

## CORONAVIRUS: INTERNATIONAL REGULATORY UPDATE 20 – 24 APRIL 2020

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### European Union

The EU Commission and European Council published a [joint European roadmap for recovery and investment](#) setting out a framework for overcoming the COVID-19 crisis. Among other things, the roadmap sets out the principles governing the framework and the following four key areas for action:

- restoring and revitalising the single market, including completion of the Banking Union and Capital Markets Union, and a central role for green and digital technologies and capacities;
- a Marshall-Plan type investment effort drawing on public investment and mobilising private investment;
- re-establishing trade flows and supply routes, with particular attention devoted to Africa; and
- improving the EU's governance and way of functioning, including development of its executive capacity and ability to manage crises in a coordinated manner.

A more detailed action plan setting out measures and timings is expected in due course.

The European Council [published conclusions](#) following its video conference

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held on 23 April 2020. Among other things, the Council welcomed the joint roadmap for recovery published on 22 April 2020 and has tasked the EU Commission with developing a recovery fund proposal which clarifies its relationship with the multiannual financial framework (MFF).

The EU Trade Commissioner, Phil Hogan, made an [introductory statement](#) at the informal meeting of EU trade ministers on 16 April. Among other things, the Commissioner proposed informal cooperation and information sharing between Member States relating to foreign direct investment (FDI) screening, prior to the entry into force of the EU's FDI Regulation on 11 October 2020. It is proposed that this cooperation among Member States could consist of two elements coordinated by the Commission:

- monitoring ongoing and planned foreign acquisitions and sharing relevant information; and
- voluntary exchanges on pending FDI screening cases.
- The EU Commission approved a number of schemes under the temporary framework for state aid measures to support the EU economy, including:
  - a [Hungarian wage subsidies support scheme](#) that allows the Hungarian authorities to finance the wage costs of undertakings employing researchers and developers;
  - a [Portuguese aid scheme](#) with a budget of EUR 140 million to support investment in research and development and the production of COVID-19 relevant products;
  - a [French 'umbrella' scheme](#) with a budget of EUR 7 billion for the support of non-financial SMEs and large corporates;
  - a [Slovak employment aid scheme](#) that allows the Slovak authorities to provide financial support to self-employed people and to finance part of the wage costs of undertakings that would otherwise have had to lay off staff;
  - a EUR 2 billion [Finnish public guarantee and subsidised loan scheme](#) to support companies;
  - [eight Estonian state aid schemes](#) with a budget of EUR 75.5 million, which is intended to support companies through direct grants and payment advantages;
  - a [Dutch guarantee scheme](#) of up to EUR 10 billion of working capital and investment loans for Dutch companies;
  - a [EUR 7.8 billion Polish State aid scheme](#) to provide companies with grants, repayable advances, tax and payments advantages or deferrals and wage subsidies; and
  - a [Maltese direct grants scheme](#) of EUR 5.3 million to support investment in research and development related to the coronavirus outbreak.

The EU Council [adopted a regulation](#), known as the Coronavirus Response Investment Initiative Plus, introducing measures to provide exceptional flexibility for the use of the European Structural Investment Funds (ESIF). The regulation enters into force on 24 April 2020.

The Commission's European Innovation Council has announced it is hosting a pan-European [#EUvsVirus hackathon](#) and has called on the European financial community to put forward digital finance solutions for issues posed by

the coronavirus crisis. Among other things, it calls for solutions to identify financial shortfalls, to speed up access to and distribution of public financial support and to provide essential financial tools to the digitally excluded, such as the elderly and homeless. Chosen solutions will receive follow-up support from the European Innovation Council.

The European Banking Authority (EBA) has [published](#) further guidance on the use of supervisory flexibility and relief in relation to COVID-19, including:

- a [statement](#) on flexibility and pragmatism in the context of the Supervisory Review and Evaluation Process (SREP), recovery planning, digital operational resilience and the application of the guidelines on payment moratoria to securitisations; and
- [proposals](#) to mitigate the increase in aggregated amounts of additional valuation adjustments under the prudent valuation framework by introducing a higher value aggregation factor (from 50% to 66%) for institutions using the core approach, to apply until the 31 December 2020, and to alleviate unnecessary operational challenges by delaying the first fundamental review of the trading book standardised approach (FRTB-SA) under CRR2 until September 2021 and postponing for a year the final two implementation phases of the margin requirements for non-centrally cleared derivatives.

The European Central Bank (ECB) has [announced](#) measures aimed at mitigating the impact of rating downgrades on the availability of collateral. Under these temporary measures:

- marketable assets, including covered bond programmes, and their issuers that met the minimum credit quality requirements for collateral eligibility on 7 April 2020 (BBB- for all assets, except asset-backed securities (ABSs)) will continue to be eligible in the event of rating downgrades, as long as their rating remains at or above credit quality step (CQS) 5 on the Eurosystem harmonised rating scale (equivalent to a BB) and they continue to fulfil all other existing collateral eligibility criteria;
- future issuances from grandfathered issuers will also be eligible provided they fulfil all other collateral eligibility criteria;
- currently eligible ABSs to which a rating threshold in the general framework of CQS2 (A-) applies will be grandfathered as long as their rating remains at or above CQS4 (BB+); and
- assets that fall below the minimum credit quality requirements will be subject to haircuts based on their actual ratings.

These measures will apply until September 2021.

The European Insurance and Occupational Pensions Authority (EIOPA) published a [new COVID-19 webpage](#) setting out relevant supervisory measures, guidance and deadline extensions.

The Association for Financial Markets in Europe (AFME) published a [report](#) on the initial impact of COVID-19 on European capital markets, setting out recent trends in equity markets, corporate bonds, securitisation, government bonds, FX, derivatives and repos, M&A transactions and European banks. The report broadly finds that European capital markets have continued to operate well, and that banks are well-positioned from a solvency and liquidity perspective to support households and businesses.

The International Capital Markets Association (ICMA) has published a [special report](#) on European repo market performance during the COVID-19 pandemic. The report, which is published alongside its [38<sup>th</sup> repo market survey](#), broadly finds the market performed relatively well in February and March, while showing signs of strain in the light of increased demand. The report also notes technical and operational challenges, including collateral bottlenecks, increased settlement fails and challenges managing intraday liquidity and collateral.

## France

In France, [a bill](#) to amend the Finance Bill 2020 has been adopted by the Senate and is due to be discussed by the National Assembly. The bill specifies that Articles 1 and 1bis of the Finance Bill, as well as the provisions of the Amending Finance Law (Law no. 2020-289 of 23 March 2020), which set out details of the French State guarantee scheme (Prêt Garanti par l'État (PGE)) for businesses facing economic difficulties in light of COVID-19, will not apply to undertakings which have subsidiaries or establishments registered in non-cooperative states and territories. The final version of this bill is expected to be discussed on 23 April and promulgated early the following week.

A [Ministerial Order dated 17 April](#) further specifying the terms and conditions of the PGE has been published in the Official Journal of France. The Order specifies that a guarantee granted under the PGE is irrevocable, unconditional and valid for the entire duration of the loan. If a credit event occurs or the borrower fails to meet its contractual payment deadlines, the lending institution is entitled, within 90 days of making the request to the borrower, to a provisional payment equal to a robust estimate of the losses likely to be borne. The provisional payment should be proportional to the guaranteed percentage. Any differences between the provisional payment and the final compensation sum required must be paid by the lender to the State or State to the lender promptly.

Following the ECB's [announcement](#) of a package of temporary collateral easing measures, the Banque de France has announced it is implementing [a set of measures](#) aimed at increasing the collateral available to counterparties in the context of refinancing operations for the duration of the ECB's temporary pandemic emergency purchase programme (PEPP).

As from 8 April the minimum size threshold for mobilising credit claims as collateral has been lowered from EUR 25,000 to EUR 0 for domestic use, and the concentration limit on unsecured bank securities has been increased from 2.5% to 10% of the collateral deposited. As from 20 April the valuation haircuts applicable to all eligible collateral have been lowered by 20% on a temporary basis with respect to marketable securities, additional haircuts applicable to mobilisation of own-use covered bonds, valuation haircuts applicable to retained ABSs, as well as credit claims and additional credit claims. A permanent additional 20% adjustment to the valuation haircuts applicable to credit claims and additional credit claims has also been introduced, as well as a permanent reduction of the minimum valuation haircuts applicable to real estate additional credit claims.

The Banque de France has also indicated that it intends to amend its eligibility criteria for additional credit claims in order to accept loans granted to companies with a one-year probability of default of up to 1.5%, regardless of

the rating system (i.e. IRB or FIBEN), and of a maximum residual term of 30 years (previously five years), as well as those loans granted to companies benefitting from the French State guarantee granted as part of the COVID-19 relief efforts.

## Luxembourg

In Luxembourg, the law establishing a guarantee scheme supporting the Luxembourg economy was published in the Official Journal and [entered into force](#) on 18 April 2020. It establishes a complementary financial mechanism in the form of a Luxembourg State-backed guarantee for new bank credit lines up to 85% for a total amount of EUR 2.5 billion. It applies to loans granted between 18 March and 31 December 2020 with a maturity of up to six years. The new regime will apply only to loans granted by Luxembourg based credit institutions that have entered into an agreement with the Luxembourg State Treasury.

The Luxembourg Government has [introduced](#) a bill establishing a support scheme to grant financial aid to businesses carrying out investments or research and development projects helping to fight against the COVID-19 pandemic. The largest opposition party has also [introduced](#) a bill that, among other things, seeks to prevent any creditor from petitioning for the opening of insolvency procedures during the current state of emergency (currently until 18 June 2020) and for the following two months.

Another [bill \(No. 7563\)](#), amending the law of 4 December 2019 on the Luxembourg Export Credit Agency (ODL), has also been submitted to the Luxembourg Parliament. This bill increases the current threshold of commitments undertaken by ODL on behalf of the Luxembourg State in order to make its support more flexible for Luxembourg companies during crisis situations, such as the COVID-19 pandemic. More specifically, the bill is intended to replace, in the event of an exceptional economic situation as declared by the government, the two alternative thresholds with respect to such commitments (namely either 20 times the ODL's own funds allocated to this activity or 20% of the total amount of commitments undertaken by ODL with the Luxembourg State's guarantee) by one single limit of 50 times the ODL's own funds allocated to this activity.

Another [new bill \(no.7567\)](#) on professional payment guarantee has been submitted to Parliament, the purpose of which is to create a new type of personal security under Luxembourg law, in addition to existing instruments, such as personal guarantee (cautionnement) and autonomous guarantee (garantie autonome). The new framework will apply to professional transactions and is intended to provide the parties with greater contractual freedom, while preserving legal certainty and protecting against re-qualification. Although the new bill is not directly related to COVID-19, the Luxembourg Finance Minister has stated that this regime introduces a new tool which can be used to implement certain anti-crisis measures in the context of the fight against the pandemic.

The Luxembourg Central Bank (BCL) [announced](#) that it has taken the necessary measures to ensure business continuity in the areas of monetary policy operations, collateral management, payment systems, liquidity supervision, and the distribution of banknotes and coins. The BCL further requested all banks interested in taking part in its operations for the first time to provide BCL with advance notification of such interest. In addition BCL has



[adopted](#) Regulation 2020 / No.27 of 20 April 2020 amending BCL Regulation 2014 / No.18 of 21 August 2014 which implements the ECB guidance of 9 July 2014 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral (ECB/2014/31). In order to reflect recent decisions adopted by the ECB in response to the COVID-19 pandemic, the new Regulation sets out a list of haircuts applicable to specific types of eligible assets and debt instruments.

The Luxembourg financial sector supervisory authority (CSSF) [updated](#) its COVID-19 FAQ to clarify the measures applicable to Less Significant Institutions (LSIs). The CSSF explained that LSIs will be able to benefit from identical measures as those decided by the ECB for Significant Institutions (e.g. partial use of capital instruments that do not qualify as Common Equity Tier 1 (CET1) capital to meet the Pillar 2 requirements). However, by contrast to the ECB's decision on relief measures regarding the operational aspects of supervision (such as deadlines for remedial actions imposed in the context of on-site inspections), an extension of a deadline will only be granted to LSIs upon submission of a reasoned COVID-19 related request. The CSSF further stressed that branches in Luxembourg of credit institutions having their head office in a third country may benefit, where applicable, under the same conditions, from the flexibility measures offered to LSIs.

The Luxembourg Stock Exchange (LuxSE) [announced](#) that it will waive the listing fee for social and sustainable debt instruments that are issued to address the consequences of the COVID-19 pandemic. The listing fee will not be charged until 30 September 2020 for social and sustainability bonds that are clearly identified as COVID-19 response bonds in the relevant documentation and eligible for display on the Luxembourg Green Exchange (LGX).

The Luxembourg Banker's Association (ABBL) [announced](#) that several Luxembourg banks have set up a state guarantee system for loans granted as of 18 March 2020 to companies affected by COVID-19. The framework of the Luxembourg state-backed guarantee for such loans is set out in the law of 18 April 2020. According to the ABBL, to date, seven local banks have signed an agreement with the Luxembourg State Treasury allowing them to offer loans guaranteed by the Luxembourg state to their professional customers. This mechanism complements the support measures for companies taken spontaneously by the banking sector, more particularly a [moratorium on existing loans](#).

The Luxembourg Ministry of Justice [submitted](#) a draft bill, the main purpose of which is to extend the measures allowing the holding of corporate meetings without requiring the physical presence of members to meetings held after the end date of the state of emergency, to the extent they were convened prior to or on such date.

## **Poland**

The Polish Financial Supervision Authority (KNF) published a [communiqué](#) as part of the Supervisory Impulses Package indicating that banks will be able to treat the covering of credit exposures by way of a guarantee issued by institutions other than Bank Gospodarstwa Krajowego (BGK), and, in particular, by other renowned credit protection providers, as a 'particular manner of securing' the repayment of a loan (which enables granting of a loan to persons that have no creditworthiness). The following conditions will have

to be met jointly with regard to guarantees provided by entities other than BGK:

- such a guarantee shall constitute recognised credit protection pursuant to Articles 213 to 215 of the Capital Requirements Regulation (CRR); and
- the resulting risk weight for part of the exposure secured by such a guarantee, allocated taking into account the provisions of the CRR regarding unfounded credit protection, is equal to 0%.

The KNF has published a [bulletin](#) highlighting that, pursuant to its recommendation set out in the Supervisory Stimulus Package for Security and Development, the Ordinance of the Minister of Finance on the Rules of Creating Reserves Associated with the Activities of Banks has now been amended. The amendment extends the period banks take into account credit security interests for the purposes of decreasing the basis for creating special reserves and enables losses to be spread out over a longer period. By extending the obligation to create reserves across a longer period and thereby freeing up capital, the amendment is intended to allow banks to better prepare for the management of various categories of risk.

## United Kingdom

The UK Government has published [guidance](#) on the Future Fund, a scheme launching in May 2020 that will issue convertible loans of between GBP 125,000 to GBP 5 million to unlisted UK registered companies that have raised at least GBP 250,000 in aggregate from private third party investors in the last five years, can attract the equivalent match funding and have a substantive economic present in the UK.

The UK Government [announced new measures](#) designed to protect commercial tenants from rent collection action. The measures, which will be included in the Corporate Insolvency and Governance Bill, include a temporary ban on the use of statutory demands and winding up orders where a company's inability to pay is the result of COVID-19. Legislation will also be brought forward to prevent landlords using commercial rent arrears recovery (CRAR) unless 90 days or more of unpaid rent is owed. These measures build on the UK's business support package, which includes a suspension of forfeiture rights, which prevents all commercial tenants from being removed from their properties until 30 June 2020, as well as new insolvency measures.

The House of Commons Treasury Committee [published](#) the terms of reference and a call for evidence on the next stage of its inquiry into the economic impact of COVID-19, which will examine the operational effectiveness, cost and sustainability of the UK's support packages, as well as the impact on the economy and difference sectors, the implications for public finances and the work that could be done towards sustained recovery. The submission deadline for evidence is 27 May 2020.

The House of Commons International Trade Committee [launched an enquiry](#) into the impact of COVID-19 on UK businesses trading internationally. The Committee is seeking views on the effectiveness of the government's response to the short-term negative impact of the pandemic on UK businesses trading internationally, the steps that UK businesses could take to mitigate the negative impact of the pandemic on international trade, the ways in which the government can best facilitate trade in essential goods during the pandemic

and the expected long-term impact of the pandemic on global trade patterns and international supply chains. Comments are due by 24 April 2020.

The UK Debt Management Office [announced](#) revisions to its financing remit and gilt issuance plans for 2020-21. In order to meet the immediate financing needs resulting from the government's response to COVID-19, the DMO is intending to raise GBP 180 billion during the May to July 2020 (inclusive) period, exclusively through the issuance of conventional and index-linked gilts.

The Prudential Regulation Authority (PRA) [published](#) a Q&A document aimed at banks subject to CRD4 on the use and operation of liquidity and capital buffers in response to the COVID-19 outbreak.

The PRA has also issued a [note](#) for PRA-regulated insurers, clarifying the PRA's position regarding IFRS 9, capital requirements and loan covenants, following the PRA Deputy Governor and CEO, Sam Wood's, [letter](#) to UK banks on the subject. Broadly, the note advises insurers to make well-balanced and consistent decisions, taking into account the impact of the virus and the unprecedented levels of state support, as well as long-term economic trends, when forming their judgements on the impact of COVID-19 on their internal credit assessments. Insurers should also consider carefully the differences between 'normal' covenant breaches and those that might occur directly because of the COVID-19 pandemic.

The Financial Conduct Authority (FCA) published its [expectations](#) for wet-ink signatures in light of COVID-19 restrictions. Among other things, it notes that the FCA's rules do not explicitly require wet-ink signatures nor prevent firms from using electronic signatures in agreements, but that validity of electronic signatures is a matter of law which firms should consider themselves.

The FCA [extended the submission deadlines](#) for certain regulatory returns due up to and including 30 June 2020. These include a one-month extension for certain SUP 16 handbook returns and a two-month extension for annual financial reports as required under the disclosure guidance and transparency rules.

The FCA [confirmed](#) that temporary measures implementing a three month payment freeze for motor finance, buy-now pay-later (BNPL), rent-to-own (RTO) and pawnbroking agreements, and a one month payment freeze for high-cost short-term credit, will enter into force on 27 April 2020.

The FCA also [updated its COVID-19 webpage](#) to include its expectations in relation to firms' employees qualification requirements. Among other things, firms may apply a time limit of up to 60 months where examinations were cancelled or postponed, up to and including 31 October 2020.

The Payment Systems Regulator [announced](#) that, due to disruptions caused by the COVID-19 pandemic, it is extending the deadline for its call for input on potential competition issues posed by the UK's New Payments Architecture to 1 May 2020.

The Financial Reporting Council (FRC) published [updated guidance](#) on modifications of independent auditors' opinions and reports during the COVID-19 crisis.

UK Finance has provided a [summary](#) of the number of applications and amounts granted under the government's Coronavirus Business Interruption Loan Scheme (CBILS) since its launch. Key figures include a total of GBP 2.8



billion lent to SMEs so far, following the approval of 16,624 of a total of 36,000 applications received.

## **Hong Kong**

In Hong Kong, the Companies Registry has published [FAQs](#) on the holding of company general meetings during the COVID-19 pandemic and in light of the prohibition, under the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation, of group gatherings in any public place until 7 May 2020. The FAQs provide guidance on:

- whether the Regulation is applicable if the meeting is not held at a ‘public place’;
- the exemptions under the Regulation relating to the holding of general meetings;
- whether a company should avoid holding a general meeting during the specified period; and
- measures which a company should adopt when conducting a meeting to minimise the risk of disease transmission.

The Hong Kong Monetary Authority (HKMA) and the Banking Sector SME Lending Coordination Mechanism [launched](#) a pre-approved principal payment holiday scheme to provide immediate relief to small and medium corporates. Under the scheme:

- participating institutions will pre-approve deferment of loan principal payments falling due between 1 May 2020 and 31 October 2020 of eligible small-to-mid-sized corporates for up to six months;
- all corporate borrowers that have an annual sales turnover of HKD 800 million or less and that have no outstanding loan payments overdue for more than 30 days will be eligible for the scheme; and
- authorised institutions will be required to ensure that they will dedicate sufficient resources to implementing and operating the scheme, as well as informing eligible customers of pre-approval before the end of April 2020, with priority given to customers that have principal payments falling due soon after 1 May 2020. Moreover, eligible borrowers do not need to apply. They only need to contact the authorised institution within 14 days of its notice to confirm the details on the terms of the deferment.

The HKMA expects all authorised institutions to participate in the scheme under the same terms. For corporate customers not currently covered by the scheme or with payment falling due before 1 May 2020, the HKMA expects participating authorised institutions to adopt a sympathetic stance and proactively reach out to those customers to understand whether they require similar assistance and assess, on a case-by-case basis, whether it is in line with established risk management principles to provide such arrangements.

The HKMA has also issued a [circular](#) to inform all locally incorporated licensed banks that it has decided to postpone the 2020 supervisor-driven stress test to 2021 to allow banks to respond to the challenges posed by the COVID-19 outbreak.

It has also [announced](#) the launch of a temporary US dollar liquidity facility to help licensed banks meet their US dollar funding needs. Under the new facility, US dollar liquidity will be provided to licensed banks through

competitive tenders in the form of repurchase transactions for a term of seven days, settled on the day following the tender. Starting from 6 May 2020, the HKMA will conduct a tender every week (normally on Wednesdays) until 30 September 2020.

The Securities and Futures Commission (SFC) of Hong Kong issued two circulars concerning COVID-19 related risks. The [first circular](#) is addressed to management companies and market makers of SFC-authorized exchange traded funds (ETFs) concerning the risks relating to ETF market making that may be posed by COVID-19. Among other things, the SFC reminds management companies of ETFs to:

- conduct due diligence;
- properly manage and monitor secondary market trading and liquidity;
- maintain a close dialogue with each market maker;
- comply with the administrative arrangements and other requirements associated with the listing of ETHs on the Stock Exchange of Hong Kong Limited (SEHK);
- report, assess and keep investors informed in the event of cessation, disruption or suspension of market making activities; and
- give the SFC early alerts of any untoward circumstances relating to the ETFs under its management.

The SFC also notes that market makers of ETFs are required to ensure compliance with applicable laws, rules, regulations and conduct requirements administered or issued by the SFC and the applicable rules of the SEHK when conducting their business activities.

The [second circular](#) is addressed to all issuers of SFC-authorized paper gold schemes (PGS) reminding them to:

- exercise due skill, care and diligence in the operations of the PGS, and closely monitor the dealings by investors under the PGS;
- ensure that units of PGS are fairly and accurately valued in good faith and in the best interests of investors in accordance with the constitutive and offering documents of the PGS and applicable laws and regulations;
- ensure the continuous provision of material information and services to investors (including pricing and dealings of the units of PGS) in accordance with the constitutive and offering documents of the PGS; and
- keep investors informed in a timely manner and immediately report to the SFC any untoward circumstances relating to their PGS (including any decision to suspend subscription and/or redemption) and potential impact on the PGS.

In particular, for any decisions to suspend dealings of the PGS, SFC asks that PGS issuers ensure that:

- such decisions are made in the best interests of investors in accordance with the constitutive and offering documents of the PGS and applicable laws and regulations;
- any prolonged suspension of dealings is reviewed regularly and steps to resume normal operations are taken as soon as practicable;

- the SFC and investors are notified immediately upon any decision to uplift suspension or resume dealing; and
- the offering documents of the PGS contain information necessary for investors to make an informed judgement about the PGS.

## Japan

The Financial Services Agency (FSA) in Japan issued [guidelines](#) for companies and auditing firms on the publication of corporate year-end closing of accounts, auditing and shareholder meetings in response to the increasing impact of COVID-19. The guidelines follow the recent announcement on the revision of the Cabinet Office Order on disclosure of corporate affairs, which extends the filing deadline of annual and quarterly securities reports to the end of September 2020. Among other things, the FSA notes that companies with a fiscal year which ended in March will be required to consider the points set out in the guidelines to operate an annual general meeting of shareholders which is usually held at the end of June. The Tokyo Stock Exchange (TSE) also [requested](#) that listed companies refer to the FSA's guidelines.

## Korea

In the Republic of Korea, the Financial Services Commission (FSC) [adopted](#) revised rules and regulations on misconduct in financial services intended to encourage the offering of loans and other financial support to businesses and individuals during the COVID-19 pandemic. The revised rules and regulations are intended to guarantee exemptions from sanctions for financial services workers and include an ex ante provision to ensure the exemption will be applied to possible misselling or misconduct cases that occurred prior to the changes being adopted. The FSC has also decided to allow financial institutions to anonymously submit requests for regulatory interpretation and no-action letters from 16 April 2020.

## Singapore

In Singapore, the government gazetted the following subsidiary legislation, which implements various provisions regarding temporary relief for financially distressed individuals and businesses under the COVID-19 (Temporary Measures) Act (the Act):

- [COVID-19 \(Temporary Measures\) Act 2020 \(Commencement\) \(No. 2\) Notification 2020](#), which designates 20 April 2020 as the commencement date for section 3 (prescribed period), Part 2 (temporary relief for inability to perform contracts), Part 3 (temporary relief for financially distressed individuals, firms and other businesses) of, and the Schedule to the Act;
- [COVID-19 \(Temporary Measures\) \(Temporary Relief for Inability to Perform Contracts\) Regulations 2020](#), which introduces temporary relief from legal action for those who are unable to perform certain types of contracts because of the COVID-19 pandemic. The measures will be applicable to contractual obligations that are to be performed on or after 1 February 2020 and only for contracts that were entered into before 25 March 2020. The Ministry of Law has indicated that the period of relief will be for six months, from 20 April 2020 to 19 October 2020, in the first instance, but may be extended to up to a year;
- [COVID-19 \(Temporary Measures\) \(Prescribed Period\) Order 2020](#), which states that the prescribed period for the provisions relating to temporary

relief for the inability to perform contracts and for financially distressed individuals, firms and other businesses is six months commencing on 20 April 2020;

- [COVID-19 \(Temporary Measures\) Act 2020 \(Amendment of Schedule\) Order 2020](#), which amends the Schedule to the Act to provide that 'scheduled contracts' do not include contracts to which section 4 of the International Interests in Aircraft Equipment Act applies; and
- [COVID-19 \(Temporary Measures\) Act 2020 \(Commencement\) \(No. 3\) Notification 2020](#), which designates 22 April 2020 as the commencement date for Part 6 (temporary measures concerning remission of property tax) of the Act. Part 6 of the Act provides for the duty of an owner of property benefitting from any prescribed property tax remission relating to the property, to transfer the benefit to tenants of the owner, and the right of a tenant to take action against the owner for failing to do so.

The subsidiary legislation was effective from 20 April 2020, except for the COVID-19 (Temporary Measures) Act 2020 (Commencement) (No. 3) Notification 2020, which was effective from 22 April 2020.

The Monetary Authority of Singapore (MAS), in partnership with Enterprise Singapore (ESG), [launched](#) a new facility, the 'MAS SGD Facility for ESG Loans', to lend Singapore Dollars at a low interest rate (0.1% per annum for a two-year tenor) to eligible financial institutions, to support their lending to SMEs under the ESG loan schemes.

The ESG loan schemes comprise the Temporary Bridging Loan Programme (TBLP) and the Enhanced Enterprise Financing Scheme – SME Working Capital Loan (EFS-WCL). The TBLP is intended to help local enterprises manage their immediate cash flow needs. SMEs that require additional working capital beyond the TBLP can apply for the EFS-WCL. The MAS ESG Facility is intended to help financial institutions make any loans made to SME borrowers under the ESG loan schemes more affordable. Banks and finance companies participating in the schemes can apply for funds at the new facility until April 2021.

The new facility complements the enhancements to the ESG Loan Schemes announced on 6 April 2020 as part of the Solidarity Budget, where the Singapore Government increased its risk-share of loans to 90% and reinforces MAS' efforts to ensure ample SGD funding to banks in Singapore.

The Singapore Exchange (SGX), in coordination with the Monetary Authority of Singapore (MAS), has [announced](#) that it will grant an automatic two month extension to issuers with financial year-ends of 29 February 2020 or 31 March 2020, and a one month extension to issuers with a financial year-end of 30 April 2020, for the release of their full year unaudited results.

The SGX requires issuers to:

- set out their revised financial year-end and the indicative timeline to release their full-year unaudited financial statements;
- confirm via the Board of Directors that the time extension will not be in contravention of any laws and regulations governing the issuer and its constitution, or the equivalent in the issuer's country of incorporation; and
- ensure adherence to the issuer's internal policies with regards to dealing by the issuer and its officers in its securities.

## United States

The US Treasury [updated its Pay check Protection Program \(PPP\) FAQs](#) to include a Q&A on the eligibility of businesses owned by large companies. The Treasury indicates that it is unlikely that a public company with substantial market value and access to capital markets could certify in good faith that a PPP loan request is necessary, as required by the CARES Act and the PPP regulations, but notes that any borrower that repays a PPP loan previously granted in full by 7 May 2020 will be deemed to have made the required certification.

The Commodity Futures Trading Commission (CFTC) [announced](#) additional targeted no-action relief to eligible futures commission merchants and introducing brokers in relation to the treatment of covered loans under the PPP.

It has also, in light of the market disruption caused by COVID-19, [extended the deadline](#) for comments on the following proposed rulemakings:

- Position Limits for Derivatives (extended to 15 May 2020);
- Swap Execution Facility Requirements and Real-Time Reporting Requirements (extended to 22 May 2020);
- Amendments to the Real-Time Public Reporting Requirements (extended to 22 May 2020); and
- Amendments to the Swap Data Recordkeeping and Reporting Requirements (extended to 22 May 2020).

The SEC's Division of Corporation Finance [published a temporary statement](#) on the filing requirements for certain paper documents (other than Forms 144). The statement sets out the conditions under which the Division will not recommend enforcement action where submissions are made via email or where the filer is unable to provide a manual signature on a document submitted by email.

The Federal Reserve [announced](#) a temporary rule change to the Small Business Administration's (SBA) PPP clarifying that PPP lenders can make PPP loans to businesses owned by their directors and certain shareholders, subject to certain limits and without favouritism.

The Federal Reserve Board [announced](#) temporary actions aimed at increasing the availability of intraday credit extended by Federal Reserve Banks. The Board is suspending uncollateralized intraday credit limits (net debt caps), waiving overdraft fees for institutions eligible for the primary credit program and permitting a streamlined procedure for secondary credit institutions to request collateralized intraday credit (max caps). The Board is also suspending two collections of information used to calculate net debt caps. The actions apply with immediate effect and remain effective until 30 September 2020, unless the Board communicates otherwise prior to that date.

The Federal Reserve Bank of New York [announced](#) that it will accept pledges of loan collateral that include electronic signatures on loan documentation, including electronically signed loan modifications and electronically signed loans issued under the PPP. The Borrower-in Custody (BIC) documentation will be updated to reflect the new guidance at a later date.



The Federal Reserve Bank of New York also published [FAQs on the Primary Market and Secondary Market Corporate Credit Facilities](#) (PMCCF and SMCCF). It has also published [FAQs on the repurchase agreement operations](#) and [FAQs on the reverse repurchase agreement operations](#) being conducted by the Open Market Trading Desk.

#### **RECENT CLIFFORD CHANCE BRIEFINGS**

### **Administrators of Debenhams and the UK Coronavirus Job Retention Scheme**

On 17 April, In the Matter of Debenhams Retail Limited (in administration) [2020] EWHC 921 (Ch), we were provided with a further example of how companies in a formal rescue procedure are seeking the UK court's assistance to facilitate access to the Coronavirus Job Retention Scheme.

The decision enables the administrators of Debenhams to make payments to over 13,070 employees in respect of amounts which may be reimbursed to the company under the Scheme, and for the administrators to make an application to that Scheme. While the directions from the court were not precisely what the administrators asked for, they do offer the administrators some protection against subsequent challenges for the action they have taken in good faith in the context of the administration, which is especially welcome given the launch of the online claim service on GOV.UK on Monday 20 April and the extension of the Scheme to the end of June.

Like the Carluccio's decision, this may have wider implications for businesses operating in similar circumstances and potential administrators who might be inspired by the court's pragmatic approach to the novel and urgent situation.

This briefing discusses the Scheme.

<https://www.cliffordchance.com/briefings/2020/04/administrators-of-debenhams-and-the-uk-coronavirus-job-retention.html>

### **Measures supporting availability of financing within the Polish Anti-crisis Shield**

In March 2020, the Polish government launched its 'Anti-crisis Shield' intended to support businesses during the crisis caused by the COVID-19 pandemic. The Anti-crisis Shield comprises a broad scope of legislative measures and programmes aimed at improving liquidity and financial stability of businesses affected by the pandemic, also in the sphere of tax, social insurance, employment, certain contractual relationships, and administrative and court procedures, etc.

This briefing focuses on measures supporting the availability of debt financing. Some measures and programmes have already been implemented, while others are in the process of being implemented and some have only been announced.

<https://www.cliffordchance.com/briefings/2020/04/coronavirus--measures-supporting-availability-of-financing-withi.html>

### **Leveraged finance – considerations for new financings in the current US market**

As the coronavirus pandemic continues to strain most industry sectors, many companies are experiencing some form of distress and are in need for

liquidity. At the same time, many lenders are eager to deploy capital in an environment where they can demand favourable terms. As these needs have converged and other sources of liquidity have faded away, parties are seeking creative ways to raise new financings that can meet the desires of both borrowers and lenders.

This briefing discusses the race to find capital among the traditional sources available to borrowers and, in particular, highlights key considerations for financial participants looking to structure and/or fund into new term loan financings in the current market.

<https://www.cliffordchance.com/briefings/2020/04/coronavirus--leveraged-finance---considerations-for-new-financin.html>

### **Considerations for securing coverage under New York-governed NPI policies**

Globally, financial institutions hold tens of billions of dollars in protection for debt obligations through non-payment insurance policies. As discussed below, much of this coverage is structured as a pro-insured product, especially where it is used for capital risk weight mitigation under the relevant implementation of the Basel Accords, such as the Capital Requirements Regulation in the European Union or 12 C.F.R. Part 217 in the United States.

NPI policies performed well following the 2008 financial crisis and still enjoy a reputation for a high rate of claims payment, with industry estimates indicating that 97% of all claims are paid. Still, the COVID-19 crisis represents a global challenge of an entirely different magnitude. Therefore, in order to successfully preserve and exercise their rights under such policies, financial institutions should review their operational plans for utilizing NPI policies.

This briefing outlines some of the key considerations for NPI policies governed by New York law. For a companion piece on key considerations for NPI policies governed by English law, please refer to the briefing prepared by our colleagues in London.

<https://www.cliffordchance.com/briefings/2020/03/coronavirus--considerations-for-securing-coverage-under-new-york.html>

### **Government financial aid to business – an African guide**

As well as a public health crisis, the coronavirus pandemic is having significant adverse consequences on many African economies.

Though African nations currently count for only a fraction of global coronavirus cases, experts worry that their cash strapped and under equipped healthcare systems make them ill prepared to tackle large scale outbreaks and the significant resources devoted to debt servicing in many of them mean that financial shocks could be severe in the context of the pandemic.

Governments in Africa are taking measures to mitigate the economic impact, including a range of actions to provide financial support to businesses. These support packages include:

- measures to ensure the continued flow of credit to businesses, through guaranteed or subsidised loans or central bank asset purchase programmes;
- relief from taxes, through tax holidays, deferrals or other relief; and

- outright grants to businesses.

This briefing provides a review of the main actions taken by certain African governments in which Clifford Chance operates through our global Africa practice and regional hub in Casablanca. It also includes input from various law firms that we regularly work with as local counsel.

<https://www.cliffordchance.com/briefings/2020/04/coronavirus--government-financial-aid-to-business---an-african-g.html>

# C L I F F O R D C H A N C E

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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