

**Update on the BMF Guideline of 08 April 2020
COVID-19 financial measures**

1. BMF guideline- 08 April 2020

This guideline is for financial measures to maintain solvency and bridge liquidity difficulties for companies affected by the SARS-CoV-2 pandemic (BGBl. II Nr. 143/2020). BMF is authorized to issue ordinances under the the ABBAG Act (see § 3b ABBAG Act). The newly established COVID-19 Finanzierungsagentur des Bundes GmbH (**COFAG**) is responsible for carrying out the guideline.

The guideline adheres to the COVID-19 Communication (**Temporary Framework**), and other requirements from the European Commission. The Commission approved it on 08 April 2020. Details can be found in this press release: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_633

The Austrian Federal Government's **plan** involves:

- **Direct grants** (direct subsidies and repayable advances) - **These will be regulated by a separate guideline, and are not dealt with here.**
- **Guarantees**
- **Direct loans** (bridge loans)

We will indicate content in the guideline that is new ("NEW").

2. Who benefits?

The guideline will only provide benefits to companies that:

- have a registered office or permanent establishment in Austria, and carry out their main operational activities in Austria; and
- did not experience financial difficulties until after 31 December 2019.

Companies in the financial sector (credit institutions, insurance companies, investment firms, etc.) are excluded. There is no legal entitlement to these benefits.

3. What can benefits be used for?

The benefits are intended to cover **payment obligations that a company cannot meet, because their turnover has been affected by the COVID-19 pandemic**. This includes rents, lease payments, wages and salaries, taxes, levies and charges, remuneration for services essential to the business, insurance premiums, etc. A company must show that it has taken appropriate measures to reduce the payment obligations. This could be a reduction in the purchase of goods, recourse to liquidity reserves, financial measures by the beneficial owner or shareholder, etc. COFAG will also consider whether the payment

obligations can be covered or reduced by other measures, such as tax deferrals, short-time work, or insurance.

Benefits cannot be used to reschedule debt or repay existing financing, except for individual loan instalments or interest payments which become due on dates that were already contractually fixed prior to the COVID-19 Act.

4. How will benefits be administered?

In principle, a company can receive benefits in all available forms. **NEW:** However, if the company is unlikely to be able to repay the funds needed to cover its liquidity requirements within a reasonable period of time, in the normal course of business, only direct grants are available. As mentioned above, direct grants are not covered by this guideline.

- The **amount** of the benefit is based on the company's uncovered payment obligations during the period under consideration. This would be the expected duration of the COVID-19 economic effects on the company. Initially, **01 March 2020 – 30 September 2020** can be used. **COFAG will examine claims exceeding EUR 120 million separately, because they require approval by entire COFAG Supervisory Board. NEW: Factors to be considered include overall economic stability, location guarantee, appropriate financial participation from the owners, the company's ability to survive, long-term preservation of jobs, etc.** The Commission's Temporary Framework determines the **maximum amount**, which is generally **twice the company's annual wage bill or 25% of the total turnover in 2019**.
- The **term** and **repayment date** depend on when the company can overcome the effects of COVID-19. The Temporary Framework limits the **maximum** term for guarantees and loans to **six years**
- **Liability fees** and interest rates are also set by the Temporary Framework. The **minimum premium for guarantees** ranges from **50 - 200 basis points** for large companies, depending on the term. For loans, the interest rate is at least the **base rate** applicable on 01 January 2020 (IBOR for one year or equivalent rate, published by the Commission), plus a **credit risk margin of 50 - 200 basis points**, depending on the term (see attachment).
- Benefit agreements with COFAG must be made in writing, ideally using standardized templates. The agreement must detail the type and amount of the benefit, the term or repayment period, any recourse or repayment claims, information and inspection rights, and any prohibition of assignment or pledging.
- **The application period is currently open until 31 December 2020.** Applications must be submitted to the **house bank**, which is the credit institution that will grant the loan. The application is then forwarded to:

Österreichische Kontrollbank (OeKB)	for large companies
Austria Wirtschaftsservice GmbH (AWS)	for small and medium-sized companies
Österreichische Hotel- und Tourismusbank GmbH (ÖHT)	for tourism companies

- Companies must use the **application forms** provided by COFAG. The application must indicate liquidity requirements, payment obligations, measures taken to date, type of support, and the repayment period. Additional documents must be attached to the application. These may include annual financial statements, monthly balance lists, documentation of other COVID-19 support received, etc. COFAG's application form and general terms and conditions can be downloaded in German at <https://cofag.at/> (see also attached).
- **NEW:** By submitting an application, the applicant enters into numerous obligations which may be extended by COFAG in individual cases. These include:
 - Using benefits only to cover the stated liquidity requirements, in order to maintain existing business activities in Austria;
 - Taking all reasonable measures to preserve jobs;
 - Allowing COFAG, the federal government, OeKB, or any other authorized representative to obtain information, audit the business or finances, and inspect the company at any time;
 - Not paying unreasonable remuneration, remuneration components, or other unreasonable benefits to company owners, governing bodies, employees or subcontractors;
 - Not paying bonuses to the management board or managing directors exceeding 50% of the previous year's bonuses;
 - Prohibiting dividend and profit distribution from 16 March 2020 to 16 March 2021. Reserves may not be released to increase the balance sheet profit, and the liquidity gained from the benefit may not be used to (i) distribute profit, (ii) buy back shares, or (iii) pay bonuses to the management board or managing directors.

Companies requiring additional support may approach COFAG, the BMF, or the Vice-Chancellor to negotiate individual State aid packages to the extent possible under the law.

Please do not hesitate to contact us at any time with questions.