

## **THE GOVERNMENT APPROVES THE FIRST TRANCHE OF AID FOR ENTERPRISES AND SELF-EMPLOYED WORKERS TO MITIGATE THE ECONOMIC EFFECTS OF COVID-19**

Pursuant to the Resolution of the State Secretariat for Economy and Support to Business of 25 March 2020, the requirements and conditions to grant guarantees to credit institutions that will cover the financing offered by these institutions to companies and self-employed workers, in order to maintain employment and to deal with the adverse economic effects caused by the COVID-19 are defined.

This aid consists of a first tranche of 20,000 million Euros of the 100,000 million available under Royal Decree-Law 8/2020 of 17 March. The following are the most important aspects of the conditions of this aid:

### **WHAT IS THE SCOPE OF THE MEASURES ADOPTED?**

The aid approved in the Resolution of 25 March, is intended to provide sufficient coverage, guaranteed by the State (and in particular the Official Credit Institute - "ICO"), to banks and credit institutions so that they can offer financing to companies and self-employed workers, either with new loans or with the renewal of existing ones, acting as guarantors for the applicants of such financing.

It should be noted that financial institutions will ultimately decide on the granting of the corresponding financing to the customer in accordance with their internal procedures and policies on granting and risks.

### **WHAT IS THE PURPOSE OF THE FINANCING SO THAT THE AID CAN BE APPLICABLE?**

The Resolution sets out the following as the accepted purposes to apply for financing subject to the measures:

- Payment of salaries to workers;
- Payment of invoices (such as service providers and other supplies or fixed costs);
- Covering the need for working capital in the company; or
- Other liquidity needs, including those arising from maturities of financial or tax obligations.

### **WHAT REQUIREMENTS MUST THE FINANCING MEET TO BE ELIGIBLE?**

Loans and other financing operations granted to companies and the self-employed will be eligible for aid and guarantees from ICO, in accordance with the Resolution of 25 March provided that they meet the following requirements:

- Companies and self-employed workers applying for financing must have their **registered office in Spain**.

- The companies and self-employed workers applying for the financing must have been **affected by the economic effects of COVID-19**. This is perhaps the most controversial and arguable of all the requirements set out in the Resolution. Due to the lack of a specification, it could be considered as a direct effect, i.e., a company falling within the scope of these legally obliged to cease its activities (a hotel establishment, for example, on the basis of the Ministerial Order on Health that imposes said cease), and even for indirect effects like those companies that have seen their supply and demand for products or services affected by the health crisis and the restrictive measures that they have been obliged to apply for, such as temporary lay-offs or apply for short-time working hours partially to their staff. Undoubtedly, this point will have to be well reasoned in order not to create doubts about their eligibility.
- The loans and transaction must have been **formalised or renewed after 17 March 2020**.
- borrowers must **not be in a situation of default when consulting the files of the Central Risk Information of the Bank of Spain (CIRBE) as of 31 December 2019**.
- The borrowers should **not be subject to a bankruptcy proceeding as of 17 March 2020**, either because they have submitted an application for a declaration of bankruptcy or because the circumstances referred to in Article 2.4 of Law 22/2003 of 9 July, on Bankruptcy, have arisen for the bankruptcy to be requested by their creditors.

#### **WHAT ARE THE AVAILABLE SUB-TRANCHES AND MAXIMUM AMOUNTS PER CLIENT?**

The Resolution divides the 20,000 million Euro tranche into two sub-tranches. The first up to 10,000 million Euros for renewals and new loans granted to the self-employed and SMEs. The second up to another 10,000 million Euros for renewals and new loans granted to companies that do not meet the SMEs status.

On the other hand:

- For financing of up to a **maximum of 1,5 million Euro in one or more loan transactions to self-employed persons and companies**, the specific provisions restricting the amounts to be received per company will apply, ensuring that the aid measures and guarantees provided will also protect competition on the market, especially in relation to Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid.
- For loans **over 1.5 million Euro, up to the maximum established in the European Commission's Temporary Framework for State Aid** for both self-employed individuals and companies that meet the condition of SMEs and for companies that do not meet this condition.

However, operations of up to 50 million Euro that have been approved by the entity in accordance with its risk policies will be guaranteed, without prejudice to subsequent checks on their eligibility conditions.

Operations above 50 million Euros will also be guaranteed once ICO has analysed the fulfilment of the eligibility conditions in a way that complements the financial institution's analysis.

#### **AND THE MAXIMUM PERCENTAGE THAT CAN BE GUARANTEED BY THE STATE IN A FINANCING?**

In the case of SMEs and the self-employed: **a maximum of 80% of the transaction.**

In companies that do not have SME status:

- or a maximum of **70% of new transactions**; and
- or a maximum of **60% of renewal transactions.**

#### **WHAT COMPANIES WILL BE CONSIDERED AS SMEs?**

In particular, with regard to the aforementioned aid, we must make use of the definition provided in Commission Recommendation 2003/361/EC of 6 May 2003 on the definition of micro, small and medium-sized enterprises, where companies that meet the following requirements will be considered SMEs:

- employ less than 250 persons, and
- whose annual turnover volume does not exceed 50 million Euro, or
- whose annual balance sheet does not exceed 43 million Euro.

#### **WHAT IS THE DEADLINE TO APPLY FOR GUARANTEES?**

Guarantees can be requested until 30 September 2020. Therefore, the flexibility of credit institutions to offer this type of financing could differ beyond this deadline. The term may be extended, always in line with EU State Aid rules, by agreement of the Spanish Council of Ministers.

#### **WHAT ABOUT THE TERM OF THE GUARANTEE?**

The term of the guarantee issued will coincide with the term of the transaction up to a maximum of 5 years. Although financial institutions may grant loans with a period of more than 5 years, the contract's terms and conditions agreed with the entities must be studied in detail, since the State may guarantee a shorter period than that originally agreed.