

Decree-Law no. 23 of 8 April 2020

Urgent measures concerning access to finance, tax compliance obligations for companies, special powers in strategic sectors, healthcare, work and suspension of administrative and judicial proceeding

Article 1 of Decree-Law 8 April 2020 concerns the measures taken by the State in support of the companies affected by the COVID-19 emergency.

After a few weeks of uncertainty, it has been clarified that the State will provide a guarantee for the economic operators worst affected by the crisis to obtain financial resources from the banking system.

The State guarantees will be issued by two entities: *Fondo Centrale di Garanzia* and SACE.

In this article, we will focus on the guarantees issued by SACE, typically intended for medium-/large-sized companies, whereas *Fondo Centrale di Garanzia* is in charge of requests for funding from medium-/small-sized companies.

The following three key conditions must be met to qualify for SACE's guarantee:

- 1) Applicants must be Italian-resident organizations and the funds will have to be invested in Italian productive businesses;
- 2) Applicants must be companies which had no financial issues at 31 December 2019 but found themselves in a difficult situation as a result of the COVID-19 outbreak. "Difficult situation" means that:
 - ◆ Losses do not exceed 50% of the shareholders' equity;
 - ◆ Debts are not higher than 7.5 times the shareholders' equity;
 - ◆ The EBITDA to financial costs ratio is higher than 1;
 - ◆ At 31 January 2020, the applicant must not be classified as: a) deteriorated; b) likely to default; c) non-performing;
 - ◆ At 31 December 2019 there was no "report of non-performance" in the Italian Central Credit Register concerning the applicant;
 - ◆ The ratio of overdrafts to total credit facilities at 31 December 2019 in the Italian Central Credit Register was less than 20%;
- 3) Applicants must be companies that have already taken advantage of the maximum amount available under *fondo di garanzia*, or cannot apply to *fondo di garanzia* because that do not qualify as SMEs by reason of their larger size.

If the applicant meets the above conditions, it can ask for a loan covered by SACE's guarantee.

The first step is the identification of a bank through which the application will be filed; needless to say, the bank chosen by the applicant must have implemented the electronic exchange of information arrangement with SACE.

The bank will examine the application file and, on successful completion of the process - before granting the loan - will request the issue of the State guarantee from SACE, as to the prescribed amount.

Let us now examine some distinctive characteristics of the type of loan which may be applied for:

◆ **Reason:**

the reasons underlying the loan application must fall within one of three following categories:

- a. Funding of current assets;
- b. Funding of investments;
- c. Funding of personnel costs.

These are very broad categories which will probably cover almost all requests for funding.

◆ **Amount:**

the amount of the loan is discretionary and will be the result of discussions between the applicant and the bank; the rules only provide for the maximum amount of the loan, which cannot exceed the higher of:

- a. 25% of the company's 2019 turnover as shown in its financial statements or, if the company does not file financial statements, in its tax return; and
- b. Twice the amount of salaries paid by the applicant in 2019.

◆ **Duration:**

the guarantee, and therefore the loan, will have a maximum duration of 6 years from the date of issue; there may be an initial period of up to 24 months during which only the interest will be repaid ("*preammortamento*"). Again, these are maximum periods, and the parties may agree to different terms, which in any case will not exceed 6 years.

◆ **Availability of the guarantee:**

the possibility to take advantage of the guarantee is available until 31 December 2020.

Two other significant issues are the costs of the guarantee and the amount of the loan covered by the guarantee, which vary depending on the size of the borrower:

◆ **Companies with a turnover below Euro 50 million and a headcount of less than 250 employees**

- a. SACE's guarantee will cover 90% of the loan;
- b. The cost of the guarantee will be 25 basis points the first year, 50 basis points the second and third years and 100 basis points the fourth, fifth and sixth years.

- ◆ **Companies with a turnover higher than Euro 50 million but lower than Euro 1,500 million, and a headcount of less than 5,000 employees**
 - a. SACE's guarantee will cover 90% of the loan;
 - b. The cost of the guarantee will be 50 basis points the first year, 100 basis points the second and third years and 200 basis points the fourth, fifth and sixth years.

- ◆ **Companies with a turnover higher than Euro 1,500 million, and a headcount of more than 5,000 employees**
 - a. SACE's guarantee will cover 80% of the loan for companies with a turnover below Euro 5,000 million and 70% of the loan for companies with a turnover above Euro 5,000 million;
 - b. The cost of the guarantee will be 50 basis points the first year, 100 basis points the second and third years and 200 basis points the fourth, fifth and sixth years.

Finally, before issuing the guarantee to companies under point c), SACE will conduct a further examination, whereas prior to issuing the guarantee to companies under points a) and b), it will simply check the formal aspects of the bank decision to grant the loan and carry out no additional analyses, besides those performed by the bank.

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