

“Unprecedented measures for unprecedented times” UK Government announces financial schemes to support British businesses during crisis

April 2020

On 20 March 2020, the Chancellor of the Exchequer announced the UK Government would be launching multiple financial support schemes. The schemes are designed to provide financial assistance to British businesses affected by the COVID-19 pandemic and associated lockdown.

Financial schemes will be supplemented by further measures aimed at supporting business continuity, including a job retention scheme and temporarily relaxing the UK’s insolvency regime.

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COVID-19 Corporate Financing Facility (“CCFF”)

The Bank of England will support large businesses affected by COVID-19 by purchasing short-term debt instruments issued by companies. The scheme will be delivered by commercial lenders, backed by the Bank of England.

Key Features

- Companies, with the assistance of commercial banks, will be able to issue short-term debt instruments, in the form of commercial papers, that will be purchased by the Bank of England.
- The minimum size of the individual instrument must be £1 million, with total amounts being rounded to the nearest £0.1 million.

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- The Bank of England will purchase the commercial paper subject to individual issuer limits, based on a number of factors, including the issuer's credit rating.
 - Financing terms offered will be on terms comparable to those prevailing in markets in the period before the economic shock of the pandemic.
 - A guarantee may be required, depending on individual circumstances. Where a guarantee is required the Bank of England will accept an English law governed, market standard guarantee and accompanying legal opinion.
 - The scheme will be available for a period of 12 months.

Eligibility Conditions

The scheme is open to UK-based companies, and their subsidiaries, that make a material contribution to the UK economy. Companies must be able to demonstrate they were in sound financial health prior to the pandemic.

Foreign-owned companies with a genuine UK presence, for example those with significant employment levels in the UK or that have their headquarters situated in the UK, will generally be viewed as meeting the UK-based condition.

Companies must have a short-term credit rating of A3/P3/F3/R3 or above, or a long-term rating of BBB-/Baa3/BBB-/BBB low, or above. Companies that do not have a credit rating but are listed as investment grade by banking counterparties may apply to Credit Benchmark to have their investment grade status across multiple banks confirmed and deemed equivalent to a credit rating. Companies with neither a credit rating nor an investment grade status will not be eligible for the scheme.

There is no requirement for the company to have previously issued a commercial paper or other form of debt instrument.

Process

The scheme will be delivered by commercial lenders; companies wishing to participate in the scheme will need to contact their bank directly. The Bank of England and the commercial bank will contact the company to discuss its eligibility after the application has been made.

Coronavirus Business Interruption Loan Scheme

The UK government has announced two business interruption loan schemes. One scheme is designed for use by small and medium businesses ("**CBILS**"), defined as a business with a turnover under £45 million ("**SMB**"), and a second scheme is designed for larger businesses with a turnover of £45 million and above ("**CLBILS**").

CBILS for SMB

Key Features

The CBILS scheme for SMB will make finance facilities of up to £5 million available via loans, overdrafts, invoice finance and asset finance facilities. The facilities will be provided via accredited commercial lenders.

The UK government will guarantee 80% of amounts lent to participating business. In addition, the government will provide a business interruption payment to all businesses participating in the CBILS scheme covering the first 12 months of interest payments and any fees levied by the lender.

Eligibility Conditions

The scheme is available to any UK-based business with a turnover of up to £45 million. Turnover is calculated on a consolidated group basis.

Applicant companies will typically need to be able to demonstrate two years' trading history. However, this may vary depending on the credit criteria of the individual lender to which the business chooses to apply.

The scheme is open to any business that operates its activity through a business bank account. This extends to sole traders and freelancers in addition to registered businesses.

The applicant company must have a borrowing proposal that the lender considers would be viable, if not for the Coronavirus pandemic. The applicant will also be required to self-certify that COVID-19 has had a negative impact upon its business.

Lenders are able to request personal guarantees to support loans of over £250,000; however the guarantee must exclude the guarantor's principal private residence and must not exceed 20% of the outstanding balance of the loan after the proceeds of the business' assets have been applied.

Process

The CBILs scheme is administered by over 40 accredited lenders. Businesses should approach their chosen lender directly. The application process and documentation an applicant business will be required to provide will vary by lender.

A business is able to apply to multiple lenders. Similarly, a business may apply to an alternative lender after being rejected by one of the accredited lenders.

CBILS for Larger Businesses

A CBILS scheme for larger businesses, defined as businesses with turnover of £45 million or more, was launched on 20 April 2020

Key Features

The scheme will make loans of up to £25 million available to companies with an annual turnover of over £45 million and loans of up to £50 million available to companies with a turnover of over £250 million, with no upper turnover limit.

The scheme will be delivered via commercial lenders and will be offered on normal commercial terms. The UK government will guarantee individual loans up to 80%.

Process

The applicant company is required to present a borrowing proposal to the lender that would be viable if not for the COVID-19 pandemic. The applicant company is also required to demonstrate the finance will enable the company to trade out of the short- to medium-term difficulties caused by the pandemic. The business will not be eligible if it has received a facility under the CCFF.

Small Business Grant Fund and Retail, Hospitality and Leisure Grant Fund

The small business grant fund ("**SBGF**") and the retail, hospitality and leisure grant fund ("**RHLGF**") are available to businesses based in England only. The schemes will be administered by local authorities and eligible businesses will be contacted directly by their local authority.

Under the SBGF, all eligible businesses will receive a payment of £10,000 and businesses eligible under the RHLG will receive grants of between £10,000 and £25,000 per property. Eligibility will be determined on the rateable value of the business premises.

Other schemes may be available for businesses based in Northern Ireland, Wales and Scotland.

Measures Aimed at Supporting Business Continuity

Coronavirus Job Retention Scheme

All employers in all sectors (including both profit and not-for-profit) will be eligible for the scheme. Under the scheme, HM Revenue & Customs ("**HMRC**") will provide grants to reimburse employers for the following amounts:

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- the lower of: (i) 80% of the usual monthly wage cost before tax of each employee who is furloughed (i.e. put on leave of absence and not performing any work for the employer); and (ii) £2,500; PLUS
 - employer's NICs; PLUS
 - minimum auto-enrolment employer pension contributions.

The scheme will cover all employees who are paid through the UK's PAYE withholding system, and were on the payroll as at 28 February 2020. The minimum length an employee can be furloughed for is three weeks and employers can only submit one claim in any three week period.

Claims for reimbursement, which must be made to HMRC, can be backdated to 1 March 2020, if applicable. The scheme will apply until at least 31 May 2020 and there will be no limit on funding.

Suspension of the wrongful trading regime

The UK government intends to suspend the wrongful trading regime governed by sections 214 and 246B of the Insolvency Act 1986.

The Insolvency Act requires a director to act in the best interests of a company's creditors and take all steps necessary to minimise losses to creditors in the event it becomes apparent the company will not be able to avoid an insolvent liquidation or administration.

The government intends to retrospectively suspend the wrongful trading regime from 1 March 2020 for a period of three months. The suspension will permit directors to continue to trade even where they believe the company may not be able to avoid insolvency. The measure will allow directors to prioritise making payments to employees and suppliers in place of creditors, without incurring personal liability.

Planned changes to the insolvency regime

Further changes are planned to the UK's insolvency regime that will enable companies to continue trading and purchasing basic supplies, including energy, raw materials and internet connectivity, while they are seeking or undergoing a rescue or restructure. These changes are intended to be considered and passed into law upon parliament being reconvened in April 2020.

Protection for commercial tenants

The UK government has implemented measures that will prevent businesses from being evicted from their premises due to non-payment of rent.

Tenants will be protected for rental payments due in April, May and June. However, companies will remain liable to their landlords for the missed repayment.

Conclusion

Financial support schemes, rate relief schemes and other measures implemented by the UK government to ensure business continuity are intended to support UK based companies, of all sizes, in conjunction with commercial lenders.

We encourage our clients to consider the opportunities presented by the government schemes and measures carefully, consulting with us as appropriate.

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 www.whitecase.com/coronavirus-hub.

Annex I

| Applicable Measures | Investment Grade Corporates: Companies that make a substantial contribution to the UK economy, with a short-term credit rating of A3/P3/F3/R3 or above, a long-term rating of BBB-/Baa3/BBB-/BBB low, or are deemed to be investment grade by multiple banks | Large Companies: UK based companies with a turnover of over £45 million | SMB: UK based companies with a consolidated group turnover of up to £45 million |
|-----------------------|--|--|---|
| CBILS | Ineligible. | Ineligible. | Finance facilities are available of up to £5 million, backed by a government guarantee of 80% of amounts lent in addition to a payment covering the first 12 months of interest payments and any fees levied by the lender. |
| CLBILS | Ineligible (if the business has received a facility under the CCFF). | Finance facilities of up to £25 million are available to companies with an annual turnover of over £45 million and facilities of up to £50 million are available to companies with a turnover of over £250 million. The UK government will provide guarantees of 80% of amounts lent. | Ineligible. |
| CCFF | Companies, with the assistance of commercial banks, will be able to issue commercial papers, from a minimum size of £1 million, that will be purchased by the Bank of England. | Ineligible. | Ineligible. |
| SBGF and RHLGF | The SBGF will make grants of up to £10,000 available to businesses depending on the rateable value of their business premises. The RHLGF will make grants of between £10,000 and £25,000 available to business in the retail and hospitality sectors depending on the rateable value of the business premises. | | |

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| Employee Retention Scheme | <p>HMRC will provide grants to reimburse employers for the following amounts:</p> <ul style="list-style-type: none"> • the lower of: (i) 80% of the usual monthly wage cost before tax of each employee who is furloughed; and (ii) £2,500; PLUS • employer's NICs; PLUS • minimum auto-enrolment employer pension contributions. |
| Insolvency Related Measures | <p>Changes to the wrongful trading regime and insolvency regimes are due to be considered by parliament in April 2020.</p> <p>Parliament is expected to retrospectively suspend the wrongful trading regime from 01 March 2020.</p> |
| Protection for Commercial Tenants | <p>Commercial tenants will be protected from eviction for non-payment of rental payments due in April, May and June. Companies will remain liable to their landlords for the missed repayment.</p> |

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