

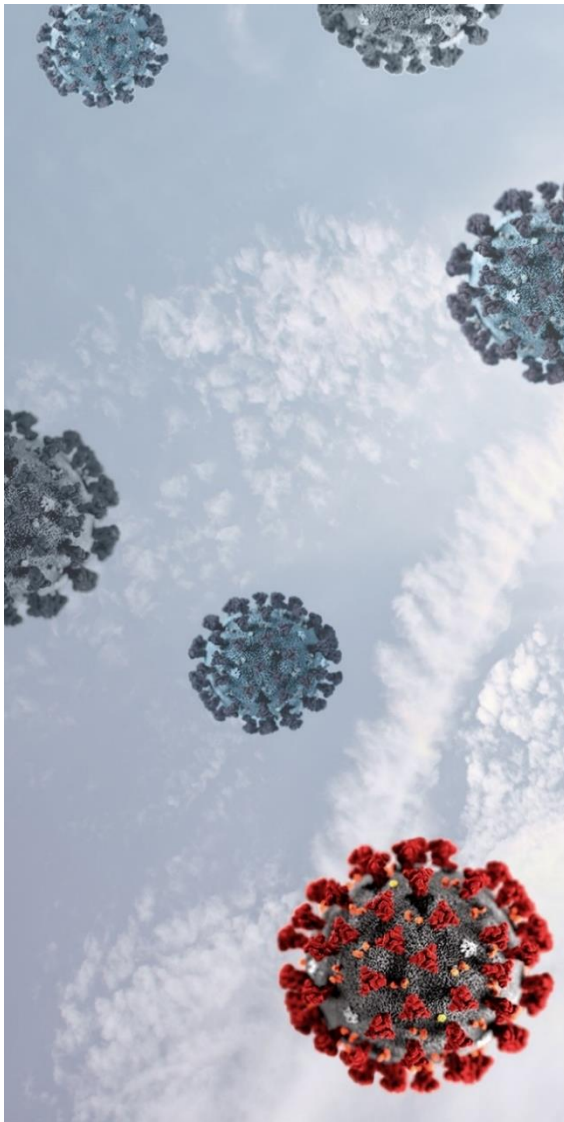
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# Financial aid (Spain) – Covid-19 crisis

## Legal flash

July 29, 2020

The Spanish government has approved help, in the form of financial aid and liquidity and support for industrialization, for businesses and self-employed workers in the framework of recent legislation of emergency, namely Royal Decree-Law 7/2020 of March 12 (“RDL 7/2020”), Royal Decree-Law 8/2020, of March 17 (“RDL 8/2020”), Royal Decree-Law 11/2020, of March 31 (“RDL 11/2020”), Royal Decree-Law 15/2020, of April 21 (“RDL 15/2020”), Royal Decree-Law 17/2020, of May 5 (“RDL 17/2020”), Royal Decree-Law 25/2020, of July 3 (“RDL 25/2020”) and Royal Decree-Law 26/2020, of July 7 (“RDL 26/2020”). This legal flash summarizes the main terms and conditions of these aid programs.



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- > Guarantee facility (article 29 RDL 8/2020)
  - > Guarantee facility for investments (article 1 RDL 25/2020)
  - > Liquidity increase of ICO (article 30 RDL 8/2020)
  - > “Thomas Cook” Facility (article 12 and first additional provision of RDL 7/2020)
  - > CESCE internationalization facility (article 31 RDL 8/2020)
  - > Facility for innovating and digitally transforming the tourism sector (article 11 RDL 25/2020)
  - > Legal moratorium for mortgage-backed loans related to property used for tourism activity (article 3 RDL 25/2020)
  - > Legal moratorium for financings of public transport vehicles (article 18 RDL 26/2020)
  - > Other measures of liquidity and support for industrialization and sectors (RDL 11/2020, RDL 15/2020, RDL/17/2020 and 25/2020)



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## Guarantee facility (article 29 of RDL 8/2020)

### Legal framework

Under article 29 of RDL 8/2020, the Ministry for Economic Affairs and Digital Transformation grants guarantees for up to €100 billion for the financing of businesses and self-employed workers aimed at covering their liquidity needs (the “**Guarantee Facility RDL 8/2020**”).

The applicable conditions and requirements to benefit from these guarantees were mainly established in [the Resolution of the Council of Ministers of March 25, 2020](#), which has also led to the release of the first tranche of this facility, amounting to €20 billion, 50% of which will be destined to self-employed workers and SMEs (“PYMEs”).

According to a [Decision of the European Commission of March 24, 2020](#) (the “**EC Decision**”), the UE authorized this first tranche of the aim in accordance with the “[Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak](#)” approved on March 19 2020 and amended by [Communication of April 3, 2020](#) and [of May 8](#) (the “**Temporary Framework**”).

With respect to state aid matters, the Spanish umbrella scheme shall be considered too. We refer to the National Temporary Framework for State aid in form of direct grants, repayable advances, tax or payments advantages, guarantees on loans and subsidised interest rates for loans to Support the economy in the current COVID outbreak, approved by the [European Commission in its Decision SA.56851 \(2020/N\), of April 2](#).

According to a new [Resolution of the Council of Ministers of April 10, 2020](#), a second tranche of the Guarantee Facility 8/2020, amounting to €20 billion, was released, entirely for the benefit of SMEs and self-employed workers.

RDL 15/2020 modified the basic rules of the guarantee facility set forth in article 29 RDL 8/2020 by providing the issuer of commercial paper and the Spanish Refinancing Company (*Compañía Española de Reafianzamiento S.M.E., S.A.*, or CERSA) with access to the facility.

By the [Resolution of the Council of Ministers of May 6](#), a third tranche of the Guarantee Facility RDL 8/2020, amounting to €24.5 billion, has been released. The amount of €4 billion is for the benefit of issuers of commercial paper and the amount of €500 million is addressed to CERSA.

By [Resolution of the Council of Ministers of May 20](#), a fourth tranche of the facility, amounting to €20,000 million, was released, entirely for the benefit of SMEs and self-employed workers.

Finally, by [Resolution of the Council of Ministers of June 16](#), the fifth and last tranche of the facility, amounting €15,500 million has been released. The amount of €7.5 billion will be made available



to self-employed workers and SMEs; €5 billion for the rest of companies; €2.5 billion for self-employed workers in the tourism sector and related activities; and €500 million for the acquisition and financial or operating lease of vehicles of inland transport for professional use by companies and self-employed workers.

### Collaborative type of aid

The Guarantee Facility RDL 8/2020, that is effectively available, is provided through the *Instituto de Crédito Oficial* (the Spanish State Finance Agency, or “**ICO**”), in cooperation with financial institutions that adhere to it by entering into a framework cooperation agreement (the “**Framework Agreement**”<sup>1</sup>).

ICO includes information regarding the so called “[\*Línea de Avales Real Decreto-ley 8/2020, de 17 de marzo\*](#)” in its website. ICO also provides in the [\*area for financial institutions\*](#) of its website details of the system to apply for the aid, including contact details and the recommendation of contacting by email.

In the case of issue of commercial paper, the facility is also provided through ICO but in collaboration with the Spanish operator of all stock markets and financial systems in Spain Bolsa y Mercados Españoles (BME). Both ICO and BME shall enter into a framework agreement of collaboration with the issuer and with the placement institutions participating in the program.

In the case of CERSA, for the provision of the facility, the Ministry for Economic Affairs and Digital Transformation will enter into a framework collaboration agreement with this company.

### Objective scope

The type of financing benefiting from the guarantee of the facility is very broad and includes, according with the Resolution of the Council of Ministers of March 25, new loans and other forms of financing and refinancings (“*renovaciones*”) granted by financial institutions to businesses and self-employed workers. The financing cannot be used to pay dividends.

The purpose of the eligible financings includes, according to the updated version of art. 29 RDL 8/2020, financing needs arising, among others, from payment of invoices and salaries and payments to providers, working capital requirements and other liquidity needs, including those resulting from the maturity of financial or tax obligations.

Besides, commercial paper traded in the Spain’s benchmark market for Corporate Debt and Private Fixed Income (“AIAF”) and the Spanish Alternative Fixed-Income Market (“MARF”) can benefit from the guarantee under the relevant subtranche of the facility.

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<sup>1</sup> This agreement is not public.



The subtranche of €500 million under the fifth tranche of the facility shall be used for the acquisition and financial or operating lease of vehicles of inland transport for professional use.

On the other hand, the guaranteed operations cannot be used to cancel or early repay preexistent debts.

It is not compatible with the Guarantee Facility RDL 8/2020, the guarantees granted by CESCE (the Spanish Export Credit Agency) to the same financing transaction.

The guarantee will cover partially the amount of the operations, as follows:

- 80% of the new loans and refinancing of operations requested by self-employed workers and SMEs. In the case of other businesses, the guarantee will cover 70% of the new loans and 60% of the refinancing operation.
- 70% of the amount of the issue of commercial paper.
- 80% if the facility is addressed to CERSA, although it can vary in certain circumstances.

Besides, ICO clarifies that the guarantee covers principal only and not interest, fees or costs relating the underlying financing operation.

For the purposes of the determination of a maximum limit of the financing<sup>2</sup>, operations<sup>3</sup> that exceed €1.5 million, the Temporary Framework applies. In this respect, the EC Decision provides that the amount of the loan over €1.5 million with a maturity beyond 31 December 2020, shall comply with one of the following alternative conditions:

- It will not surpass the double of the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertakings site but formally in the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or
- It will not surpass 25% of total turnover of the beneficiary in 2019; or

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<sup>2</sup> As an exception to the general regime explained in this note, the financing that benefits from the ICO guarantee under the subtranche of €2.5 billion under the fifth tranche of the facility, reserved to SMEs and self-employed workers of the tourism sector and related activities, cannot exceed from €1,500.000.

<sup>3</sup> Both the Agreement of the Council of Ministers and the EU Decision refer to “the amount of the loan [over or lower to €1.5 million]”; but the Commission Regulation (EU) No 1407/2013 of 18 December 2013 regarding the minimis risk finance aids provides thresholds based on the “amount guaranteed [over or lower €1.5 million]”. This makes uncertain whether the authorization of the EU Commission covers loans over €1.5 which guaranteed amount does not exceed that same amount.



- With appropriate justification and based on a self-certification by the beneficiary of its liquidity needs, the amount of the loan may be increased to cover the liquidity needs from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises.

For loans with a maturity until 31 December 2020, the amount of the loan principal may be higher than specified above, with appropriate justification and provided that proportionality remains assured.

The financial institutions will approve the financing transaction according with their internal proceedings and risk policies. Besides, ICO shall assess the fulfillment of the eligibility requirements of the operations over €50 million.

RDL 15/2020 has also provided that the fulfillment of certain tax obligations can be subject to the obtaining of financing for their payment that benefits from the guarantee of the facility.

### Subjective scope

The guarantee facility is open to SMEs<sup>4</sup>, larger companies and self-employed workers of all sectors; however, companies of the financing and insurance sectors are excluded as eligible final beneficiaries.

As an exception, the subtranche of €2.5 billion under the fifth tranche of the facility is reserved to SMEs and self-employed workers of the tourism sector and related activities with certain activity code (“CNAE”).

This guarantee facility is open to businesses and self-employed workers with corporate domicile in Spain, affected by the economic impact of COVID-19, as long as applicants were not in arrears on December 31, 2019 (according to the data provided by the center of risk information of the Bank of Spain), or undergoing insolvency or pre-insolvency proceedings on March 17, 2020.

Besides, for financing operations under the Temporary Framework (over €1.5 million), the company cannot be an “undertaking in difficulty<sup>5</sup>” as of December 31, 2019.

For issue of commercial paper, it is also required that the issuer had traded a program of commercial paper in MARF before RDL 15/2020, of April 21 is in force.

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<sup>4</sup> As defined under [Commission Regulation \(EU\) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty](#). In particular, the legal concept is defined in Annex I, that also provides rules for the so called “linked enterprises” and “Partner Enterprises”.

<sup>5</sup> As defined under article 2, paragraph 18 of [Commission Regulation \(EU\) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty](#).



The Spanish Refinancing Company (CERSA) has access to the guarantee facility too.

The financial institutions that collaborate in the granting of the guarantees can be credit entities, financial establishments of credit (*establecimientos financieros de crédito*), electronic money institutions and payment institutions that have entered into the Framework Agreement with ICO before May 15.

## Time frame

The guarantees granted within the scope of the facility can be requested for refinancing operations agreed as of March 17, 2020, or new loans granted as of March 17, 2020 and until December 31, 2020.

The validity of the issued guarantee will be equal to the loan granted, up to five years.

However, in the case of the issue of commercial paper, the validity of the guarantee will be up to 24 months.

## Financial terms

The guarantee fees for loans and other forms of financing, that the financial institutions shall pay, are in a range of 20-120 bps, depending on the maturity date and the size of the borrower (according to the table below), except for financing operations under €1.5 million that will be remunerated with a fee of 20 bps.

Beneficiary	Instrument	1 <sup>st</sup> year	2 <sup>nd</sup> and 3 <sup>rd</sup> year	4 <sup>th</sup> and 5 <sup>th</sup> year	Coverage
SMEs and self employed	new loans and refinancing operations	20 bps	30 bps	80 bps	80%
Larger companies	new loan	30 bps	60 bps	120 bps	70%
Larger companies	refinancing operations	25 bps	50 bps	100 bps	60%

In the case of the issue of commercial paper, the fees are 30 bps for guarantees with a maturity of 12 months and of 60 bps for guarantees with a maturity of 13 to 24 months.

The financial intermediaries shall transfer the guarantee fees to ICO to a provision fund of the State.

The financial institutions agree to keep the costs of new loans and refinancing operations benefiting from these guarantees in line with the costs applied before the COVID-19 crisis began, considering the public support of the guarantees and their hedging costs. Therefore, the costs shall be lower than the costs of other operations of the same type of client that does not benefit from the guarantee. ICO will supervise this requirement.



Financial institutions cannot require contracting other financial products in the framework of the facility or link the granting of the financing to those other products.

Also, the financial institutions must keep, at least until September 30, 2020, the limits of the working capital facilities granted to all clients, particularly clients whose loans are guaranteed.

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### Guarantee facility for investments (article 1 RDL 25/2020)

A new facility of state guarantees is created by virtue of art. 1 RDL 25/2020 to cover the financing granted by supervised financial institutions to companies and self-employed workers, with the objective of financing investments (the “**Guarantee Facility RDL 25/2020**”).

This facility intends to supplement the Guarantee Facility RDL 8/2020 before explained and provide support to companies and self-employed workers for the financial need in the short term.

The facility is for a maximum of €40 billion and will be available until December 31, 2020.

The [\*resolution of the Council of Ministers of July, 2020\*](#) released a first tranche of this facility amounting to €8 billion (€5 billion of which will be destined to self-employed workers and SMEs) and established the terms and conditions and eligibility requirements of the facility.

As in the case of the Guarantee Facility RDL 8/2020, guarantees are provided through ICO, that shall make the facility effectively available before September 10, 2020. Again, the cooperation of financial institutions that adhered to the Guarantee Facility RDL 8/2020 is required. They may enter into a new framework cooperation agreement with ICO for these purposes and including the terms and conditions of the new facility<sup>6</sup>.

European Commission shall also authorize this new aid before it is effectively available.

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<sup>6</sup> It is not fully clear at this stage whether a new framework cooperation agreement will be put in place or the existing Framework Agreement will be amended. This has impact in certain terms and conditions of the new facility as it will be pointed out case by case in this note.



## > Objective scope

### **Type of financing**

The type of financing benefiting from the Guarantee Facility RDL 25/2020 is very broad and includes, according with the Resolution of the Council of Ministers of July 28 new loans and other forms of financing.

### **Purpose of the financing**

The purpose of the eligible financings includes, according to RDL 25/2020, financing for, mainly, needs arising from new investments.

On the other hand, and in the framework of the release of the first tranche of the facility, the resolution of the Council of Ministers of July 28 establishes that the financing main purpose shall be liquidity needs deriving from ordinary expenses (such as, among others, payment of salaries, invoices, working capital requirements and those resulting from the maturity of financial or tax obligations) and those arising from new investments. It also includes a closed list of eligible investments and financeable concepts.

The resolution excludes these purposes:

- > Purposes such as the payment of dividends
- > Refinancing, restructuring, renegotiation or renewal of existing loans or cancellation or early repayments or financing to any kind of debtors.

### **Coverage of the guarantees**

The guarantees will cover partially the amount of the operations, as follows:

- > 80% of the operations requested by self-employed workers and SMEs.
- > 70% of the operations requested by the rest of companies.

### **Amount of the financing**

For the purposes of the determination of a maximum limit of the financing it has also to be considered the financing guaranteed under the Guarantee Facility RDL 8/2020, if any.





For operations under €1.5 million, with a maturity of 8 years maximum, in a single or several loan transactions, the UE legislation for state aids applies<sup>7</sup>.

For operations that exceed €1.5 million, the Council of Ministers applies the Temporary Framework. In this respect, the Council of Ministers provides that the nominal amount to be guaranteed cannot surpass the higher of:

- > the double of the annual wage bill of the beneficiary for 2019; or
- > 25% of total turnover of the beneficiary in 2019.

However, with appropriate justification and based on a self-certification by the beneficiary of its liquidity needs, the amount of the loan may be increased to cover the liquidity needs from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises.

The financial institutions will approve the financing transaction according with their internal proceedings and risk policies. Besides, ICO shall assess the fulfillment of the eligibility requirements of the operations over €50 million.

The guarantees will be *pari passu* with their underlying financing operations, meaning that losses will be sustained proportionally and under the same conditions by the financial intermediary and the State.

### > **Subjective scope**

The guarantee facility is open to SMEs and larger companies and self-employed workers of all sectors<sup>8</sup>.

This guarantee facility is open to businesses and self-employed workers with corporate domicile in Spain, affected by the economic impact of COVID-19, as long as applicants:

- > were not in arrears on December 31, 2019 (according to the data provided by the center of risk information of the Bank of Spain),

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<sup>7</sup> Commission Regulation (EU) No 1407/2013 of 18 December 2013 regarding the minimis risk finance aids.

<sup>8</sup> In case the Framework Agreement related to the Guarantee Facility 8/2020 applies, companies of the financial and insurance sector would be excluded.



- or undergoing insolvency or pre-insolvency proceedings on March 17, 2020 and,
- for financing operations under the Temporary Framework (over €1.5 million), the company cannot be an “undertaking in difficulty”<sup>9</sup> as of December 31, 2019<sup>10</sup>.

Companies with corporate residence (“sede”) in a tax heaven are excluded.

The financial institutions that collaborate in the granting of the guarantees can be credit entities, financial establishments of credit (*establecimientos financieros de crédito*), electronic money institutions and payment institutions that already had executed the Framework Agreement related to the Guarantee Facility RDL 8/2020 and the facility was effectively operative since May 15, 2020.

ICO may also participate in the financing transaction, under the same terms and conditions of the facility.

### ➤ **Time frame**

Loans shall be granted after July 29, 2020<sup>11</sup>.

The guarantees within the scope of the facility can be requested until December 1, 2020 and can be granted until December 31, 2020.

The validity of the issued guarantee will be equal to the loan granted, up to eight years.

### ➤ **Financial terms**

The guarantee fees are in a range of 20-285 bps, depending on the maturity date and the size of the borrower (according to the table below), except for financing operations under €1.5 million that will be remunerated with a fee of 20 bps.

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<sup>9</sup> As defined under article 2, paragraph 18 of [Commission Regulation \(EU\) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty](#).

<sup>10</sup> This requirement is not included in RDL 25/2020 or the resolution of the Council of Ministers of July 28 2020. However, it may apply according to the UE legislation of state aid.

<sup>11</sup> The date of publication of the resolution of the Council of Ministers of July 28.



Maturity of the guarantee	SMEs and self-employed	Larger companies
until 1 year	20 bps	30 bps
year 1 to 3	30 bps	60 bps
year 3 to 5	80 bps	120 bps
year 5 to 6	80 bps	125 bps
year 6 to 7	169 bps	260 bps
year 7 to 8	188 bps	285 bps

The financial intermediaries shall transfer the guarantee fees to ICO and ICO shall transfer them to a provision fund of the State.

The financial institutions agree to keep the costs of new loans and refinancing operations benefiting from these guarantees in line with the costs applied before the COVID-19 crisis began, considering the public support of the guarantees and their hedging costs. Therefore, the costs shall be lower than the costs of other operations of the same type of client that does not benefit from the guarantee. ICO will supervise this requirement.

Financial institutions cannot require contracting other financial products in the framework of the facility or link the granting of the financing to those other products.

Also, financial institutions shall keep, at least until December 30, 2020, the limits of the working capital facilities granted to all clients, particularly clients whose loans are guaranteed.

No financial cost or expenses can be charged to the borrower over undrawn amounts.



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## Liquidity increase of ICO (article 30 of RDL 8/2020)

Under article 30 of RDL 8/2020, the ICO net debt limit is increased by €10 billion, so that it can provide businesses with additional liquidity through ICO facilities with the intermediation of financial institutions, or through direct financing to larger companies.

The regulation also envisages that ICO will adopt all the measures necessary, through its decision-making bodies, to provide greater flexibility to and increase the funding available, and to improve access to the credit for businesses, preserving the necessary financial balance provided in their bylaws.

This measure will allow ICO to devote more funds to the purposes and in the manner it had been doing so until now (although with greater flexibility), i.e., through the facilities already available and following its standard procedures. The facilities are explained on the [ICO website](#).

ICO currently offers the following national facilities:

- > “ICO SMEs and Entrepreneurs Facility”
- > “ICO Mutual Guarantee Company Facility”, a guarantee facility
- > “ICO Commercial Credit Facility”, for the advance payment of bills
- > “Línea de Aavales Real Decreto-ley 8/2020, de 17 de marzo”, for the guarantee facility related to the Covid-19 crisis above explained

and international facilities:

- > “ICO International Facility”
- > “ICO Exporters”
- > “ICO International Channel Facility”

The most noteworthy of these facilities, owing to its versatility and the amount granted, is the ICO SMEs and Entrepreneurs Facility. Its objective scope (the end-use of the financing) and subjective scope (potential applicants) are both very broad. Below we summarize the main conditions:

- > Financing: up to €12.5 million per client and year
- > Term: 1-20 years with the option of a 3-year grace period
- > Several types: loan, leasing, renting and line of credit



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### “Thomas Cook” Facility (article 12 and first additional provision of RDL 7/2020)

Under the above provisions of RDL 7/2020, businesses in the tourism sector and related activities can apply for the ICO facility known as “ICO Tourism Sector affected by COVID-19”, amounting to €400 million.

The facility was first offered under article 4 of [\*Royal Decree-Law 12/2019, of October 11, introducing measures for undertakings affected by the liquidation of Thomas Cook\*](#), for €200 million (increased to €400 million under Royal Decree-Law 7/2020).

The funds of this facility have been spent entirely. Eligible companies may consider instead the application for the guarantee facility (called “[\*Línea de Avals Real Decreto-ley 8/2020, de 17 de marzo\*](#)”) explained above.

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### CESCE internationalization facility (article 31 of RDL 8/2020)

Under article 31 of RDL 8/2020, an insurance coverage facility of up to €2 billion has been created, charged to the Internationalization Reserve Fund for businesses facing liquidity problems or lack of access to financing as a result of the COVID-19 crisis.

The facility will be made available in two equal tranches, the second taking effect once it has been determined that the first tranche has been used properly.

Coverage will be provided by CESCE (the Spanish Export Credit Agency), in its own name and on behalf of the State.

#### Subjective requirements

The facility is intended for SMEs and larger companies, preferably operating in the sphere of internationalization, that fulfill at least one of the following two requirements:

- Their international business, as appearing in the most recent financial information available, must represent at least 33% of their turnover.
- They must be carry out export transactions on a regular basis (companies that have carried out export activities on a regular basis over the last four years in line with the criteria established by the Secretary of State for Trade).

Listed companies can access to this facility in accordance with RDL 25/2020. These companies can benefit from up to a maximum of 35% of the facility amount.



This excludes companies in a situation of insolvency or pre-insolvency, that were in arrears with payments to public sector companies or in debt with the authorities before December 31, 2019.

## Objective requirements

New financing needs and not situations arising before the current crisis.

The funds do not necessarily have to be destined to entering into export agreements.

## Time frame

The duration of the facility will be six months from the entry into force of RDL 8/2020 last March 18, 2020.

## Terms and conditions

The percentage of cover for credit risk will not exceed 80%.

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## Facility for innovating and digitally transforming the tourism sector (article 11 RDL 25/2020)

RDL 25/2020 regulates the bases of a financing facility, in the form of reimbursable loans, for up to €216 million, for companies and self-employed workers in the tourism sector affected by the COVID-19 crisis, to finance digital transformation and innovation projects in Spain.

## Subjective scope

Eligible borrowers for this state facility are companies and self-employed workers that meet the following requirements:

- they must belong to the tourism sector, established in the list of Spanish National Classification of Economic Activities (CNAE) indicated in RDL 25/2020;
- have an equity capital the equivalent of 33% of the total equity and liabilities;
- meet their obligations to submit accounts to the commercial registry and to settle company tax; and
- meet the tax and social security obligations.

Excluded as beneficiaries of the facility are companies and self-employed workers that are:

- declared insolvent or in which any of the circumstances indicated in [article 13.2 of General Act 38/2003, of November 17, on Subsidies](#) concur,
- considered an “undertaking in difficulty” (in line with the definition in article 2, section 18 of [Commission Regulation \(EU\) No. 651/2014, of June 17, 2014, declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty](#)),
- in default of payments of other loans and advance payments granted against the state general budget, or



- subject to a recovery order in relation to an aid that the European Commission declared illegal and incompatible with the internal market.

## Objective scope

RDL 25/2020 establishes the two following category of eligible projects, with details for each one of the actions they must involve:

- projects promoting digital transformation, and
- projects for research, development and innovation in the tourism sector.

The expenses arising from the eligible projects and actions, corresponding to the period between February 1 and December 31, 2020, that fit the categories established in the regulation, can be financed.

## Applications and processing of loans

The loans will be granted on a competitive basis ([article 22.1 of the General Subsidy Act](#) and [Implementing regulation approved by Royal Decree 887/2006, of July 21](#)), and the law provides ample regulation.

The Spanish Ministry for Industry, Commerce and Tourism will call for applications, and the Secretary of State for Tourism will handle processing and decisions, as well as granting the loans and following up on the financed actions.

Processing will be online for all stages of the procedure, at the Ministry for Industry, Commerce and Tourism's electronic office (<https://sede.serviciosmin.gob.es>).

The deadline for submitting applications will start the day after the publication of the call for applications in the Official Gazette of the Spanish State and will end one month later.

The loans will be disbursed in one payment.

## Financial conditions

The loans will have a maximum repayment term of six years, with a grace period of three years, and annual installments of equal amounts.

A rising interest rate will apply to the loans (see table below), which will be paid annually together with the capital (once the grace period has expired):

Beneficiary	Interest year 1 (%)	Interest years 2 and 3 (%)	Interest years 4, 5 and 6 (%)
SMEs	0.1	0.19	0.69
Large companies	0.19	0.69	1.69

## Amount to be financed

The amount to be financed is subject to the following restrictions:



- The minimum amount that can be financed is €50,000.
- The amount cannot be (i) more than 75% of the project's budget, or (ii) more than 80% considering other public funds granted to the same project.
- The amount cannot be five times greater than the last equity capital.
- The amount cannot exceed €800,000, or be more than double the amount of annual salary costs, or more than 25% of the total business volume, corresponding to 2019.

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### Legal moratorium for mortgage-backed loans (article 3 RDL 25/2020)

At the request of mortgage debtors, the financial institutions will grant a moratorium of up to 12 months on the repayment of the principal of loans secured by mortgage on property used for the tourism business in Spain.

#### Subjective scope

This measure is aimed at companies and self-employed workers in the tourism sector (established in a list of codes by the Spanish National Classification of Economic Activities, "CNAE"), with registered office in Spain that have financial difficulties as a result of the COVID-19 crisis and that would not have declared insolvency before the declaration of the state of emergency.

Financial difficulties are considered to exist for the purpose of this measure when the mortgage debtors had, on an average for the months of March to May, 2020, experienced a reduction of income or billing of at least 40% of the average of the same months in 2019.

The moratorium will be extended to the guarantors of the loans.

Companies requesting this moratorium will not be entitled to distribute dividends, receive refunds of capital, re-purchase own shares or benefit from any other form of capital remuneration until the moratorium has ended.

#### Objective scope and effects

Loan contracts have to be subject to Spanish law and signed before the declaration of the state of emergency.

Excluded from this measure are loans in default before January 1, 2020, or that had already benefitted from a legal moratorium (under [RDL 8/2020](#)), a sectoral moratorium (under [RDL 19/2020](#)) or a moratorium by agreement since the start of the state of emergency (unless there is a waiver in the case of a moratorium by agreement). However, if the term of these legal moratoriums and moratoriums by agreement is under 12 months, a new moratorium





can be implemented for the term remaining to complete the 12 months.

The moratorium will apply to installments due and unpaid since January 1, 2020, and can be implemented through (i) a redistribution of the installments (without changing the term or altering the interest), or (ii) an extension of the maturity date.

The deferred capital will accrue interest at the rate agreed in the original loan contract.

As per the lender, the deferred capital will not be considered due and payable.

If the mortgaged property is leased, the beneficiary of the moratorium must also grant the tenant a moratorium on the rent payment of at least 70% of the amount of the debt moratorium (unless a different agreement is reached). If the financial difficulties defined earlier only affect the tenant, the tenant could urge the mortgage debtor to request the debt moratorium, so as to obtain the moratorium on the rent payment.

### Application and formalities

Applications for moratorium can be submitted until the date established in the [Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis](#) (currently until September 30, 2020).

Implementing the moratorium will require formalizing a novation of the loan and registering it with the property registry with effects, if applicable, against other registered creditors.

The regulation establishes a 50% allowance on the notarial and registry fees arising from the formalizing and registering of the novation of the mortgage-backed loan, and an exemption from the stamp duty tax.

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## Legal moratorium for financings of public transport vehicles (article 18 RDL 26/2020)

Companies and self-employed workers in the transport sector can apply for a moratorium of up to 6 months from their creditors to pay loan principals, and the leasing and renting of public-transport passenger buses and goods vehicles.

### Subjective Scope

This measure is aimed at companies and self-employed workers in the public-transport sector that have financial difficulties as a result of the COVID-19 crisis and that would not have declared insolvency before the declaration of the state of emergency.



Financial difficulties are considered to exist for the purpose of this measure when the mortgage debtors had, on an average for the months of March to May, 2020, experienced a reduction of income or billing of at least 40% of the average of the same months in 2019.

The moratorium will be extended to the guarantors of the financings.

Companies requesting this moratorium will not be entitled to distribute dividends, receive refunds of capital, re-purchase own shares or benefit from any other form of capital remuneration until the moratorium has ended.

### Objective scope and effects

The moratorium will suspend the payment obligations of capital under the financing agreement and can be implemented through (i) a redistribution of the installments (without changing the term or altering the interest), or (ii) an extension of the maturity date.

The deferred capital will accrue interest at the rate agreed in the original financing contract.

Are exclude from this facility:

- > financings in default before January 1, 2020 and
- > financings regarding buses related to a public service or regular transport or passengers in the framework of a public service agreement.

Financings that had already benefitted from a legal moratorium or a moratorium by agreement for a term under 6 months can be implemented for the term remaining to complete the 6 months.

As per the lender, the deferred capital will not be considered due and payable.

### Application and formalities

Applications for moratorium can be submitted until the date established in the [Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis](#) (currently until September 30, 2020).

Implementing the moratorium will require formalizing a novation of the financing contracts with effects, if applicable, against other registered creditors.



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## Other measures of liquidity and support for industrialization and sectors (RDL 11/2020, RDL 15/2020, RDL 17/2020 and RDL 26/2020)

We draw particular attention to the following measures adopted under RDL 11/2020, RDL 15/2020 and RDL 17/2020 to ensure liquidity and support for industrialization.

- It has amended the terms and conditions to call tenders for loans granted by the General Secretary of Industry and SMEs (**SGIPYME**) that were pending resolution at the beginning of the state of emergency, extending the period for beneficiaries to provide security to November 3, 2020.
- Beneficiaries of loans granted by SGIPYME for industrial projects can ask for repayment schedules to be amended and loans to be subrogated within two and a half years from the beginning of the state of emergency if these beneficiaries have been affected by the COVID-19 public health crisis. This measure affects SGIPYME programs involving industrial redevelopment, promoting competitiveness in strategic industrial sectors, promoting competitiveness in the automotive sector, industrial redevelopment and strengthened industrial competitiveness, and the Connected Industry 4.0 and R+D+i programs in the manufacturing industry.
- **ICEX** España Exportación is authorized to return irrecoverable expenditure to companies that have paid these expenses to participate in international promotion activities affected by the COVID-19 public health crisis. It also establishes that financial assistance will be made available to these businesses.
- The payment of interest and capital amortization has been suspended on loans granted by the General Secretary of Tourism in the framework of funding lines included in the **Emprendetur** program.
- Businesses and self-employed workers can request deferred payment of principal or interest that should have been paid in the remaining months of 2020 under the financial loan agreements (excluding certain types of financial instruments) granted by the authorities of **autonomous regions and those of local authorities** that belong to the public administrations sector.
- The Spanish Refinancing Company (*Compañía Española de Reafianzamiento S.M.E., S.A.*, or **CERSA**) has been given a credit supplement amounting to €60 million to go toward its “Small and Medium-Sized Enterprises Support Program.”



- The Spanish Audiovisual Guarantee Company (*Sociedad de Garantía Recíproca Audiovisual Fianzas SGR*) shall promote, in collaboration with financial institutions willing to participate, certain financing facilities addressed to companies of the cultural sector, amounting to € 780.000.000 €.
- A solvency support fund is created for the recapitalization of strategic companies, with an initial amount of €10 billion. The fund will be managed—through the state-owned industrial holding company (“SEPI”)—by the newly created management committee to support the solvency of strategic companies.

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