36 COMMERCIAL

COVID-19 DAILY BULLETIN

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KEY ANNOUNCEMENTS

Tonight, Chancellor of the Exchequer, Rishi Sunak, detailed his new income support scheme for the self-employed during the COVID-19 crisis:

- Taxable grants for 'adversely affected' self-employed people, worth up to **80% of their averaged monthly income** (capped at £2,500 per month).
- Recipients will be able to claim the grant and **continue to do business**.
- The scheme for the self-employed **will run for at least 3 months**, although **it is not expected to be running until early June**.
- Grants are only for **those with trading profits of £50,000 or less**. Those earning more than £50,000 per annum will not qualify.
- The scheme is only for the genuinely self-employed—those who make the majority of their income from self-employment.
- Monthly income will be calculated from applicants' last three tax returns, or the average of their most recent ones if their trading history is shorter.
- Self-employed persons who did not submit their 2019 tax return by its due date of 31 January 2020 have four weeks from today to do so.
- HMRC will notify eligible self-employed people directly when the scheme becomes available. They will be able to apply by completing an online form.
- The scheme is designed to minimise fraud and target those in most need.
- Those who were not self-employed in the tax year ending 5 April 2019 and who therefore did not submit a tax return will not be eligible.

The Chancellor also acknowledged there were issues with the Bank of England's paper lending facility for large companies:

- The government is working with the Bank of England to "impute" credit ratings for companies with a turnover of more than £45 million.

- The government is also looking at ways to help businesses that are not "as creditworthy" as those eligible for existing loan schemes.

Deputy chief medical officer Dr Jenny Harries also answered further questions on plans for testing for the virus.

LEGAL IMPLICATIONS

EMPLOYMENT

1. What are the gaps in the Chancellor's proposals?

There are some obvious gaps and some related issues. We therefore expect the Chancellor's proposals to evolve over the coming weeks.

Noteworthy gaps include:

- Persons who became self-employed in April last year or later, who will not have filed a self-employment tax return for 2019.
- Those who are self-employed but had no earnings from self-employment in their 2019 return, perhaps owing to ill health. Will the "averaging over three years rule" be relaxed for exceptional circumstances?
- Self-employed individuals who earn over £50,000 per year. What is the sole earner of a family who earns just over £50,000 to do now that his/her income will be significantly lower than £50,000 in the coming year? As it stands, it appears their only recourse is Universal Credit and/or a business interruption loan, which comes with its dangers as mentioned below.

The rules need to be clarified, so the self-employed can determine their eligibility and avail themselves of the most appropriate support.

BUSINESS

2. What should businesses be wary of when taking a loan from the government?

The Chancellor answered a question on the difficulty that "medium"-sized companies were facing in obtaining loans from the Bank of England due to their lack of an investment grade.

The Chancellor stated that he was working with the Bank of England to "impute a credit rating from the company's individual relationships with their banks" to allow them to obtain loans. The details of how this would work are "imminently about to be published" according to the Chancellor.

However, nothing was mentioned about the potential dangers that some smaller businesses are facing when obtaining loans from banks under the Coronavirus Business Interruption Loan Scheme (CBILS). This scheme is available to businesses with a turnover of no more than £45 million per year and offers interest-free loans for the first 12 months. Although, the government has pledged to guarantee 80% of each loan, businesses and their directors should be aware that the borrower (i.e. the company) will *always* be liable for 100% of the loan (see here).

This has meant that many banks and lenders are asking for personal guarantees on loans, which could lead to significant consequences for individual directors who may face possession or insolvency proceedings if they default on the loan. Businesses should not be under the impression that the government will simply write off 80% of their debt without all avenues first being exhausted in recouping the money from the business and/or the individuals in charge.

See here for the list of government schemes set up to assist businesses.

DISCLAIMER

The above is not intended to be legal advice. Specialist advice should be sought for individual cases where necessary.

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Key Contacts:

Steven Newbery (Commercial Practice Manager)
steven@36commercial.co.uk
Tel: +44 (0) 207 421 8051
Mobile: 07786 023 245

George Scanlan (Commercial First Junior)
George@36commercial.co.uk
Tel: +44 (0)202 421 8051

https://36group.co.uk/commercial