

CLIENT ALERT

SIH Anti-Corona Guarantee

**Financial Aid to SMEs
via
Guarantees for Bank Loans
and
Interest Rate Subsidies
provided by
Slovak Investment Holding**

**GUARANTEES FOR BANK LOANS AND INTEREST RATE SUBSIDIES
AS A FINANCIAL INSTRUMENT PROVIDED TO SMEs BY SLOVAK
INVESTMENT HOLDING**

On 30 March 2020, the Slovak Investment Holding, a.s. (“**SIH**”) launched a new programme of financial aid for small and medium-sized enterprises (the “**SMEs**”) to help them overcome the adverse period caused the spread of human disease COVID-19 by releasing a call to financial institutions for taking a part in the implementation of the “**SIH Anti-Corona Guarantee**” financial instrument. This instrument is intended to help SMEs in Slovakia to overcome the financial difficulties and liquidity problems caused by the COVID-19 crisis and to help preserve employment and retain jobs.

On 30 March 2020, SIH launched the call for expressions of interest under the SIH Anti-Corona Guarantee and, under publicly available information as of the date of this alert, SIH has already signed contracts with four commercial banks operating in Slovakia, namely Slovenská sporiteľňa, a.s., VÚB, a.s., BKS Bank AG, pobočka zahraničnej banky v SR and UniCredit Bank Czech Republic and Slovakia, a.s., pobočka zahraničnej banky. In total, nine commercial banks applied for the call for expressions of interest under the SIH Anti-Corona Guarantee as published by SIH on 30 March 2020.

The SIH Anti-Corona Guarantee is a new financial instrument employing the European Structural and Investment Funds and the funds of the state budget of the Slovak Republic; the originally allocated funds amounted to EUR 38 million; however, SIH informed on its webpage that a significant growth in the overall volume of funds is further expected and negotiated (e.g. with the Ministry of Economy of the Slovak Republic by further EUR 57 million), plus also to be supported by further announced measures of the Government of the Slovak Republic.

The financial aid under the “SIH Anti-Corona Guarantee” financial instrument is subject to *de minimis* thresholds for the state aid as stated by the EU law.

The SIH Anti-Corona Guarantee may consist of the following two components:

- Portfolio guarantees for loans provided by banks, which will subsequently provide preferential bridging loans to SMEs;
- Interest rate subsidies to reduce interest rates on the loans to SMEs, i.e. payment of all or a part of the interest on loans to SMEs (potentially resulting to interest free loans).

This client alert was prepared on 10 May 2020 based on publicly available information, mainly as published on the webpage of Slovak Investment Holding, a.s. - <https://www.sih.sk/en/>.

A. PORTFOLIO GUARANTEE FOR LOANS PROVIDED BY BANK

SIH provides a portfolio guarantee to the participating banks according to these parameters:

- A guarantee in the maximum amount of 80% of an individual banking loan;
- A guarantee up to a total maximum of 50% of the portfolio of banking loans included in the SIH Anti-Corona Guarantee programme.

Based on this portfolio guarantee, the commercial banks create and manage a portfolio of new loans for which guarantees are provided. The SIH's guarantee covers credit risk at the level of individual loans and at the level of the entire loan portfolio, which brings an advantage of financing conditions for SMEs, i.e. the guarantee under the SIH Anti-Corona Guarantee is the obligation of SIH, particularly its subsidiary National Development Fund II., a.s., towards the banks.

B. INTEREST RATE SUBSIDY

The main principle is that the interest rate subsidy under the SIH Anti-Corona Guarantee reduces the loan interest rate to be paid by the SME to the bank and may be granted to a loan provided to the SME by the bank under a loan agreement concluded between the SME and the bank directly. This form of financial aid is for the benefit of SMEs, but is not paid directly to them.

The bank shall evaluate and verify whether the SME fulfils the conditions under which the interest rate subsidy can be provided within the framework of the SIH Anti-Corona Guarantee.

The entitlement to the interest rate subsidy arises on the day on which the participating bank includes an SME in the interest rate subsidy scheme after all conditions have been met. The aid in the form of an interest rate subsidy may be granted only after 12 months from the date of drawing the loan (i.e. after expiry of the deferral period for the payment of the loan), and is granted retrospectively, i.e. it applies to the interest due for the deferral period. The interest rate subsidy will be paid back to the bank on the basis of the received request.

Product description for SMEs applying for inclusion into the SIH Anti-Corona Guarantee scheme:

- Total maximum loan amount: EUR 1,180,000.00;
- Minimum maturity: 3 years (36 months) including deferred payments;
- Maximum maturity: 4 years (48 months) including deferred payments;
- Deferral of the principal amount and the interest rate payments: 12 months from the first drawing of the loan;
- No security of the loan or other collateral required from the SME;
- Interest rate: The standard interest rate that would otherwise apply to the loan given by the bank will be reduced in the first step by reducing the bank's margin by 50% based on the provided portfolio guarantee. Subsequently, the interest rate determined in this way will be additionally reduced on the basis of the interest rate subsidy by max. 4% p. a., but only up to a final interest rate of 0%. The bank may not apply an interest rate subsidy of less than 4% if the final interest rate is above 0%. SIH expects that this financial instrument will help to reduce the overall interest rate for SMEs to the interest rate range from 0% up to 2% p. a.;
- No fees for granting / increasing / guaranteeing / early repayment of the loan. Other fees shall be governed by the standard fee schedule of the commercial bank in question.

Eligibility conditions for inclusion of the SME to the SIH Anti-Corona Guarantee scheme (i.e. Conditions for provision of loans with the portfolio guarantee thereunder):

- The SME is incorporated and performs its business activities in the Slovak Republic (in any region);
- The SME loan applicant complies with the definition of the “*small and medium-sized enterprise*” as stated by the EU law;
- The SME may not meet the definition under the relevant EU legislation for “*undertaking in difficulty*” if they are older than 3 years;
- The SME must not meet the criterion of the highest credit risk rating category according to the internal rating evaluation of the bank in question;
- The SME may not be claimed for a refund of the financial aid on the basis of a previous decision of the European Commission due to the ineligibility of the previous aid provided;
- The SME must not be convicted of a criminal offense concerning their professional conduct, fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the EU's financial interests;
- They must not be the subject of a final decision imposing a sanction for violating any legislation prohibiting the illegal employment of third-country citizens;
- The loan cannot be provided to SMEs in the fisheries and aquaculture sector, the primary production of agricultural products, under certain conditions in the agricultural processing and marketing sector, for export-related activities to third countries or other EU Member States, or as for the purposes of preferring domestic over imported goods.

Additional conditions for obtaining the interest rate subsidy on the loan under the SIH Anti-Corona Guarantee scheme:

- During the period of twelve (12) months from the first drawing of the loan, the SME maintains the average level of employment of “regular” employees compared to the previous status [*NOTE: it is not completely clear whether the full time working employees or generally employees working for the SME under a standard employment contract are meant here.*];
- If, at the time inclusion of the SME into the SIH Anti-Corona Guarantee scheme, the SME had outstanding liabilities towards the Social Insurance Agency or the health insurance company for more than one (1) month, these liabilities were duly paid by the SME as a result of the loan provided under the scheme (this, however, does not mean that the SME may use the loan funds for payment of such liabilities).

Eligible purposes of the loan:

- Acquisition of tangible and intangible assets related to maintaining or increasing the number of jobs, including transfers of ownership rights in enterprises (e.g. purchase of new machinery / technology / licenses, renovation of buildings, etc.) and additional working capital;

- Serving as working capital related to maintaining or increasing the number of jobs and to setting up, strengthening or expanding the business activities of SMEs (e.g. purchase of supplies / goods / services, energy, etc.);
- Serving as working capital related to maintaining or increasing the number of jobs to support special access to disadvantaged social groups and to implement socially oriented measures (e.g. job retention, etc.);
- Serving as working capital to support SMEs with limited access to capital due to events beyond their control.

Ineligible purposes of the loan:

- Refinancing of existing liabilities;
- Payment of interest on bonds, purchase of land for an amount exceeding 10% of the eligible expenses of the operation, purchase of road freight transport vehicles by a company performing road freight transportation against consideration;
- Decommissioning or construction of nuclear power plants, reduction of greenhouse gas emissions from certain activities, production and sale of tobacco products and spirits, airport infrastructure not related to environmental protection, illegal economic activities, production and sale of weapons, casinos, internet gambling, pornography, human cloning, genetically modified organisms.

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This client alert is not a legal advice and was prepared on 10 May 2020 and posted on 11 May 2020.

The exact specification of the financial instrument under the SIH Anti-Corona Guarantee is set out in the Guarantee Agreement. This client alert provides only a brief summary of key information concerning the principles of operation of the financial instrument thereunder, mainly as stated in the Call for expressions of interest for participation in the SIH Anti-Corona Guarantee published by SIH and addresses to financial institutions.

We follow further current developments and will continuously publish relevant updates on the above information (and also on other legislative changes and interesting legal topics).