistance to SMEs for participation in export promotion activities.
- **Maximum funding:** The cumulative funding ceiling per enterprise is HKD 800,000, and each export promotion activity is eligible to 50% of the total approved expenditure incurred or HKD 100,000, whichever is lower.

Technology Voucher Program (“TVP”)

- **Eligibility Requirements:**

The entity must fulfil the following requirements:

- (a) registered in Hong Kong under the Business Registration Ordinance (Cap. 310); or (b) incorporated and registered in Hong Kong under the Companies Ordinance (Cap. 622); or (c) established in Hong Kong by relevant ordinances as statutory bodies;
 - not an entity listed on The Stock Exchange of Hong Kong Limited, and not a Government subvented organization³ or a subsidiary of any Government subvented organization; and
 - have substantive business operations in Hong Kong which is related to the application project at the time of application.
- **Purpose:** The TVP aims to subsidize local enterprises in using technological services and solutions to improve productivity, or upgrade or transform their business processes. In general, applicants can propose technological services and solutions which can achieve the objectives of TVP for funding, and the Government will consider the merits of such applications on a case-by-case basis, as long as applicants can demonstrate the project would have “direct impact” on its business operation in Hong Kong. Each project should normally be completed within 12 months. One of the commonly approved TVP Projects was Augmented Reality (AR) Technologies System.
 - **Assessment:** Assessment is based on individual merits and considered on a case-by-case basis, which includes:
 - relevance of proposed project to the applicant’s business – *prospects of enhancing competitiveness (productivity, cost reduction, efficiency, upgrading business processes)*;
 - reasonableness of budget – *comparison to market prices; individual items of expenditure is essential and directly related to the implementation of the project*;

³ A government subvented organization means one that receives grant from the Government on a recurrent basis.

-
- reasonableness of implementation details – *complexity of technology and project duration*; and
 - (any) adverse record of consultants and/or service provider(s) known to TVP Committee and Innovation and Technology Commission .
- **Maximum funding:** Since April 2020, the cumulative funding per enterprise is increased to HKD 600,000. The applicant must contribute no less than one-quarter of the total approved project cost in cash, whereas funding of no more than three-quarters of the actual project cost will be provided to an applicant. Up to six projects from an applicant may be approved. An applicant is not allowed to undertake more than one TVP project at the same time.

Direct Government Payments – available to all enterprises

- Under the Employment Support Scheme, non-governmental related employers making Mandatory Provident Fund (“MPF”) contributions will be eligible to wage subsidies, calculated based on 50% of employees’ wages subject to a wage cap of HKD 18,000 per month, for a period of six months, in return for undertaking not to implement redundancy. Payment will be made in two tranches, with the first payout no later than the end of June 2020.
- Employers not making MPF contributions but are in the catering, construction and transport industries can be assisted in sector-specific schemes.

Temporary Relief for Financially Distressed Businesses – available to all enterprises (depending on the specific industry)

The Government has implemented a broad range of one-off subsidies for a wide range of businesses ranging from the catering, tourism to aviation industry, and individuals including sport coaches, construction workers and beauty parlor operators.

Tax / Registration Fees Relief Measures – available to all enterprises

Tax deferrals

- Tax deadlines, including tax return filing, tax payment and responding to enquiries, have generally been deferred when the Government announced work-from-home requirements for the public service until the tax authority reopens. The work-from-home period lasted from 29 January 2020 to 1 March 2020, and has re-commenced on 23 March 2020 until further notice.
- Deadline for payment of tax for year 2018/19 which are due for payment in April, May or June 2020 will be automatically extended for three months.

Profits Tax

- 2019-20 profits tax payable is reduced by 100%, subject to a ceiling of HKD 20,000.

Salaries Tax

- 2019-20 salaries tax and tax under personal assessment payable is reduced by 100%, subject to a ceiling of HKD 20,000.

Properties Tax

- 2020-21 rates of domestic properties for are waived, subject to a HKD 1,500 ceiling per quarter
- 2020-21 rates of non-domestic properties are waived, subject to HKD 5,000 ceiling per quarter in first two quarters and HKD 1,500 ceiling per quarter for remaining two quarters.

Business Registration Fees

- 2020-21 business registration fees will be waived.

Loan Repayment Relief Measures

- Self-financing post-secondary institutions and non-profit-making international schools are entitled to one-off interest-free deferral of government loan repayment for two years.
- All student loan repayees (except those on default) are automatically entitled to interest-free deferral of government loan repayment for two years.

Property Costs Relief Measures

Reduction of utility bills

- Electricity charges for non-residential account: 75% of charges for four months is subsidized, subject to a monthly cap of HKD 5,000.
- Water and sewage charges of non-domestic households: 75% of charges for four months is waived, subject to a monthly cap of HKD 20,000 and HKD 12,500 respectively per account. This waiver is an extension of the eight months' waivers already offered. About 250 000 non-domestic accounts will benefit.

Rental Subsidy

- Rental for government properties/properties covered by short-term and temporary waivers: 75% rent concession for six months. Businesses that completely ceased operation will receive full rental waiver.

Conclusions

Financing support and other temporary relief measures introduced by the Government to ensure business continuity are mainly intended to support Hong Kong based SMEs, and some other reliefs could also be available to large corporates, such as those for specific hard-hit industries (to the extent they are applicable), although some of the details on implementation of the measures have yet to be announced.

We encourage our clients to consider the opportunities presented by the available financing support, tax and other relief measures carefully, consulting with us as appropriate.

In addition, White & Case has carried out an analysis of global governmental responses to the COVID-19 crisis. These vary considerably from country to country and are being updated and amended regularly.

We have prepared an in-depth and nuanced analysis for various major jurisdictions and pulled together a global response team.

For useful information on COVID-19, please consult the Coronavirus section of www.whitecase.com.

Annex I

The Government has introduced certain financing support, tax and other relief measures to support the liquidity of companies and ensure business continuity. The applicable measures are summarized below.

Applicable Measures	Large Corporates	SMEs
Eligible Beneficiary	Corporates exceeding the threshold for SMEs	<p>Manufacturing firms which employ fewer than 100 persons in Hong Kong; or</p> <p>Non-manufacturing firms (including firms engaged in construction; mining; quarrying; electricity and gas; import and export; wholesaling; retailing; catering; hotel; transport; warehouse; insurance; real estate; business service; community, social and personal service) which employ fewer than 50 persons in Hong Kong.</p>
Direct Government Payments	Under the Employment Support Scheme, employers making MPF contributions will be eligible to wage subsidies of 50% of employees' wages subject to a wage cap of HKD 18,000 per month, for a period of six months, in return for undertaking not to implement redundancy. Employers not making MPF contributions but are in the catering, construction and transport industry will be assisted in sector-specific schemes.	
Temporary Relief for Financially Distressed Businesses	<p>The Government has implemented a broad range of one-off subsidies for a wide range of businesses ranging from the catering, tourism to aviation industry, and individuals including sport coaches, construction workers and beauty parlor operators.</p> <p>For instance, aviation sector:</p> <ul style="list-style-type: none"> (i) One-off subsidy of HKD 1 million per large aircraft registered in Hong Kong and HKD 200,000 per small aircraft registered in Hong Kong. Expect to benefit about 270 aircrafts. (ii) Aviation support services and cargo facilities operators: One-off subsidy of up to HKD 3 million (with 100 employees or above) / HKD 1 million (with less than 100 employees) to each operator. Expect to benefit about 40 operators 	
Financial Assistance to SMEs - Government Loan Guarantees	Not available to large corporates	<p><i>Purpose:</i> Government's assistance to SMEs to obtain financing from lenders by providing guarantee coverage.</p> <p><i>Maximum loan amount:</i> HKD 4 million for Special 100% Guarantee Product; HKD 8 million for 90% Guarantee Product; HKD 18 million for 80% Guarantee Product.</p> <p><i>Eligible companies:</i></p> <ul style="list-style-type: none"> 1. It must be a company, sole proprietorship, partnership or unincorporated body of persons which has business operation in Hong Kong and remains unchanged under the Business Registration Ordinance (Cap. 310). 2. It shall not be carrying on the business of a lender or otherwise providing funds available for borrowing in any way.

		<ol style="list-style-type: none"> 3. It shall not be an affiliate of the Lender. 4. It shall not be a company or corporation which has any of its shares listed on The Stock Exchange of Hong Kong Limited or any similar exchange in or outside Hong Kong. For the 80% and the 90% Guarantee Products, the eligibility criteria is extended for one year to cover publicly listed companies in Hong Kong subject to personal guarantee by individual shareholder(s) directly or indirectly holding more than 50% of the equity interest of the enterprise. 5. A person (who is an individual) or a group of persons who, directly or indirectly, hold(s) or is/are beneficially entitled to more than 70% (for the Special 100% Loan Guarantee) or more than 50% (for other Guarantee Products) of the issued share capital or equity interest of the SME shall enter into an irrevocable, unconditional and legally binding guarantee in favor of the Lender in relation to the relevant facility (if more than one person, on a joint and several basis). Such persons are usually required to be permanent residents in Hong Kong. 6. To be eligible for the Special 100% Guarantee Product, SMEs in all sectors must have suffered at least a 30% decline in sales turnover in any month since February 2020 compared with the monthly average of any quarter in 2019.
SME Export Marketing Fund	Not applicable to large corporates	<p><i>Purpose:</i> Participation in export promotion activities in markets outside Hong Kong.</p> <p><i>Maximum funding:</i> Cumulating funding per enterprise is HKD 800,000, and each export promotion activity is eligible to 50% of the total approved expenditure incurred or HKD 100,000, whichever is lower.</p> <p><i>Eligible companies:</i></p> <ol style="list-style-type: none"> 1. It must be registered in Hong Kong under the Business Registration Ordinance (Cap. 310). 2. It must meet the Government's definition of an SME, i.e. a manufacturing business which employs fewer than 100 persons in Hong Kong; or a non-manufacturing business which employs fewer than 50 persons in Hong Kong. 3. It must have substantive business operations in Hong Kong at the time of making the application. 4. If it has previously received funding support under EMF, the cumulative amount of funding received must not exceed the prevailing cumulative funding ceiling i.e. HKD 800,000.

		<p>5. It must not be the organizer, co-organizer, service provider or a related company of the organizer, co-organizer, service provider of the export promotion activity and the related services covered by the application.</p> <p><i>Eligible export promotion activities:</i></p> <ol style="list-style-type: none"> 1. trade fairs/exhibitions outside Hong Kong; 2. business missions outside Hong Kong; 3. local trade fairs/exhibitions which mainly target at markets outside Hong Kong; 4. placing advertisements on trade publications which mainly target at markets outside Hong Kong; 5. export promotion activities (such as placing advertisements, keyword search, listing product information, setting up or enhancing online shop, etc.) which are conducted through electronic platforms/media and which mainly target at markets outside Hong Kong; and 6. setting up or enhancement of a corporate website or mobile application of the applicant enterprise which mainly targets at markets outside Hong Kong.
<p>Technology Voucher Program</p>	<p><i>Purpose:</i> Improve productivity, or upgrade or transform business processes with the use of technological services and solutions.</p> <p><i>Maximum funding:</i> Cumulative funding per enterprise is HKD 600,000. The applicant must contribute no less than one quarter of the total approved project cost in cash. Up to six projects from an applicant may be approved. An applicant is not allowed to undertake more than one TVP project at the same time.</p> <p><i>Eligible companies:</i></p> <ol style="list-style-type: none"> 1. It must be (a) registered in Hong Kong under the Business Registration Ordinance (Cap. 310); or (b) incorporated and registered in Hong Kong under the Companies Ordinance (Cap. 622); or (c) established in Hong Kong by relevant ordinances as statutory bodies. 2. It is not an entity listed on The Stock Exchange of Hong Kong Limited, and not a Government subvented organization or a subsidiary of any Government subvented organization. 3. It must have substantive business operations in Hong Kong which is related to the application project at the time of application. <p><i>Assessment criteria:</i></p> <ol style="list-style-type: none"> 1. the relevance of the proposed project to the applicant's business; 2. the reasonableness of the budget; 3. the reasonableness of the implementation details; and 4. the adverse record of consultants and/or service provider(s). 	

<p>Tax and Other Relief Measures</p>	<p>Loan Repayment Relief</p> <p>Self-financing post-secondary institutions and non-profit-making international schools are entitled to interest-free deferral of government loan repayment for two years.</p> <p>Tax deferrals</p> <p>Deadline for payment of tax for year 2018/19 which are due for payment in April, May or June 2020 will be automatically extended for three months.</p> <p>Profits Tax</p> <p>2019-20 profits tax payable is reduced by 100%, subject to a ceiling of HKD 20,000.</p> <p>Rates of Non-domestic Properties</p> <p>2020-21 rates of non-domestic properties are waived, subject to HKD 5,000 ceiling per quarter in first two quarters and HKD 1,500 ceiling per quarter for remaining two quarters.</p> <p>Reduction of utility bills</p> <p>Electricity charges for non-residential account: 75% of charges for four months is subsidized, subject to a monthly cap of HKD 5,000.</p> <p>Water and sewage charges of non-domestic households: 75% of charges for four months is waived, subject to a monthly cap of HKD 20,000 and HKD 12,500 respectively.</p> <p>Rental Subsidy</p> <p>Rental for government properties/properties covered by short-term and temporary waivers: 75% rent concession for six months. Businesses that completely ceased operation will receive full rental waiver.</p>
---	---

White & Case
9th Floor Central Tower
28 Queen's Road Central
Hong Kong SAR
T: +852 2822 8700

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.

© 2020 White & Case LLP