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The Federal Council

Coronavirus: Emergency ordinance on COVID-19 credits to be incorporated into ordinary law

Bern, 01.07.2020 - During its meeting on 1 July 2020, the Federal Council initiated the consultation on the new Federal Act on COVID-19 Credits with Joint and Several Guarantee. This aims to incorporate the COVID-19 Joint and Several Guarantee Ordinance into ordinary law. This is necessary because the Joint and Several Guarantee Ordinance was issued as an emergency ordinance and is therefore valid only until 25 September 2020. The bill does not affect the ongoing granting of credits. Applications for guaranteed COVID-19 credits can be submitted until 31 July 2020. The new law regulates all important aspects over the lifetime of the credits. It also contains instruments to combat abuse and deal with cases of hardship.

On 25 March 2020, the Federal Council adopted the COVID-19 Joint and Several Guarantee Ordinance to provide Swiss companies with liquidity. Since then, SMEs have had quick and unbureaucratic access to bank credit facilities guaranteed by the four recognised guarantee organisations. In turn, the Confederation has given a commitment to reimburse the organisations for losses incurred from these guarantees. On 19 June, approximately 128,000 credits with an estimated volume of around CHF 15 billion had been guaranteed; over 80% of these were granted to small businesses with fewer than ten full-time staff members.

The Federal Council must present the bill to incorporate the emergency ordinance into ordinary law to Parliament within six months. For the guaranteed COVID-19 credits, given the ramifications, this is to be achieved by means of a separate law. By contrast, for the remaining emergency ordinances, a common blanket framework is planned. The bill regulates the rights and obligations of the four recognised guarantee organisations, in particular in cases where the banks or PostFinance AG draw on the guarantee and the credit claims thus pass to the guarantee organisation. At the same time, it responds to demands from Parliament.

The bill makes provision for various instruments to avoid cases of hardship: for example, rather than extending the existing five-year repayment period by two years, it should be possible to extend it by another five, to a maximum total of ten years. Moreover, a guaranteed credit of up to CHF 500,000 will now not be regarded as debt for the whole term of the credit, in order to avoid over-indebtedness in accordance with the Code of Obligations. In addition, the guarantee organisations will have various instruments to avoid individual cases of hardship (in particular subordination and involvement in restructuring).

However, the Federal Council wants to refrain from a general debt write-off for entire economic sectors or industries. Such a solution would be unfair because it would benefit only those companies which applied for bridging credit facilities. Furthermore, it would provide powerful false incentives. The planned repayment periods will mean that, to repay a COVID-19 credit not exceeding one-tenth of annual turnover, a company will have to deploy only 1% to 2% of its turnover; this should be affordable for companies whose finances are fundamentally sound.

Combating abuse even after credits have been granted

The bill will also establish a longer-term framework for combating abuse. Initial assessments indicate very little abuse in credit applications. Nonetheless, it is planned to identify and investigate abuse in a targeted way even after a credit has been granted. Because borrowers' tax and bank data can continue to be exchanged, compliance with the rules on the use of the credit, for example the prohibition on dividend payments, can be verified.

The procedure for setting the interest rate, however, should remain materially unchanged: the Federal Council will adjust the interest rate annually according to market developments. The participating banks will be consulted beforehand. Yet, while the Swiss economy remains in a recessionary phase as a result of the COVID-19 pandemic, it can be assumed that the interest rate environment will not undergo any major change, and that, consequently, no interest rate adjustment will be necessary.

The Federal Council proposes that Parliament debate the bill in a special procedure during the winter session; moreover, both chambers should vote on the bill in the same session. At the same time as it adopts the dispatch, the Federal Council can extend the duration of the emergency ordinance until the new legal framework enters into force, thus avoiding a regulatory gap. Owing to the legally prescribed urgency, the consultation period will run for only three weeks.

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Documents

Gesetzestext (PDF, 270 kB)

Erläuternder Bericht (PDF, 766 kB)

Schreiben an die Räte (PDF, 225 kB)

Schreiben an die Kantone (PDF, 274 kB)

Schreiben an die Organisationen (PDF, 274 kB)

Adressatenliste / Elenco dei destinatari / Liste des destinataires (PDF, 469 kB)

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https://www.admin.ch/gov/en/start.html

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