Coronavirus: Federal Council adopts dispatch on new Joint and Several Guarantee Act

Bern, 18.09.2020 - During its meeting on 18 September 2020, the Federal Council adopted the dispatch on the new COVID 19 Joint and Several Guarantee Act. This aims to incorporate the COVID 19 Joint and Several Guarantee Ordinance into ordinary law. The Joint and Several Guarantee Ordinance is an emergency ordinance that applies only until 25 September 2020. However, as it will take many more years for the credits to be repaid, a federal law is needed for dealing with the credits and sureties. The participants in the consultation viewed the proposal in a positive light.

The Federal Council adopted the COVID 19 Joint and Several Guarantee Ordinance on 25 March 2020 to provide Swiss companies with liquidity. This gave SMEs quick and unbureaucratic access to bank credit facilities guaranteed by the four recognised guarantee organisations. In turn, the Confederation undertook to reimburse the organisations for losses incurred on these guarantees. At the end of August, approximately 136,000 credits with a volume of around CHF 16.4 billion had been guaranteed; over 80% of these were granted to small businesses with fewer than ten full time employees.

The Federal Council must present the bill to incorporate an emergency ordinance into ordinary law to Parliament within six months from the date of the ordinance's entry into force. 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 organisations. At the same time, it responds to demands from Parliament. The new act regulates all important aspects over the lifetime of the credits and sureties. It also contains instruments to combat abuse and deal with cases of hardship.

High degree of approval in the consultation

Virtually all of the participants in the consultation expressed their support for the COVID 19 Joint and Several Guarantee Ordinance and its transposition into the new act. They were particularly in favour of the absence of the partial investment ban, case by case analysis for cases of hardship and the possibility of extending the repayment period from five years to a maximum of ten years. The decision to dispense with the conversion of COVID 19 credits into non repayable contributions was also clearly welcomed.

Only in a few cases was an extension of the ordinary repayment period requested, even in the absence of hardship. An easing of the dividend ban was also proposed. Some consultation participants additionally called for an extension of the deadline for submitting credit applications. The Federal Council rejected these amendment proposals. It explains why in the dispatch (section 2). As a result of the clear outcome of the consultation, the text of the act largely corresponds to the consultation draft.

The Federal Council proposes that Parliament debate the bill in a special procedure during the winter session. Exceptionally, both chambers should vote on the bill in the same session. This would make it possible for the act to enter into force on 1 January 2021.

At the same time as adopting the dispatch, the Federal Council extended the duration of the COVID 19 Joint and Several Guarantee Ordinance, thereby preventing a regulatory gap until the new legal framework enters into force.

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