

# August Decree: extension of moratorium under *Cura Italia* Decree

# Focus on

## Foreword

The financial support measures (moratorium) in favour of self-employed workers, microenterprises and SMEs, provided under art. 56 of Law Decree dated 17 March 2020 no. 18, have been extended to 31 January 2021 (under art. 65 of Law Decree no. 104/2020).

As mentioned, the moratorium was introduced by above art. 56; specifically, para. 2, letters a), b) and c) introduced three very important measures in favour of those self-employed workers, microenterprises and SMEs that received some loans before the effective date of the abovementioned decree, i.e. before 18 March 2020.

## Types of moratorium

Letter a) provided that loans granted with the clause “up to revocation”, as well as advances against receivables, for existing amounts at 29 February 2020, or, if higher, those existing at the decree publication date (17 May 2020) cannot be revoked. The provision applies both to the used portion and to the non-used portion and it is specified that not even a partial revocation is admitted. Originally, such moratorium was limited to 30 September 2020, but Law Decree dated 14 August 2020, no. 104 has extended such term to 31 January 2021.

Letter b) originally provided that agreements relevant to non-installment loans, due before 30 September 2020, would be automatically extended up to such date. Law Decree dated 14 August 2020, no. 104 extended such term up to 31 January 2021.

Letter c) originally provided that payments of instalments or fees related to loans and other instalment financing, including short-term agricultural loans, which are due before 30 September 2020, would be suspended up to 30 September 2020. Law Decree of 14 August 2020, no. 104 has extended this term up to 31 January 2021. It is specified that the repayment terms of suspended instalments or fees, as well as ancillary duties, are postponed, without any formalization being needed, according to procedures that ensure the absence of new or higher burdens, both for intermediaries and for businesses. Businesses have the possibility to request the suspension of payment of the whole instalment or only of principal.



For further details and operating instructions on this issue, please refer to the FAQs published by the Ministry of Economy and Finance on 22 March 2020 and to circular letter no. UCR/000593 issued by ABI (Italian Bank Association) on 24 March 2020.

The possibility to apply for the Guarantee fund (Fondo di garanzia) has also been extended to 31 January 2021. The fund covers any damage to banks for an amount equal to 33% of the higher uses compared to loans under para. 6, letter a) of art. 56 of Law Decree no. 18/2020 and to single instalments or fees provided under para. 6, letter c) of the same Law Decree.

More in detail, for the abovementioned operations, lenders can file an electronic application to benefit from the guarantee specifically provided by the Guarantee fund for SMEs, without the need to perform any valuation. This guarantee will cover an amount equal to 33% of:

- higher uses, at 31 January 2021, compared to amounts used up to 17 March 2020 with reference to operations under para. 2, letter a) of art. 56
- single instalments or fees under para. 2, letter c) of art. 56.

### **Obtainment of the moratorium**

The possibility to benefit from the moratorium is subject to a declaration to be provided by creditors, banks, financial intermediaries, and other entities qualified for the granting of credit in Italy. Such declaration, under the provisions of para. 3 of art. 56 of Law Decree dated 17 March 2020 no. 18, must be accompanied by a self-certification of the company attesting the sudden lack of liquidity due to the current emergency. Such self-certification must be provided under art. 47 of Presidential Decree no. 445 of 2000.

For already admitted companies, para. 2 of art. 65 at issue provides that the postponement to 31 January 2021 is automatic, without any formalization being needed, unless the beneficiary company expressly waives such postponement by 30 September 2020 (i.e. within the original term provided by *Decreto Liquidità*).

Moreover, if a company is not admitted to the measures under art. 56 para. 2 of Law Decree 17 March 2020, no. 18 by 15 August 2020, it can be admitted by 31 December 2020, at the same conditions provided under the regulation at issue. Microenterprises and SMEs with a poor creditworthiness cannot benefit from the moratorium.

### **Postponement of terms for the start of enforcement proceedings**

Para. 3 of art. 65 of the decree at issue specifies that for those companies that benefitted from the supporting measures provided under abovementioned art. 56, the 18-months' term for the start of enforcement procedures starts from the conclusion of supporting measures under para. 2 of the same art. 65, i.e. from 31 January 2021, due to the effects of the postponement.

In particular, para. 8 of art. 56 of decree no. 18 of 2020 regulates the call on the guarantee. This can be requested by lenders if enforcement procedures relevant to the following were started in the 18 months following the conclusion of supporting measures:

1. total or partial default in the payments provided under 56, para. 2 letter a), i.e. loans granted with the clause "up to revocation", as well as advances against receivables
2. omitted payment (even partial) of amounts due as principal and interest relevant to loans extended pursuant to art. 56, para. 2, letter b), i.e. agreements relevant to non-instalment loans;

3. default in the payment of one or more loan instalments or fees suspended pursuant to art. 56, para. 2, letter c), i.e. instalments or fees related to instalment loans.

Therefore, enforcement in all of the above cases cannot start before 31 July 2022.

In these cases, lenders can file the enforcement application with the Guarantee fund, together with an estimation of the final loss to be covered by the same Fund.

### **Extended temporary suspension of notifications of non-performing positions to the Central Credit Register and credit information systems**

In line with the provisions explained in previous paragraphs, the suspension of notifications of non-performing positions to the Central Credit Register of the Bank of Italy and to credit information systems concerning smaller companies that benefit from the financial supporting measures under art. 56, para. 2 of law decree dated 17 March 2020, no. 18 is also postponed. Due to such new provision, the suspension is extended up to 31 January 2021.

The Bank of Italy intervened on this matter by publishing some FAQs and clarified that, in case of admission to the moratorium, beneficiaries cannot be signalled as being late with payments, since instalments are suspended. Moreover, they cannot be indicated as non-performing debtors if they obtained the moratorium. On the other hand, if debtors were indicated as non-performing before the obtainment of the moratorium, they cannot request the cancellation of such position.



Our professionals would be pleased to provide you with any further information you may need.

Please refer to Clever Desk on our website - [bgt-grantthornton.it](https://www.bgt-grantthornton.it) - for further details on any issues concerning COVID-19.

