# COVID-19: Swiss government financial support measures

27.03.2020

**Key takeaways**

1. **Individual companies, partnerships or legal entities domiciled in Switzerland that suffer from liquidity bottlenecks as a result of the economic effects of the coronavirus crisis should now consider the possibility of taking out a bridging loan under the federal or cantonal support programme and contact the credit institutions.**
2. **Likewise, interested credit institutions should evaluate the chances of a possible participation in the bridging loan programme within the framework of their individual COVID-19 measures programme and consider a corresponding application for participation.**

## I. Emergency ordinance on granting of credits with joint and several federal guarantees

1. Chronology and objectives

On 20 March 2020, the Federal Council presented a comprehensive package of measures to cushion the economic consequences of the COVID-19 pandemic ( see legal update of 21 March 2020).

On 26 March 2020, the announced programme for granting loans with joint and several guarantees for small and medium-sized enterprises (guarantee programme) came into force. It is based on the ordinance on granting of credits with joint and several federal guarantees in response to the coronavirus (hereinafter also referred to as the "Ordinance"), which was passed by the Federal Council on 25 March 2020.

The programme was developed in cooperation between the federal government and banks to ensure that the companies concerned have access to loans to bridge COVID-19-related

liquidity bottlenecks. It provides companies affected by the consequences of the coronavirus with guaranteed bridging loans of up to 10% of their turnover, or a maximum of CHF 20 million.

2. Total volume of bridging loans

The total financial amount of the guaranteed COVID-19 credits and thus the estimate of the maximum losses to be borne by the Confederation is determined by the Federal Assembly by means of a commitment credit in accordance with the Federal Budget Act of 7 October 2005 (FHG). The total volume is to amount to CHF 20 million. The Federal Council requests this commitment credit from the Federal Assembly. Due to the urgency of the matter, it was initially approved on 23 March 2020 only with the approval of the Finance Delegation. It will be submitted to the Federal Assembly for approval at a later date on the basis of Art. 28 FHG.

3. Structure of the granting of credit and guarantees

The guaranteed loans do not constitute a state guarantee independent of the banks' loan agreements but enable the Federal government to support the four recognised guarantee organisations ( BG Mitte, BG OST-SÜD, Bürgschaftsgenossenschaft SAFFA, and Cautionnement romand (Bürgschaft Westschweiz)) in issuing joint and several guarantees. These guarantee the bridging loans to the banks. The banks thus have 100% or 85% coverage by the guarantee organisations. The guarantee cooperatives, in turn, have 100% coverage from the Confederation for all guarantees received as part of this bridging loan programme.

4. Overview of the bridging loans

The Ordinance distinguishes between the following two types of credit:

## COVID-19 CREDIT and COVID-19 CREDIT-PLUS

| | COVID-19 Credit | COVID-19 Credit-Plus |
|---|---|---|
| Maximal amount | Up to CHF 500,000, maximum of 10% of the turnover | Between CHF 500,000 and CHF 20 million *** |
| Coverage | 100% | 85% |
| Interest rate | Currently 0.0% * | Currently 0.5% * |
| Term | 60 months ** | 60 months ** |
| Availability | Within few hours | Within few days |

* The FDF, in consultation with the participating banks, will adjust interest rates to market developments on 31 March each year, for the first time on 31 March 2021. In any case, the interest rate for the COVID-19 Credit will at least amount to 0.0% and for the COVID-19 Credit-Plus to 0.5%.

** In cases of hardship an extension to seven years may be granted.

*** In the event of considerable hardship, the guarantee organisation may exceptionally increase the joint and several guarantee appropriately above the CHF 20 million, subject to approval by the Federal Department of Economic Affairs, Education and Research (EAER) in agreement with the Federal Department of Finance (FDF).

Credit requirements

General requirements

Individual companies, partnerships or legal entities domiciled in Switzerland that suffer from the economic effects of the global fight against the COVID-19 pandemic and whose annual turnover does not exceed CHF 500 million are entitled to a bridging loan. The companies must also meet certain conditions, according to which the company must:

1. have already been established in Switzerland before the COVID-19 pandemic, i.e. before 1 March 2020;
2. not be in bankruptcy or composition proceedings or in liquidation at the time the application is submitted;
3. be economically significantly affected by the COVID-19 pandemic, in particular with regard to turnover; and
4. not have already received, at the time of application, liquidity guarantees based on emergency regulations in the fields of sport or culture.

These requirements must be confirmed by the applicant in the form of a self-declaration on the application form. The lending bank and guarantee organisation only check the formal completeness of the information provided. Incomplete or untrue information may result in criminal prosecution.

Additional COVID-19 Credit-Plus requirements

All customers who wish to apply for a bridging loan of over CHF 500,000 must first have received a COVID-19 Credit before applying for a COVID-19 Credit-Plus.

In addition to the requirements of the COVID-19 Credit, the following applies:

1. The applicant has a company identification number (UID number);
2. The bank carries out a credit check in accordance with standard industry practice and, if the credit decision is positive, submits the application to the responsible guarantee organisation;
3. The loan is paid out as soon as the responsible guarantor cooperative has signed the guaranty agreement with the bank.

The maximum loan amount (10% of turnover) is calculated in the same way as for the COVID-19 Credit, (with a corresponding reduction of the joint and several guarantee already

granted under the COVID-19 Credit).

Calculation of the bridging loan

The total amount guaranteed may not exceed 10% of the applicant's turnover in 2019, so a final financial statement for 2019 must be available. If the final annual financial statements for 2019 are not available, the provisional version or, in the absence thereof, the turnover for 2018 will be decisive. In the event of the start of business operations on 1 January 2020 or later, or in the event of an overlong business year following the establishment of the company in 2019, the turnover will be deemed to be three times the net salary for a business year, but at least CHF 100,000 and at most CHF 500,000. This provision therefore excludes start-ups that have not yet achieved any turnover from receiving the bridging loan.

Restrictions on the use of the bridging loans

The joint and several guarantees granted under the Ordinance may exclusively be used to secure bank loans for ongoing liquidity needs, such as to cover, for example, ongoing rental or material costs. Personnel expenses should be mainly covered by the COVID-19 measures in the areas of short-time work and income replacement. Excluded are, among other things, the payment of dividends, the reimbursement of capital contributions or new investments in fixed assets that are not replacement investments. Also excluded is the transfer of credit funds secured by the joint and several guarantee to a group company directly or indirectly affiliated with the applicant which is not domiciled in Switzerland.

Accounting of bridging loans

The Ordinance provides – for a limited period until 31 March 2022 – that for the calculation of the coverage of capital and reserves in accordance with Art. 725 paragraph 1 of the Swiss Code of Obligations (CO) and for the calculation of over-indebtedness in accordance with Art. 725 paragraph 2 CO, loans up to CHF 500,000 (COVID-19 Credits) are not considered as borrowed capital. These loans are therefore off balance sheet. Loans over CHF 500,000 (COVID-19 Credit-Plus), on the other hand, must be booked as normal liabilities, i.e. as borrowed capital.

Application procedure

Loan applications must be submitted to the lending bank by 31 July 2020 using the application form and sent to the guarantee organisation by the bank by 14 August 2020.

Participating credit institutions

Participating banks

The list of participating banks with respective contact details can be found at the following link: https://covid19.easygov.swiss/banken/

Numerous banks with lending operations have registered for participation in the programme, including branches of foreign banks. As of 26 March 2020 at 6:00 p.m., 113 banks participated in the programme.

Participation of PostFinance

As many SMEs only have an account with PostFinance, the Federal Council is also enabling PostFinance to provide its existing corporate customers with access to loans of up to CHF 500,000. However, this special solution and limited exception is limited in time and applies exclusively to COVID-19 loans and existing Postfinance customers.

Penalties for abuse

If a borrower deliberately makes false statements in order to obtain a loan, this constitutes in most cases fraud in the sense of Art. 146 of the Swiss Penal Code, which is punishable with a prison sentence of up to five years. If there is no fraudulent intent, the fraudulent obtaining of a loan by deliberately providing false information is punishable by a fine of up to CHF 100,000. If loans are used for purposes other than those intended, the Ordinance provides for a fine of up to CHF 100,000.

5. Interaction of federal and cantonal packages of measures

Many cantons have also adopted measures. In this context, the measures taken by various cantonal banks, which are making amounts available to support corporate customers, deserve special mention. For example, the package of measures adopted by the canton of Zurich with the participation of the Zurich commercial banks, which grants loans to companies with a tax domicile in the canton of Zurich and with up to 250 employees. The credit default guarantee of the canton covers 85% of the total credit volume of CHF 500 million.

From a federal point of view, supplementary cantonal assistance should be permissible since federal guarantees and cantonal guarantees are independent of each other and are mutually complementary offers.

**II. Supplementary federal measures**

Swiss National Bank

On 25 March 2020, the Swiss National Bank (SNB) announced that it will introduce a new SNB COVID-19 refinancing facility (CRF). The CRF will enable banks to draw liquidity from the SNB in return for depositing loans guaranteed by the Confederation. The SNB has also requested that the countercyclical capital buffer be reduced to 0% with immediate effect. In addition, the SNB is increasing the allowance on negative interest rates for banks with effect from 1 April 2020, thereby strengthening their ability to provide the economy with liquidity through loans. Finally, the decision of 19 March 2020 to leave the key interest rate unchanged and instead rely more heavily on foreign exchange intervention is effective in this situation to counteract the upward pressure on the Swiss franc.

FINMA

Finally, FINMA announced on 25 March 2020 that it will grant banks a temporary exemption in the calculation of the leverage ratio.

These additional federal measures are to be welcomed as they are complementary and useful in ensuring that banks can provide companies with the best possible liquidity.

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No legal or tax advice

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