

Amendments to the Spanish ICO guarantee scheme

In force as from 19 November 2020

The Spanish Government set up two guarantee lines (*líneas de avales*) managed through the Spanish Official Credit Institute (*Instituto de Crédito Oficial - ICO*) to deal with the economic impact of COVID-19.

The first ICO guarantee line, of up to EUR 100 billion, was set up by Royal Decree-law 8/2020, of 17 March (*RDL 8/2020*) covering financings granted to companies and the self-employed for working capital purposes.

The second ICO guarantee line, of up to EUR 40 billion, was set up by Royal Decree-law 25/2020, of 3 July (*RDL 25/2020*) covering financings granted to companies and self-employed for working capital and investment purposes.

On 18 November 2020 the Spanish Official Gazette published Royal Decree-Law 34/2020, of 17 November, on urgent measures to support the solvency of the business, the energy sector and on tax matters (*RDL 34/2020*), which amends certain terms of these ICO guarantee lines and which entered into force on 19 November 2020.

This briefing summarises the most relevant measures of RDL 34/2020, in relation to the ICO guarantee lines.

1 Extension of maturity dates

At the debtor's request, credit institutions, financial credit establishments, electronic money institutions and payment institutions are obliged to extend the maturity date of the financings granted under the RDL 8/2020 guarantee scheme by up to three additional years. The related ICO guarantee shall be extended accordingly.

Following the extension, the maturity of those financings cannot exceed eight years from its original date.

2 Extension of grace periods

At the debtor's request, credit institutions, financial credit establishments, electronic money institutions and payment institutions are also obliged to extend the grace period for repayment of the principal amount of the financings granted under the RDL 8/2020 and RDL 25/2020 ICO guarantee lines by up to twelve additional months. The corresponding ICO guarantees will remain in place under the new repayment terms.

Following the extension, the total grace period for those financings cannot exceed twenty-four months.

The parties can agree to add the principal amount corresponding to the grace period instalments to the final instalment, to apply it pro rata across the remaining instalments, or a combination of these two alternatives. If no agreement is reached between the parties the principal amount corresponding to the grace period shall be applied pro rata across the remaining instalments.

3 Working capital lines maximum amount

Until 30 June 2021 credit institutions, financial credit establishments, electronic money institutions and payment institutions cannot reduce the maximum amount of working capital lines granted to debtors that benefit from the RDL 8/2020 and RDL 25/2020 ICO guarantee lines.

4

Requirements to benefit from the new measures

The following requirements must be complied with in order to request the application of the abovementioned new measures:

1. neither the financing under the guarantee scheme nor any other financing granted to the same debtor by the same financial entity is in payment default for more than ninety days;
2. the borrower is not in a state of default as at the date of the signing of the extension according to information from the Bank of Spain's Risk Information Center (*Central de Información de Riesgos - CIRBE*);
3. no default in relation to the financing under the guarantee scheme has been notified to the ICO by the financial entity as of the date of the execution of the extension;
4. the borrower is not undergoing insolvency proceedings; and
5. the debtor complies with the limits set out in the European Union State Aid regulations. Additionally, for the application of measures described in paragraphs 1 and 2 above the following requirements must be met:
 - the financing under the ICO guarantee scheme was executed before 18 November 2020; and
 - the request to apply the measures is made by 15 May 2021.

Following the debtor's request, the financial entity has a period of thirty days to check that the abovementioned requirements have been met and to notify the amendment of the guarantee to the ICO.

5

Cost of the financing and guarantee fees

The costs of the financings affected by the new measures shall be in line with the costs charged before any applicable extension but can be increased to reflect the impact of any increase in the guarantee fees applicable to these extensions.

The guarantee fees will be established by the Council of Ministers.

Contacts



Iñaki Gabilondo

Partner, Madrid

T +34 91 700 3756

E inaki.gabilondo@freshfields.com



Ana Lopez

Partner, Madrid

T +34 91 700 3754

E ana.lopez@freshfields.com

freshfields.com

This material is provided by the international law firm Freshfields Bruckhaus Deringer LLP (a limited liability partnership organised under the laws of England and Wales authorised and regulated by the Solicitors Regulation Authority (SRA no. 484861)) and associated entities and undertakings carrying on business under, or including, the name Freshfields Bruckhaus Deringer in a number of jurisdictions, together referred to in the material as 'Freshfields'. For further regulatory information please refer to www.freshfields.com/support/legal-notice.

Freshfields Bruckhaus Deringer has offices in Austria, Bahrain, Belgium, China, England, France, Germany, Hong Kong, Italy, Japan, the Netherlands, Russia, Singapore, Spain, the United Arab Emirates, the United States of America and Vietnam.

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

© Freshfields Bruckhaus Deringer LLP 2020