

Presentation of financial aid measures in support of businesses facing the Covid- 19 crisis

April 2020

**Hogan
Lovells**

Executive summary

1.	Deferred terms of payment and rebates for social contributions and direct taxes	1
2.	BPI measures in order to support the cash flow of companies	4
3.	State direct guarantees on company loans	6
4.	Support measures from private credit institutions	9
5.	Measures applicable to companies operating under public contracts	10
6.	Solidarity fund for small businesses	10
7.	Measures implemented by the local authorities	11
8.	Payment of current expenses for businesses	11
9.	Measures supported by insurance companies	14
10.	Support measures for exporting companies	14
11.	Annex 1: Terms of the "Coronavirus Cash Enhancement" Guarantee Fund	15
12.	Annex 2: Terms of the "Coronavirus Confirmed Line of Credit" Guarantee Fund	17
13.	Annex 3: Summary of aid measures implemented by the French local authorities	17

Faced with the impact of the Covid-19 health crisis on the local and European economy, the President of the French Republic and the government announced several emergency measures in order to support businesses in difficulty.

On 22 March 2020, the French Parliament passed a bill enabling the government to take measures by way of ordinance, to support the businesses impacted by the Covid-19 health crisis (hereinafter, the "**Emergency Law**"). On such basis, the government adopted a series of ordinances on 25, 26 and 27 March 2020.

Furthermore, the European Commission has indicated that Member states were enabled to implement the measures necessary to support their national economies.

The purpose of this note is to present these emergency financial measures implemented by the French government to contain the economic consequences of the health crisis.

1. DEFERRED TERMS OF PAYMENT AND REBATES FOR SOCIAL CONTRIBUTIONS AND DIRECT TAXES

How to obtain a deferral of taxes and social contributions

Tax Deadlines				
<u>Eligibility</u>	<ul style="list-style-type: none"> ➤ Direct taxes: corporate tax instalments, payroll tax, business property tax, business value-added tax. ➤ VAT and other indirect taxes cannot be deferred. 			
<u>Formalities required</u>	<u>Unpaid instalments</u> <ul style="list-style-type: none"> • Sending a standard request form by email to the corporate tax department • The form can be downloaded from www.impots.gouv.fr 	<u>Paid instalments</u> <ul style="list-style-type: none"> • Companies have the possibility of cancelling the SEPA direct debit payment with their bank • if such payment is already effective, they also have the possibility of requesting a refund from the SIE. 	<u>Monthly contracts</u> <ul style="list-style-type: none"> • For the payment of the Corporate Property Tax (<i>Cotisation Foncière des Entreprises</i>, CFE) or property tax, it is possible to suspend them on www.impots.gouv.fr or by contacting the direct debit service center 	<u>Self employed</u> <ul style="list-style-type: none"> • It is possible to adjust the rate and withheld advance payments at any time • These procedures are accessible via the special page on www.impots.gouv.fr, under the heading "Manage my direct debit"

Social contributions			
<u>Eligibility</u>	<ul style="list-style-type: none"> ➤ employee and employer social contributions, general social contributions (CSG), social security contributions (CRDS) and vocational training contributions (CFP), complementary pension contributions (the company is invited to contact the complementary pension institution for this). ➤ The 5 April deadline can be extended; if necessary, the deadline of 15 April may also be extended. 		
<u>Formalities required</u>	<u>Via DSN</u> <ul style="list-style-type: none"> • For the deadline of 5 April, companies can send their DSN until 5 April at 11:59 p.m. • Companies can then adjust their SEPA payment (amount to 0 or partial payment) 	<u>No DSN</u> <ul style="list-style-type: none"> • The company can adjust the amount of its bank transfer or not make a transfer at all 	<u>Self employed</u> <ul style="list-style-type: none"> • instalments due on 5 April, like that of 20 March, are not collected • Such amounts will be smoothed over subsequent due dates (April to December) • Self-employed workers can carry out their procedures on the site www.secu-independants.fr

➔ **Deferrals are, in principle, granted automatically, without any conditions and without any penalty;** no proof is required; all the procedures are dematerialized and can be carried out by sending an email to the corporate tax service (SIE) and on the URSSAF website.

1.3 **What are the deferred terms of payment?**

- ➔ **Payments of direct taxes and social contributions can be postponed for up to 3 months.** The social contributions and taxes subject to these deferrals will be paid later, according to "rescheduling measures" which have yet to be determined.

Specific provisions:

- ➔ For the self employed: advance payments on withholding tax due can be carried over from one month to the next for taxpayers subject to monthly direct debit payments or from one quarter to the next for taxpayers subject to quarterly levies.
- ➔ Concerning taxpayers with a monthly payment contract for the payment of the Corporate Property Tax (Cotisation Foncière des Entreprises, CFE) or property tax: the amount of suspended tax will be deducted at the time of the balance payment.

- ➔ **The Minister of Economy and Finance said that "as long as the crisis lasts, there will be a delay".** It is therefore not excluded that payments of direct taxes and social contributions could be postponed in the longer term

Focus: No deferral of tax or social security deadlines for companies distributing dividends to their shareholders or carrying out share buybacks.

The French Minister of the Economy and Finance has announced that the companies which decide to distribute dividends or carry out share buybacks in 2020 (i) will not be able to not profit from the deferrals of tax or social security deadlines and (ii) should regularize their situation if they already benefited from it, with application of an interest penalty.

The French Ministry of Economy and Finance has clarified that:

- Only companies employing **at least 5,000 employees** with a **consolidated turnover of over 1.5 billion euros** are prohibited from making distributions;
- Companies which distributed dividends or carried out share buybacks prior to 27 March 2020 (date upon which the government announced the mechanism) or which have the legal obligation to make dividend payments, are not concerned by this prohibition.
- Intra-group distribution remains possible when the net effect would be to allow it to provide financial support to the French company, in particular to enable it to fulfil its contractual obligations towards its creditors;

The companies concerned are invited to make a **commitment to not paying dividends and not buying back shares**, which needs to be formalized as follows:

- Concerning the deferral of social security deadlines: companies are invited to commit, simply by sending a message (an email will suffice) to the URSSAF, stating they will not distribute dividends or buy back shares. The URSSAF will then contact the companies concerned via email to inform them, prior to a deadline of 5 April.
- Concerning the deferral of tax deadlines: companies must commit to not distributing dividends or buying back shares by filling out a specific form on the website www.impots.gouv.fr.

Is it possible to request direct tax rebates?

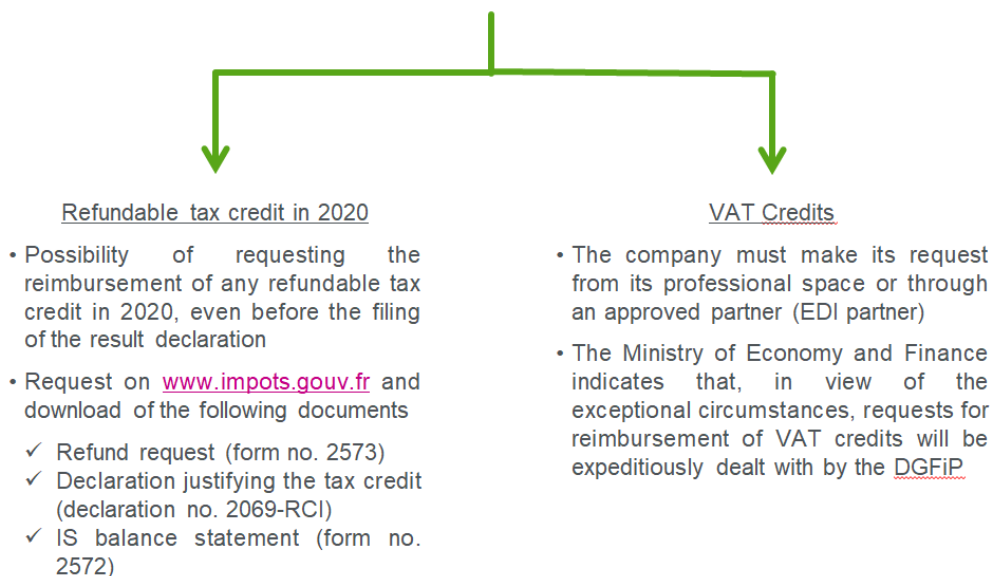
- ➔ **Companies "seriously at risk" may request rebates** on direct taxes, late payment interest and penalties for which they are liable.

Direct tax rebates will be granted by the competent tax authorities on a **case-by-case analysis** of the situation of the requesting companies, if the deferred payment does not suffice to overcome the experienced difficulties. For this reason, the rebate request must be accompanied by evidence justifying the payment failure (decline in turnover; amount, type and maturity of other debts to be serviced; cash position, and any other element providing a sufficient justification for such rebate request).

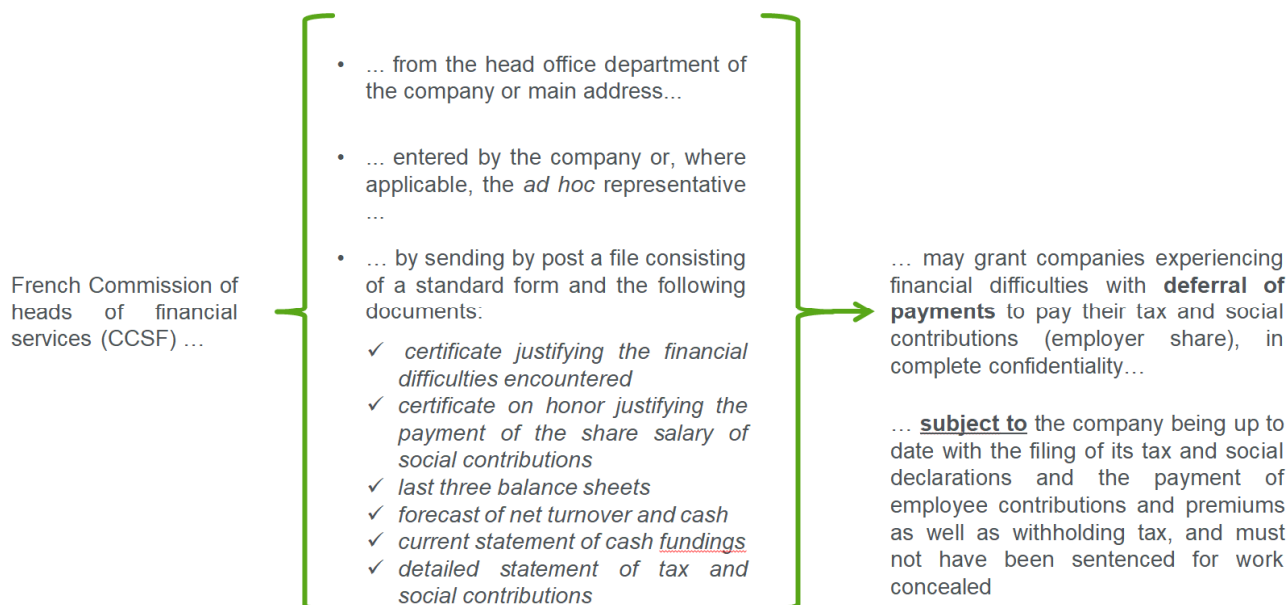
This request should be made on the following website: www.impots.gouv.fr/portail/node/13465.

How to obtain the reimbursement of VAT receivables and corporate tax credits (IS)

Companies can support their cash flow by requesting the reimbursement of tax receivables they hold against the tax authorities



How to contact the CCSF in case of difficulties



2. BPI MEASURES IN ORDER TO SUPPORT THE CASH FLOW OF COMPANIES

Introduction

The Emergency Law enables the French government to enhance the capacity of the Public Investment Bank to provide guarantees. Simultaneously, BPI has announced aid measures to deal with economic difficulties directly linked to the consequences of the Covid-19 health crisis.

These measures are however not automatic, in particular for companies whose results have been loss-making in the last financial year or previous years. They are reserved for companies whose difficulties are due to the current situation and result from the health crisis of Covid-19. Prior to the request, companies are invited to:

- find the banking partner(s) who will agree to support them; and
- verify the eligibility of their file with regard to the conditions set by BPI, in particular by taking care to present how the current situation is the source of the difficulties they encountered.

Which companies are eligible for the BPI guarantee?

➔ **The companies eligible for the BPI guarantee are VSEs/SMEs and ETIs:**

- ↳ whatever their date of creation, who are experiencing or are likely to experience cash flow difficulties that are not due to their own structure ; and
- ↳ regardless of the level of ownership of their capital by one or more venture capital or private equity firms.

What are the terms of the BPI guarantee?

Are eligible for the guarantee	<ul style="list-style-type: none"> • new instalment repayable loans such as medium or long-term (2 to 7 years) loans, credit equipment or property leases, finance leases; • new short-term loans to finance the operating cycle of companies such as overdrafts, cash facilities, cash discounts, Daily assignments, collateralization of receivables arising from export, and which have been confirmed over a period of 12 to 18 months
Are excluded	<ul style="list-style-type: none"> • loans repayable at maturity • refinancing of medium or long-term outstanding loans • purely asset-based operations (cash out, self-supply), • redemption of convertible bonds and credit repurchase transactions • contingent commitments such as guarantees, first demand guarantees, documentary credits, etc.
Maximum Risk	<ul style="list-style-type: none"> • EUR 5 million for SMEs • EUR 30 million for ETIs
Guarantee cover	90% of the amount of loans taken out by companies
Formalities	Companies should contact their usual credit institution, which will contact the regional management of the BPI; Requests must be submitted via the extranet.bpifrance.fr/partenaire website or sent by email.

The detailed terms and conditions for these measures are given in Annexes 1 and 2 below.

Focus: Uncertainties on the type of loans that can be guaranteed by the BPI scheme

The BPI seems to limit the granting of its guarantees to "new financing", while the European Commission, in its decision validating the BPI guarantee scheme with regard to the regulation of State aid, retained that these guarantees could be granted for "*new or existing*" funding. Furthermore, unlike State-guaranteed loans, loans guaranteed by the BPI **can be backed by additional securities, in addition to the BPI guarantee.**

Are companies already experiencing difficulties before the Covid-19 crisis eligible for BPI aid measures?

➔ Companies already in difficulty are excluded from the BPI guarantee mechanism.

To benefit from the BPI guarantee, companies must not be in difficulty, within the meaning of EU law, which means that they must **comply with the following criteria**:

- not subject to any collective proceedings¹
- no net worth less than half of the share capital over the last financial years
- debt/equity ratio not exceeding 7.5 over the last two financial years
- interest coverage ratio on the basis of EBITDA is not less than 1.0 for the past two financial years

¹ The opening of a procedure to prevent difficulties (ad hoc mandate, conciliation) does not deprive companies of the benefit of the BPI's aid measures, as long as the criteria set out above are met.

- However, pursuant to the EC Decision validating the BPI guarantee scheme with regard to the regulations on State aid, **companies in difficulty can benefit from this scheme as long as they were not already in difficulty** (with regard to as of **31 December 2019** and that their difficulties appeared following the Covid-19 pandemic).
- Moreover, it seems that companies which are in the process of **opening a safeguard or debt recovery plan**, and which respect this plan, are not excluded from the guarantee mechanism of the BPI. This information must however be confirmed.

Does the BPI provide for the direct supply of fresh liquidity to companies?

➔ The BPI can grant the following loans to companies experiencing cash flow difficulties linked to the Covid-19 health crisis:

Prêt Atout	<ul style="list-style-type: none"> • <u>Scope</u>: financing of a temporary cash requirement linked to the economic situation • <u>Beneficiaries</u>: SMEs and ETIs which have at least 12 months of balance sheet, excluding, in particular, SCIs, financial intermediation companies and companies in difficulty • <u>Duration</u>: 3 to 5-year loans with no security interests over a grace period of 12 months • <u>Maximum amount</u>: (i) EUR 5 million for SMEs and (ii) EUR 30 million for ETIs • <u>Repayment</u>: quarterly maturity with financial amortization of capital • No security interests or guarantee
Prêt Rebond	<ul style="list-style-type: none"> • <u>Scope</u>: financing of cash requirements linked to the economic situation, the increase in WCR, and investments • <u>Beneficiaries</u>: SMEs with a balance sheet for a minimum period of 12 months, excluding in particular, SCIs and financial intermediation companies • <u>Duration</u>: 7 years, including 2 years of deferred principal repayment • <u>Amount</u>: from EUR 10.000 to EUR 30.000, at the option of the Local Authorities • <u>Repayment</u>: quarterly maturity with financial amortization of capital • No security interests or guarantee
Collateralization of invoices	<ul style="list-style-type: none"> • the collateralization of all invoices, to which a credit line representing 30% of the collateralized amount will be granted

Is it possible to rearrange the loans taken out with BPI?

- ➔ **BPI announced** that it would, as from 16 March and subject to reasoned request, **automatically postpone all the loan instalments** (principal and interest) and property leasing payments, for a period of 6 months, without any administrative fees

3. STATE DIRECT GUARANTEES ON COMPANY LOANS

This direct guarantee issued by the State is added to the guarantee schemes implemented by BPI and described in point 2 of this note. The terms and conditions of this measure have been fixed by a decree dated 24 March 2020.

Which companies can benefit from this State direct guarantee?

→ A broad scheme

All companies without any size or sector requirement
can benefit from a loan guaranteed by the state

excluding

- civil property companies;
- credit institutions or finance companies;
- companies subject to a safeguard, receivership or compulsory liquidation procedure)² and who are in difficulty with regard to the aforementioned criteria;

²Companies that are subject to an amicable procedure (conciliation, ad hoc mandate), are not excluded from the system. Likewise, according to recent information communicated by the government, companies which are in the process of implementing a safeguard or debt recovery plan are not excluded from the scheme

Focus: Uncertainties on the eligibility of companies subject to an insolvency procedure since the start of the Covid-19 pandemic

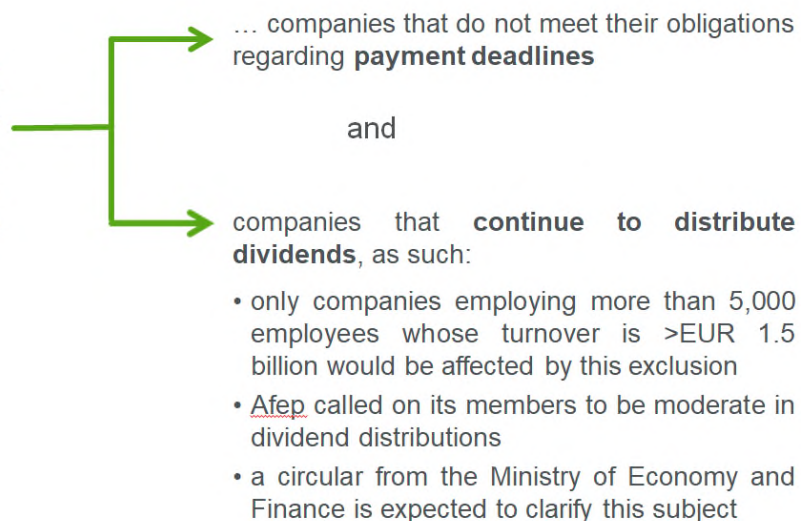
Contrary to the decree of 24 March 2020, the decision of the European Commission validating this scheme with regard to the regulation of State aid notes that the guarantee can benefit companies subject to an insolvency procedure **as soon as they do not were not already under one** (and also met the other criteria mentioned above) **as of 31 December 2019 but that they have been subject to it since the start of the Covid-19 pandemic.**

Therefore there is presently a real uncertainty as to whether these companies are eligible.

They are excluded from the State guarantee scheme pursuant to the decree of 24 March 2020 but could still benefit from it according to the decision of the European Commission referred to above.

→ Please note, however, certain exclusions announced by the government

In addition to the exclusions provided for by the decree of 24 March 2020, the Ministry of the Economy and Finance announced that would **also be excluded from the scheme...**



Focus : Risks of exclusion of companies under LBO

The Ministry of Economy and Finance clarified that companies under LBO were not, as such, excluded from the system of loans guaranteed by the state.




On the other hand, companies which continue to distribute dividends or buy back shares could be excluded from this scheme. Consequently, if the target company of the LBO is qualified as a large company and continues to distribute dividends to its holding company to allow the latter to repay the acquisition debt, it could be, de facto, excluded from the scheme.

The Ministry of Economy and Finance has, however, specified that "*intra-group distribution remains possible when the net effect would be to allow it to provide financial support to the French company, in particular for it to fulfil its contractual obligations towards its creditors*", which would leave companies acquired through LBOs to continue to maintain their distributions to the holding company in order to reimburse acquisition debt.

What are the terms of the state guarantee?**→ Characteristics of State guaranteed loans**

General characteristics	Loan amount	Subscription date	Costs
<ul style="list-style-type: none">• One year cash funding loan	<ul style="list-style-type: none">• Capped amount to 25% of the turnover excluding tax over the 2019 financial year	<ul style="list-style-type: none">• The loan must be granted between 16 March 2020 and 31 December 2020 (inclusive)	<ul style="list-style-type: none">• The cost of the loan is compounded:<ul style="list-style-type: none">✓ the financing cost, specific to each bank; and✓ the cost of the state guarantee
<ul style="list-style-type: none">• No other guarantee or security interests	<ul style="list-style-type: none">• <u>Except:</u> for innovative or newly created companies, in which case the maximum amount is set at 2 years of payroll		
<ul style="list-style-type: none">• Deferred principal repayment of 1 year	<ul style="list-style-type: none">• For companies with more than 5,000 employees and a turnover of more than EUR 1.5 billion: this maximum amount can be calculated on a consolidated basis		
<ul style="list-style-type: none">• At the end of this period, possibility of opting for amortization plan over 1 to 5 additional years			

→ State Guarantee Cap

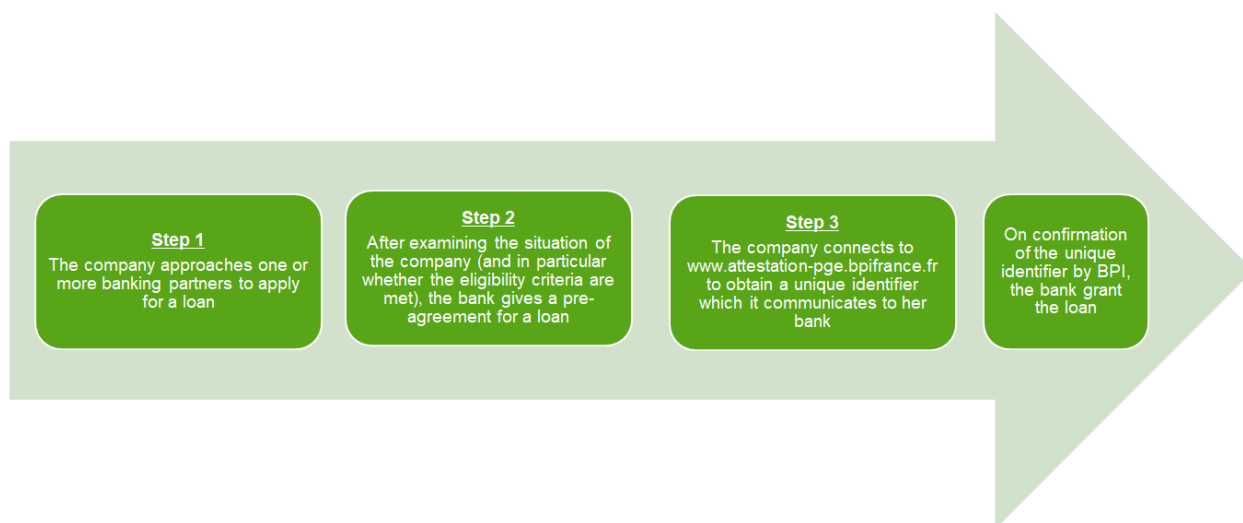
Maximum amount of the State guarantee		
Companies with: <ul style="list-style-type: none"> less than 5,000 employees CA < EUR 1,5 billion  90%	Other companies...	
	... whose turnover is greater than EUR 1.5 billion and less than EUR 5 billion  80%	... whose turnover is greater than EUR 5 billion  70%

→ **NB :**

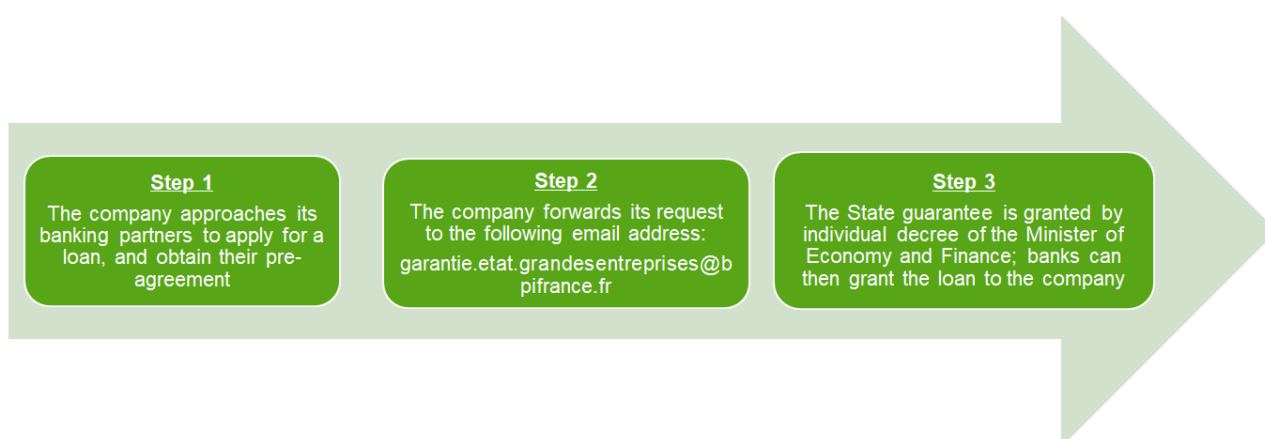
- The State guarantee covers a percentage of the amount of capital, interest and accessories remaining due from the receivable until the expiration of its term, unless it is called before during a credit event.
- If BPI is notified of several loans granted to the same company: the State guarantee is acquired in the chronological order in which these loans are granted, and provided that their cumulative amount remains below the above limit.
- The loan agreement may provide for an early repayment clause in case of non-compliance with its specific terms (once the loan has been granted), in particular in the event the borrower provided the lending bank or BPI with intentionally erroneous information
- If the 2019 certified accounts are not yet available, it is possible to use a certificate of chartered accountant/auditor. If not, then to use the 2018 certified accounts.
- French branches of foreign banks can benefit from the guarantee of the state;
- Bond issues are excluded from this system. In contrast, loans guaranteed by the State can be realized in the form of syndicated credits.

What formalities must be completed?

- This guarantee is directly granted by the State. However, the State has delegated to BPI the monitoring and administrative management related to such guarantee. With the exception of loans granted to large companies (as defined below), the State guarantee is granted on simple notification by the lending bank to BPI.
- The type of formalities to be completed depends on the size of the company concerned:
 - Companies employing **less than 5,000 employees** and **with a turnover of less than EUR 1.5 billion** in France:



- Companies with **at least 5,000 employees** or with a turnover of **more than EUR 1.5 billion** in France: :



How is the state guarantee activated?

- When the guarantee is activated, the lending institution must demonstrate that the level of cover it held vis-à-vis the borrower at the date of the granting of the guarantee on the new loan is higher than the level of cover it held on 16 March 2020, adjusted for reductions between these two dates and resulting from the contractual schedule prior to 16 March 2020 or at the option of the borrower.

Compliance with this criterion is checked on the day of the warranty call, and not upon notification loan to the BPI.

- The sums due by the State under its guarantee will be calculated from the indemnity payment amount, to which the guaranteed share will apply. The indemnity payment amount corresponds to the loss noted after the exercise by the lending bank of all amicable and judicial remedies or after delivery of a summons for the purpose of initiating collective proceedings, following the occurrence of a credit event.
- The indemnity payment amount is calculated as follows:
 - in the context of a restructuring, in a legal or amicable framework, of the guaranteed debt giving rise to an actuarial loss, account is taken, where applicable, of the value of the debts held by the lending bank after the debt restructuring;
 - in the context of collective proceedings, the indemnity payment amount is calculated at the end of the said procedure by deducting the amounts recovered by the lending bank.

In the event of a credit event occurring within two months of the loan being disbursed, the State guarantee cannot be used.

4. SUPPORT MEASURES FROM PRIVATE CREDIT INSTITUTIONS

What measures are implemented by the banks to support businesses in difficulty?

Measures announced by the
French Banking Federation



Accelerated credit instruction procedures for tense cash flow situations, within 5 days

Deferral of loan repayments for businesses, up to six months

Cancellation of penalties and additional costs due to the extension of deadlines requested by companies

Communication of governmental measures: communication and explanation of the aid measures implemented by the State

Set up of loans guaranteed by the State



French **Médiation du crédit** can intervene with commercial banks to assist companies in their negotiations (www.mediateurducredit.fr)

Do banks continue to operate as usual despite the government restrictions and confinement measures?

→ **Banks activities remain operational:**

- the banking networks remain opened and the branches are prepared to ensure the execution of essential banking services;
- the ATM networks are supplied and the means of payment infrastructures are fully operational.

→ **Dematerialized operations:** companies are however requested to favour contact by telephone or via dedicated platforms, in accordance with government instructions; On a daily basis, most banking operations are automated and can be carried out remotely or via computers.

5. MEASURES APPLICABLE TO COMPANIES OPERATING UNDER PUBLIC CONTRACTS

→ **The State is committed to recognizing that the health crisis constitutes "force majeure"**

↳ Consequently, companies operating under public contracts will not be subject to the application of any late payment penalties.

→ **Furthermore, an ordinance dated 26 March 2020** provides for a series of provisions in order to:

- (i) to protect the company operating under a public contract from sanctions incurred in the event of non-performance of its obligations;
- (ii) provide payment and/or compensation to the company in the event of suspension, modification or cancellation of such public contract

6. SOLIDARITY FUND FOR SMALL BUSINESSES

This fund is set by way of ordinance adopted on 26 March 2020 under the Emergency Law. A decree published on 30 March 2020 and amended by a decree of 2 April 2020 describes in further details the specific terms of application.

Natural and legal persons under private law, being French tax residents and carrying out an economic activity, who meet the following **cumulative conditions**:

- The business activity started before 1 February 2020
- The workforce is less than or equal to 10 employees
- Net turnover for the last financial year ended is less than EUR 1 million
- The taxable profit for the last financial year ended is less than EUR 60 K
- be:
 - subject to an administrative closure in March 2020, or
 - suffered a loss of turnover before tax greater than 70% in March 2020 compared to March 2019
- Excluding:
 - Companies controlled by a commercial company within the meaning of L. 233-3
 - Companies having filed a declaration of cessation of payment by 1 March 2020
 - Natural persons or, for legal persons, their majority manager, holders of a full-time employment contract or benefiting from social assistance
 - Companies that were in difficulty as of 31 December 2019



Can benefit of:

- A flat rate aid of EUR1,500 (or equal to the loss of turnover if this is less)
- Additional assistance of EUR2,000 if the company employs at least 1 employee on 1 March and if (i) it is unable to pay its debts due within 30 days and (ii) it has been denied a loan from by his bank

The condition relating to the decline in turnover, which was initially set at 70%, was has been reduced b the above-mentioned decree of 2 April 2020, **to finally reach 50%**, to open up the solidarity fund to a greater number of beneficiaries.

The **steps to take** to benefit from this solidarity fund are as follows:

	Request for flat-rate aid of EUR 1,500	Request for additional aid
Deadline for filing the request	30 April 2020	31 May 2020
Where?	dematerialised filing https://www.impots.gouv.fr/portail/	Local Authority of permanent residence
What supporting documents should be submitted?	<ul style="list-style-type: none"> • Declaration on honor attesting that the company fulfills the conditions of eligibility, the accuracy of the information declared and the regularity of the fiscal and social situation on 1 March 2020 • Estimated amount of loss of turnover • Company bank details 	<ul style="list-style-type: none"> • Declaration of honor attesting that the company fulfills the conditions of eligibility and the accuracy of the information declared • Brief description of the company's situation, accompanied by a 30-day cash flow plan, demonstrating the risk of payment default • Amount of the loan denied, name of the bank and contact details of the contact person within this bank

7. MEASURES IMPLEMENTED BY THE LOCAL AUTHORITIES

- The Regions are mobilizing to support companies impacted by the Covid-19 health crisis. A summary of regional aid to businesses is given below in [Annex 3](#).
- As regards the Île-de-France Region, [a guide presenting the measures arbitrated on 24 March has been published](#)

8. PAYMENT OF CURRENT EXPENSES FOR BUSINESSES

Do companies benefit from a deferred rental payment?

- Measures announced by main landlords associations

Measures announced by
main landlords associations



Monthly rental payments and charges invoiced for the second quarter of 2020

Temporary suspension of the collection of rents and rental charges for the month of April 2020

Granting of deferrals of rents and rental charges, on a case-by-case basis, depending on the specific situation of each company, with rescheduling without penalties or interest on late payments



French **Médiation des entreprises** can intervene to assist companies in negotiations with their lessor
(www.mieist.bercy.gouv.fr)

→ **Ordinance of 26 March 2020 relating to the payment of rents for professional and commercial premises**

For companies that are eligible for the solidarity fund (including those that are subject to collective proceedings or have filed a declaration of cessation of payments);

and

for rents and rental charges which expire between 12 March 2020 and the expiration of two months after the termination date of the state of health emergency

The following clauses are neutralized in the event of non-payment of said rents:

- clauses providing for financial penalties, default interest, damages or periodic penalty payments;
- termination clauses, clauses criminal or any clause providing for forfeiture or activation of guarantees or sureties



The ordinance does not provide for the deferral of the payment of rents and rental charges, so that these sums remain due to the lessor

To benefit from these provisions, eligible companies must provide...

... a **declaration of honor** attesting to comply with the conditions of eligibility and the accuracy of the information declared

and

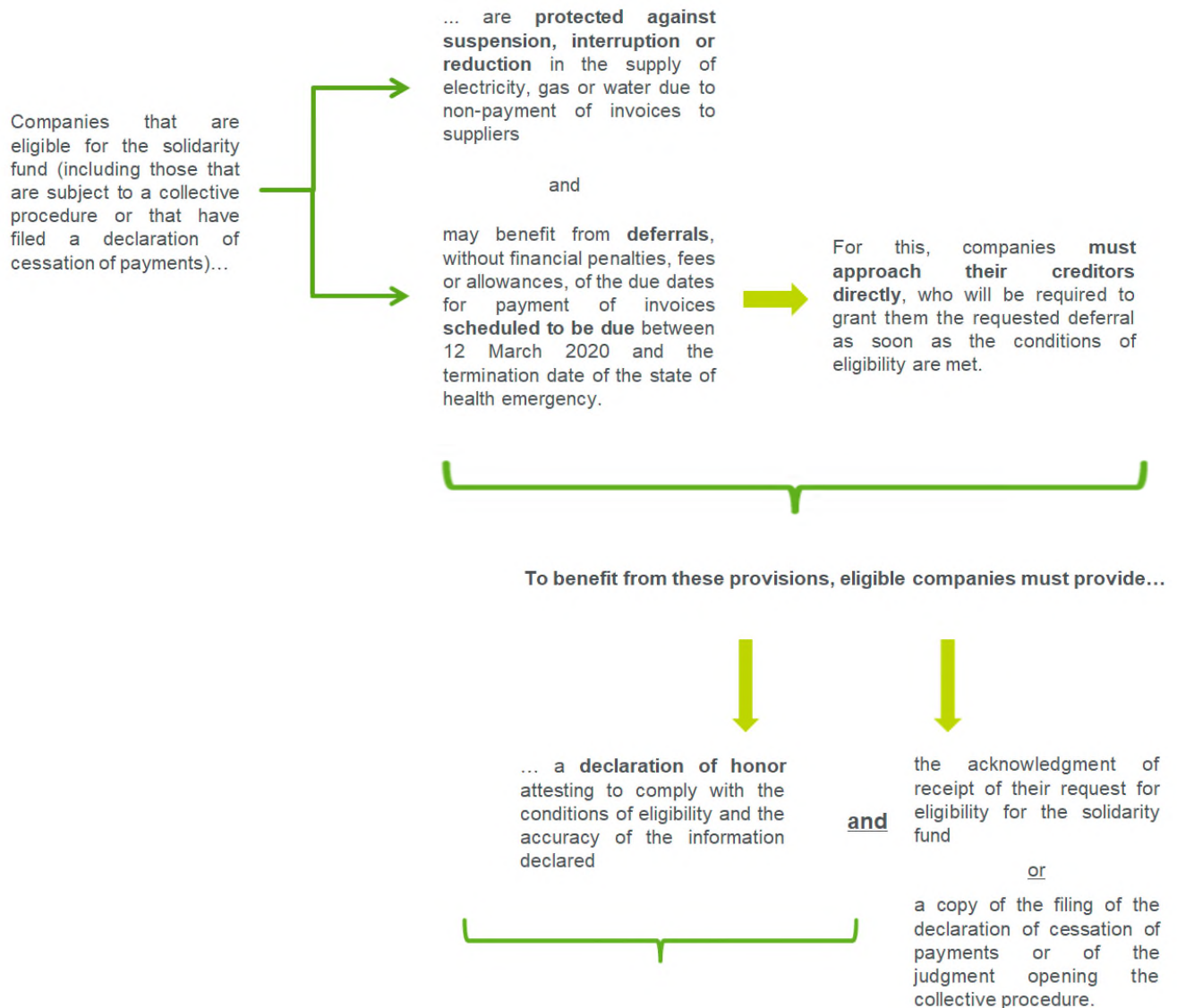
the acknowledgment of receipt of their request for eligibility for the solidarity fund

or

a copy of the filing of the declaration of cessation of payments or of the judgment opening the collective procedure.

What about the payment of invoices for the supply of utilities (water, gas, electricity)?

→ Ordinance of 26 March 2020 on the extension of the deadlines for invoices for the supply of utilities



Are businesses allowed to extend their payment periods to finance their working capital requirement?



Companies are urged to **remain cautious on the terms of payment they apply to their suppliers**: the Minister of Economy and Finance announced that companies that do not meet their obligations regarding terms of payment would not be able to benefit from the loans guaranteed by the State referred to above.

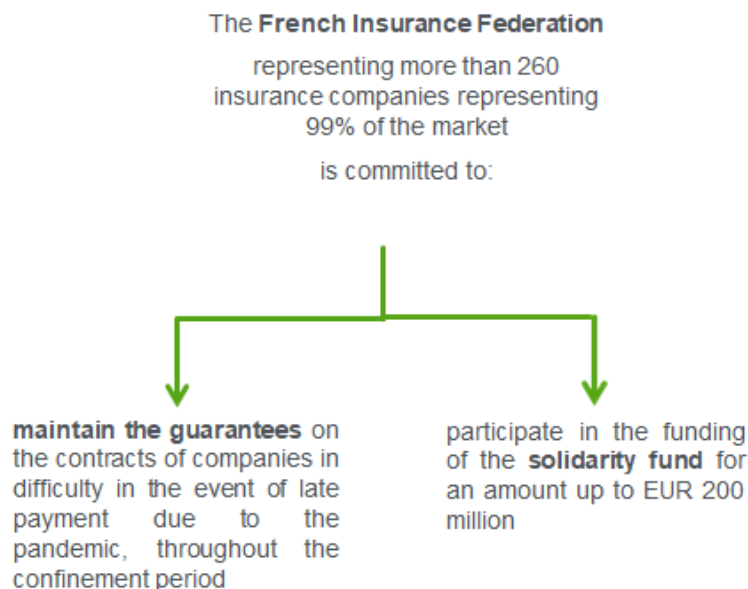
The government has announced the creation of a **crisis committee** on the issue of inter-company loans, compound of :

- the Credit Mediator
- the Business Mediator
- Afep, CPME, MEDEF, U2P
- local chambers
- DGCCRF

its missions are

- assess the level of deterioration of the terms of payment
- find ways to instantly assess and inform about the situation by inter-company credit matters;
- recall the resources available to the Business Mediator and the Credit Mediator
- encourage companies to respect their obligation in terms of payment deadlines
- promote companies that voluntarily engage in economic solidarity.

9. MEASURES SUPPORTED BY INSURANCE COMPANIES



10. SUPPORT MEASURES FOR EXPORTING COMPANIES

The Ministry of Economy and Finance announced the implementation of an exceptional support plan for the benefit of **French exporting companies**



Strengthening of State guarantees (through BPI) for guarantees and pre-financing of export projects, in order to secure the cash flow of exporting companies

Extension of prospecting insurance in progress for a period of one year

Contribution of a capacity of EUR 2 billion to short-term export credit insurance, thanks to the expansion of the Cap France Export public reinsurance scheme (this scheme covering all countries of the globe)

Support and information for companies by the operators of Team France Export (Business France, CCIs and BPIs)

The details of these measures can be viewed by following the following link:

https://www.economie.gouv.fr/files/files/PDF/2020/DP_Plan_de_soutien_aux_entreprises_francaises_exportatrices.pdf

11. ANNEX 1: TERMS OF THE "CORONAVIRUS CASH ENHANCEMENT" GUARANTEE FUND



(translation for information purposes only)

"Coronavirus Cash Enhancement" Guarantee Fund

Scope	<p>Eligible companies and projects:</p> <p>The purpose of this fund is to guarantee operations to strengthen the financial structure of SMEs, in particular by converting short-term bank loans into medium-term bank loans in view of their consolidation. The consolidation of loans must be accompanied by an increase or at least the continuity of overall bank loans.</p> <ul style="list-style-type: none"> • This guarantee is for companies experiencing or likely to experience cash flow difficulties which are not due to their own structure. • This guarantee is for VSEs, SMEs and Mid-Size Companies (ETIs) whatever their date of creation. <p>New medium or long term instalment repayable loans (credit or leasing) can benefit from a guarantee, in the case of:</p> <ul style="list-style-type: none"> • working capital enhancement • bridge financing (repayable, minimum of 2 years) of a tax credit or a grant • consolidation of existing short-term loans (overdraft, cash, discount, factoring, collateralization of receivables) • outsourcing of assets in the context of a lease or sale of assets to a special purpose company (SCI for example) having mainly the same partners as the operating company and resulting in a cash contribution for its benefit <p>The following types are also eligible:</p> <ul style="list-style-type: none"> • Personal loans to managers to make equity contributions to the company • In the case of business acquisition within a transfer plan approved after judicial receivership, provided that the purchasers were not involved in the management of the resumed business <p>The following types are excluded:</p> <ul style="list-style-type: none"> • loans repayable at maturity • refinancing of medium or long-term outstanding loans • purely asset-based operations (cash out, self-supply) • redemption of convertible bonds • credit repurchase transactions
Beneficiaries	<p>SMEs and ETIs, whatever their creation date</p> <ul style="list-style-type: none"> • pursuant to applicable European regulations, companies already experiencing difficulties are not eligible • no claim period for the activation of the guarantee is 6 months; it is cancelled for companies created less than 3 years ago and meeting the eligibility criteria of the creation fund • by way of derogation from the European definition of SMEs, all SMEs or ETIs are eligible for this specific measure, regardless of the level of ownership of their capital by one or more venture capital or private equity

	companies																
Terms and conditions	<p>Eligibility</p> <ul style="list-style-type: none"> • Long and medium term loans • equipment or property leases, financial leases <p>Term of the guarantee</p> <p>The term is equal to that of the credit, i.e. 2 to 7 years. It can be extended to a maximum of 15 years when the credit is secured by a real estate asset or in the event of a real estate lease transfer.</p> <p>Maximum risk (all banks combined)</p> <ul style="list-style-type: none"> • EUR 5 million on the same company or group of companies for SMEs • EUR 30 million on the same company or group of companies for ETIs 																
Financial conditions	<p>The guarantee cover may be raised to 90% if the guaranteed financing results in a significant increase in overall bank loans and the company's cash flow. Otherwise it will be limited to 50%.</p> <table border="1"> <thead> <tr> <th colspan="2">SME</th></tr> </thead> <tbody> <tr> <td>Guarantee Cover**</td><td>90%</td></tr> <tr> <td>Fee*</td><td>1.25%</td></tr> </tbody> </table> <p>* As an annual percentage of the outstanding principal of the loan. One-time debit payment after disbursement.</p> <p>** By way of amendment to the Guarantees, guarantee requests relating to SMEs eligible for the Guarantee benefit from a single guarantee cover of 70% for loans of less than or equal to EUR 300,000, with a specific pricing specified to the Contract.</p> <table border="1"> <thead> <tr> <th colspan="2">ETIs</th></tr> </thead> <tbody> <tr> <td>Guarantee cover**</td><td>90%</td></tr> <tr> <td>FIBEN Scoring</td><td>Fee*</td></tr> <tr> <td>0, non rated, 3++ to 4</td><td>1.25%</td></tr> <tr> <td>5+ to 9</td><td>2.50%</td></tr> </tbody> </table>	SME		Guarantee Cover**	90%	Fee*	1.25%	ETIs		Guarantee cover**	90%	FIBEN Scoring	Fee*	0, non rated, 3++ to 4	1.25%	5+ to 9	2.50%
SME																	
Guarantee Cover**	90%																
Fee*	1.25%																
ETIs																	
Guarantee cover**	90%																
FIBEN Scoring	Fee*																
0, non rated, 3++ to 4	1.25%																
5+ to 9	2.50%																
Contact	To contact your local Bpi, please visit bpifrance.fr																

12. ANNEX 2: TERMS OF THE "CORONAVIRUS CONFIRMED LINE OF CREDIT" GUARANTEE FUND



(translation for information purposes only)

Terms of the "Coronavirus Confirmed Line of Credit" Guarantee Fund

Scope	Eligible companies and projects: <ul style="list-style-type: none"> The purpose of this fund is to guarantee the opening or renewal of confirmed short-term credit lines, in order to finance the operating cycle of businesses. This guarantee is for companies experiencing or likely to experience cash flow difficulties which are not due to their own structure This fund is aimed at SMEs and ETIs, whatever their creation date This guarantee is renewable only once per company and subject to conditions (contact Bpifrance) 										
Beneficiaries	<ul style="list-style-type: none"> SMEs and ETIs, whatever their creation date pursuant to applicable European regulations, companies already experiencing difficulties are not eligible no claim period for the activation of the guarantee is 4 months; it is cancelled for companies created less than 3 years ago and meeting the eligibility criteria of the creation fund by way of derogation from the European definition of SMEs, all SMEs or ETIs are eligible for this specific measure, regardless of the level of ownership of their capital by one or more venture capital or private equity companies 										
Terms and conditions	Eligibility <ul style="list-style-type: none"> new short-term loans such as overdrafts, cash facilities, cash discounts, <i>Dailly</i> assignments, collateralization of receivables arising from export (MCNE), and which have been confirmed over a period of 12 to 18 months <p><i>Signed commitments such as guarantees, first demand guarantees, documentary credits (Credoc), etc.) are excluded.</i></p> Term of the guarantee The term of the guarantee is equal to the term of the confirmed credit line. It is renewable only once (conditions to be defined). <p>Maximum risk (all banks)</p> <ul style="list-style-type: none"> EUR 5 million on the same company or group of companies for SMEs EUR 30 million on the same company or group of companies for ETIs 										
Financial conditions	<p>The guarantee cover may be raised to 90%.</p> <table border="1"> <thead> <tr> <th colspan="2">SMEs and ETIs</th></tr> </thead> <tbody> <tr> <td>Guarantee cover**</td><td>90%</td></tr> <tr> <td>FIBEN Scoring</td><td>Fee*</td></tr> <tr> <td>0, unrated, 3++ to 4</td><td>1.25%</td></tr> <tr> <td>5+ to 9</td><td>2.50%</td></tr> </tbody> </table> <p>* The fee is applied to the amount of the line granted by applying</p>	SMEs and ETIs		Guarantee cover**	90%	FIBEN Scoring	Fee*	0, unrated, 3++ to 4	1.25%	5+ to 9	2.50%
SMEs and ETIs											
Guarantee cover**	90%										
FIBEN Scoring	Fee*										
0, unrated, 3++ to 4	1.25%										
5+ to 9	2.50%										

	the indicated annual rate
Contact	To contact your local Bpi, please visit bpifrance.fr

13 ANNEX 3: SUMMARY OF AID MEASURES IMPLEMENTED BY THE FRENCH LOCAL AUTHORITIES

Auvergne Rhône-Alpes	<ul style="list-style-type: none"> - local crisis unit to identify needs and provide an appropriate response, coordinated with economic players - participation in meetings and actions initiated by the State departments - contingency plan for businesses in the Balme-de-Sillingy cluster, providing for a refinancing loan of EUR 10,000 for merchants, craftsmen and liberal professions impacted to assist them in restoring their cash funding; a zero-rate loan, repayable over 2 years, with a guarantee from the local authorities; a dedicated teleservice for filing support requests - organization of thematic meetings (economy, culture, tourism) between the President and all the local partners from 16 March in order to 1) assess the economic and human consequences and effects (diagnosis to date), 2) propose solutions for the Region / local partners
Bourgogne Franche-Comté	<ul style="list-style-type: none"> - EUR 80 million raised to respond to immediate cash flow problems via: the guarantee, the Prêt Rebond and deferred payments - activation of the full continuity plan for the payment of companies: non-application of penalties in the event of delay in the context of public contracts preparation by June of a recovery plan and relocation aid measures - continued remuneration of job seekers who have entered into a local based training, in the event of its suspension
Bretagne	<ul style="list-style-type: none"> - Task force: Region – State – BPI - raising the BPI local guarantee fund - Freezing or revising the timeline on local ARs for impacted businesses - Support for companies wishing to relocate part of their activities or purchases <p>Public markets: cancellation of late payment penalties for companies impacted delegates of public contracts or DSP</p> <ul style="list-style-type: none"> - maintenance of flat-rate financing for coach operators (school transport) in the event of cancellation due to Covid 19 - continued financial support from the local authorities for cancelled events (culture, sport, tourism) and case-by-case work on the sustainability of structures - support for professional training organizations, trainees and beneficiaries of health and social grants by the adjustment of local support in the event of temporary training being cancelled.
Centre Val de Loire	<ul style="list-style-type: none"> - Setting of a task force: Region – State – BPI in order to identify and address the relevant difficulties - activation of regional systems closely linked to national measures - mobilization of approved prevention groups (GPAs) to support businesses - Fund for the prevention of difficulties for businesses doubled : EUR 2 million

	<ul style="list-style-type: none"> - increasing the maximum amount of the regional guarantee fund to 80% with the BPI, and facilitate access to such guarantee fund (EUR 17.7 million) - simplification of access to VSE Growth loans (from EUR 10,000 to EUR 50,000) open to VSEs (EUR 1 million) - accelerate the payment of suppliers and service providers of the Local Authority
Corse	<ul style="list-style-type: none"> - business economic monitoring unit - mobilization of the detection and treatment unit for companies experiencing difficulties - with BPI: guarantee increased to 70% and loan adjustment - cash support measure
Grand Est	<ul style="list-style-type: none"> - coordination of operators - moratorium on loan repayments - cash financing (Prêt Rebond) - relocation pact
Hauts de France	<ul style="list-style-type: none"> - COVID 19 emergency plan of EUR 50 million for direct regional aid and joint Region/BPI products for merchants, craftsmen and local companies, EUR 30 million for aid to companies in difficulty (AR) goes to the Fund of Hauts de France Prévention and EUR 20 million for additional BPI loans (EUR 20 million) - flexibility of local financing schemes until 31 October: zero rates, repayment extensions (up to 6 years) and additional deferred repayment - readjustments of local debts: possibility for impacted companies to request an extension of deadlines to the "debt recovery commission" set up by the local authority - double guarantee covers (BPI/FRG/France active) to allow banks to continue their lending activities - setting up of a daily monitoring of the situation of merchants, craftsmen and local companies via a dedicated team and strengthened partnerships - use of a dedicated team (engineering service and financial consolidation within its Directorate of Business Support) for companies in difficulty and strengthening of partnerships (State, BPI, Banque de France, Consular Authorities, employers' organizations, local authorities) to respond with maximum efficiency to businesses - weekly task force State / Region / BPI
Ile de France	<ul style="list-style-type: none"> - acceleration of payment by SMEs (less than 30 days) - strengthening of the local BPI guarantee fund (EUR 700 million in new loans guaranteed at 80% for an amount up to EUR 6 million, for loans up to 7 years) - extension of the "back-up prevention" scheme to all impacted SMEs anticipating a fall of at least 20% in turnover and requesting BPI to grant this loan at zero rate (compared to 3.8% currently) with the objective of helping 5000 SMEs very quickly - Relocation pack with support by sectors (customized support,

	<p>support for the search of premises in Ile de France, recruitment assistance, raise of funding via local aid "PM'UP" and "Innov'up"</p> <ul style="list-style-type: none"> - zero penalty guarantee for suppliers in the event of default
Normandie	<ul style="list-style-type: none"> - State -Region crisis unit with weekly follow up point and review of files - non-application of penalty measures on public procurement - coordination of the 12 Normandy sectors - Spreading of receivables, increase of the BPI guarantee (80%) and enhance VSE growth loans
Nouvelle-Aquitaine	<ul style="list-style-type: none"> - setting up of a coordination unit with State, BPI and consular authorities (CCIR and CRMA) and weekly follow up point - use of common law tools for corporate treasury needs: guarantee funds (BPI / SIAGI), VSE growth loans
Occitanie	<ul style="list-style-type: none"> - business procedures facilitated by setting up a local service with the Maisons dans ma Région and Ad'Occ (economic development agency) - for its public contracts, payments to companies under the regional continuity plan and no penalty for late payment to service providers - suspension of all early repayments granted for a period of 6 months from 1 April (EUR 60 million and 520 companies concerned) - reinforcement of the loan guarantee with banks to facilitate cash loans (EUR 5 million) - launch of the "train rather than dismiss" plan to allow companies benefiting from partial unemployment to enroll in a training plan - strengthening of the industrial rebound system in cooperation with the banks - promotion of the Occitanie Region to support tourism
Pays de la Loire	<ul style="list-style-type: none"> - State-Region task force to monitor the situation and solutions provided to companies - use of common law tools for EUR 28 million: counselling grant (EUR 1 million), cash loan (EUR 17 million), regional guarantee operated by BPI (EUR 10 million Region), local VSE / SME loan operated by BPI - creation of a toll-free number dedicated to economic players: referring to the relevant contact persons depending on the nature of the difficulty raised - dedicated plenary meeting with all network heads and professional federations (10/3) - other emergency measures planned for the March session in support of all sectors
Sud	<ul style="list-style-type: none"> - watch unit in connection with the State - guarantee cover increased to 80% (EUR 5 million) - creation of a Covid-19 emergency fund (EUR 5 million in the form of loans) for the most affected sectors (tourism, sport, culture, industrial SMEs) - EUR 2 million for crafts and restaurants

Alicante
Amsterdam
Baltimore
Beijing
Birmingham
Boston
Brussels
Budapest*
Colorado Springs
Denver
Dubai
Dusseldorf
Frankfurt
Hamburg
Hanoi
Ho Chi Minh City
Hong Kong
Houston
Jakarta*
Johannesburg
London
Los Angeles
Louisville
Luxembourg
Madrid
Mexico City
Miami
Milan
Minneapolis
Monterrey
Moscow
Munich
New York
Northern Virginia
Paris
Perth
Philadelphia
Riyadh*
Rome
San Francisco
São Paulo
Shanghai
Shanghai FTZ*
Silicon Valley
Singapore
Sydney
Tokyo
Ulaanbaatar*
Warsaw
Washington, D.C.
Zagreb*

*Our associated offices
Legal Services Center: Berlin

www.hoganlovells.com

"Hogan Lovells" or the "firm" is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses.

The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members.

For more information about Hogan Lovells, the partners and their qualifications, see www.hoganlovells.com.

Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney advertising. Images of people may feature current or former lawyers and employees at Hogan Lovells or models not connected with the firm.

©Hogan Lovells 2020. All rights reserved.