

*** UPDATE BRIEFING ***

**THE IMPACT OF CORONAVIRUS -
UPDATE: ECONOMIC MEASURES BY THE
DUTCH GOVERNMENT FOR COMPANIES
FACING FINANCIAL DIFFICULTIES**

Unprecedented measures have been announced by the Dutch government to help companies in The Netherlands to continue their business whilst the markets may deteriorate and uncertainties continue.

Dutch government measures

On 12 March 2020 the Dutch government, alongside other governments throughout the EU, has announced a number of economic measures to enhance the prospects of Dutch companies surviving the financial consequences of the Coronavirus. In [our earlier client briefing](#) we have explained these measures further. On 17 March 2020 an unprecedented additional set of measures was announced. In this client briefing we provide an update on these measures relevant for midsized and large Dutch companies. Unless indicated otherwise, these measures are in addition to the measures announced on 12 March 2020.

**Government guarantee scheme large companies
Increase guarantee scheme large companies (GO)**

The Dutch government guarantee scheme (*Garantie Ondernemingsfinanciering*) (the "**GO-guarantee Scheme**") was initiated by the Dutch government after the start of the 2009 financial crisis. This scheme originally applied until 31 May 2020 but has now been extended as part of the measures undertaken by the Dutch government to support companies affected by the financial consequences of the Coronavirus.

Based on the GO-guarantee Scheme, financiers¹ can apply for a state guarantee when providing financing to large companies amounting to EUR 1,5mln up to EUR 50mln which amount has now been temporarily been increased to EUR 150mln. The state guarantee applies to 50% of the relevant outstanding amount under the financing, therefore a temporary maximum of EUR 75mln. The maximum term of the state guarantee is 8 years. The aggregate amount available for such state guarantees is EUR 1,5bln.

¹ The following financiers apply for the state guarantee: ABN AMRO, Rabobank, ING, MUFG, Deutsche Bank, NIBC Bank, Triodos, RBS and Societe Generale

The GO-guarantee Scheme is aimed at large companies with substantial activities in The Netherlands that conduct a healthy business (i.e. the prospects for profitability and continuation are positive).

It applies to *fresh money* only which is being provided to companies on top of their current financial arrangements and used to finance their own business (*eigen bedrijfsactiviteiten*)². It does not apply to financings provided for acquisition purposes and originally did not apply to refinancings or replacement of existing credits or risk bearing capital. Although exceptions may be granted by the Dutch government on a case by case basis and as part of the current measures undertaken it is said that the GO guarantee Scheme will be extended on a temporary basis to also allow refinancing arrangements to benefit from the scheme.

Other conditions required to be met to make a financing eligible to benefit from a state guarantee pursuant to the GO-guarantee Scheme are that in the 12 months before the guarantee is issued, no excessive funds have been withdrawn from the business of the relevant company for the benefit of third parties.

Fees and other economics to which financiers are entitled are required to be shared with the Dutch State on a *pro rata* basis (certain specific exceptions to this apply to cover costs and expenses incurred by the financiers). Voluntary prepayment triggers certain one-off and periodic fees payable by the financiers to the Dutch State (which in practice are passed on to the relevant borrowers in the underlying credit documentation).

Amendments and waivers in relation to financings that benefit from a state guarantee will most often required back to back approval from the Dutch State to ensure that the state guarantee does not fall away and financiers will be required, at the request of the Dutch State, to provide information relating to the companies and management of their business.

Clifford Chance has made a suggestion to the Dutch government to allow the GO-guarantee scheme to also be available for repayment waivers and debt rollovers, instead of fresh money only. This to enhance the prospect of financiers keeping existing and undrawn credit facilities available whilst Events of Default are or may be outstanding

Employment

New compensation scheme for employers in the event of a qualifying decline in business activities – short time working regime (*werktijdverkorting*) revoked

In our [earlier client briefing](#) we reported that if a company anticipates having less work for its employees in the Netherlands because of the coronavirus, it may be eligible for a short time working (*werktijdverkorting*) permit. This arrangement has now been replaced with a temporary arrangement for the compensation of labour costs. The temporary emergency measure aimed at the retention of work (*Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud, NOW*) will be shortly available to companies that expect a loss in turnover of at least 20%.

² Companies operating in certain sectors are excluded from the scheme e.g. agriculture, real estate, selected financial services and healthcare

Pursuant to the NOW, companies can apply with the Dutch Employment Insurance Agency (*UWV*) for a compensation of labour costs provided they do not dismiss employees for business economic reasons during the compensated period. The compensation amounts to maximum 90% of the company's total wages (*loonsom*), depending on the degree of the loss in turnover (see below for a few examples). *UWV* will provide an advance payment of 80% of the requested amount of compensation for the company to be able to continue the payments to their workers, both permanent staff as well as workers on flexible contracts. The compensation will be for a period of three months, with the possibility to have this period extended with another three months. Such extension may be subject to additional conditions.

The compensation will be determined based on the decline in turnover, as follows:

- If there is a loss of 100% of turnover, the compensation will amount to 90% of a company's total wages;
- If there is a loss of 50% of turnover, the compensation will amount to 45% of a company's total wages;
- If there is a loss of 25% of turnover, the compensation will amount to 22,5% of a company's total wages.

If the compensation applied for exceeds a certain threshold (to be determined), the application will need to be supplied with an auditor's report. Corrections may be made afterwards based on the actual decline in turnover.

It is expected that applications under the NOW can shortly be filed whereby a decline in turnover as of 1 March 2020 will be considered for compensation.

The short time working regime (*werktijdverkorting*) has been revoked: applications that have been filed for a short time working permit will be automatically converted into applications under the NOW. For this purpose, additional information will need to be provided by relevant applicants. Short time working permits already granted will be continued until the end of the permit's term (no extension possible).

The Dutch government is scaling up the resources at both the Ministry of Social Affairs and Work and *UWV* to be able to deal with the increase of applications due to the coronavirus.

Tax

Relief in respect of tax payment obligations for companies

Taxpayers can request for an extraordinary extension of payment obligations in relation to income tax, corporate income tax, wage tax and VAT. The request for extension will be immediately granted when the taxpayer claims in writing that it has financial problems as a result of the Coronavirus. As processing such requests, which has to be done manually, will expectedly take some time, the tax authorities have indicated that they will in principle not impose penalties for late payments (or reverse these). The tax authorities will

make the substantive assessment of the request afterwards (and taxpayers can provide supporting evidence for their claims also at a later stage). Interest for late or wrong filings and interest for late payments will temporarily be reduced to 0.01%. The measures also point out that – as always – taxpayers may request a reduction of their preliminary assessment, in order to align these to the new expected performance levels. This can also help to reduce current cash out. Also such requests will be granted by the tax authorities.

Financial Markets

Lower buffer requirements for banks - measures for pension funds and insurance companies under consideration

The Dutch Central Bank has lowered the buffer requirements for banks to support lending. This is part of the Dutch Central Bank's effort to safeguard the bank lending sector and to ensure the continuity of the payment system. This leeway is possible due to the strong capitalisation of the Dutch banking sector (resulting from increasing capital and liquidity requirements following the 2008 financial crisis). The Dutch Central Bank has therefore introduced the following measures: (i) the systemic buffers will be lowered, from its current 3% of global risk weighted exposures to 2,5% for ING, 2% for Rabobank and 1,5% for ABN AMRO, and (ii) the introduction of a floor for mortgage loan risk weighting will be postponed. These measures should free up EUR 8 billion in capital. The Dutch Central Bank has indicated that the total impact on lending could rise to a maximum of EUR 200 billion and banks should therefore use freed-up capital to support lending and not to pay dividend or share repurchases. The Dutch Central Bank has indicated that it is considering measures to limit the impact of the crisis on pension funds and insurance companies.

Compensation scheme

Hospitality and travel industry

The Dutch government acknowledges that the current health measures have a severe impact on certain sectors. This includes the hospitality industry which is suffering from the mandatory closing of restaurants and bars, and also the hotel and flight cancellations in the travel industry. It is also acknowledged that these revenues currently being missed will not be caught up when the Coronavirus is under control. As a result, the Dutch government will implement a compensation scheme for companies in these sectors. A draft is being prepared with urgency and will be submitted for approval to the European Commission for the assessment of State Aid rules.

Conclusion

This client briefing describes the updated and unprecedented additional measures, aimed at relief for companies in respect of employment costs, tax, and the ability to attract necessary financing. Also, the financial sector is closely monitored. It is possible that the Dutch government will announce further measures, depending on the developments of the Coronavirus and the impact on the Dutch economy. If so, we will issue another update of this client briefing to inform our clients accordingly.

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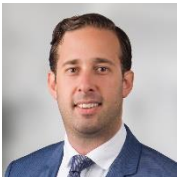
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