

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Finance / Loan Schemes

Bank guarantees from the Chamber of Commerce

- ▶ The Luxembourg Chamber of Commerce is providing bank guarantees for Luxembourg companies facing financial difficulties and looking for more liquidity as a result of COVID-19. Luxembourg businesses applying for new lines of credit or bank loans will be able to benefit from a guarantee of up to 50% of the value of the credit for a maximum amount of €250,000

- ▶ Available to all Luxembourg based companies

Live

Bank guarantees from the State

- ▶ State-backed guarantees applicable to any new line of credit (e.g., for investment or working capital purposes) contracted with participating Luxembourg credit institutions between 18 March 2020 and 31 December 2020; and having a maximum maturity date of six years
- ▶ The Luxembourg state will guarantee up to 85% of new credit lines, provided that the amount of the new credit line does not exceed 25% of the eligible company's turnover for the year 2019 (or failing that, the last year available)
- ▶ Special limitations will apply to certain innovative start-ups (i.e., line of credit cannot exceed the workforce cost x 2, and will not apply to companies created after 31 December 2019)
- ▶ Guarantee premiums, to be borne by the borrower, will also apply

- ▶ Available to Luxembourg based companies, economically viable before 18 March 2020 (as independently assessed by the participating bank)
- ▶ **Exclusions:** Real estate companies, holding companies and companies that were in financial distress prior to 1 January 2020

From 18 March to 31 December 2020

Anti-crisis credit support (SNCI)

- ▶ The SNCI (*Société Nationale de Crédit et d'Investissement*), a public-law banking institution, will finance up to 60% of new credit line requests from a company to its usual bank, provided that the company's usual bank covers the 40% remaining
- ▶ The credit support by the SNCI will apply to new credit lines having (i) a minimum amount of €12,500 and a maximum of €10 million; and (ii) a maximum maturity date of five years (initial grace period on the repayment of capital to be a maximum of two years)

- ▶ Luxembourg SMEs and large corporates holding business licences
- ▶ Measure reserved for financing of any exceptional needs that have arisen as a consequence of the COVID-19 crisis

Available until 31 December 2020

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WHEN?

Finance / Loan Schemes

Anti-Crisis SME Guarantee (SNCI)

- ▶ The SNCI provides an indirect guarantee instrument to facilitate funding of COVID-19 related extraordinary costs. This guarantee is granted through the participating banks
- ▶ This guarantee can only be used to solve for funding needs caused directly by COVID-19 and may not exceed €2.5 million. The guarantee will cover up to 80% of the extraordinary financial needs, capped at €1 million
- ▶ The duration of the guarantee will be of a maximum of three years from the date of granting of the funding by the commercial participating bank

- ▶ Available to SMEs based in Luxembourg, having a valid business license and experiencing temporary financial difficulties
- ▶ For further details on eligibility, the SMEs must directly contact their commercial banks

Guarantee may be granted up to 31 December 2020

Moratorium on business loans

- ▶ Eligible businesses can request the postponement of the repayment of the principal and interest of any loan or leasing agreement entered into on or prior to 18 March 2020 with the participating bank. The moratorium cannot exceed 6 months from the date it is granted
- ▶ **N.B.: The moratorium on business loans is only available at the discretion of participating banks**
- ▶ Any moratorium applied after **30 September 2020** will not be deemed to be a European Banking Authority (EBA) compliant general payment moratorium. Institutions may however continue to offer moratoria in response to the COVID-19 pandemic after 30 September 2020. After this date the general forbearance framework applies so that exposures subject to new moratoria cannot benefit from the flexibility provided in respect of moratoria applied on or prior to 30 September 2020
- ▶ As a consequence, all exposures benefiting from a moratorium relating to the COVID-19 pandemic applied after **30 September 2020** will have to be classified into forborne. These exposures will be subject to the distressed restructuring test on a case-by-case basis. In case of an affirmative distressed restructuring test, i.e., the exposure is distressed restructured, institutions shall classify the obligor in default and the exposure as non-performing

- ▶ Available to non-financial companies based in Luxembourg, economically viable before 18 March 2020 and facing financial difficulties due to COVID-19 crisis
- ▶ The eligibility of the business (i.e., existence of negative repercussions due to COVID-19 crisis) will be assessed independently by the participating bank on the basis of the evidence produced by the client
- ▶ **Exclusion:** loans granted to property developers for the purchase, sale or development phases of real estate are excluded from this scheme

Must take effect before 30 June 2020

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Tax

No penalties for late filing of returns for indirect taxes

- ▶ The *Administration de l'Enregistrement, des Domaines et de la TVA* will not impose penalties for late filing of VAT returns (until further notice), nor for a late filing of the Q1 2020 subscription tax return (normally due to be filed by 20 April 2020)

- ▶ Any taxpayer concerned by the filing of VAT returns or subscription tax returns (for the latter, the late filing must be due to circumstances linked to COVID-19)

Live

Postponement of tax advances

- ▶ All tax payments for income tax/corporate income tax and municipal business tax for Q1 and Q2 2020 will be postponed for Luxembourg companies that can demonstrate to the Luxembourg authorities that they have experienced material cash flow issues due to COVID-19

- ▶ All Luxembourg corporate taxpayers and all Luxembourg individual taxpayers who realise commercial income, income from agricultural or forestry activities or income from the designated professions (*professions libérales*)

Live

Direct taxes: deferral of filing deadline & payment deadline

- ▶ Payment delays of up to four months for income tax/corporate income tax, municipal business tax and net wealth tax, without late payment interest being charged. At the end of the four-month period, the taxes must be paid in full. The request should be systematically approved by the tax authorities

- ▶ All Luxembourg corporate taxpayers and all Luxembourg individual taxpayers who realise commercial income, income from agricultural or forestry activities or income from the professions (*professions libérales*)
- ▶ For the payment delay: only if the original payment deadline is after 29 February 2020 (and in principle the taxpayer should experience cash flow issues due to COVID-19). Form to be filled online

Live

Individual taxes: situation of cross-border commuters

- ▶ Agreements reached with France, Belgium and Germany that days spent working in the country of residence instead of Luxembourg since 11/14 March because of the COVID-19 restrictions and recommendations will not count in the maximum number of days employees are allowed to work in their home country before becoming liable to personal income tax in that country as well. Agreements with France and Belgium have been extended until 31 December 2020; the agreement with Germany was also extended until 31 December 2020 and will thereafter be automatically renewed monthly as long as no party notifies its intention to terminate it

- ▶ Cross-border commuting employees

Live (details yet to be made public)

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Employment

Support for employers and employees

- ▶ Luxembourg companies will be compensated by the Luxembourg government for indemnities they have to pay to employees requested to go on partial unemployment leave. The employer pays each employee the salary that is due for the hours of work carried out, as well as a compensatory indemnity for the inactive hours, corresponding to at least 80% of the salary that the employee would normally receive
- ▶ The Luxembourg state, and more specifically the Luxembourg Employment Fund will reimburse employers for the compensatory indemnity. Reimbursement is limited to 80% of the employee's normal hourly salary and capped at 250% of the minimum social wage during a maximum of 1,022 hours per full-time employee and per calendar year (for part-time employees, this quota of hours is prorated). The indemnity will amount to a minimum of €2,142.94 euros (minimum social wage for unskilled workers) and a maximum of €5,363.48. Advances may be paid on the basis of the actual payroll at the date on which the respective government decision takes effect

- ▶ Certain companies which continue to suffer negative effects from the health crisis once the state of emergency ends may benefit from partial unemployment until the end of 2020. Specifically:
 - Industrial companies - under the condition that they undertake to not lay off employees for economic reasons;
 - Companies in the restaurant, tourism and event management sectors - no limitation to the number of employees who can be covered by partial unemployment. If proven to be necessary for economic reasons, these companies will be able to lay off up to 25% of their workforce before 31 December 2020. In the event of subsequent recruitment, employers must prioritize hiring their formerly dismissed employees; and
 - All other companies - under the condition that they do not lay off employees for economic reasons. The number of employees covered by partial unemployment may not exceed 20% of their workforce for the months of September and October and 15% of their workforce for the months of November and December
- ▶ Businesses which fail to respect the above thresholds must introduce: a motivated recovery plan in the case of small businesses with fewer than 15 employees; or a job protection plan in accordance with the provisions of the Labour Code in the case of businesses with more than 15 employees;
- ▶ Companies from vulnerable sectors that are dismissing more than 25% of their workforce, and all other companies that are envisaging laying off employees, will have to submit an "ordinary" request for partial unemployment, which can only be granted if such companies establish restructuring plans

From 25
June 2020

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Employment

Leave for family support

- ▶ Employees and self-employed professionals may request “leave for family support” to enable them to look after a disabled adult or an elderly person following the closure of a day-care structure or a training or employment structure if there is no other way of caring for the disabled adult or elderly person
- ▶ If necessary, where several people live in the same home as the disabled adult or elderly person, such persons may alternate taking leave for family support. In this case, each person wishing to take leave must submit a duly completed form
- ▶ The duration of the leave for family support may not exceed the duration of the state of emergency. The leave shall end before the end of the state of emergency if the day-care structure or training or employment structure notifies the Minister that it has resumed all or part of its activities

- ▶ The following conditions must be met:
 - the approved structure that would normally take care of the disabled adult or elderly person must have ceased all or part of its activities in the context of the state of emergency;
 - the private-sector employee or self-employed person must look after the disabled adult or elderly person in the home where they both live; and
 - neither the applicant private-sector employee or self-employed person or any other member of the household may be covered by the arrangements for partial unemployment during the period for which the leave is requested and there must be no other solution available for providing care

Retroactively, from 18 March 2020 to 25 November 2020

Social security contributions:

- ▶ The CCSS has put the following temporary measures into place:
 - suspension of the calculation of default interest for late payments;
 - suspension of the initiation of proceedings for the forced collection of contributions;
 - suspension of the enforcement of constraints by bailiff; and
 - suspension of fines to be pronounced against employers who are late in making declarations to the CCSS
- ▶ While it is clear that all social security contributions remain due, the employer can nevertheless better organise his cash flow, in combination with other economic measures introduced as part of the COVID-19 crisis
- ▶ The aforementioned measures do not only apply to future calls for contributions, but also to the current balances of social security contributions, notwithstanding any mention (interest, fines, etc.) on the CCSS statement of account dated 14 March 2020

- ▶ Companies and self-employed professionals

1 April 2020

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Employment

Leave for family reasons

- ▶ A special family leave allowance for parents in the event of quarantine or isolation of a child has been made available
- ▶ If a child is placed in quarantine or isolation by order or recommendation of a competent Luxembourg authority and the parents of the children concerned have to look after their child, one of the parents is entitled to use the leave for family reasons scheme for the duration of the quarantine or isolation period decreed or recommended by the competent authority
- ▶ The amount of leave for family reasons depends on the child's age

Who is concerned:

- ▶ An employee (on a fixed-term contract, permanent contract or trial period); or
- ▶ a self-employed and non-salaried worker; or
- ▶ an apprentice; and who
- ▶ is registered with social security in Luxembourg; and
- ▶ has a dependent child up to the age of 18; and
- ▶ has to look after this child because of a quarantine or isolation measure decided or recommended by the Health Directorate or the competent authority (mainly for children attending school abroad)

Live

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Grants

Aid scheme for Luxembourg companies

- ▶ State subsidy to be provided in the form of repayable capital grant(s) (in one or more installments, to be granted before 1 October 2020) of up to €800,000 per company
- ▶ Eligible costs consist of (i) workforce costs and (ii) rental costs corresponding to a specific period impacted by the COVID-19 crisis, currently determined as being from 15 March 2020 until 15 September 2020
- ▶ The subsidy can be combined with other State aid schemes, provided that maximum aggregate funds that can be received under all schemes with respect to eligible costs are capped at the most favourable cap applicable to any specific schemes to which the company is participating
- ▶ Repayment of the subsidy by the company will begin, at the earliest, 12 months after the date of the first installment of such state subsidy

- ▶ Luxembourg companies holding a business licence and self-employed individuals, excluding the fishing sector, agricultural production sector and certain agricultural product transformation companies
- ▶ Companies belonging to the same group will be considered as a single company for the purposes of this aid scheme
- ▶ Conditions: (i) a COVID-19 economic crisis has been recognised for a specific period by the government; (ii) the company is facing economic hardship; (iii) the company was economically active before the COVID-19 economic crisis and (iv) there is a causal link between the economic hardship and the COVID-19 crisis

Filing for applications currently opened until 1 December 2020

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Other

Extended deadlines / increased tolerance announced by CSSF / ESMA for supervised entities

- ▶ Extended deadline to file the CSSF 2019 survey related to steps taken against money laundering and terrorist financing until 10 April 2020
- ▶ Increased tolerance regarding the call taping obligation under MiFID II
- ▶ Increased tolerance regarding swing pricing/dilution levy factors to be applied beyond the maximum percentage set forth in fund incorporation documents
- ▶ Long form reports may exceptionally be remitted up to four months after the annual general meeting of the audited entity
- ▶ Supervised entities to contact the CSSF if experiencing difficulties to prepare/validate their CSSF regulatory reporting
- ▶ CSSF will not take any administrative measures or sanctions in relation to issuers' failure to comply with the upcoming deadlines for the publication of periodic information required by Articles 3, 4 and 5 of the Law of 11 January 2008 on transparency requirements for issuers. Issuers may make use of additional two months, if they feel it appropriate to do so, to publish the above mentioned upcoming periodic information
- ▶ CSSF will not prioritise its supervisory actions in respect of reporting obligations pursuant to SFTR or MiFIR with respect to (i) SFTs concluded between 13 April 2020 and 13 July 2020 and (ii) SFTs subject to backloading under SFTR

As applicable:

- ▶ Entities required to file the AML/CFT survey, and specialised professionals of the financial sector incorporated under Luxembourg law
- ▶ MiFID II entities
- ▶ UCITS, UCI Part II & SIFs
- ▶ Supervised entities
- ▶ Supervised entities
- ▶ Issuers for which Luxembourg is the home Member State pursuant to the Transparency Law for reporting periods ending on 31 December 2019 or after that date but before 1 April 2020
- ▶ All entities subject to the supervision of the CSSF and all non-financial counterparties to securities financing transactions as defined in Article 3 of Regulation (EU) 2015/2365 (SFTR)

Live

SFTs concluded between 13 April 2020 and 13 July 2020

Deadlines for the prudential reporting tables to be submitted by specialised PFSs:

- ▶ Delays for the submission of the monthly/quarterly prudential reporting tables to be submitted by specialised PFSs may, where necessary, be exceptionally granted, upon motivated request, to be sent by email to the usual contact person at the CSSF
- ▶ The same applies for the documents relating to the accounting closing date to be submitted to the CSSF in accordance with Circular CSSF 12/544 within seven months after the end of the financial year, as well as the management letter of the *réviseur d'entreprises* (statutory auditor) to be submitted one month after the general meeting

Specialized professional of the financial sector (specialized PFSs)

From 26 March 2020

From 30 March 2020

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES	ELIGIBILITY	WHEN?
Other		
<p>Deadlines for the reports to be submitted by the banks</p> <ul style="list-style-type: none"> ▶ Delays for the submission of the documents listed below may, where necessary, be exceptionally granted, upon motivated request, to be sent by email to the usual contact person at the CSSF: <ul style="list-style-type: none"> ▶ ICAAP/ILAAP reports to be submitted on 31 March; ▶ reports of the internal control functions to be submitted on 31 March; ▶ IT risk questionnaires sent to certain banks and to be submitted on 31 March; ▶ the annual self-assessment questionnaire on requirements for UCI depository banks to be submitted by 10 April; ▶ reports of the <i>réviseurs d'entreprises</i> (statutory auditors) regarding branches of banks having their registered office in the European Union to be submitted on 30 June; ▶ reports of the <i>réviseurs d'entreprises</i> (statutory auditors) regarding branches of banks having their registered office outside the European Union to be submitted on 30 June; and ▶ recovery plans for which the submission dates are set individually in feedback letters 	Credit institutions	From 26 March 2020
<p>Extension of deadlines for the reports to be submitted by payment institutions and electronic money institutions</p> <ul style="list-style-type: none"> ▶ Deadlines for the submission of the following documents may be exceptionally extended, upon reasoned request to be sent by email to the usual contact person at the CSSF: <ul style="list-style-type: none"> – reports of the internal control functions to be submitted on 31 March; – reports of the management on the state of the internal control to be submitted on 31 March; – reports on the assessment of major operational and security risks to be submitted on 31 March; and – fraud data reporting for the year 2019 to be submitted on 30 April 	Payment institutions and electronic money institutions	From 30 March 2020

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Other

Extension of deadlines for the reports to be submitted by the investment firms

Investment firms

From
30 March
2020

Deadlines for the submission of the following documents may be exceptionally extended, upon reasoned request to be sent by email to the usual contact:

- ▶ the audit report and the audited annual accounts to be submitted one month after the ordinary general meeting;
- ▶ the minutes and the attendance list of the ordinary general meeting to be submitted one month after the ordinary general meeting;
- ▶ the management report to be submitted one month after the ordinary general meeting;
- ▶ the statement of compliance with Circular CSSF 12/552 to be submitted one month after the ordinary general meeting;
- ▶ reports of the internal control functions to be submitted one month after the ordinary general meeting;
- ▶ the ICAAP report to be submitted one month after the ordinary general meeting;
- ▶ the compliance report on the assessment of knowledge and competence in accordance with the ESMA guidelines to be submitted one month after the ordinary general meeting;
- ▶ The annual reports or the audited financial statements of the direct and indirect shareholders to be submitted one month after the ordinary general meeting;
- ▶ annual reports on the activities and business volumes of the representative offices to be submitted one month after the ordinary general meeting;
- ▶ the report of the réviseur d'entreprises (statutory auditor) on compliance with the professional obligations as regards the fight against money laundering and terrorist financing (concerns only Luxembourg branches of investment firms having their registered office in or outside the European Union) to be submitted six months after the closing date;
- ▶ the report of the réviseur d'entreprises on the conduct of business under MiFID II (concerns only Luxembourg branches of investment firms having their registered office in or outside the European Union) to be submitted six months after the closing date; and
- ▶ the recovery plans for which the submission dates are set individually in feedback letters

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Other

CSSF Weekly Reporting

- ▶ Investment fund managers are asked by the CSSF to provide weekly updates on financial data (total net assets, subscriptions and redemptions) and on governance arrangements
- ▶ Luxembourg investment fund managers have to report on all of the funds it manages (Lux and non-Lux) and non-Lux investment fund managers (EU or third country) have to report on all of its Luxembourg funds
- ▶ Questionnaire to be filled out and submitted on eDesk

Investment fund managers established in Luxembourg or in other European/non-European countries and managing at least one UCITS, AIF and/or any other UCI (not qualifying as AIF)

First filing to be performed on 22 April 2020, then every Wednesday COB at the latest

Banks' distribution policies aimed at remunerating shareholders and other variable remuneration

- ▶ The management bodies of all Luxembourg credit institutions must refrain from taking decisions on distributions (including, amongst others, paying out or irrevocably committing to pay out dividends, buying-back shares) or paying or committing to pay out variable remuneration for the performance years 2019 and 2020 that would constrain their bank's capacity to meet the COVID-19 induced needs for liquidity and credit of its customers in the markets they serve and/or would have the effect of reducing the quantity or quality of the bank's own funds or reducing their loss absorbing capacity for the duration of the COVID-19 related crisis
- ▶ Banks that encounter difficulties to comply must without delay explain the underlying reasons to the competent authority

Credit institutions that are not Significant Institutions under the Single Supervisory Mechanism (SSM)

Until 1 January 2021

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Other

Application of the prudential framework regarding Default, Forbearance and IFRS9. The CSSF refers to the EBA statement dated 25 April 2020 which:

- ▶ clarifies how public and private moratoria should be taken into account by banks when assessing whether an exposure is in default or forborne and when performing the assessment of significant increase in credit risk under IFRS9;
- ▶ emphasizes that moratoria will not trigger an automatic classification in default or forborne status

- ▶ Credit institutions;
- ▶ Payment institutions;
- ▶ Electronic money institutions; and
- ▶ Specialised professionals of the financial sector

From 14 April 2020

Consumer and payment issues

The CSSF refers to the EBA statement dated 25 March 2020 which:

- ▶ emphasises that even more in times of crisis consumer protection remains a priority and therefore calls on all lenders to act in the interest of consumers;
- ▶ highlights the importance of orderly payment services during this period and calls on payment service providers (PSPs) to facilitate consumers' ability to make payments without the need for physical contact; and
- ▶ indicates that, to support issuing and acquiring PSPs' efforts to focus on their customers, their obligation to report to national competent authorities by 31 March 2020 on their readiness to meet the strong customer authentication requirements for e-commerce card-based transactions is removed

- ▶ Credit institutions;
- ▶ Payment institutions;
- ▶ Electronic money institutions; and
- ▶ Specialised professionals of the financial sector

From 14 April 2020

Financial crime and AML/CFT implications during the COVID-19 pandemic

CSSF circular 20/740's purpose is to provide guidance in relation to the money laundering/terrorism financing (ML/TF) risks and AML/CFT implications of the COVID-19 pandemic. It includes the four following items:

- ▶ new and emerging ML/TF threats resulting from COVID-19 (cybercrime, fraud...);
- ▶ financial sector vulnerabilities (online payment services, mortgages...);
- ▶ mitigating actions (business continuity and governance, transaction monitoring, ML/TF risk assessment); and
- ▶ CSSF's approach to AML/CFT supervision during this period (AML/CFT on site inspections...)

All professionals subject under AML/CFT supervision of the CSSF (regulated entities such as credit institutions, professionals of the financial sector, insurance undertakings, lawyers, accountants...)

From 10 April 2020

COVID-19 Response: Luxembourg

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Other

Application of European Central Bank (ECB) measures to alleviate the impacts of COVID-19 on Significant Institutions (Sis) and on Less Significant Institutions (LSIs)

- ▶ LSIs will be able to benefit from identical measures to those decided by the ECB Banking Supervision for Sis
- ▶ For example, LSIs will be allowed to partially use capital instruments that do not qualify as Common Equity Tier 1 (CET1) capital, for example Tier 1 or Tier 2 instruments, to meet the Pillar 2 requirements (P2R). As a general rule, to fulfill P2R, LSIs must have a minimum of 56.25% CET1 and a minimum of 75% Tier 1 capital
- ▶ In contrast to the ECB's decision on relief measures regarding the operational aspects of supervision, such as existing deadlines for remedial actions imposed in the context of on-site inspections, an extension of a deadline will only be granted to LSIs upon submission of a reasoned COVID-19 related request
- ▶ Branches of Luxembourg credit institutions having their head office in a third country may benefit, where applicable, under the same conditions, from the flexibility measures offered to LSIs
- ▶ LSIs and third country branches that intend to make use of these measures should inform the CSSF via their usual point of contact

- ▶ Credit institutions

From 20 April 2020

Note:

- ▶ This document only summarizes key measures implemented to benefit businesses operating in Luxembourg.
- ▶ The measures described above were in place as of **28 October 2020**. Updates and additional government measures are expected.