As more and more countries go into lockdown, a significant proportion of commercial undertakings are either closed or struggling. The ways in which the pandemic affects businesses are too many to count but include a severe reduction in orders, disruption of their supply chain and loss of parts of their workforce.

There is no doubt that the impact on the European (and global) economy will be severe. Governments and institutions across Europe (including the European Commission and the European Central Bank as well as national and local governments) are scrambling to launch policies to blunt the impact of the economic shock.

The vast majority of these measures are open to any company with domestic employees, with relatively few restrictions based on the size or nationality of the ultimate beneficial owner. This means that help is on hand for multinational companies or PE-owned portfolio companies with operations in Europe. The measures are heterogeneous in nature, ranging from tax forbearance to State-subsidised temporary staff layoffs.

Furthermore, most major governments in Europe have been clear in their intention to use flexibility at the EU level to provide State aid to struggling enterprises. This is potentially very good news for larger undertakings facing difficulties—from airlines to industrial groups.

The procedures for applying for and receiving the different reliefs vary, and we can help guide you through them.
MEASURES IN THE MAIN EUROPEAN ECONOMIES

EU – The European institutions have launched a number of measures, which include:

- a **€37bn investment package** aimed at supporting Member States' responses to the epidemic, SMEs, healthcare operators and companies in the most affected sectors (including hospitality and tourism); this package will also be funded by relinquishing the Commission’s obligation to request refunding of unspent pre-financing for European structural and investment funds currently held by Member States to quickly direct €25 billion to deal with the fallout of the crisis. Most of these funds will be deployed directly by the relevant Member States;

- sector-specific adjustments to EU policies and interpretation of EU laws, including a relaxation of the State aid rules and its slot regulation affecting airlines; and

- a **relaxation of prudential rules** for the banking system, aimed at increasing access to credit for firms in need.

As regards the State aid rules, the Commission has already turned words into actions. Last week, the Commission approved a Danish State aid scheme within 24 hours of its adoption to compensate for damages caused by the COVID-19 outbreak. The Commission has since continued to approve State aid schemes notified to it in a swift and expedited manner, benefitting from its experience gained during the financial crisis in 2008 and moving faster than it did then as a result. France, Germany, Italy, Latvia, Luxembourg, Portugal, Spain and the United Kingdom have all received approvals for State aid schemes in the past week. The Commission has also re-assigned additional staff to its State aid units to help during this initial crisis period.

The Commission has adopted a new “**Temporary Framework**” for State aid that allows Member States to provide five types of aid to support the economy: (i) direct grants, selective tax advantages and advance payments (up to €800,000 per company), (ii) state guarantees for loans taken by companies, (iii) subsidised public loans to companies, (iv) safeguards for banks that channel State aid to the real economy, and (v) flexibility to enable short-term export credit insurance. The Framework will apply to measures put in place between 1 February and 31 December 2020.

UK – The UK government has announced an unprecedented package of measures, including:

- a scheme providing government grants to UK businesses to pay 80% of the wages of each of their employees who have been designated as furloughed employees, up to £2,500 a month per employee;
• deferral of VAT payments by businesses for one quarter;

• increases to the universal credit standard allowance and extension of universal credit to the self employed;

• deferral of individual self assessment tax payments to January 2021 and ability to apply to postpone filing annual audited accounts by three months;

• waiver of business rates (i.e., taxes, on occupancy of commercial properties) for one year;

• a government-backed loan scheme for undertakings with liquidity problems;

• a business interruption loan scheme managed by the British Business Bank (a UK government-owned lender) allowing undertakings to borrow up to £5m with a government guarantee covering 80% of the loan and with a one-year interest-free period;

• a one-year government guarantee on all commercial paper issued by undertakings making a material contribution to the UK economy that had an investment grade rating prior to the crisis;

• measures aimed at increasing the provision of U.S. dollar liquidity;

• additional flexibility to agree to additional time to settle outstanding tax bills; and

• the ability for SMEs (up to 250 employees) to reclaim up to two weeks of statutory sick pay paid for coronavirus-related sick leave.

The Bank of England (BoE) has also stepped in. It has promised increased support for banks lending to the “real economy” and is due to unveil new incentives for banks who increase their lending to SMEs. In particular, under the term funding scheme for SMEs (TFSME) the BoE is offering four-year collateralised loans to cover “at least 10% of … real economy lending at interest rates at, or very close to, Bank Rate” and “additional funding” to banks that increase lending to SMEs.

Note that any support granted by the UK government will need to comply with the EU State aid rules during the Brexit transition period.

Germany – The German government has also announced measures aimed at helping companies in financial difficulties due to the epidemic. These include:

• The ability to defer tax payments in order to support taxpayers’ liquidity—tax authorities will be able to defer taxes if their collection would lead to significant
hardship. The revenue authorities will be instructed to not impose strict conditions in this respect. In addition, it will be easier to adapt and reduce tax pre-payments as soon as it becomes clear that a taxpayer’s income in the current year is expected to be lower than in the previous year.

- Enforcement measures related to tax payments (e.g., attachment of bank accounts) and late-payment penalties will be waived until 31 December 2020 if the debtor of a pending tax payment is directly affected by the Coronavirus.

- The KfW, the German development bank, has launched a “Special Programme 2020”. The programme’s funds are unlimited and available to SMEs as well as large enterprises. Loan conditions have been improved significantly: (i) lower interest rates and simplified risk assessment for loans of up to €3 m and (ii) risk assumption for investment funds (liability waivers) amounting to as much as 80% for operating funds and as much as 90% for investments. The funds are provided by means of existing KfW credit lines, and respective conditions have been modified and extended. Companies that have temporarily experienced financing difficulties due to the COVID-19 outbreak, i.e., companies that were not already experiencing financing difficulties on 31 December 2019, are now entitled to apply for respective funds through their principal bank as of 23 March 2020. Payments will be made as soon as possible in a swift and unbureaucratic manner.

- The German government has decided to set up an extensive rescue package in the form of an “economic stabilization fund” (“ESF”) as additional support for companies in difficulties as a result of the COVID-19 outbreak. Where necessary, the State shall also be entitled to acquire a stake in companies concerned. The ESF will have a volume of approximately €600 billion in total (€400 billion earmarked to provide loan guarantees to companies, €100 billion for possible direct investments in companies and up to €100 billion to refinance the KfW Special Programme 2020). Fund resources will be available to larger companies in the “real economy” (Realwirtschaft), i.e., commercial enterprises that are neither companies in the financial sector nor credit institutions and which meet two of the following three criteria: (i) a balance sheet total of more than €43 m, (ii) turnover of more than €50 m and (iii) more than 249 employees per annum. The measures are expected to be approved by the German parliament by the end of this week.

- Extended access to the Kurzarbeit, a State-subsidised scheme, that allows companies to reduce the working hours of their employees without having to terminate their employment.

On Monday, 22 March 2020, the German government also adopted a draft act to mitigate the consequences of the COVID-19 pandemic in civil, insolvency and criminal
proceedings (COVID-19 Mitigation Act – the “Mitigation Act”). The Mitigation Act contains a number of support measures for companies and citizens who are currently unable to meet payment obligations as a result of the COVID-19 pandemic including, for example, restrictions of the right to terminate leases, payment/performance moratoriums and deferrals of loan payments. The obligation to file for insolvency has also been suspended until 30 September 2020 to avoid companies being obliged to file for insolvency solely because the application process for governmental support cannot be completed before the compulsory deadline to file for insolvency under the current circumstances. In regular circumstances, a company must file for insolvency within three weeks after it has become insolvent or over-indebted.

France – Following President Macron’s speeches on the crisis, the French government has deployed or will deploy an ambitious set of measures, including:

- **tax forbearance** (spanning both social contributions and income taxes);
- direct tax rebates for businesses facing important economic difficulties;
- possibility for deferred payment of rent and electricity and fuel supply invoices for small businesses;
- lump payments of €1,500 for self-employed or very small companies; eligible businesses are those which have a turnover of less than €1 million in certain specified sectors (retail, tourism, transport, etc.) and have experienced a decrease of turnover of at least 70% between March 2019 and March 2020;
- **state-assisted refinancing** of existing debt and access to new lines of credit from the French development bank;
- a **state guarantee of up to 300 billion** euros for bank credits to businesses;
- support from the French development bank in negotiating a rescheduling of bank loans;
- maintaining employment through simplified and reinforced short-time working arrangements (French equivalent of the Kurzarbeit);
- support for the handling of disputes between customers and suppliers by an official ombudsman appointed by the French state; and
• for those undertaking work as contractors or suppliers for the French state, a state of force majeure for all public contracts, which disapplies all penalties for late delivery/performance.

The French government will also implement some specific interim modifications to labor law, business and company law and the functioning of the French justice system.

**Italy** – Italy has been the country worst affected by the epidemic so far. Its government has issued an initial decree (named the “Cure Italy Decree”) which makes available support measures for businesses that largely mirror the German and French ones. These include:

• deferral of tax payments and the possibility for companies to convert deferred tax assets into tax credits;

• enhanced access to the Cassa Integrazione, the Italian equivalent of the Kurzarbeit;

• prohibitions on the revocation of credit to SMEs until 30 September 2020 (known as the “Extraordinary Moratorium”); and

• a boost to the guarantees given by the “Central Guarantee Fund for SMEs” (up to €5 million will be available on favourable terms for each business qualifying as an SME).

Local governments (including regional and municipal ones) are also deploying their own relief measures aimed at businesses. The central government has already announced that this initial decree will be supplemented by subsequent ones to be issued in the following weeks.

***

For more information regarding the coronavirus, please visit our Coronavirus Resource Center.

Please do not hesitate to contact us with any questions.
We at Debevoise are available to help access these measures; please reach out to the following contacts if you need any assistance:

**LONDON**

Geoffrey P. Burgess
gpburgess@debevoise.com

Timothy McIver
tmciver@debevoise.com

Gavin Chesney
gchesney@debevoise.com

**PARIS**

Alexandre Bisch
abisch@debevoise.com

Philippe Tengelmann
ptengelmann@debevoise.com

**FRANKFURT**

Philipp von Holst
pvonholst@debevoise.com

Andrea Pomana
apomana@debevoise.com

Jan Schoberwalter
jschoberwalter@debevoise.com

Edoardo Troina
etroina@debevoise.com