Coronavirus/COVID-19 Update

9 April 2020

In Germany, we have received an increasing number of enquiries about the coronavirus disease 2019 (COVID-19), commonly known as the "coronavirus", and what organisations should be doing to mitigate the impact of the virus on their business, staff, supply chains, etc.

Here is an overview of the key legal issues for businesses in Germany to consider, together with some practical steps for businesses to take.

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Instant Loans of up to €800,000 for Medium-sized Enterprises With up to 50 Employees

In addition to the aid measures provided for by law on 27 March 2020 and the previously existing loan and guarantee measures of the KfW Development Bank (KfW) and the state development banks, the German federal government introduced an instant loan programme for medium-sized enterprises on 6 April 2020. This programme is based on the corresponding Europe-wide state aid approval of the EU Commission of 3 April 2020 for aid schemes of up to €800,000.

The instant loan is available to medium-sized enterprises with more than 10 employees that have been active on the market since at least 1 January 2019. The credit volume per enterprise is up to three months' revenue in 2019, with a maximum of €800,000 for enterprises with more than 50 employees, and a maximum of €500,000 for enterprises with up to 50 employees, provided that the enterprise was not experiencing financial difficulties before 31 December 2019 and its finances were in order at that time. The current interest rate is 3% with a term of 10 years. The loan application must be filed with the enterprise's principal bank. The principal bank will be released from 100% of the liability by KfW, hedged by a guarantee of the German federal government. The credit approval process does not involve an additional credit risk assessment by the principal bank or KfW. The loan can be used for operating resources and investments.

You will find a detailed overview on page 8.

Draft Law to Mitigate the Consequences of the COVID-19 Pandemic in the Event Industry

On 8 April 2020, the German federal government submitted guidelines for drafting a new law to mitigate the consequences of the coronavirus disease 2019 (COVID-19) pandemic in the event industry. In order to speed up the process, the draft law will be introduced into the legislative process directly by the members of the German parliament (Bundestag) in accordance with Article 76(1) of the German Basic Law (GG).

The draft law provides for the addition of a new Section 5 to Article 240 of the Introductory Law to the German Civil Code (EGBGB). Under the new Section 5, admission tickets for music, cultural, sports and other recreational events that were purchased before 8 March 2020 do not have to be refunded if the event does not take place due to the COVID-19 pandemic or the facility had to close. The event organiser or owner is entitled to issue a credit note instead of providing a

cash refund. The credit note must be issued in the amount of the total entrance fee and any other fees, including advance booking fees, and no costs may be charged for issuing and sending the credit note. The credit note holder may demand a cash refund of the value of the credit note if it is unreasonable for the individual to accept a credit note in view of his or her personal life circumstances, or the credit note has not been redeemed by 31 December 2021.

Rental and Lease Agreements in Times of Coronavirus

Under the Law to Mitigate the Consequences of the COVID-19 Pandemic (coronavirus disease 2019 [COVID-19]), which entered into force on 1 April 2020, a special rule applies initially for a period of three months for all commercial and private rental and lease agreements (collectively, the leases) in Germany, which may have a significant economic impact for landlords:

The landlord's right to terminate the lease due to outstanding rent arrears in the period from April 2020 until the end of June 2020 is temporarily suspended if "the failure to pay is due to the effects of the COVID-19 pandemic." Therefore, if the tenant is able to demonstrate that it is unable to pay the rent as a result of the COVID-19 pandemic, the lease may not be terminated despite the fact that outstanding and overdue rent payments have not been paid over a period of three months. This restriction of the right to terminate the lease due to such outstanding payments applies until 30 June 2022. This means that the lease with the tenant may be terminated due to rent arrears accumulated during the period from April until June 2020 only after the expiration of an additional two years.

The federal government is authorized to extend the time period of the suspension of the right of termination until 30 September 2020 by way of a legislative decree without the consent of the Federal Council (Bundesrat) if the COVID-19 pandemic continues.

It is still possible to terminate the lease due to previous or subsequent rent arrears independent of the COVID-19 pandemic or on grounds for termination other than default in rent payments without restrictions.

Ultimately, the legislator has thereby created a significant risk that the tenant will not pay the rent at least for the time being.

However, the suspension of the rent payments is also associated with various drawbacks and uncertainty for the tenant, which should not be ignored:

- The rent is still owed, i.e. the tenant is still obligated to pay the rent and must pay the initially unpaid amounts in arrears (in addition to the rent that must currently be paid at that time).
- The landlord is entitled to claims for default (e.g. interest) at the statutory rate, i.e. at present, 9 percentage points above the base interest rate of the European Central Bank.
- The rent is due and enforceable, which means that the landlord can sue for payment and, unless other grounds exist to the contrary, would also win the lawsuit because the tenant would not be able to defend against the content of the claim. The landlord could enforce this payment title against the tenant by means of forced execution.
- The new law does not exclude the possibility of using the rent collateral from the outset so that the landlord could also satisfy its claims in this way in the short term. In the case of cash collateral, the landlord can, therefore, utilize the collateral itself to settle its claims, and even in the case of guarantees, especially so-called guarantees payable on first demand, it is possible to obtain the payment of the outstanding rent quickly. In both cases, however, it is only possible to utilize the rent collateral if a termination is not a prerequisite for the utilization of the rent collateral, since it is not possible for the landlord to terminate the lease due to default in payment.

  Furthermore, it has not been determined when the obligation to replenish such rent collateral arises and whether the breach of any such obligation (which is due despite the COVID-19 pandemic?) to replenish the rent collateral triggers a right to terminate the lease (which has actually been suspended by the legislator). This uncertainty is to the detriment of both parties.
- Furthermore, it is unclear whether advance payments for operating and ancillary costs fall under the new rule. Because they are usually considered part of the rent, the suspension of the right of termination also applies in this regard; however, all other rights of the landlord are preserved. It is not entirely comprehensible (or is possibly an oversight on the part of the legislator) why not at least the ancillary costs would be excluded because there is not only a risk in this regard that the landlord may lose its earnings (which may be needed to pay its own debts), but

the landlord will also be burdened with further expenses (which are actually the responsibility of the tenant).

- In addition, the new rule (or the justification for the new rule) does not answer the question whether it is possible to demand adjustment of the contract in accordance with the principles regarding interference with the basis of the transaction (Störung der Geschäftsgrundlage) in addition to the suspension of the right of termination. This is supported by the fact that the law does not alter the regulation on the obligation to pay the rent and only suspends the landlord's right to terminate the lease. On the other hand, there are good reasons to argue that the new rules have most certainly distributed the risk, namely, that the obligation to pay the rent continues to exist in principle even in times of the COVID-19 pandemic. This discussion, which is currently taking place in the legal literature, will also have to be dealt with by the courts in the future.

As a result, this new rule means that the new statutory rule imposes – at least superficially – the liquidity risk of the tenant due to the COVID-19 pandemic upon commercial landlords, potentially for a period of more than two calendar years (if the landlord does not utilize the rent collateral or file a lawsuit). On the other hand, the landlord can at least look forward to interest – in the commercial sector – in the amount of 9 percentage points above the base interest rate of the European Central Bank.

Securing the Supply of Raw Materials / Critical Infrastructures

Enterprises, which rely on raw material supplies for production purposes, are increasingly turning to unusual business practices in order to continue their own production. This includes most recently claiming that one is a supplier of companies and/or operators of critical infrastructures and requesting preferential treatment in the case of shortages in certain raw materials in letters sent to suppliers.

The designation of critical infrastructures is regulated in the Regulation on the Designation of Critical Infrastructures under the BSI Act (BSI-KritisV) in Germany und in Council Directive 2008/114/EC on the EU level. The aim of the BSI-KritisV is to ensure that the population has access to the necessary supplies in emergencies and crises in conjunction with the IT Security Act. The BSI-KritisV defines enterprises in certain branches and sectors (e.g. in the water, food, IT and telecommunications, health, finance and insurance, transportation and traffic sectors) as operators of critical infrastructures if they have exceeded certain thresholds or areas of influence. The operators of critical infrastructures are obligated, amongst other things, to verify the security of IT systems.

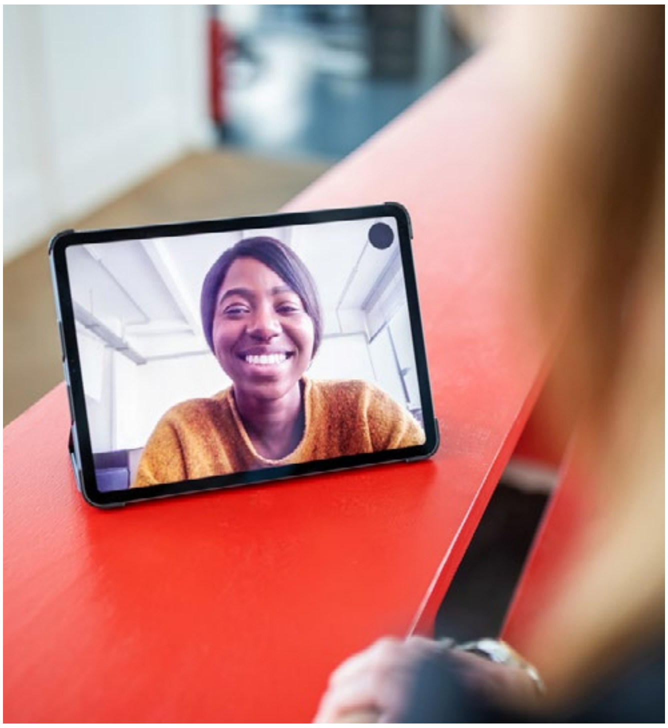
The BSI-KritisV does not provide special protection for operators of critical infrastructures or their suppliers with respect to the supply of goods and the provision of services. Some EU Member States have taken a different approach, such as Spain, where the suppliers of operators of critical infrastructures have special protection under the law (see RD 463/2020). This means that the letters, which are increasingly being sent by enterprises stating that the enterprise supplies operators of critical infrastructures and should be treated preferentially in the supply of raw materials, are to be regarded as merely a request without any legal obligation.

E-Signatures in Germany

In times of the coronavirus disease 2019 (COVID-19), the digital replacement of manual signatures is becoming more and more relevant in German and European business transactions, and is increasingly required for business and private communications. To slow down the spread of COVID-19, it has become essential to prioritise protection against infection. Now, even the mailman can acknowledge the delivery of parcels instead of the addressee. From a legal perspective, this seems rather illogical and results in uncertainty on both sides. However, for greater protection against infection, it is imperative that more "distancing" takes place in both the private and business spheres. Consequently, there is an increased need for creating possibilities to provide and authenticate signatures from a distance without having to meet in person.

Although a legal framework for the use of electronic signatures (e-signatures) has been established within the EU by the eIDAS Regulation, for various reasons, the e-signatures provided for in this regulation are still used only very rarely, especially in Germany.

E-signatures give rise to legal risks for users, which are not so strongly in focus at the moment but will become more important in a post-COVID-19 world. In this context, questions regarding the evidential value due to a lack of documentation and a lack of probative value in court, as well as the susceptibility to fraud, are the main reasons for not using e-signatures, especially in complex business transactions.



The costs and complexity of creating e-signatures are also a deterrent. The challenge in using e-signatures is, above all, their proper documentation and long-term verifiability. In this regard, the e-signature must fulfil two requirements: authenticity (the assignment of the document to the author) and integrity (the content of the signed document is unaltered). The EU regulation distinguishes between simple, advanced and qualified e-signatures. In the EU, particularly in Germany, however, only a qualified e-signature can fulfil the statutory written form requirement. This is because it is the only form of signature that meets these high standards so that it can be regarded as equivalent to a manual signature. A qualified e-signature is then even associated with a presumption of conformity in court regarding the originality of the document or the declaration of intent.

However, even if qualified e-signatures are, theoretically, an appropriate instrument for digital business transactions, they have not played a major role in practice to date, and they are largely avoided. Why is this? The main obstacle is the complexity of producing a qualified e-signature, which requires a cryptographic encryption procedure. Moreover, only an accredited trust service provider (EU trustmark) can issue the certificate required for the signature. In addition, there are high costs (smart card and card reader) associated with the use of e-signatures for business and private purposes. It also has not been possible to establish a uniform rule at the European level with regard to other cheaper solutions on the market (qualified remote signatures via Software as a Service, qualified signature in powers of attorney, etc.).

Simple e-signatures, however, have already become an integral part of everyday business transactions. The simple e-signature, unlike the qualified digital signature, does not have to follow any strict legal rules in terms of form and content. It is merely intended to identify the author of the message (e.g. in the form of a scanned signature inserted into a document). In essence, it is merely a signature stored in digital form as a file, which does not allow for the ascertainment of authenticity or integrity. For this reason, the simple e-signature does not usually provide clear legal proof. It is, therefore, susceptible to manipulation. As a result, the simple e-signature is only appropriate and advisable for internal company communications and for agreements without form requirements. Whether crisis-related compromises, such as certification by the delivery agent, are sensible remains to be determined by the courts, which have yet to make a further assessment.

For all other business transactions, especially those requiring the written form by law, it seems more urgent than ever to create more user-friendly and cheaper uniform EU solutions. This is particularly true in light of the fact that digital business transactions often take place across borders, so both the legal assessment of e-signatures and the practical implementation of e-signatures must be regulated across borders (i.e. at least uniformly within the EU). Although the EU directive established a uniform framework, the member states involved have not yet joined forces in its implementation.

New solutions could be based on the PostIdent procedures, which already make it possible to open a bank account, enter into a contract and access health information completely digitally or remotely by a video chat via an app or laptop without system failures. Another part of the solution could be the already-existing new personal identity card in Germany with an online identification function, which, in principle, should be able to provide electronic proof of identity for other EU states via the embedded chip. This should, for example, considerably simplify the processing of administrative services at the European level. However, this chip procedure is complicated and not standardised at the European level, so different countries require a different, and sometimes very expensive, hardware infrastructure in order to be used by citizens. Platforms and instruments already exist. At present, however, there is no uniform setup, which is both user-friendly and secure, in order to create an equivalent alternative to the traditional signature. This would do a great service at least for future pandemics and especially in terms of the need for social distancing.

COVID-19 is currently shedding quite a clear light on the digitisation deficits to date, as well as in the area of administration in Germany. The shutdown of public access to public authorities is still causing a standstill in the administration. In critical times, digital signatures could strengthen the trust in the government and ensure important processes of general interest, even in the case of social distancing. It would also be good for the economy during a crisis if, for example, vehicles that continue to be sold over the internet could be fully registered and deregistered online. In this respect, some EU member states are far ahead in some cases; Estonia, for example, has become a pioneer in terms of digitisation and e-government, offering almost all administrative services online. Cars could still be registered, and citizens could register a change of address or receive other government services. In Germany, all of these processes are still largely only possible in the traditional way (i.e. by visiting the public office in person). COVID-19 and the necessary protection against infection have posed unprecedented challenges for the economy and administration in Germany. One can only hope that digital solutions will be found soon, albeit with the due diligence required with respect to data protection and data security. Where such solutions already exist, they should be developed further as quickly as possible.

Overview of the COVID-19 Measures of the European Union

European Union

The European Union (EU) has recognised the current crisis situation, which has resulted from the outbreak of coronavirus disease 2019 (COVID-19), and is currently activating measures to assist with the economic consequences of the COVID-19 pandemic.

EU Council Adopts Measures for Immediate Release of Funds

The EU promptly adopted two legislative acts to release funding from the EU budget for tackling the COVID-19 crisis. One of the acts amends the rules of the structural and investment funds and the other extends the scope of the EU Solidarity Fund. Given the urgency of the situation, both acts were published in the Official Journal of the European Union on 31 March and entered into force on 1 April 2020.

The Coronavirus Response Investment Initiative of the EU will give member states access to €37 billion as funds to strengthen healthcare systems, as well as support small- and medium-sized enterprises (SMEs) and short-term working schemes.

Of the total, about €8 billion will come from unspent pre-financing in 2019 under the structural funds. This measure allows member states to spend unused money to mitigate the impact of the pandemic instead of returning it to the EU budget. Another €29 billion will be disbursed early from the allocations, which would have been due later this year. Expenditure was made available as of 1 February 2020, to cover costs already incurred in efforts to save lives and protect citizens. Furthermore, member states will also have greater flexibility to make transfers between different policy programmes in order to redirect resources to where they are most needed.

The second act was extended to amend the scope of the EU Solidarity Fund to include public health emergencies in addition to natural disasters. This will help member states meet the immediate needs of their citizens during the COVID-19 pandemic.

General Escape Clause

An important element of the response to COVID-19 will come from the member states in the form of fiscal intervention.

The member states are constrained by the fiscal rules in place at both EU and national level. On 23 March 2020, the EU finance ministers, therefore, agreed with the proposal of the EU Commission to activate the general escape clause of the EU Stability and Growth Pact (the Pact). The Pact contains two clauses allowing member states to undertake appropriate budgetary measures, within the Pact, in the face of exceptional circumstances. The first is known as the "unusual events clause", while the second is termed the "general escape clause".

In essence, these clauses allow deviation from parts of the Pact's preventive or corrective measures, either because an unusual event outside the control of one or more member states has a major impact on the financial position of the member states, or because the euro area or the EU as a whole faces a severe economic downturn. The EU Commission noted that such fiscal effort is necessary to protect European citizens and businesses from the effects of the COVID-19 pandemic and to support the economy.

The general escape clause has not been activated since its inclusion in the Pact in 2011 following the economic crisis. This clause allows member states to invest in the economy without limitations or tax disadvantages in order to mitigate the consequences of a crisis, which have resulted from a severe economic downturn in the euro area or the EU as a whole. Member states may depart from the budgetary requirements within the EU framework.

The EU Commission believes that the COVID-19 pandemic is to be considered an unusual event and, therefore, the conditions for the use of the general escape clause are fulfilled.

Employment Relationships and Workers

The EU Commission is supporting the member states in promoting short-time work schemes, training and reskilling programmes. A proposal for an EU Unemployment Reinsurance Scheme will be presented soon, which is aimed as supporting member state polices that preserve jobs and skills. The European Globalization Adjustment Fund could be used to support workers and those self-employed. Up to €179 million is available in 2020. In this context, the EU has extended various deadlines for submitting projects. This includes, for example, the Erasmus exchange programme. It is nevertheless recommended to check the deadlines in advance.

State Aid During the Coronavirus Crisis

On 19 March 2020, the UE Commission adopted a Temporary Framework to enable member states to receive state aid within the framework of existing state aid rules. The Temporary Framework is based on Article 107(3)(b) of the Treaty on the Functioning of the European Union, which provides for state aid to be considered compatible with the internal market if the aid serves to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a member state.

As a result, many member states have requested aid measures for the EU Commission under the Temporary Framework for state aid measures to support the economy during the COVID-19 pandemic. The Temporary Framework provides for various types of aid, e.g. (i) direct grants, selective tax advantages and advance payments; (ii) state guarantees for loans; and (iii) subsidized public loans.

All types of aid are subject to certain conditions. A large number of applications submitted by the member states were for state guarantees, public loans and direct grants. The EU Commission approved the applications within a very short timeframe.

The EU Commission is now proposing to extend the Temporary Framework by adding additional support possibilities for five types of aid measures. Antitrust law, thereby, does not preclude the cooperation between enterprises. The EU Commission published guidelines in this regard on a new website. The extended Temporary Framework for State Aid in the context of the COVID-19 crisis should now include the following:

- Support for research and development in connection with COVID-19
- Support for the construction and upgrading of testing facilities for important products and equipment
- Support for the production of urgently needed products
- Targeted support in the form of deferral of tax payments and/or suspensions of social security contributions
- Targeted support in the form of wage subsidies

In order to continue to ensure the supply of medical devices and everyday goods and services, more and more enterprises within the EU are working together in a sensible manner. The EU Commission welcomes these initiatives and established a separate website on 30 March 2020, where the antitrust guidelines for a temporary collaboration will be made available.

European Banking Authority

The European Banking Authority (EBA) supports all measures taken so far to ensure banks maintain a sound capital base and provide the needed support to the economy. In this regard, the EBA reiterated its call to refrain from distributing dividends or making share buybacks for the purpose of remunerating shareholders in line with the risks of the economic situation.

The European Investment Bank (EIB) Group

The EIB Group has proposed a plan to mobilise up to €40 billion of financing. This will go toward bridging loans credit holidays and other measures designed to alleviate liquidity and working capital constraints for SMEs and mid-caps. The EIB group, including the European Investment Fund, which specialises in SME financing, will work through financial intermediaries and in partnership with national promotional banks.

The proposed financing package consists of:

- Dedicated guarantee schemes to banks based on existing programmes for immediate deployment, mobilising up to €20 billion of financing
- Dedicated liquidity lines to banks to ensure additional working capital support for SMEs and mid-caps of €10 billion
- Dedicated asset-backed securities (ABS) purchasing programmes to allow banks to transfer risk on portfolios of SME loans, mobilising another €10 billion of support

According to the EIB Group, all these actions can be implemented quickly to ease liquidity shortages and will be implemented in partnership with NPIs wherever feasible.

COVID-19: Summary of Government Financial Support to Businesses

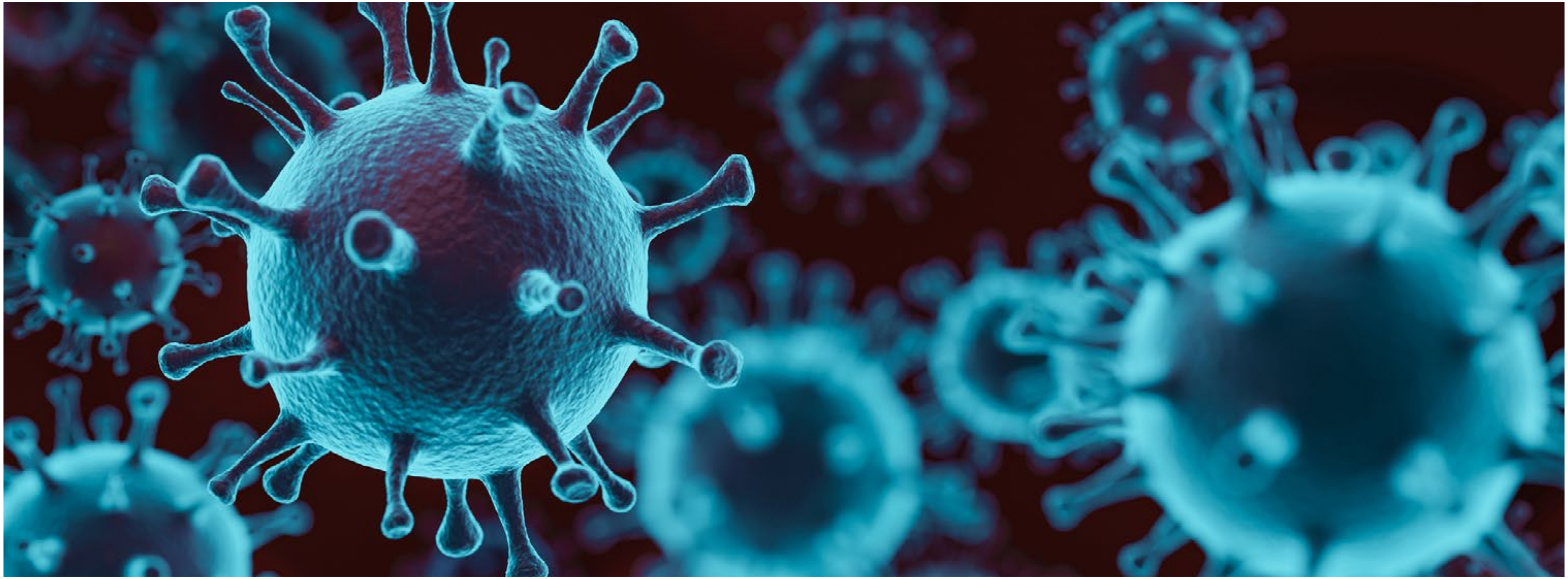
Financing Facility Support

What help is available?	What does the help entail?	Which companies are eligible?	What is the criteria (if any) for applying?	How to apply	When will the finance be available?
Corona emergency aid for microenterprises and sole proprietors Detailed information and an in-depth FAQ page be accessed here.	• Subsidy from the federal government. • In total, up to €50 billion with maximum utilisation for 3 million self-employed and micro-enterprises over three + two months. • Unused budgetary resources will flow back into the budget. • Subsidies will be: – Up to €9,000 paid as a single payment for three months for up to five employees (full-time equivalents) – Up to €15,000 paid as a single payment for three months for up to 10 employees (full-time equivalents) • This subsidy takes effect on profits when income or corporation tax is assessed in 2021.	• Available in all economic sectors to: – Micro-enterprises – Self-employed persons – Independent professionals	• Applicants must have a domestic permanent establishment or have a domestic management and be registered with the German tax office. • The business must have economic difficulties because of COVID-19 and must not have been in economic difficulty before March 2020. • Financial difficulties occurring after 11 March 2020. • If a landlord reduces rent by at least 20%, a business can access the grant for a further two months. • To qualify the business should not have any other income, collateral or loans available to it. • The threat to existence or liquidity bottleneck caused by COVID-19 must be insured.	• Application should be done electronically. • Payment will be done by the German states.	• Immediately until 31 May 2020
Economic Stabilisation Fund Detailed information and an in-depth FAQ page be accessed here.	• The economic stabilisation fund provides: – €400 billion in government guarantees for liabilities – €100 billion for direct state participation – €100 billion for refinancing by KfW programme • Available until the end of 2021 (unless extended).	• Companies that are considered: – Important for Germany as a business location or for the labour market – Systemically important smaller companies – Companies in the critical infrastructure sector	• Companies must be seated in Germany and be registered with the German tax office. • Companies must have: – Balance sheet total of more than €43 million – Revenues of more than €50 million – More than 249 employees on an annual average • The company: – Must not have been in financial difficulty on 31 December 2019.	• By application to the Federal Ministry of Finance, which will decide, in agreement with the Federal Ministry of Economics and Technology.	• Immediately

What help is available?	What does the help entail?	Which companies are eligible?	What is the criteria (if any) for applying?	How to apply	When will the finance be available?
			– Must have no other means of financing – Must prove that post-COVID-19 the company will be a clear independent going concern – Must guarantee a sound and prudent business policy, in particular by contributing to the stabilisation of production chains and safeguarding jobs • Smaller enterprises outside of this criteria can apply for the fund provided that they are active in one of the sectors listed in Section 55 of the Foreign Trade and Payments Regulation or are of comparable importance for security or the economy.		
KFW Special Programme Detailed information can be found here.	• Loans for business that have been **established for more than five years** for: – Investments – Operating costs – Warehouse – Acquisition of assets from other companies	• SME, midsize and large companies that have been active on the market for at least five years.	• Companies that have been on the market for more than five years and fulfil the criteria.	• All companies should contact their banks or financing partners who pass on KfW loans. • Information on the programmes can be found on the KfW website. • The KfW hotline for commercial loans is 0800 539 9001.	• Immediately
KFW Special Programme Detailed information can be found here.	• Investment and working capital loans **for young companies** that have been on the market for less than five years. • Investments and working capital	• ERP start-up loan- universal for founders of new businesses, company successors, free lancers and companies of all sizes that are experiencing temporary financing difficulties due to COVID-19.	• Companies and self-employed established within the last five years. • The company must have been active on the market for at least three years or can present two annual financial statements.	• All companies should contact their banks or financing partners who pass on KfW loans. • Information on the programmes can be found on the KfW website. • The KfW hotline for commercial loans is 0800 539 9001.	• Immediately

What help is available?	What does the help entail?	Which companies are eligible?	What is the criteria (if any) for applying?	How to apply	When will the finance be available?
	• Companies that have been on the market for less than three years • Investment and running costs. • The loan amount is based on various criteria.	• Founders of new businesses, company successors, free lancers and companies that have been on the market for less than three years.	• Company is active on the market for less than three years or is not yet able to present two annual financial statements. • The bank or savings bank must bear the full risk. • An alternative is the ERP start-up loan- start-up money. With this loan you receive up to 30,000 euros for operating resources- with up to 80% risk assumption by the KfW.	• All companies,self-employed individuals and independent professionals should contact their banks or financing partners who pass on KfW loans. • Information on the programmes can be found on the KfW website. • The KfW hotline for commercial loans is 0800 539 9001.	• Immediately
	• Start-ups and company successors, independent professionals can receive up to €100,000 for founders and others. • The total funding volume is €2 billion, including future funding programmes.	• Start-ups	• Start-up loan granted for: – Setting up a business – Consolidating a young company (up to five years after starting business) – Taking a share in a company as managing director – Taking over a business in the context of a business succession – Wanting to run a business as their main occupation or provisionally as a side-line	• All start-ups should contact their banks or financing partners who pass on KfW loans. • Information on the programmes can be found on the KfW website.	• Immediately
	• SME will soon be able to apply for the new KfW Quick Loan for purchases (investments) and running costs (operating resources). The loan will be 100% secured by a guarantee from the Federal Government.	• SME with more than 10 employees, which have been on the market at least since January 2019 • The loan volume per company is up to 3 months' turnover in 2019, with a maximum of €800,000 for companies with more than 50 employees and €500,000 for companies with up to 50 employees.	• Company has made a profit- either in 2019 or on average over the last 3 years. • 100 % risk assumption by KfW • No risk assessment by the bank	• All SMEs should contact their banks or financing partners who pass on KfW loans. • Information on the programmes can be found on the KfW website.	• In the next days
Guarantees	• Companies can use the guarantee scheme with their principal banks providing up to €2.5 million. • The federal government will provide a guarantee of up to €20 million. • This covers a maximum of 90% of the credit risk. The respective principal bank is responsible for the remaining 10%	• All companies that had sustainable business models until the crisis.	• This does not apply to companies in difficulty before 31 December 2019.	• Enquiries can be made free of charge via the financing portal of the guarantee banks for projects up to €2.5 million. • Applications will be processed by the guarantee banks up to €2.5 million. Above that, the German states or the company's development institution is responsible.	• Immediately

What help is available?	What does the help entail?	Which companies are eligible?	What is the criteria (if any) for applying?	How to apply	When will the finance be available?
Grants provided by the 16 German States (Bundesländer) Information can be found at here.	• Aid in the form of grants. • These grants do not have to be repaid, but it will be taken into account in the next income tax or corporate income tax return. • Loans via the KfW Bank or guarantee banks are not included in this.	• Self-employed persons, independent professionals and small enterprises, including farmers with up to 10 employees (full-time equivalents), who are economically active on the market as enterprises. • They must carry out their activities from a domestic permanent establishment or a domestic management headquarters and be registered with a German tax office.	• Generally, applicants must demonstrate that the current operating income is insufficient to finance the current operating costs of the company.	• In writing, electronically	• Immediately • Applications must be submitted to the competent land authority by 31 May 2020 at the latest.



COVID-19: Summary of Government Financial Support to Businesses

Other Financial Support

What help is available?	What does the help entail?	Which companies are eligible?	What is the criteria (if any) for applying?	How to apply	When will the finance be available?
Ongoing Obligations	• All micro-businesses that are unable to meet ongoing payment obligations under a consumer contract as a result of COVID-19 will have a **temporary right to refuse performance**. • This will apply until 30 June 2020. • The right to refuse performance relates to all material continuing obligations which are necessary for the appropriate continuation of the business. • Employment contracts are excluded from this exemption.	• Micro-enterprises as defined in the EU Recommendation 2003/361/EC.	• The enterprise must prove that: – it is impossible to render performance as a result of the COVID-19 pandemic – it would be impossible to render performance without jeopardising the economic foundations of their business		• The law to mitigate the consequences of the COVID-19 pandemic enters into force with immediate effect after publication in the Federal Law Gazette.
Lease agreements	• Landlords' termination rights have been ruled out for non-payment of rent from April 2020 until June 2020. This applies until **30 June 2022**.	• This applies both to **private and commercial lease agreements**.	• The tenant must demonstrate a correlation between the COVID-19 pandemic and inability to pay.	• All outstanding rent must have been paid by 30 June 2022, otherwise the landlord will be entitled to terminate the lease.	
Tax aids	• The aids are: – Deferral of tax payments – Adjustment of advance payments – Suspension of enforcement measures	• Companies, self-employed and independent professionals.	• Affected companies, self-employed and independent professionals.	• On application to the tax authorities.	• Immediately

Further Updates

We will continue to monitor the situation carefully and keep this advice note under review. We have also set up a dedicated resource centre for businesses on the legal, regulatory and commercial implications of coronavirus COVID-19 on our website.

This is to provide you with the very latest guidance on the practical steps to take, given that the situation is an evolving one and the government and health authorities' guidance and advice may well change.

If you would like to discuss any of the issues raised in this advice note, please contact any of our team listed below.

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