

## **FACILITIES FOR CREDITS GRANTED BY CREDIT INSTITUTIONS AND NON-BANKING FINANCIAL INSTITUTIONS TO CERTAIN DEBTORS IN THE CONTEXT OF COVID-19**

Due to the spread of SARS-CoV-2 coronavirus, measures for mitigating the adverse effects caused by the limitation or disruption of social and economic activities had to be imposed, such as facilities for suspending the payment of credit installments, interest and fees due under credit agreements, as follows:

- Facilities are intended for: *(i)* natural persons, *(ii)* authorized natural persons, *(iii)* individual enterprises, *(iv)* family undertakings, *(v)* liberal professions and *(vi)* legal entities (except for credit institutions) that entered into credit or leasing agreements and whose income was affected (*in the case of the debtor natural person, the income of the debtor's family will also be taken into account, if applicable*) as a result of the situation caused by the Covid-19 pandemic and that are unable to fulfill their obligations to pay the credit, considering the following additional conditions:
  - (a)* In the case of the *debtor natural person*, one or several of the following cases occurred, without limitation thereto: *(i)* the debtor/the debtor's family members was/were temporarily laid off as effect of the closure/downsizing of the employer's business, *(ii)* the debtor/the debtor's family members was/were dismissed, *(iii)* the salary of the debtor/the debtor's family members was reduced, *(iv)* the debtor was placed in institutional quarantine or home isolation, *(v)* the debtor contracted COVID-19, etc.
  - (b)* In the case of *authorized natural persons, individual enterprises, family undertakings, liberal professions and other professions practiced under special laws*, irrespective of how the profession is practiced, the suspension facilities will be granted if the activity has been disrupted either totally or partially as effect of the decisions issued by the competent public authorities under the law, throughout the declared state of emergency, having the following consequences: shrinking of the sale market, decrease in the number of employees, reduction of the number of suppliers, etc.;
  - (c)* In the case of *other debtors legal entities*, the suspension facilities will be approved in case they hold the certificate for emergency situations issued by the Ministry of Economy, Energy and the Business Environment (the certificate can be obtained online, by filling out a statement on own responsibility accessing the <http://prevenire.gov.ro/> online platform);

(d) Debtors must not be in insolvency when they request the suspension according to the information published in the Trade Register.

- Debtors must request creditors to suspend the payment of credit installments, interest and fees due based on the credit or lease agreements, on June 15, 2020 at the latest;
- The suspension may be requested/granted for a period of up to 9 months, without being allowed to go beyond December 31, 2020;
- Within 30 days after receiving the request, creditors will notify the debtors about the contractual clauses amended in order to implement the suspension. All guarantees corresponding to the credit agreement will be maintained and the effects of amending the credit agreements will extend *de jure* to any co-debtors, guarantors, including fidejussors, that guaranteed the debtor's obligation, as well as any to any other parties to the thus amended credit agreement, only with their prior consent.
- Conditions for granting the suspension facility: (i) the existing credit agreement has not become due and creditors have not declared the early maturity of the credit; (ii) the debtors' existing credit agreements do not have arrears upon the establishment of the state of emergency on the Romanian territory or the arrears corresponding to the credit agreements were paid until the suspension date of the payment obligation, (iii) the debtors' income was directly or indirectly affected by the serious situation generated by the COVID-19 pandemic;
- Effects of the suspension facility: (i) extension of the contractual term by a period equal to the suspension of the payment obligation; (ii) amendment of the credit agreements under the law, without concluding any addenda; (iii) suspension of the payment of credit installments, interest and fees due based on the credit agreements for a 9-month period at most, without being allowed to go beyond December 31, 2020; (iv) the interest corresponding to the due amounts the payment of which is suspended shall be capitalized at the balance of the existing credit at the end of the suspension period.

By way of exception, for mortgage credits contracted by natural persons, the interest corresponding to the suspension period shall be calculated according to the provisions of the credit agreement and shall represent a distinct and independent receivable by reference to the other obligations arising from the credit agreement. In this latter case, the interest is 0% and the debtor will make the payment in 60 equal monthly installments, starting from the month immediately following the deferral period. The thus increased capital shall be paid in installments until the new maturity date of the credits.



Regarding the mortgage credits granted to natural persons debtors, models of guarantee agreements have been approved and they will be concluded, on the one hand between the National Credit Guarantee Fund for Small and Medium Enterprises (“NCGFSME”) and the Ministry of Public Finance, and on the other hand between NCGFSME and the credit institution, the liability of the signatory parties for the fulfillment of the obligations under the agreements being contractual.

- For the reimbursement by the eligible debtors of the staggered interest for mortgage credits, the NCGFSME offers express, irrevocable and unconditional guarantees to creditors, by means of letters of bank guarantee issued based on agreements concluded with creditors.

The legal basis of the above is represented by *Emergency Ordinance 37/2020 on granting facilities for the credits granted by credit institutions and non-banking financial institutions to certain categories of debtors*, *Decision 270/2020 approving the Norms for implementation of the provisions of Government Emergency Ordinance no. 37/2020 on granting facilities for the credits granted by credit institutions and non-banking financial institutions to certain categories of debtors* and *Order 1861/2020 for the approval of the guarantee agreement model, provided in article 5 paragraph (2) of the Government Emergency Ordinance no. 37/2020 on granting facilities for the credits granted by credit institutions and non-banking financial institutions to certain categories of debtors*, and *the model of the agreement implementation and Emergency Ordinance no. 70/2020*.

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