

## Spain Develops First €20 Billion of Guarantee Line to Help Spanish Businesses

***The Resolution contains the terms and conditions of the first tranche of the ICO Guarantee Line for businesses and self-employed persons, in order to mitigate the economic impact of COVID-19.***

On 26 March 2020, Spain's Secretary of State of Economy and Support to Companies approved a resolution (the Resolution), containing the agreement of the Spanish Council of Ministers dated 24 March 2020, which sets the terms of the first tranche of the Spanish Official Credit Institute (Instituto de Crédito Oficial, or ICO) Guarantee Line (the Guarantee Line) for businesses and self-employed to mitigate the economic impact of COVID-19.

This development follows the approval by (i) the Spanish Government of the state of alarm last 14 March to manage the health crisis caused by COVID-19 (please see *Client Alert* "[Spain Imposes Royal Decree 463/2020 to Manage COVID-19 Health Crisis](#)"); and (ii) the Council of Ministers of Royal Decree-Law 8/2020 (RDL 8/2020), which sets forth a number of urgent and extraordinary measures that aim to mitigate the economic and social impact of COVID-19 in Spain (please see *Client Alert* "[Spanish Government Approves Urgent and Extraordinary Measures to Mitigate the Impact of COVID-19](#)").

Under RDL 8/2020, the Ministry of Economy and Digital Transformation (the Ministry) announced it would guarantee, up to a maximum of €100 billion, financings granted by credit institutions, electronic money institutions, and payment institutions to businesses and self-employed persons to meet their payment obligations arising, among others, from the management of invoices, working capital requirements, maturity of financial or tax payment obligations, or any other cash needs.

The Resolution sets up the terms of the first tranche of the Guarantee Line, for an amount of up to €20 billion. Such amount will be considered the starting point, as additional risk will be assumed by private entities, and therefore, those guarantees will rank *pari passu* to those provided by private entities. The Ministry's guarantees will be managed by the ICO.

According to the terms of the Resolution, the Ministry will assume the corresponding losses arising from the enforcement of the guarantees, as well as the management expenses incurred by the ICO. The ICO will be entitled to resolve any situations that may arise during the term of the guarantees and in the context of their enforcement. Within 10 business days of this Resolution, the ICO shall ensure the effective implementation of the Guarantee Line.

## Applicable terms and requirements

### Definition of small and medium-sized enterprises (SME)

A company will be considered an SME according to Article 2 of Schedule I of the Commission Regulation (EU) No 651/2014. Accordingly, the category of micro, small and medium-sized enterprises is made up of enterprises that employ fewer than 250 persons and have an annual turnover not exceeding €50 million, and/or an annual balance sheet total not exceeding €43 million.

### Definition of financial entity

Credit institutions, electronic money institutions and payment institutions will be considered financial entities.

### Purpose

In order to maintain the employment and mitigate the economic impact of COVID-19, the Guarantee Line's purpose is to cover new loans and other kinds of financing and refinancing provided by financial entities to businesses and self-employed persons to meet their payment obligations arising, from the management of invoices, working capital requirements, maturity of financial or tax payment obligations, or any other cash needs.

### Total amount of the first tranche of the Guarantee Line and amounts of the sub-tranches

The total amount will be up to €20 billion, to be provided by the Ministry. Two different sub-tranches will be created for the following amounts and purposes:

- Up to €10 billion for refinancing and new loans provided to self-employed persons and SMEs
- Up to €10 billion for refinancing and new loans provided to companies that do not qualify as SMEs

### Eligible loans and risk analysis

Characteristics of the eligible loans:

- Loans and other transactions provided to businesses and self-employed persons with a corporate address in Spain and that have suffered the economic impact of COVID-19
- Loans and transactions entered into or refinanced after 17 March 2020
- The borrowers shall not be qualified as non-performing, according to the files of the Bank of Spain, as of 31 December 2019
- The borrowers shall not be insolvent as of 17 March 2020

Maximum amount of the loan per client:

- Up to a maximum amount of €1.5 million under one or several financing transactions to self-employed persons or businesses
- For loans of an amount over €1.5 million, up to the maximum determined by the Temporary Framework for State Aids by the European Commission, both for self-employed and companies qualifying and not qualifying as SMEs

Analysis of the risk profile and eligibility conditions:

- Transactions of an amount up to €50 million will be guaranteed, as long as these have been approved by a financial entity according to its risks policy. Eligibility analysis will be carried out at a later time.
- Transactions of an amount over €50 million will be guaranteed after the analysis by the ICO of the eligibility conditions, on top of the analysis carried out by the financial entity

Financing sources:

- This guarantee scheme will be provided to loans and other financing structures to companies and self-employed persons, notwithstanding their source of financing. However, if the financing transaction is financed by the ICO, the scheme provided under the Resolution will be applicable to the ICO financing on the same terms.

### **Maximum guarantee**

This Guarantee Line will guarantee up to 80% of the new loans or refinancing of transactions requested by self-employed individuals and SMEs. For the remaining companies the Guarantee Line will cover up to 70% of the new loans and up to 60% of the transaction renewals.

### **Costs of the Guarantee Line**

The cost of the guarantee granted under this Guarantee Line will be as follows:

- 20 basis points (bps) over the total guaranteed amount for the guarantees of loans up to €1.5 million
- Between 20 bps and 80 bps over the total guaranteed amount, depending on the term of the loan, for the guarantees of loans granted to self-employed individuals and SMEs, or an amount over €1.5 million
- Between 30 bps and 120 bps over the total guaranteed amount, depending on the term of the loan, for the guarantees of new loans granted to entities other than self-employed individuals and SMEs, or an amount over €1.5 million
- Between 25 bps and 100 bps over the total guaranteed amount, depending on the term of the loan, for the guarantees of renewed loans granted to entities other than self-employed individuals and SMEs, or an amount over €1.5 million

### **Term of the Guarantee Line**

The guarantee provided under this Guarantee Line will be in force for the term of the loan granted (subject to a maximum term of five years).

### **How to request the Guarantee Line**

Companies and self-employed individuals will be able to request the guarantee for their transactions until 30 September 2020. In order to do so, they should submit such application to the financial entities that have entered into the relevant cooperation agreements with the ICO.

### **Rights and undertakings of the financial entities**

The financial entities will decide on the granting or renewal of the relevant loans in line with their internal risk policies.

The financial entities undertake to keep the costs of the new loans and any refinancing subject to this Guarantee Line in line with the costs applied prior to the COVID-19 crisis and taking into consideration the Guarantee Line provided by the State.

The financial entities also undertake to keep the limits of the working capital lines granted to all the clients and, in particular, to those clients with guaranteed loans under the Guarantee Line, at least until 30 September 2020.

### **Involvement of the ICO**

The ICO will pay to the financial entities the enforced guarantees. ICO will charge a management fee of 0.05% over the total guaranteed amount to each financial entity.

Latham & Watkins will continue to monitor and update on the situation.

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If you have any queries about this *Client Alert*, please contact one of the authors listed below, or your contact at Latham & Watkins:

**Fernando Colomina**

Fernando.Colomina@lw.com  
+34.91.791.5014  
Madrid

**Ignacio Gómez-Sancha**

ignacio.gomez-sancha@lw.com  
+34.91.791.5026  
Madrid

**Rafael Molina**

rafael.molina@lw.com  
+34.91.791.5075  
Madrid

**Jordi Domínguez**

jordi.dominguez@lw.com  
+34.91.791.5043  
Madrid

**Naiara-Rodriguez-Escudero**

naiara.rodriquez-  
escudero@lw.com  
+34.91.791.5110  
Madrid

**Ignacio Pallarés**

Ignacio.Pallares@lw.com  
+34.91.791.5019  
Madrid

**José María Jiménez-Laiqlesia**

JoseMaria.Jimenez-  
Laiqlesia@lw.com  
+34.91.791.5085  
Madrid

**María José Descalzo**

Maria.Descalzo@lw.com  
+34.91.791.5106  
Madrid

**Óscar Franco**

Oscar.Franco@lw.com  
+34.91.791.5009  
Madrid

**José Antonio Sánchez Dafos**

Jose.Sanchez@lw.com  
+34.91.791.5028  
Madrid

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