Informative Note

Main financial banking measures adopted by Royal Decree Law 8/2020 related to COVID-19

20th March 2020

Regarding Royal Decree-Law 8/2020 on urgent extraordinary measures to deal with the economic and social impact of COVID-19

The Spanish Government has approved the 17th March Royal Decree law 8/2020, adopting extraordinary emergency measures to deal with the economic and social impact of COVID-19

The regulation, which comes into force when it is published in the BOE (official state gazette) on March 18th, contains measures of different types and scope aimed at mitigating the effects on the production structure, demand and citizens caused by the health emergency caused by the COVID-19 pandemic and will be in force until April 18th, unless a different deadline is set for any of them. This deadline may be extended by the Government by Decree-Law if necessary.

Below are the main new features included in the Royal Decree-Law 8/2020 on banking and financial matters.

Mortgage debt moratorium for the acquisition of habitual residence

Articles 7 to 16 of Royal Decree Law 8/2020 provide for a **moratorium on mortgage debt for the acquisition of a habitual residence in cases where the debtor is in some economically vulnerable situations**, namely:

- Unemployment, or in the case of entrepreneurs or professionals, substantial loss of income or substantial drop in sales. A substantial drop in sales is understood to be at least 40%. No indication is given as to what is to be understood by a substantial loss of income.

- That the total income of the members of the family unit does not exceed, in the month prior to the application for the moratorium, three times the IPREM. Cases are established, such as dependent children or disabled cohabitants in which it may be higher.

- That the mortgage payment, plus basic expenses and supplies, is greater than or equal to 35% of the net income received by the family unit.

- That, as a result of the health emergency, the family unit has suffered a significant alteration in its economic circumstances so that the effort to meet the mortgage charge has been multiplied by 1.3.

A family unit is defined as the debtor, his or her spouse not legally separated or cohabiting, and the children residing in the dwelling, as well as the spouses or registered partners of such children.

The moratorium may be requested, presenting the supporting documentation established in the royal decree, from today until 15 days after the end of the validity of this decree law, and the financial entity will proceed with its implementation within a maximum period of 15 days. The moratorium will entail:

- **The suspension of the mortgage debt during the period stipulated for it, and the non-application of the early maturity clause**. No maximum or minimum suspension periods are established, so it seems that they must be in accordance with the agreement between the debtor and the financial entity. The decree does not foresee that other alternatives can be negotiated, such as reduction of the quotas and extension of the repayment terms. Nor does it clarify the terms of the possible suspension or its effects on future loan or credit instalments.

- **Non-application of moratorium interest during the suspension.**

Regarding guarantors, the following two situations are envisaged:

- **Right to be excused**. Even if this right has been waived, the guarantors, guarantors or mortgagors cannot be claimed in a vulnerable situation without first claiming against the principal debtor.

- **The same measures provided for mortgage debtors will apply to guarantors and sureties in relation to their habitual residence**. The Royal Decree does not specify exactly what the effects of this measure are on guarantors and their habitual residence.

For financial institutions, the main advantage of RDl 8/2020 is that the moratoriums granted will not be included in the calculation of risk provisions.

Finally, it should be noted that a gradual exemption from Stamp Duty is established for notarial deeds documenting the changes agreed with financial institutions.

Liquidity guarantees, increased funding from the ICO and increased export insurance coverage

Chapter III of RDl 8/2020 (more specifically, articles 29-31) sets out a series of guarantees to be provided by the State in order to facilitate access to liquidity for companies and the self-employed:

- **Guarantee line of up to EUR 100 billion for financing** granted by credit institutions, financial credit establishments, electronic money institutions and payment institutions to companies and the self-employed to meet their liquidity needs. The conditions for access to this line of guarantees have yet to be developed.

- **Extension of the ICO's net borrowing limit by 10 billion euros.** This financing will be obtained through the credit institutions that intermediate in the granting of loans from ICO funds. The ICO is also expected to adopt flexible measures to guarantee access to this financing.

- **Exceptional line of insurance coverage of up to 2 billion for export companies**, to be granted through the Compañía Española de Seguros de Crédito a la Exportación (CESCE). The duration of this line is expected to be 6 months.

Financial measures for farmers who have taken out loans as a result of the drought in 2017

With regard to the credits granted to farmers affected by the 2017 drought, under Orders AAA/778/2016, Order APM/728/2017 and APM/358/2018, **it will be provided that, on a voluntary basis, extensions of up to one year in the credits will be agreed**. The additional cost of the guarantees granted by the Sociedad Anónima Estatal de Caución Agraria will be financed by the State.

We hope the information is useful and of your interest. At Andersen Tax & Legal we have created a multidisciplinary team to attend to all the questions that may arise on this aspect or in relation to the COVID-19.

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