Covid-19 Update: Emergency Loan Scheme for Start-ups

The existing emergency loan scheme for businesses facing liquidity issues as a consequence of the Covid-19 pandemic is tied to annual turnover (with one limited exception). Given that many start-ups only generate little or no revenue during their first years of operation, they have effectively been excluded from meaningful relief under the scheme. On 4 April 2020 the Federal Council has therefore announced to provide a scheme to specifically support start-up companies. Yesterday, the State Secretariat for Economic Affairs (SECO) has issued a press release spelling out the process and eligibility criteria for such liquidity relief to start-ups.

By Ramona Wyss
MLaw, LL.M., Attorney at Law
Partner
Telephone +41 58 658 52 44
ramona.wyss@walderwyss.com

and Alex Nikitine
Dr. iur., LL.M., Attorney at Law
Partner
Telephone +41 58 658 56 32
alex.nikitine@walderwyss.com

The federal government's start-up scheme is based on the existing loan surety scheme and allows for the grant of government-backed loans of **up to CHF 1 million per start-up company**, provided that loans must generally **not exceed one third of** the relevant **start-up's 2019 running cost**. Loans are granted Swiss banks and are backed by sureties of federal government-accredited surety organisations (65%) and cantonal bodies (35)%.

Applications may be submitted from 7 May 2020 through to 31 August 2020. In a reversal of the process applicable to Covid-19 loans under the regular scheme, start-ups must first apply for a surety through the dedicated website: https://covid19.easygov.swiss/en/for-startups/. The application is then passed to the competent cantonal authority (as appointed by the participating Canton), evaluated and submitted to the (federal) surety organisation who takes the final decision on the application. Based on such decision, the start-up company may apply for a corresponding loan at a bank (which will likely need to be a Swiss bank participating in the regular Covid-19 loan scheme).

In order to be eligible, start-ups must:

- take the legal form of a **company limited by shares** (Aktiengesellschaft) **or limited liability company** (Gesellschaft mit beschränkter Haftung);
- have been **incorporated after 1 January 2010 but before 1 March 2020**;
- have their **registered seat in a Swiss Canton participating in the scheme**, for current list cf. https://covid19.easygov.swiss/en/cantons/;
- have a **scalable, science- or technology-based and innovative business model**;
- not be part of the agricultural sector;
- **not be over-indebted** pursuant to article 725[2] CO, not be **subject to bankruptcy or composition proceedings or in liquidation**; and
- be **suffering from significant financial and liquidity problems due to the COVID-19 pandemic**.

Legislation detailing the eligibility and assessment criteria as well as the terms and conditions of the Covid-19 start-up loans is yet to be published. Whilst the interest rate for "regular" Covid-19 loans is currently 0.0% for loan amounts not exceeding CHF 500,000 (also see Walder Wyss newsletter no. 136), the SECO's media release is silent on the interest regime and other terms and conditions applicable to Covid-19 start-up loans. For the determination of whether the companies applying do have a scalable, science- or technology-based and innovative business model, the cantonal bodies evaluating the applications can make use of an expert group which is coordinated by Innosuisse – the Swiss Innovation Agency. However, the effectiveness of the scheme will equally depend on how the eligibility criterion of "significant financial and liquidity problems due to the Covid-19 pandemic" is applied by the evaluating authorities.

To this regard, the German version of the press release (but only the German version) states that Covid-19 start-up loans shall not serve as a replacement for financing rounds – a delineation that may prove tricky in practice.

For further questions on federal or cantonal Covid-19 relief measures available to start-ups contact us at startup@walderwyss.com.