

Cantonal differences prevail for hardship cases



Corona (COVID-19) continues to affect the Swiss population and businesses alike. With the arrival of the new year the number of infections remains high, but vaccinations are being rolled out across the country, indicating that a modicum of normalcy might return soon. Nonetheless, in light of recent developments concerning the more contagious virus mutation, the Swiss government imposed even stricter measures to curb the spread of the virus on 13 January 2021. At the same time, the Swiss government also increased its hardship compensation fund for the hardest hit sectors of our economy by an additional CHF 1.5bn to CHF 2.5bn (or an increase of 150%)! The funds will be provided jointly by the Swiss Federation (CHF 1.9bn) and the Cantons (CHF 0.6bn). Below, we provide an overview of the financial support for hardship cases as well as the Cantonal implementation of the distribution of funds.

Conditions for hardship aid relaxed

On 13 January 2021, the Swiss Federal Council relaxed the conditions that a company must meet in order to receive hardship aid. Among other things, businesses that have been officially closed for at least 40 calendar days since 1 November 2020 are now considered hardship cases without evidence of a revenue decline. The upper limits for non-refundable contributions will be increased to 20 percent of revenue or CHF 750,000 per legal entity. In addition, compensation for any decrease in revenue that occurred in 2021 can now also be claimed. To determine the extent of the decline in revenue, the revenue of the last 12 months may be used instead of the 2020 annual revenues. However, the non-refundable contributions may not exceed 20% of the average revenues of 2018 and 2019. For all companies receiving financial support the dividend ban will be shortened from 5 to 3 years or until the funds have been repaid.

In addition to these contributions, loans and guarantees with a maximum duration of ten years may be granted and can amount to a maximum of 25 percent of average annual revenues generated in 2018 and 2019, but may not exceed the amount of CHF 10,000,000 per legal entity. This regulatory amendment allows cases of hardship to be supported broadly. More than half of the cantons are already

starting to accept applications for hardship benefits during January and all cantons are expected to pay out support by February 2021.

Is your company eligible for hardship aid?

How can you find out whether your company is eligible for financial support? In order to obtain funding under the new regulation, the following basic requirements need to be met:

- the company had to be **incorporated before 1 March 2020**, and had to have a
- minimum **revenue of CHF 50,000**,
- **salary expenses** primarily within **Switzerland**, and
- be able to show **documentation and evidence** (such as annual financial statements and monthly financial reporting)

Furthermore, the decrease in revenue during the last 12 months needs to be at least 40% or the government-ordered shutdown needs to be at least 40 calendar days since 1 November 2020.

Special rules for companies undergoing restructuring

Further, it is important to note that in the event of a company restructuring, the cantons are to be given the additional option of increasing the cap to a maximum of CHF 1.5 million. The prerequisite for this is that the



shareholders and the debt providers together make an additional contribution of at least the same amount. For example, a prerequisite for increasing the state contribution to CHF 1 million would be a contribution from shareholders and/or debt providers totaling CHF 250'000 (e.g. an increase in equity of CHF 150'000 and a debt waiver of CHF 100'000). Only freshly contributed equity capital counts as an additional contribution by the shareholders, not the conversion of shareholder loans into equity capital.

The fact that the upper limit of non-refundable contributions is limited to CHF 750'000 for each legal entity causes unequal treatment of companies in the same sector. A business structured into many legal entities may get more state support than a business of the same size which subsumes its activities in one legal entity. This treatment is deemed unfair as well as unpractical by many.

Cantonal differences in distribution of financial support exist

The most hard-hit sectors of the Swiss economy, such as restaurants, bars and nightclubs, sports and leisure centers, as well as libraries, museums and other cultural institutions have been closed since 22 December 2020. In fact, the government-ordered lockdown has been extended to the end of February 2021. For many companies active in these sectors of the economy, financial support cannot arrive early enough.

The table below shows the Cantonal differences concerning the application process and the timing of disbursement of funds for the financial support measures. Strictly from a legal perspective, first disbursements of funds could be possible after the referendum period has expired, meaning on 4 February 2021 at the earliest.

	Application 	Payout 
AG	from 25 January 2021 (until 30 April 2021)	timing not specified
AR	most likely from 1 February 2021 (until further notice)	timing not specified
AI	open for applications (until further notice)	timing not specified
BE	from 1 February 2021 (until 31 March 2021)	timing not specified (10–14 days after application)
BL	from 22 January 2021 (until further notice)	from 4 February 2021
BS	open for applications (until 31 March 2021)	timing not specified
FR	open for application (until 31 January 2021)	timing not specified
GE	no start date has been specified yet (more information available soon)	timing not specified
GL	open for applications	timing not specified
GR	open for applications (until 20 April 2021)	timing not specified ("payout on a case-by-case basis")

	Application 	Payout 
JU	open for applications (until 31 March 2021)	timing not specified
LU	currently being updated (more information available soon)	from 4 February 2021
NE	open from 22 January 2021 (until 1 February 2021)	following a 5-day period after 5 February 2021
NW	open for application (from 15 January 2021)	timing not specified
OW	should open at the end of January 2021	timing not specified
SG	from 21 January 2021 (until further notice)	timing not specified
SH	open for applications	immediately following the approval of an application
SZ	from 19 January 2021 (until further notice)	following the review of all applications (most likely end of February 2021)
TG	from 1 February 2021	timing not specified
TI	decision will be taken by the cantonal parliament by 27 January 2021	n/a
UR	from 20 January 2021 (until 30 June 2021)	timing not specified
VD	open for applications	from January 2021 (not specified further)
VS	open for application (until 31 January 2021)	timing not specified
ZG	open for application (until 30 April 2021)	in two tranches, first tranche following the application process and second tranche subject to all approval conditions continuing to be fulfilled as of the 2 nd half of 2021
ZH	for 1 st allocation round from 19 January 2021 through an online portal, with a 2 nd allocation round immediately after the 1 st (until 31 March 2021)	from 15 February onwards for 1 st round applicants and earliest end of March for 2 nd round applicants

Note: Data updated as of Monday, 18 January 2021

Conclusion

Following the amended regulations of 18 December 2020, a company's share of fixed costs also needed to be disclosed. The new hardship rules require companies to certify to the canton that the decline in revenues by year's end results in a proportion of uncovered fixed costs that jeopardizes its survival. This provision was criticized by many cantons as difficult to implement.

Because of this push-back, companies now only need to confirm that the decline in revenues results in a significant proportion of uncovered fixed costs. This will further facilitate access to the cantons' hardship programs.

Further, the Swiss Federal Council came to the conclusion that closures due to lockdown orders for at least 40 days between 1 November 2020 and 30 June 2021 are presumed to have brought about a decline in revenues high enough to constitute a hardship. Therefore, evidence of a decline in revenues will no longer be required.

In short, there is still much work to be done. Depending on what canton a company is located in, the work may have to be delivered at very short notice, possibly requiring help from external sources.

Addendum:

Here is a list of documents and important prerequisites that need to be considered prior to application. All applying companies shall

- Confirm that it was not in debt collection proceedings for social security contributions on 15 March 2020
- Confirm that it is not in bankruptcy, composition proceedings or in liquidation.
- Provide current excerpt from the relevant Swiss commercial registries
- Provide current extract from the relevant debt collection register
- Provide closing accounts for 2018 & 2019 (incl. balance sheet, profit & loss statement and audit report)
- Provide simple 1 to 3-year business plan (balance sheet and profit & loss statement for 2021, 2022 and 2023); the difference is due to cantonal preferences (e.g. ZH requires a 1-year business plan, GR a 2-year one and SG a 3-year plan)
- Relevant information and documentation concerning the recognized revenues in 2020 and the incurred revenue decline compared to 2018 and 2019 as result of government-ordered shut-downs due to COVID-19
- Documented salary declarations (from OASI/DI or AHV) for the year 2020
- Documented receipt of short-time work compensation

It should be noted that for some cantons a proof of viability needs to be included. These cantons require proof that the company can continue at the latest once the lockdown measures have been lifted (presumably by mid-2021) and that it is likely that – in the case of repayable aid – repayment appears realistic in view of the expected revenues and expenses as well as the requested hardship contribution.

Contact

KPMG AG

Räffelstrasse 28
PO Box
8036 Zurich

kpmg.ch

Peter Dauwalder

Partner
Head of Restructuring

+41 58 249 41 80

pdauwalder@kpmg.ch

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received, or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. The scope of any potential collaboration with audit clients is defined by regulatory requirements governing auditor independence. If you would like to know more about how KPMG AG processes personal data, please read our Privacy Policy, which you can find on our homepage at www.kpmg.ch.

© 2021 KPMG AG, a Swiss corporation, is a subsidiary of KPMG Holding AG, which is a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.