

FAQ: HUNGARIAN MORATORIUM ON ALL PAYMENTS UNDER EXISTING COMMERCIAL CREDIT AGREEMENTS

As part of its response to the economic effects of COVID19, the Hungarian government declared a **moratorium on all payments under existing commercial credit agreements** (including loans and financial leases to businesses and consumers) until 31 December 2020. The moratorium also extends to accessory rights (such as guarantees and security). The moratorium may be further extended by the government if circumstances so require. Contracts affected by the moratorium will be extended by force of law for a period equivalent to the length of the moratorium. Further detailed legislation to regulate the implementation of the moratorium is anticipated.

WHO IS PROTECTED BY THE MORATORIUM?

Individuals and businesses which obtained commercial loans, credit or financial leases prior to midnight on 18 March 2020.

WHAT IS COVERED BY THE MORATORIUM?

Payments of fees, interest and capital under commercial loans, credit or financial leases. The moratorium extends to “auxiliary obligations” (such as obligations in relation to guarantees and security).

ARE THERE ANY EXCEPTIONS TO THE MORATORIUM?

The Hungarian State, local authorities and certain institutions regulated by the National Bank of Hungary (such as banks, insurance companies and investment firms) are not protected by the moratorium.

Debtors are not protected in respect of amounts drawn after midnight on 18 March 2020.

Payments actually made by debtors may be legitimately retained.

The parties to the loan, credit agreement or financial lease may agree that the moratorium shall not apply in respect of that loan, credit agreement or financial lease.

WHEN WILL THE MORATORIUM END?

The moratorium is currently due to end on 31 December 2020. The government may extend the moratorium further by executive decree.

DOES INTEREST STILL ACCRUE?

Interest on financial obligations affected by the moratorium will continue to accrue. Such interest is not capitalised, but following the end of the moratorium, must be paid as a separate obligation in instalments over the remaining life of the financial obligation.

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HOW WAS THE MORATORIUM INTRODUCED?

The moratorium was introduced by executive decree (47/2020. (III.18.) Korm. rendelelet) (the “**executive decree**”) which was published late on the evening of 18 March 2020 and came into effect at midnight. A subsequent executive decree (62/2020. (III.24.) Korm. rendelelet) extended the moratorium to debts owed by certain financial businesses, asset managers and funds and provided limited additional guidance on the scope and effects of the moratorium.

WHAT ABOUT FINANCE DOCUMENTS GOVERNED BY ENGLISH OR GERMAN LAW?

Although the moratorium is primarily aimed at domestic finance transactions, the executive decree does not specify whether or not the moratorium applies to debts governed by a law other than the law of Hungary. There is a risk that a court would hold that the decree does apply to debts owed by Hungarian debtors regardless of the law governing that debt and that the moratorium would be considered to be a mandatory provision of Hungarian law applicable notwithstanding the choice of law of the parties. In most cross-border structures, however, we believe that these risks can be mitigated. There is a risk that the automatic nature of the moratorium triggers events of default in credit agreements.

WHO TO CONTACT?

If your business is affected by the Hungarian moratorium, please do not hesitate to contact any member of our team:



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