

UK Government Schemes to Support Businesses during COVID-19 Disruption

Client Alert | April 6, 2020

The UK Government has announced a series of measures to support public services, people and businesses through this period of severe - but temporary - disruption caused by COVID-19. The Government's measures are a mixture of tax relief, financing and support towards the cost of employees. Further clarity on the Government's plans and practical processes for taking advantage of the support is expected to be provided as the days progress.

In this client alert we give a brief overview of the financial packages that have been made available to UK businesses. This is a very fluid situation where UK Government policy announcements are being made on an almost daily basis. The brief overview provided below presents the measures available as at 3 April 2020.

See also the Gibson Dunn Coronavirus (COVID-19) Resource Centre for more details on these UK Government schemes, including our prior client alerts on:

- The Covid Corporate Finance Facility and Coronavirus Business Interruption Loans: <https://www.gibsondunn.com/covid-19-uk-financial-support-for-businesses-through-purchases-of-commercial-paper-and-lending-to-smes/>
- The Coronavirus Job Retention Scheme and other UK employment related-matters:
<https://www.gibsondunn.com/uk-employment-law-considerations-for-companies-responding-to-covid-19-update/> ;
<https://www.gibsondunn.com/uk-employment-law-updated-considerations-for-companies-responding-to-covid-19/> ;
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Scheme

Financial Support Measures

1. COVID-19 Corporate Financing Facility (CCFF)

Details

Under the CCFF scheme, the Bank of England (BoE) will buy commercial paper from larger companies. The CCFF scheme will support companies that are fundamentally strong but which have been affected by a short-term funding squeeze. Small and medium-sized enterprises are unlikely to be able to access the CCFF scheme.

The scheme will operate for at least 12 months and will purchase sterling-

denominated commercial paper, with the following characteristics:

- Maturity of one week to twelve months.
- Where available, a credit rating of A-3 / P-3 / F-3 / R3 from at least one of Standard & Poor's, Moody's, Fitch and DBRS Morningstar as at 1 March 2020.
- Issued directly into Euroclear and/or Clearstream.
- The CCFF scheme is available to companies, and their finance subsidiaries, that "make a material contribution to the UK economy." The BoE states that, in practice, firms that meet this requirement would typically be:
 - UK incorporated companies (including those with foreign-incorporated parents and with a genuine business in the UK);
 - companies with significant employment in the UK;
 - firms with their headquarters in the UK.

The BoE notes that it will also consider whether the company generates significant revenues in the UK, serves a large number of customers in the UK or has a number of operating sites in the UK.

The CCFF is open to firms that can demonstrate that they were in “sound financial health” prior to the impact of COVID-19. This means companies that had a short or long-term rating of investment grade, as at 1 March 2020, or equivalent. If firms have different ratings from different agencies, and one of those is below investment grade then the commercial paper will not be eligible. The CCFF is open to all firms and sectors, providing that the eligibility criteria as set out above are satisfied. If a firm does not have a credit rating it should speak to its existing lenders and if the firm was considered to be in “sound financial health” at 1 March 2020, a submission can be made to the BoE on that basis. Alternatively, the BoE notes that companies can contact one of the major

credit rating agencies to seek an assessment of credit quality in a form that can be shared with the BoE and HM Treasury.

More information on eligibility and application documents can be found on the [Bank of England Website](#).

2. Coronavirus Business Interruption Loan Scheme
- This temporary scheme supports small and medium-sized businesses with an annual turnover of up to £45 million with access to £5 million of finance in the form of term loans, overdrafts, invoice finance and asset finance facilities for up to six years.

The Scheme has also been extended to enable banks to make loans of up to £25 million to firms with an annual turnover of between £45 million and £500 million.

The scheme will be delivered through commercial lenders (including all major banks), backed by the UK Government-owned British Business Bank. As part of the scheme, the UK Government will provide lenders with a guarantee of 80% on each loan (subject to a per-lender cap on claims).

The UK Government will also make a business interruption payment to cover the first 12 months of interest payments

and any lender-levied fees. However, clients should note that the borrower remains 100% liable for the debt.

Clients should also note that there is no obligation on a lender to offer a loan within the Scheme. If a lender can offer finance on normal commercial terms without making use of the Scheme, it will do so. Security is not required to secure lending below £250,000. For any borrowing above £250,000, it is open to lenders to ask for security including personal guarantees from directors and security over their assets in support of such guarantees, however, there is a prohibition on taking security over a director's primary residential property. Taking into consideration the UK Government's guarantee, any personal guarantees for borrowing in excess of £250,000 are capped at 20% of the outstanding value of the loan.

To be eligible to participate in the Scheme the business must meet the following key tests:

- the applicant must be UK-based in its business activity;
- the applicant must have an annual turnover of no more than £500 million
- the applicant must have a borrowing proposal which the lender would consider viable, were it not for the current pandemic; and
- the applicant must self-certify that it has been adversely impacted by the coronavirus (COVID-19).

The full rules of the Scheme (including further eligibility criteria and the application process) is available on the [British Business Bank website](#).

3. Insurance Claims for Notifiable Diseases

Most commercial insurance policies are unlikely to cover pandemics or unspecified notifiable diseases, such as COVID-19. However, those businesses which have an insurance policy that covers government ordered closure and pandemics or government ordered closure and unspecified notifiable disease should be able to make a claim (subject to the terms and conditions of their policy). Businesses are encouraged to check the terms and conditions of their specific policy and contact their providers.

Notifiable diseases are certain infectious diseases that registered medical practitioners have a statutory

duty to notify the 'proper officer' at their local council or local health protection team about when they come across a suspected case. The Government keeps an updated list of notifiable diseases. On 5 March 2020, the government added COVID-19 to its list of notifiable diseases.

Many insurers use diseases on notifiable diseases list as triggers for the activation or exclusion of insurance cover. For example, insurers' policies that cover notifiable diseases will typically only cover a specific subset of notifiable diseases (such as Cholera or Anthrax) that the insurer will reference in the policy documentation. These policies will exclude any notifiable disease not on the insurers list, as well as future/unknown diseases (such as COVID-19). The price that the insurer charges for the policy is modelled against the risk posed by this set list of diseases.

Some businesses will have purchased add-ons for their insurance that cover for 'unspecified notifiable

diseases'. These policies effectively cover any disease listed as a notifiable disease, enabling the business to claim for losses for all notifiable diseases as well as from diseases that are unknown at the point the policy is written.

The effect of the Government adding COVID-19 to its list of notifiable diseases is to ensure that businesses with unspecified notifiable disease cover are able to make a claim – subject to the terms and conditions in their policy. For example, someone infected with COVID-19 may need to have been on the premises.

The Government also asked a number of different businesses and venues to remain closed from 21 March 2020 onwards. Insurers have agreed that this advice is sufficient for businesses covered for COVID-19 losses to make a claim (if the only barrier to them making a claim was a lack of clarity on whether the government had ordered businesses to close). As such, intervention

by the police or any other statutory body is no longer required to trigger cover in the current circumstances.

However, most businesses' commercial insurance policies (including for denial of access) are unlikely to offer cover for COVID-19. Insurance policies differ significantly, so businesses are encouraged to check the terms and conditions of their specific policy and contact their providers.

4. State Aid

EU State aid rules apply in the UK during the Brexit transition period which expires on 31 December 2020. On 19 March 2020, the European Commission (Commission) adopted a Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak. Under the Temporary Framework, the Commission can authorize member states and the UK to adopt aid schemes in the form of tax advantages or direct grants, State guarantees or loans on an expedited basis (within 24-48 hours). On 25 March, the Commission approved two UK aid schemes. The guarantees scheme covers 80% of loan facilities for SMEs with a turnover of up to GBP 45 million to cover their working and investment capital needs and will be implemented through the British Business Bank. Under the direct grants scheme, SMEs are eligible for an up to GBP 734,000 support in the form of a direct grant. The schemes will be in place until 30 September 2020, and can be extended by the UK until 31 December 2020.

In addition to the Temporary Framework, which provides for the possibility of adopting aid schemes, the UK can grant State aid under the

existing (non-COVID-19) State aid rules, which permit member states and the UK, under certain conditions, to: (i) provide rescue aid without first notifying the Commission; and (ii) provide State aid to make good the damage caused by natural disasters or exceptional occurrences. On 12 March, the EC declared that Covid-19 is an exceptional occurrence.

Whether larger companies that cannot benefit from the COVID-19 aid schemes, both because of their size and their funding needs, can receive UK Government support will need to be assessed on a case-by-case basis.

Employment Support Measures

5. Coronavirus Job Retention Scheme

All UK employers with a PAYE (“pay as you earn”) scheme in operation on 28 February 2020 will be able to access support to continue paying part of their employees’ salary for those that would otherwise have been laid off during this crisis.

The scheme applies to all employees that have been asked to stop working, but who are being kept on the pay roll (described as “furloughed workers”). To claim, employees must be designated as furloughed

workers and notified of this change.

The UK tax authority (HMRC) will reimburse 80% of furloughed workers' wages, up to £2,500 per month, plus the associated Employer's National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage. Employers can choose to "top up" the pay of a furloughed employee to 100% of their contractual pay, but are not obliged to under the scheme.

The scheme will cover the cost of wages backdated to 1 March 2020. It is initially open for three months, but "will be extended if necessary".

HMRC expects the first grants to be paid by the end of April. In the meantime, if a business needs short term cash flow support, it may be eligible for a Coronavirus Business Interruption Loan (see below).

More information [here](#).

6. Self-employment income support

The UK government has outlined details of

scheme

new Self-Employment Income Support Scheme. The scheme will provide a taxable grant to self-employed individuals (including members of partnerships) worth 80% of average monthly income taken over the last three tax years, capped at £2,500 per month.

The scheme is only open to anyone with trading profits less than £50,000 and to those who earn the majority of their income from self-employment.

The scheme is unlikely to be up and running before the start of June 2020, so it will not help self-employed individuals with immediate cash flow issues. Unlike the Coronavirus Job Retention Scheme, an eligible self-employed person can continue to work while claiming the grant.

7. Statutory Sick Pay Rebate

Small-and medium-sized enterprises (SME) and employers will be able to reclaim Statutory Sick Pay (SSP) paid for sickness absence due to COVID-19. A company is considered an SME if it meets two out of three of the following criteria: (i) Turnover of less than £25 million; (ii) Fewer than 250 employees, and/or (iii) Gross assets of less than £12.5 million.

The eligibility criteria for the scheme will be as follows:
(i) 2 weeks' SSP per eligible employee who has been off work because of COVID-19;
(ii) SMEs only; (iii) employers can reclaim expenditure for

any employee who has claimed SSP (according to the new eligibility criteria) as a result of COVID-19; (iv) employers should maintain records of staff absences and payments of SSP, but employees will not need to provide a GP fit note. If evidence is required by an employer, those with symptoms of coronavirus can get an isolation note from NHS 111 online and those who live with someone that has symptoms can get a note from the NHS website; and (v) the eligible period for the scheme will commence the day after the regulations on the extension of SSP to those staying at home comes into force.

The process for claiming a rebate has not yet been developed and further detail is expected in due course.

More information [here](#).

Tax Support Measures

8. Time to Pay

All businesses and self-employed people in financial distress, and with outstanding tax liabilities, may be eligible to receive support with their tax affairs through HMRC's Time To Pay service. The service previously did not cover corporation tax, PAYE and Valued Added Tax (VAT), however, the UK Government's measures have now extended to apply to VAT and HMRC will consider deferral of PAYE and corporation taxes on a case by case basis.

All arrangements are agreed on a case-by-case basis and are tailored to individual circumstances and liabilities.

More information [here](#).

9. VAT Deferral

The UK Government has deferred Valued Added Tax (VAT) payments for three months (from 20 March 2020 until 30 June 2020).

All VAT-registered UK businesses are automatically eligible without application required.

However, quarterly returns should still be filed as normal and HMRC will pay VAT refunds and reclaims as normal (providing cash flow for some businesses). The payment of VAT that has been deferred under the scheme should be paid at the end of the next tax year, in April 2021.

More information [here](#).

10. Deferral of Self-Assessment payment

The Self- Assessment payment on account, that is ordinarily due to be paid to HMRC by 31 July 2020 may now be deferred until January 2021.

The deferment is automatic but optional. No penalties or interest for late payment will be charged if the July 2020 payment on account is deferred until January 2021.

11. Business Rates Holiday for Retail, Hospitality and Leisure

More information [here](#).

Businesses in the retail, hospitality and leisure sectors in England^[1] will not have to pay business rates (municipality taxes) for the 2020-21 tax year.

There is no action to take. Local authorities will automatically apply the business rates holiday to business rates bills for the 2020/2021 tax year.

12. Cash Grant for Retail, Hospitality and Leisure

More information [here](#).

Businesses in England in the retail, hospitality or leisure sector with a rateable value between £15,001 and £51,000 will receive a cash grant of up to £25,000 per property.

There is no action to take. Local authorities will write to businesses that are eligible for this grant.

13. Small Business Grant Funding

More information [here](#).

This scheme supports small businesses in England that already pay little or no business rates because of small business rate relief, rural rate relief and tapered relief. The scheme will provide a one-off grant of £10,000 to businesses with a rateable value of up to £15,000 to help meet their ongoing business costs.

Local Authorities will write to all eligible businesses with information on how to claim this grant.

14. Business Rates Holiday for Nurseries

More information [here](#).

Nurseries in England that provide Early Years Foundation Stage do not have to pay business rates for the 2020-21 tax year.

Local authorities will automatically apply the business rate holiday to relevant business rates bills for the 2020-21 tax year.

More information [here](#).

[1] Some aspects of business support are devolved. Separate schemes may apply in Scotland, Wales and Northern Ireland.

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Gibson Dunn's lawyers are available to assist with any questions you may have regarding developments related to the COVID-19 outbreak. For additional information, please contact your usual contacts or any member of the Firm's Coronavirus (COVID-19) Response Team. In the UK, the contact details of the authors and other key practice group lawyers are as follows:

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