FRIED FRANK

To Our Clients and Friends

Memorandum

April 3, 2020

COVID-19 Pandemic: Expansion of UK Business Interruption Loan Schemes

*** In light of the rapidly developing situation and government response, this memorandum is current as of April 3, 2020.**

On March 30, 2020, Fried Frank published a memorandum titled COVID-19 Pandemic: Key UK Government and Bank of England Initiatives to Support Businesses ("**March 30 Memorandum**").

On April 3, 2020, the UK Chancellor of the Exchequer, Rishi Sunak, announced revisions to the Coronavirus Business Interruption Loan Scheme (the "**CBILS**"), discussed in our March 30 Memorandum, and introduced a new Coronavirus Large Business Interruption Loan Scheme (the "**CLBILS**"). This expansion of the UK business interruption loan schemes significantly increases the number of eligible businesses who might participate. For smaller businesses, the revisions to CBILS obviate the need to show that business financing is otherwise not available on "normal commercial terms", adding a degree of clarity as to the ability to access financing and, for larger businesses (with turnover up to £500 million per annum), the introduction of CLBILS provides a loan scheme that is potentially available to them as well.

1. Revised Coronavirus Business Interruption Loan Scheme

The CBILS is summarized in our March 30 Memorandum. Pursuant to the revised CBILS:

- lenders cannot require personal guarantees on loans under £250,000;
- an otherwise eligible business can now access finance under CBILS even where a lender decides it could have offered the business financing on "normal commercial terms"; and
- employer, professional, religious or political membership organisations and trade unions are no longer precluded from accessing the CBILS.

2. Coronavirus Large Business Interruption Loan Scheme

Key highlights:

- Eligible UK businesses (must have turnover of between £45 million and £500 million per annum and not be in certain sectors) have access to up to £25 million in finance. The term of such finance (i.e., whether it will be three to six years, as is the case for CBILS) has not yet been announced;
- The UK Government will guarantee 80% of the finance; and
- Finance offered under CLBILS is to be offered at commercial rates of interest.

Through the CLBILS, eligible businesses will have access to up to £25 million in finance from certain accredited lenders. The UK Government will guarantee 80% of each loan. The guarantee is in favour of the lender. The borrowing business always remains liable for the debt incurred under CLBILS.

As was originally the case for smaller businesses applying to access the CBILS, if a lender decides it can offer a business financing on "normal commercial terms" without accessing the CLBILS, it will do so. In these circumstances, the business will not be eligible to access the CLBILS.

Eligibility

Open to businesses with "UK-based" business activity, with turnover of between £45 million and £500 million and, as is the case for CBILS, that are not in the sectors which are excluded from the scheme as set forth below. We would expect the definition of "UK-based business activity" to be determined similarly to "UK based" for the CBILS, as discussed in our March 30 Memorandum. As is the case with CBILS, the annual period(s) that will be used to determine a business' turnover has yet to be confirmed.

Lenders are only to extend finance under CLBILS if (i) the business has a borrowing proposal which, were it not for the COVID-19 pandemic, would be considered viable by the lender; and (ii) the lender believes the provision of finance will enable the business to trade out of any short-to-medium term difficulty.

As is the case for CBILS, businesses in the following sectors are excluded from the scheme: (i) banks, building societies, insurers and reinsurers (but not insurance brokers), and (ii) the public sector, including state funded primary and secondary schools.

The CLBILS will be available through a range of accredited commercial lenders.

How to Access

The scheme is expected to become available during April 2020. Once launched, businesses should approach a participating lender directly through that lender's website.

Considerations

Businesses with existing debt should consider the implications of participation in CLBILS on their existing obligations. If in financial difficulty, businesses could consider discussing options (including repayment holidays) with their existing lenders as an alternative to incurring additional debt. Potential borrowers should also consider if consents or waivers are required under their existing debt documentation, as existing facilities may place limits on raising additional indebtedness, limit leverage or require other ratios to be maintained.

Lenders will still likely require a level of diligence as part of their lending process in order to be sure they are lending to a viable business, and to confirm eligibility criteria, including turnover. So businesses can still expect to have to provide historical financial statements and projections, but can also expect to have to discuss how the business has been, and will be, impacted by COVID-19, as well as their stress test projections, taking into account COVID-19-related assumptions.

The UK Government has yet to confirm that it will seek State Aid approval from the European Commission for the CLBILS, as it did for CBILS, which was approved in accordance with the State Aid Temporary Framework adopted by the European Commission on March 19, 2020.

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