



COVID-19

Austria supports businesses with additional €15bn in guarantees/direct subsidies

8 April 2020

Three weeks into COVID-19 lock-down, emergency support measures directed at small and medium sized enterprises have been put in place in Austria (including €2bn in export credit support; a guarantee scheme administered by AWS/ÖHT and available to SMEs; and a €2bn hardship fund to support small businesses).

On Friday last, the Austrian minister of finance announced details of a €15bn aid fund to provide liquidity support in the form of guaranteed loans and subsidies to companies affected by the COVID-19 crisis. Together with its €9bn guarantee regime, these instruments will form the backbone of the government's €38bn COVID-19 rescue package for Austria's economy.

More detailed guidelines on eligibility and administration of these measures are expected to be published shortly. Here are some of the key features:

Which instruments are available under the €15bn aid fund?

Bridge loan guarantees

Eligible companies may apply for a guarantee with respect to a working capital loan (*Betriebsmittelkredit*) taken by their bank for purposes of bridging a liquidity gap of its operations in Austria. The government guarantee would cover 90% of the loan amount and be capped at the lower of (i) an amount equal to 3x its monthly turnover and (ii) €120m (noting that in exceptional circumstances the amount could be increased).

Guarantees will be granted for a period of 5 years and may be extended for up to another 5 years. They are subject to a guarantee fee in an amount between 0.25% and 2% (depending on the size of the borrower and the term of the loan). Interest under the loan is generally capped to 1%.

The aim of the guarantee programme is to provide liquidity support to companies affected by the COVID-19 crisis. Loan proceeds must not be used for the purposes of re-financing existing loans, investments, dividend payments between 16 March 2020 and 16 March 2021, bonus payments to managing directors in excess of 50% of the previous year or share repurchase programmes.

Direct subsidies

Eligible companies which suffer a loss of revenues of at least 40% compared to the previous year or a decrease in value (in excess of 50%) of perishable or seasonal goods, may apply for a direct subsidy. The subsidy covers operational expenses (*Fixkosten*) such as lease payments, insurance premiums, debt service, operation-critical expenses, licence fees, utility payments, etc. or damage due to the loss of value of relevant goods. Operational expenses must have been incurred in Austria and recovery of expenses or

Your team

Dr. Friedrich Jergitsch

Partner, GT Finance
T +43 1 515 15 118
E friedrich.jergitsch@freshfields.com

Dr. Florian Klimscha

Partner, GT Finance
T +43 1 515 15 122
E florian.klimscha@freshfields.com

Dr. Stephan Pachinger

Partner, GT Finance
T +43 1 515 15 124
E stephan.pachinger@freshfields.com

Mag. Mathias Lehner

Principal Associate, GT Finance
T +43 1 515 15 682
E mathias.lehner@freshfields.com

losses is capped at €90m per company.

The subsidy will be paid out after the end of the current financial year only (i.e. in many cases, companies will receive cash only after 31 December 2020).

The amount that may be claimed in direct subsidies depends on the actual loss of revenue suffered by the relevant company as a result of the COVID-19 crisis. The loss (as well as the recoverable operating expenses) are determined on the basis of a calculation period starting from 15 March 2020 and ending on the date on which the COVID-19 emergency measures cease to apply, as follows:

| Decrease in revenue | Recoverable expenses |
|----------------------------|-----------------------------|
| 0% to 40% | None |
| 40% to 60% | 25% |
| 60% to 80% | 50% |
| 80% to 100% | 75% |

It is not yet clear, if and to what extent a loss of value in perishable goods will be taken into account for the purposes of the above calculation.

Eligible companies are required to mitigate their operational expenses or losses (including by way of requesting lease payment reductions or exercise deferral rights)

Eligibility

Emergency measures under the €15bn aid fund are available to companies which have their place of business and their operations in Austria.

In order to be eligible, the relevant company must have been particularly affected by COVID-19 emergency measures such as mandatory closures, travel restrictions or restrictions on public meetings and must suffer from liquidity problems or from lost revenues and a threat to its economic existence, respectively.

When a public limited company (*Aktiengesellschaft*) applies for bridge loan guarantees, it will neither be permitted to make dividend distributions between 16 March 2020 and 16 March 2022 nor to make bonus payments to its managing directors in excess of 50% of the previous year.

A company which claims a direct subsidy must undertake to specifically take into account the preservation of jobs and to exercise best efforts to reduce their operating expenses, mitigate their losses and preserve jobs in Austria. Any company which had more than 250 employees as of 31 December 2019 and which has laid off staff rather than making use of COVID-19 short-work measures (*Kurzarbeit*) is not eligible for direct subsidies.

Financial services providers (credit and financial institutions; etc) and insurance companies are excluded from these measures.

How to apply for measures under the €15bn aid fund?

Applications for a bridge loan guarantee should be made through the applicant's bank starting from 8 April 2020 (although we recommend starting a discussion process with the bank as early as possible). Depending on the size of the applicant company, the bank will process the application together with Oesterreichische Kontrollbank (*OeKB*) for large entities, Austria Wirtschaftsservice Gesellschaft mbH (*AWS*) for SMEs or the Österreichische Hotel- und Tourismusbank (*ÖHT*) for the tourism sector. The guarantee itself will be provided by the COVID-19 Finanzierungsagentur des Bundes GmbH (*COFAG*), a newly established subsidiary of the state-owned Austrian divestment holding (*ABBAG*).

Direct subsidies can be claimed via the online portal of AWS (www.aws.at) starting from 15 April 2020 and will be disbursed through the applicant's bank.

Other COVID-19 financial support measures

Further to the €15bn aid fund, the following COVID-19 financial support measures are currently available in Austria:

AWS/ÖHT guarantee scheme

Qualifying SMEs may apply for loan guarantees under the AWS programme, which allows them to claim support for working capital financings as well as for the purposes of re-financing/financing the debt service of existing loans.

The guarantees will cover up to 80% of a loan of up to a maximum amount of €2.5m per entity and will be subject to a risk based premium. Beneficiaries must be financially sound.

Further measures are available for SMEs in the tourism sector provided by or on behalf of the Ministry of Sustainability and Tourism and ÖHT.

OeKB export credit support

For details, please refer to our client alert "COVID-19: OeKB makes available €2bn in export credit support".

Hardship funds

The hardship fund makes available up to €2bn in subsidies (*Zuschüsse*) to small enterprises, persons which are self-employed as well as non-profit organisations.

In phase one, an eligible person may claim up to €1000 in cash support. In phase two, an amount of €2000 per month may be claimed for a period of up to 3 months.

Funds are being disbursed by the Austrian Chamber of Commerce (*WKÖ*) and Agrarmarkt Austria, respectively.

Tax deferrals and reductions

Furthermore, tax deferrals and reductions in an amount of up to €10bn are available to businesses. These are not covered herein.

The current situation brings unique challenges, both for businesses in Austria as well as international investors. Against the background of a continuously evolving legal environment, an experienced legal advisor allows businesses to identify and solve issues early and efficiently.

Freshfields Bruckhaus Deringer LLP is a globally leading law firm, with longstanding finance experience in Austria and the entire CEE region. Over the years, our experts have built a track record ranging from ABBAG financings, OeKB loans, complex international restructurings to supporting domestic clients in Austria in a time of crisis.

Please do not hesitate to reach out to our team for further information.

freshfields.com

This material is provided by the international law firm Freshfields Bruckhaus Deringer LLP (a limited liability partnership organised under the law of England and Wales) (the UK LLP) and the offices and associated entities of the UK LLP practising under the Freshfields Bruckhaus Deringer name in a number of jurisdictions, and Freshfields Bruckhaus Deringer US LLP, together referred to in the material as 'Freshfields'. For regulatory information please refer to www.freshfields.com/en-gb/footer/legal-notice/.

The UK LLP has offices or associated entities in Austria, Bahrain, Belgium, China, England, France, Germany, Hong Kong, Italy, Japan, the Netherlands, Russia, Singapore, Spain, the United Arab Emirates and Vietnam. Freshfields Bruckhaus Deringer US LLP has offices in New York City and Washington DC.

This material is for general information only and is not intended to provide legal advice.