CLEARY GOTTLIEB

ALERT MEMORANDUM

COVID-19 Toolkit for Sovereigns:

Support, Stimulus and Debt Management Measures

Updated May 19, 2020

As COVID-19 continues to impact countries around the world, Cleary Gottlieb lawyers are tracking key areas of development that may be of interest to sovereigns. As the situation continues to evolve, we will be regularly updating this note to track the international response to the market turmoil and economic and financial risks caused by the virus. The information set out in this note is as of May 1, 2020. If you have any questions, please contact your usual contact at Cleary Gottlieb or Cleary's COVID-19 client task force.

If you have any questions concerning this memorandum, please reach out to your regular firm contacts or our COVID-19 task force by clicking here.

For more information, please consult our COVID-19 Resource Center.

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Overview

Governments, central banks, regulators and international financial institutions across the world are adopting a wide range of measures to support both their national and the global economy and to prevent COVID-19 from causing long-lasting economic harm.

— **Support:** This note first highlights the measures introduced by **international and regional financial institutions** (section 1). In particular, we summarize the range of financial packages available to help member countries respond to the repercussions of the COVID-19 crisis.

— **Stimulus:** The middle sections of this note set out some of the key mechanisms and programs put in place by **monetary authorities and governments** including measures taken by monetary authorities (section 2), emergency financing measures to support the real economy (section 3) and other notable regulatory responses and measures (section 4). Policymakers may look to the menu of innovative reliefs and dispensations implemented by different countries, even if solutions in each country will be context-dependent and driven by the evolving situation.

— **Debt Management Measures:** The last section (section 5) highlights measures available to sovereign borrowers and creditors in the **sovereign debt management toolkit** to manage debt stocks and flows in response to the crisis. As with the COVID-19, debtors and creditors alike face the challenge of "flattening the curve" of sovereign defaults. Absent judicious behavior, all stakeholders in the international financial system will suffer greater damage. As we update this note, we will remained focused on steps taken and tools developed to facilitate an adequate management of sovereign liquidity and even solvency crises as they emerge.

1. Measures introduced by international and regional financial institutions

1.1 International Monetary Fund ("IMF")

In addition to policy and technical advice, the IMF can provide timely financial assistance. Under the IMF's two emergency financing instruments—the Rapid Credit Facility and the Rapid Financing Instrument—countries can receive financing to respond to health disasters. Disbursements under these two instruments are one off payments meant to cover an urgent balance of payments need and not subject to traditional IMF conditions. The country has to only demonstrate that its debt is sustainable and make a commitment to economic policies that help overcome the emergency. The IMF estimates that it could provide up to US$50 billion in emergency financing to fund emerging and developing countries' initial response to the COVID-19 outbreak, and is aiming to double this to US$100 billion. On March 26, 2019, the IMF provided emergency financial assistance of US$120 million to the Kyrgyz Republic, its first disbursement to address challenges posed by the COVID-19 outbreak.

On April 22, 2020, the IMF announced that it established a new facility, the Short-term Liquidity Line ("**SLL**"), to address potential, moderate, and short-term balance-of-payments needs following external shocks. As part of its broader crisis-response strategy, this new facility provides a reliable and renewable credit line, without ex post conditionality, to members with very strong fundamentals and policy frameworks.

On May 1, 2020, the IMF approved a new two-year Flexible Credit Line (FCL) arrangement for Colombia, which is designed for crisis prevention purposes with the flexibility to draw on the credit line at any time. Peru and Chile have also requested for a FCL arrangement.

1.2 World Bank Group ("WBG")

On March 17, 2020, the WBG launched an initial package designed to help member countries and companies in their efforts to prevent, detect and respond to the rapid spread of COVID-19. The package will make available initial crisis resources of up to US$14 billion in financing on a fast track basis, including grants and low interest loans from the International Development Association ("**IDA**") for low income countries, loans from the International Bank for Reconstruction and Development ("**IBRD**") for middle income countries, and necessary support from the International Finance Corporation ("**IFC**") to financial institutions to enable them to continue to offer trade financing, working capital support and medium term financing to private companies struggling with disruptions in supply chains. In addition, the plan includes policy advice and technical assistance drawing on global expertise and country level knowledge. As of April 2, 2020, the WBG had deployed US$1.9 billion to operations in 25 countries, and new projects were in progress in over 40 countries using the fast track process.

On April 2, 2020, the WBG announced a broader economic program, which would provide up to US$160 billion over the next 15 months to members to help them respond to the immediate crisis and bolster economic recovery.

1.3 G20 Statement regarding debt relief

On April 15, 2020, the G20 nations agreed to a time-bound suspension of debt service payments for the poorest countries that request forbearance, and have called on private creditors to participate in the initiative on comparable terms. The moratorium on bilateral government debt repayments will begin on May 1, 2020. There have been various proposals from commentators, academics and market participants in response to the agreement:

- The Institute of International Finance published an open letter to the IMF, the World Bank and the Paris Club, setting out their proposals for how a standstill might be implemented.
- A group of sovereign debt experts have proposed the standstill payments could

be funneled into a credit facility maintained by a development bank, such that countries could draw down funds to pay for COVID-19-related expenses (see here for a full explanation of the proposal).

1.4 Inter-American Development Bank ("IDB")

The IDB has up to US$12 billion in resources that can be programmed to member countries requesting support for disease monitoring, testing and public health services, as well as safety nets for vulnerable populations and assistance to small and medium enterprises through financing and guarantees. The IDB can also work with countries that have undisbursed loan balances to redirect resources to pandemic response efforts. In addition, the IDB can provide support to countries in designing and implementing policies in three key areas: fiscal measures to finance the response to the crisis; continuity plans for the execution of expenditures and public procurement; and measures to support economic recovery.

1.5 African Development Bank ("AfDB")

The AfDB has announced health and safety measures to help prevent the spread of the COVID-19 in countries where it has a presence, including its headquarters in Abidjan. In addition, on March 26, 2020, the AfDB issued a record US$3 billion three-year bond (the "**Fight COVID-19 Social Bond**") to provide support and financing to countries and businesses fighting against COVID-19. The Fight COVID-19 Social Bond received interest from central banks and official institutions, bank treasuries, and asset managers with bids exceeding US$4.6 billion.

On April 8, 2020, the AfBD announced the creation of the COVID-19 Response Facility that would provide up to US$10 billion to governments and the private sector. The facility is designed to help African countries to fast-track their efforts to contain the rapid spread of COVID-19.

1.6 Asian Development Bank ("ADB")

On April 13, 2020, the ADB announced that it would triple its initial package to US$20 billion to address the needs of its developing member countries as they respond to COVID-19, including up to US$13 billion to help governments of developing member countries implement effective countercyclical expenditure programs to mitigate the impacts of the COVID-19 pandemic, approximately US$2.5 billion in concessional and grant resources, and US$2 billion to be made available to the private sector. To provide the support package to its members as quickly and flexibly as possible, ADB will seek adjustment in its financing instruments and business processes, including faster access to emergency budget support for economies facing severe fiscal constraints, streamlined procedures for policy based lending, and universal procurement with flexible and faster processes.

1.7 Asian Infrastructure Investment Bank ("AIIB")

AIIB is working to scale up infrastructure investment—including in public health, healthcare and information and communications technology—to better serve members impacted by COVID-19. On April 17, 2020, the AIIB announced it was doubling available funds under its COVID-19 Crisis Recovery Facility to provide US$10 billion to public and private sector entities facing serious adverse impacts as a result of the pandemic.

1.8 New Development Bank ("NDB")

On March 19, 2020, NDB approved a RMB 7 billion (approximately US$100 million) Emergency Assistance Program Loan to the People's Republic of China, aimed at helping the Chinese Government in combating the outbreak of COVID-19.

1.9 European Bank for Reconstruction and Development ("EBRD")

EBRD established a new Solidarity Package that is now ready to provide support worth €21 billion over the 2020-2021 period. The package strengthens the support to clients suffering temporary difficulties from the COVID-19 outbreak, including (i) an expansion of trade finance and, where required, short term (up to two years) finance through financial institutions, notably in support of SMEs; (ii) short term (up to two years) working capital facilities for corporates and energy developers; and (iii) balance sheet restructuring and short term liquidity support for sub sovereign municipal, energy and infrastructure clients. In addition, the EBRD will take "an enabling view" to restructuring of existing loans adjusted repayment schedules, collateral, interest rates, and fee structures.

1.10 IFC Social Bonds

On March 20, 2020, the IFC issued US$1 billion of social bonds with a three year maturity. The bonds were issued with an aim to support healthcare and socio-economic needs arising as a result of the COVID-19 pandemic.

2. Measures introduced by monetary authorities

	EUROPEAN CENTRAL BANK	BANK OF ENGLAND	U.S. FEDERAL RESERVES
Interest rate cut		X	X
New liquidity facilities	X	X	X
Asset purchase programs	X	X	X
Change in capital rules	X	X	X
Supervision adjustments	X	X	X
Central Bank Swap Lines	X	X	X

2.1 European Central Bank ("ECB")

(a) Asset Purchase Programs

The European System of Central Banks ("**ESCB**"), which includes the ECB, conducts purchases of public and private sectors securities pursuant to the various constituent programs of the Expanded Asset Purchase Program ("**EAPP**"), including the Corporate Sector Purchase Program ("**CSPP**") and the Public Sector Purchase Program ("**PSPP**"). On March 12, 2020, the ECB announced an increase by €120 billion of its envelope for net asset purchases in favor of the private sector to be conducted until the end of 2020.

On March 18, 2020, the ECB launched a new temporary asset purchase program of private and public sector securities to counter the serious risks to the monetary policy transmission mechanism and the outlook for the euro area posed by the outbreak of COVID-19. The program is known as the Pandemic Emergency Purchase Program ("**PEPP**") and has an overall envelope of €750 billion. Greek government bonds and marketable public debt securities with a minimum remaining maturity between 70 days and 1 year have been included in the program, although they cannot be purchased under the existing PSPP. Moreover, the ECB has eliminated the cap on how many bonds it can buy from any single Eurozone country. The ECB also expanded the range of eligible assets under the corporate sector purchase program (the "**CSPP**") to include all investment-grade commercial paper with a minimum remaining maturity of one month.

The PSPP has been challenged on the grounds that it is, among other things, an ultra vires act on the part of the ECB. The Court of Justice of the European Union

("**CJEU**") held that the PSPP constituted a monetary policy and is therefore valid. However, on May 5, 2020, the German Federal Constitutional Court declared that the ruling of the CJEU was "incomprehensible" and "ultra vires", and instructed the Bundesbank to stop participating in the PSPP following a transition period of no more than three months, unless the ECB can demonstrate that the PSPP meets certain criteria. However, it has been argued that the German ruling itself violates EU law, and as such, the full implications of the ruling remain to be seen.

(b) Long Term Refinancing Operations

The European Central Bank currently undertakes long term refinancing operations, whereby it provides liquidity to Eurozone banks. The current program was launched in March 2019 and is known as "**TLTRO III**". The TLTRO III program consists of "targeted" operations, which means that the amount that banks may borrow is linked to their loans to non-financial corporations and households (excluding mortgages). In response to the COVID-19 outbreak, on March 12, 2020, the ECB expanded these operations to provide additional liquidity prior to the start of the next operation of TLTRO III on June 24, 2020, and provided more favorable terms for operations from June 2020 to June 2021.

(c) Temporary Collateral Easing Measures

On April 7, 2020, the ECB adopted a package of temporary collateral easing measures linked to the duration of the PEPP in order to facilitate the availability of eligible collateral to participate in liquidity providing operations, such as TLTRO-III, and with a view to encourage an increase in bank funding against loans to corporates and households. In particular, the ECB announced the expansion of the use of credit claims as collateral, the accommodation of the requirements on guarantees in order to provide liquidity against loans benefiting from public guarantee schemes, and a temporary increase of the risk tolerance level in refinancing operations. These measures also include a waiver in order for Greek sovereign debt instruments to be accepted as collateral in Eurosystem credit operations.

(d) Capital Relief and Supervision Adjustments

The European Banking Authority ("**EBA**") has announced it will postpone 2020 stress tests to 2021, and, for 2020, will only carry out an additional EU wide transparency exercise with the aim of ensuring the availability of updated information on banks' exposures and asset quality. The ECB has announced its intention to extend certain inspections and investigations and allow banks under its supervision (i.e., significant Eurozone credit institutions) to temporarily operate below certain capital requirements rules.

On March 12, 2020, the ECB has introduced measures aimed at ensuring that banks and financial institutions will continue to be able to effectively support the real economy, without compromising their current prudential robustness, such as:

(i) the possibility for banks to temporarily operate below the capital requirements set forth in the Pillar 2 Guidance (P2G) or required by the rules relating to the capital conservation buffer (CCB) and the liquidity coverage ratio (LCR); and

(ii) the possibility for banks to partially use non CET1 instruments (such as AT1 or T2 instruments) in order to meet Pillar 2 requirements.

In addition, on March 20, 2020, the ECB announced that it will use a flexible approach as regards the assessment and treatment of non-performing and forborne exposures by banks to ensure the effectiveness of guarantee schemes and moratoriums put in place by public authorities to address the COVID-19 crisis.

On April 16, 2020, the ECB further announced a measure to provide relief with regard to capital requirements for market risk through a temporary reduction of the qualitative market risk multiplier. This measure aims to address the extraordinary levels of volatility recorded in financial markets since the outbreak of the COVID-19 pandemic, and will be reassessed after six months.

(e) Central Bank Liquidity Swap Lines

The ECB together with the Bank of England, the Bank of Canada, the Bank of Japan, the Federal Reserve and the Swiss National Bank are increasing the frequency of 7 day maturity operations on their standing US dollar liquidity swap lines, from weekly to daily. These swap lines operate to provide dollar liquidity to banks outside of the United States (via the aforementioned central banks) to mitigate strains in global funding markets. The cost of the swaps have also been lowered, as described below.

2.2 United Kingdom

(a) Interest Rate Cut

On March 19, 2020, the Bank of England's Monetary Policy Committee ("**MPC**") reduced the Bank of England base rate of interest to 0.1%. This is the lowest rate ever, and the second decrease in just over a week. The reduction is intended to support business and consumer confidence during the COVID-19 outbreak and bolster the cash flows of businesses and households.

(b) Asset Purchase Program

At its special meeting on March 19, 2020 the MPC judged that a further package of measures was warranted to meet its statutory objectives. It voted unanimously to increase the Bank of England's holdings of UK government bonds and sterling non-financial investment-grade corporate bonds by £200 billion to a total of £645 billion, financed by the issuance of central bank reserves. The Committee also voted unanimously that the Bank of England should enlarge the term funding scheme for small and medium sized enterprises (see below), financed by the issuance of central bank reserves. The majority of additional asset purchases will comprise UK government bonds, but will include some additional sterling non-financial investment-grade corporate bonds.

(c) Corporate Bond Purchase Scheme

On April 2, 2020, the Bank of England announced that it will utilize the Corporate Bond Purchase Scheme ("**CBPS**") that was launched in August 2016 to purchase at least £10 billion of eligible sterling non-financial corporate bonds. Eligible bonds are expected to comprise conventional investment grade unsubordinated debt securities that are, *inter alia*, admitted to official listing on an EU stock exchange and have a minimum residual maturity of 12 months (no perpetual debt). The Bank of England will undertake operations via reverse auctions.

(d) Central Bank Liquidity Swap Lines

The Bank of England will join the Bank of Canada, the Bank of Japan, the European Central Bank, the Federal Reserve and the Swiss National Bank in increasing the frequency of 7 day maturity operations on their standing US dollar liquidity swap lines, from weekly to daily. These swap lines operate to provide dollar liquidity to banks outside of the United States (via the aforementioned central banks) to mitigate strains in global funding markets. The cost of the swaps have also been lowered, as described below.

(e) New Liquidity Facility

In response to financial market conditions, the Bank of England has activated the Contingent Term Repo Facility ("**CTRF**") a temporary enhancement to its sterling liquidity insurance facilities. The CTRF is a flexible liquidity insurance tool that allows participants to borrow central bank reserves (cash) in exchange for other less liquid assets (collateral).

(f) Change in Capital Rules

The Bank of England has reduced the UK countercyclical capital buffer rate (a varying capital requirement above other minimum capital requirements) to 0% of exposures to UK borrowers for at least 12 months. This change is to reduce the risk that the supply of credit to the real economy will be constrained by regulatory capital requirements. This is expected to support up to £190 billion of bank lending to business (equivalent to 13 times banks' net lending to businesses in 2019).

(g) Supervision Adjustments

The Bank of England has cancelled its 2020 stress test for the eight major UK banks and building societies. The Bank of England and the Prudential Regulation Authority ("PRA") have also postponed certain supervisory programs and consultations.

(h) Other guidance

On March 26, 2020, the PRA published guidance on covenant breaches due to COVID-19. The PRA stressed the importance of taking into account the differences between normal covenant breaches and covenant breaches as a result of COVID-19. Where uncertainties are of a general nature or are firm-specific but unrelated to the solvency or liquidity of the borrower, the PRA urged lenders to consider waiving the resultant covenant breach. The PRA expects lenders to do so in good faith and not to impose new charges or restrictions on the borrower following a covenant breach that are unrelated to the facts and circumstances that led to that breach.

(i) Monetary Financing

On April 9, 2020, the Bank of England and HM Treasury announced a temporary extension to the UK government's overdraft account with the Bank of England. This is intended to provide the government with temporary and short-term source of additional liquidity, and can support market function by minimizing the immediate impact of raising additional funding in gilt and sterling money markets.

2.3 United States

(a) Interest Rate Cut

On March 3, 2020, the Federal Reserve lowered its target Fed funds rate by half a percentage point—its first unscheduled and largest interest rate cut since 2008. On March 15, 2020, it further lowered target Fed funds rates to 0–0.25%, an additional full percentage point cut.

(b) Asset Purchase Programs

On March 15, 2020, the Federal Reserve announced a plan to purchase at least US$500 billion in U.S. Treasury securities and at least US$200 billion in agency mortgage backed securities. Then, on March 23, 2020, the Federal Reserve expanded this program to an amount "needed to support smooth market functioning and effective transmission of monetary policy to broader financial conditions and the economy." The Federal Reserve announced that it would gradually reduce the frequency of some of these repo operations.

(c) New Liquidity Facilities

The Term Asset Backed Securities Loan Facility ("**TALF**") was one of the three new facilities established by the Federal Reserve on March 23, 2020, along with the expansion of two facilities created the week before. The TALF, which was expanded on April 9, 2020, provides loans to U.S. companies that own certain eligible asset backed securities backed by newly or recently originated consumer and business loans.

Both established on March 18, 2020, the Money Market Mutual Fund Liquidity Facility ("**MMLF**") is a lending facility to support money market mutual funds in order to ensure that such funds can meet the demands for redemptions by household and businesses, and the Commercial Paper Funding Facility ("**CPFF**") was established to provide a liquidity backstop to U.S. issuers of commercial paper. On March 23, 2020, the Federal Reserve expanded the MMLF and CPFF to include a wider range of securities, including U.S. municipal short term debt, and reduced the pricing of CPFF.

The Primary Dealer Credit Facility was established by the Federal Reserve on March 17, 2020 to allow access to short term liquidity through repo arrangements with primary dealers.

The Coronavirus Aid, Relief, and Economic Security Act ("**CARES Act**"), which became law on March 27, 2020, appropriates up to US$454 billion for loans, loan guarantees and investments in support of the Federal Reserve's lending facilities to eligible businesses, states and municipalities.

(d) Central Bank Liquidity Swap Lines

As mentioned above, the Federal Reserve joined the Bank of Canada, the Bank of England, the Bank of Japan, the European Central Bank and the Swiss National Bank in enhancing the provision of liquidity via standing U.S. dollar liquidity swap lines, which are an important liquidity backstop to mitigate strains in global funding markets. These central banks agreed to lower the pricing on the standing U.S. dollar liquidity swap arrangements and offer U.S. dollars in longer maturities.

In addition, the Federal Reserve established temporary U.S. dollar liquidity swap lines with the Reserve Bank of Australia, the Banco Central do Brasil, the Bank of Korea, the Banco de Mexico, the Monetary Authority of Singapore, the Sveriges Riksbank (Sweden), the Danmarks Nationalbank (Denmark), the Norges Bank (Norway) and the Reserve Bank of New Zealand.

(e) Support for Municipalities and States

On April 9, 2020, the Federal Reserve announced the establishment of the Municipal Liquidity Facility to help state and local governments manage cash flow pressures by purchasing eligible notes directly from U.S. state and certain U.S. cities and counties.

(f) Rule Amendments and Other Guidance

On March 15, 2020, the Federal Reserve announced the elimination of the reserve requirement for depository institutions, a move designed to free up funds to support lending to households and businesses.

On March 22, 2020, U.S. federal bank supervisors amended capital rules to provide relief from risk based capital and leverage rules for exposures acquired as part of the MMLF and a gradual phase in of the automatic restrictions on capital distributions that result from dipping into capital buffers. In addition, on April 1, 2020, the Federal Reserve announced that it was changing the calculation of its supplementary leverage ratio for holding companies to exclude U.S. Treasury securities and deposits at Federal Reserve Banks.

The CARES Act provides temporary relief (or provides the banking agencies with authority to provide temporary relief) in a number of areas, including (1) delaying the effectiveness of the "current expected credit loss" accounting standard, (2) relaxing OCC lending limits, (3) authorizing the Federal Deposit Insurance Corporation to guarantee bank obligations, including deposits, up to a maximum program amount to be determined, (4) reducing, and providing a grace period for compliance with, the Community Bank Leverage Ratio for certain community banks and (5) authorizing Treasury to guarantee U.S. money market mutual funds.

On April 23, 2020, the Federal Reserve announced two actions, which will be in effect until September 30, 2020, to increase the availability of intraday credit extended by Federal Reserve Banks:

(i) The Federal Reserve is suspending uncollateralized intraday credit limits (net debit caps) and waiving overdraft fees of institutions that are eligible for the primary credit program.

(ii) The Federal Reserve is permitting a streamlined procedure for secondary credit institutions to request collateralized intraday credit (max caps).

(g) Supervision Adjustments

On March 15, 2020, the Federal Reserve encouraged depository institutions to turn to the discount window to meet demands for credit, lowered the primary credit rate to 0.25% and extended the timeframe for borrowing to 90 days to support credit demands.

On March 22, 2020, U.S. federal bank supervisors issued guidance encouraging financial institutions to work with borrowers to avoid defaults, stating that supervised institutions will not be criticized for doing so and will not be required to categorize all COVID-19 related loan modifications as troubled debt restructurings.

On March 31, 2020, the Federal Reserve announced that it was delaying the effective date for its revised control framework from April 1, 2020 to September 30, 2020 in order to reduce operational burdens and allow institutions to focus on current economic conditions.

On March 24, 2020, the Federal Reserve announced adjustments to its supervisory approach to increase its focus on monitoring, temporarily reduce examination activities and extend time periods for remediating existing supervisory findings.

2.4 Emerging Markets

The monetary authorities and regulators in various emerging markets have taken similar measures in response to the outbreak, as set out on the IMF website available here. We have set out below some examples of how other countries have responded.

(a) Interest Rate Cut

To ensure liquidity in the banking system to safeguard financial market stability, many central banks have reduced interest rates and reverse repo rates. For example, the People's Bank of China ("**PBC**") has reduced reverse repo rates by up to 30 basis points; and has also reduced interest on excess reserves from 72 to 35 basis points. Similarly, in Brazil, the policy rate was lowered by 50 basis points to a historical low of 3.75%, and Chile implemented two policy rate cuts by cumulative 125 basis points to 0.5%.

(b) Reduction in Reserve Requirements

Central banks are reducing reserve requirements, allowing commercial banks to increase the supply of loans to the economy. The Central Bank of Brazil reduced their reserve requirements from 25% to 17%, resulting in BRL 68 billion in additional funds to the market. The Reserve Bank of India has recently announced a temporary reduction of the liquidity coverage ratio from 100% to 80%. The PBC has taken a slightly different approach, with cuts to their required reserve ratio targeted to the size and purpose of the bank. Large- and medium-sized banks that meet inclusive financing criteria which benefit smaller firms saw cuts by 50 to 100 basis points, whilst small- and medium-sized banks that support SME loans saw a reduction of 100 basis points. Similarly, in Argentina, a lower reserve requirement on bank lending to households and SMEs has been implemented.

(c) Credit Facilities

Some central banks have introduced new credit facilities to provide loans for financial institutions to inject liquidity into the economy. For example, the Central Bank of Chile introduced a new funding facility for banks conditional on them increasing credit, especially to companies that do not have access to the capital markets. In Brazil, the central bank opened a facility to provide loans to financial institutions backed by private corporate bonds as collateral. The Central Bank of the Russian Federation introduced a new RUB 500 billion facility specifically for SME lending.

(d) Regulation and Supervision

Some emerging market countries have seen the central bank relax or temporarily suspend regulatory and supervisory requirements. For example, the Central Bank of the Russian Federation has restricted the use of administrative penalties on financial institutions for non-compliance with reporting deadlines, and have suspended certain reporting requirements for the reporting period up to June 2020. Similarly, in the Philippines, the central bank has relaxed the timeline of compliance reporting.

3. Emergency financing to support the real economy

	EUROPEAN INSTITUTIONS	UK	US
Asset purchase programs / corporate financing facilities	**ECB**	**X**	**X**
Job retention scheme	**National implementation (e.g., Italy)**	**X**	**X**
Liquidity facilities	**EIB**	**X**	**X**
Support for SMEs	**EIB**	**X**	**X**
Tax Deferrals	**National implementation (e.g. Italy)**	**X**	**X**

3.1 European Central Bank

(a) Asset Purchase Program

As mentioned above in section 2.1(a) (*Asset Purchase Programs*), the PEPP includes all the asset categories eligible under the existing Expanded Asset Purchase Program launched in January 2015, which include investment grade corporate debt instruments. In addition, the range of eligible assets has been expanded to include all commercial paper with a minimum remaining maturity of one month. This measure is intended to encourage and support the banking sector's effort to finance businesses affected by the COVID-19 crisis.

3.2 European Investment Bank ("EIB")

The EIB provides long-term loans for various projects including for healthcare and SMEs. The EIB has mobilized up to €40 billion to fight the crisis caused by COVID-19. The proposed financing package consists of dedicated guarantee schemes to banks based on existing programs for immediate deployment, mobilizing up to €20 billion of financing; dedicated liquidity lines to banks to ensure additional working capital support for SMEs and mid-caps of €10 billion; and dedicated asset-backed securities (ABS) purchasing programs to allow banks to transfer risk on portfolios of SME loans, mobilizing another €10 billion of support.

3.3 United Kingdom

(a) Job Retention Scheme and support for the self-employed

The UK has introduced a COVID-19 "job retention scheme", pursuant to which any employer, regardless of size and sector, can receive government funding to cover 80% of an employee's salary or wage, up to a maximum of £2,500 per month. There is no requirement that the organization be incorporated in the UK, nor for the employers to demonstrate the impact of COVID-19 on their operations when making a claim under this scheme. The UK government's expectation is that the scheme will be established by the end of April 2020. Italy and Singapore have introduced similar schemes.

In addition, the UK has introduced a 'Self-employment Income Support Scheme' whereby the Government will provide support to self-employed people on the same basis as the job retention scheme described above.

(b) Corporate Financing Facilities

HM Treasury and the Bank of England have launched the COVID Corporate Financing Facility ("**CCFF**") to provide funding to businesses by purchasing, at a minimum spread over reference rates, newly issued commercial paper of up to one year maturity issued by non-financial businesses, which are considered to make a material contribution to the UK economy. Funding will be provided on terms comparable to those prevailing in markets in the period before the COVID-19 economic shock, and will be open to firms that can demonstrate they were in sound financial health prior to the shock (i.e., companies that had a short or long term rating of investment grade, as of March 1, 2020, or equivalent). The scheme is intended to help such businesses across a range of sectors that have been affected by a short term disruption of cashflow to finance their short term liabilities.

(c) Support for SMEs

The MPC introduced on March 11, 2020, and subsequently enlarged on March 19, 2020, a term funding scheme for small and medium sized enterprises ("**TFSME**"). The TFSME will offer four year funding of at least 10% of banks' lending to the real economy at interest rates at or close to the Bank of England base rate, over the next twelve months. The TFSME has been open for drawings since April 15, 2020. The Bank of England estimates that this scheme should lead to around £100 billion being provided in term funding.

The UK government has also introduced the 'Coronavirus Business Interruption Loan Scheme' ("**CBILS**"), a new temporary loan scheme delivered by the government-owned British Business Bank. The scheme will provide lenders with a government backed guarantee of 80% of the facility (subject to pre-lender cap on claims) for up to six years for term loans and asset finance facilities, and three years for overdrafts and invoice finance facilities, and the government will pay the first 12 months of interest payments and any lending fees.

Further, employers with fewer than 250 employees as at February 28, 2020, will be eligible for a government refund of up to 14 days' of statutory sick pay (currently £95.85 per week) paid to any employee who, on or after March 13, 2020, is either ill or required to self-isolate because of COVID-19, for up to 28 weeks.

Finally, approximately 700,000 small businesses that already pay little or no business rates will be eligible for £10,000 grants to help meet business costs. A cash grant of up to £25,000 may be available for businesses in the retail, hospitality and leisure sectors operating from premises that have a rateable value (for business rates purposes) between £15,000 and £51,000.

(d) Support for larger UK Businesses

HM Treasury announced the 'Coronavirus Large Business Interruption Loan Scheme' ("**CLBILS**") on April 2, 2020, which is intended to provide support to larger UK businesses which are unable to obtain relief under the CBILS (see above).

The scheme provides participating lenders with a government-backed guarantee of 80% on each loan up to £25 million in value to UK businesses with an annual turnover of between £45 million and £250 million per year, and up to £50 million to businesses with an annual turnover of over £250 million. It is intended that facilities backed by a guaranteed under CLBILS will be offered at commercial rates of interest. Businesses in all sectors are eligible to apply with the exception of banks and building societies, insurers and reinsurers (but not insurance brokers), and public sector organizations.

(e) Support for innovative businesses

On April 20, 2020, the UK Chancellor announced a new £1.25 billion COVID-19 support package to assist businesses driving innovation in the UK, which may be unable to access other business support programs. The package aims to provide government loans to UK-based companies ranging between £125,000 and £5 million, subject to at least equal match funding from private investors.

(f) Tax deferrals

The UK has introduced various fiscal measures in response to COVID-19. These include support for businesses and self-employed individuals with outstanding tax liabilities, a deferral of the next quarter of VAT payments and the next instalments of income tax due under the self-assessment system and a delay to anti avoidance reforms (known as IR 35) applicable to people contracting their services to large or medium sized organizations outside the public sector. In addition, the UK government will introduce a business rates 'holiday' for businesses in the retail, leisure and hospitality sectors in England in the 2020-21 tax year. The scope of this measure extends to all businesses in those sectors, regardless of their size. No action is required from businesses: the measure will be applied automatically to bills for the period beginning April 2020, with existing bills being reissued where necessary to reflect the holiday.

Many emerging markets governments have proposed fiscal and tax measures to support the national economy during the crisis. Among the most significant is China's US$298.3 billion reduction in taxes for companies.

3.4 United States

(a) Job Retention Scheme

The Coronavirus Aid, Relief, and Economic Security Act ("**CARES Act**"), adopted on March 27, 2020, includes employee retention tax credits equal to 50% of the first US$10,000 of wages paid to each employee that has been idled for employers whose business has been fully or partially suspended as a result of government orders relating to COVID-19, or who have suffered a significant (i.e., greater than 50%) decline in gross receipts.

(b) Liquidity and Corporate Financing Facilities

The Federal Reserve, on March 23, 2020, announced the establishment of and, on April 9, 2020, expanded two facilities to support credit to large employers:

(i) the Primary Market Corporate Credit Facility ("**PMCCF**") to provide liquidity to U.S. companies to allow them to maintain business operations.

The PMCCF will purchase corporate bonds and portions of syndicated loans or bonds directly from U.S. companies with investment grade debt or that were recently downgraded to below investment grade.

(ii) the Secondary Market Corporate Credit Facility ("**SMCCF**") to provide liquidity for outstanding corporate bonds and certain US listed ETFs in the secondary market.

(c) Support for SMEs

The CARES Act allocates nearly US$350 billion to provide partially forgivable loans of up to US$10 million to companies with 500 or fewer employees. The CARES Act also provides US$17 billion to cover six months of payments for small businesses with existing Small Business Administration ("**SBA**") non-disaster loans. The SBA is also offering Economic Injury Disaster Loans ("**EIDL**") of up to US$2 million for small businesses impacted by COVID-19. The business must have suffered substantial economic injury, meaning that it is unable to meet its obligations and pay its ordinary and necessary operating expenses.

The Federal Reserve established the Paycheck Protection Program Lending Facility on April 6, 2020 to encourage financial institutions to make loans to small businesses under the SBA's Paycheck Protection Program ("**PPP**") established by the CARES Act. The PPP facilitates lending to small businesses in order to cover payroll and certain other expenses over the next three months by financial institutions that are approved by the SBA and potentially other bank and nonbank lenders that meet certain criteria. An act increasing the amount appropriated for SBA loans under the PPP from $349 billion to over $670 billion, with particular allocations to community development financial institutions, minority depository institutions, and community and regional banks and credit unions was sent to the U.S. president for signature on April 23.

On April 9, 2020, the Treasury and the Federal Reserve announced the establishment of two new Main Street Lending Facilities to support lending to mid-sized businesses: the Main Street New Loan Facility (“**MSNLF**”) and the Main Street Expanded Loan Facility (“**MSELF**”). These facilities would provide up to US$600 billion in loan purchases, supported by a US$75 billion Treasury equity investment. Borrowers must certify that they require financing due to COVID-19 and will make reasonable efforts to maintain payroll and retain employees during the term of the loan. Proceeds may not be used to repay or refinance pre-existing loans.

(d) Tax Deferrals

Under the CARES Act, an employer’s portion of Social Security and Medicare taxes for the period from enactment up to January 1, 2021 will not be due until December 31, 2021, when half of the deferred amount is due, and December 31, 2022, when the other half is due. Similar rules allow deferral of 50% of federal self-employment taxes.

The CARES Act grants other tax benefits to companies, including lifting limitations on carrying back net operating losses and on deducting interest expenses.

3.5 Emerging Markets

We set out below examples of actions taken by various emerging market countries to support SMEs in light of the crisis.

(a) *Credit support to SMEs*

In order to minimize the economic impact of the health crisis, emerging market countries have announced various types of credit support to provide assistance to SMEs to cover any ongoing expenses. Brazil announced a 3.75% annual credit line for SMEs, worth some US$8 billion in the aggregate, to cover two months’ salary for approximately two million employees and prevent layoffs in the private sector. In Chile, the government announced a US$500 million capitalization of Banco del Estado de Chile (the State-owned bank) for it to provide financing of working capital or re-financing alternatives of outstanding debt for SMEs. In China, the PBC provided the equivalent of US$51.5 billion for commercial lenders to lend to SMEs and provided US$49.5 billion of low interest loans to SMEs through state banks. Mexico announced that the government will provide one million microcredits for SMEs, to be distributed in equal parts in the formal and informal economy. The Central Bank of Russia is providing RUB 500 billion in order to maintain lending to SMEs by Russian banks.

(b) *Loan relief*

In light of the pandemic, many SMEs are experiencing difficulty in paying their loan obligations, and some countries are requiring banks to provide temporary relief to allow breathing space for these SMEs. For example, China has required banks to grant loan and interest payment extensions to SMEs until the end of June. The Reserve Bank of India has provided relief by allowing companies a three-month moratorium on loan repayments. In Hong Kong, the Hong Kong Monetary Authority coordinated with the Banking Sector SME Lending Coordination Mechanism to introduce various measures to support SMEs. In order to reduce the cash-flow pressures facing SMEs, Hong Kong banks continue to proactively offer to delay repayments or extend loan tenors, and to reduce fees. Banks in Hong Kong have also introduced relief measures targeting specific sectors such as the import and export sector.

(c) *Suspension of payment for basic services*

To ensure that basic services continue to be provided, the Chilean government reached an agreement with electric utilities and telecom carriers to provide payment relief to lower-income users and free internet access to users among the 40% of the population with the lowest income. The

Argentine government similarly barred companies that provide basic services from suspending such services for the non-payment of up to three consecutive or alternate bills.

(d) *Suspension of tax and other government contribution*

Emerging market countries have also suspended tax and other payments to the government to relieve some financial stress on SMEs. For instance, the Argentine government decided to exempt the sectors affected by COVID-19 from employers' contributions. The Chilean government announced income tax and VAT payment deferrals for SMEs. Uruguay implemented VAT and employment contributions' deferrals. In Russia, SMEs will benefit from, among other things, certain rental holidays when leasing from the state, moratorium on tax audits and additional subsidies and preferential rate lending.

4. Other notable regulatory responses and measures

4.1 Competition and Market Access

(a) EU State Aid Temporary Framework

On March 19, 2020, the European Commission (the "**Commission**") announced the relaxation of state aid rules to allow Member States to support their economies. On April 3, 2020, the Commission published an amendment to the framework to further loosen the March guidelines. The "legal framework" now enables Member States to (i) set up schemes granting each individual company up to €800,000 in direct grants, repayable advances,tax advantages, equity, loans or guarantees for urgent liquidity needs, (ii) give subsidized State guarantees on bank loans or set up guarantee schemes supporting bank loans taken out by companies, (iii) enable public loans with subsidized interest rates, (iv) provide short term export credit insurance, and (v) provide aid aimed at combating COVID-19. The framework also provides that aid channeled by the banking sector to final customers (in particular, SMEs) will be considered aid to the customers, rather than to the banks. This means that it would not qualify as extraordinary public financial support, and thereby not trigger placement in resolution of the banks.

(b) Foreign Investment Screening

The Commission has also issued guidance on the screening of foreign direct investment in the context of the COVID-19 crisis. The guidance identifies an increased risk of attempts by non-EU acquirers to obtain control over suppliers of essential products, in particular healthcare sector products, and calls upon Member States to protect their critical infrastructure.

4.2 Securities Markets

(a) United States – Market-Wide Circuit Breakers

These measures, triggered in response to price declines based on the S&P 500 Index, halt trading for 15 minutes or, if the market decline is more extreme, can halt trading for the remainder of the day. These circuit breakers have been triggered four times since the outbreak of the COVID-19 pandemic, most recently on March 18.

(b) Prohibitions on short sales

In light of the negative impact on securities markets, since the outbreak of COVID-19, several countries have banned short selling and other related transactions that intensify markets' volatility, including Austria, Belgium, France, Greece, Italy and Spain.

4.3 Insolvency Procedures

Amendments to insolvency rules and filing processes have been either proposed or implemented in certain jurisdictions (for example, the UK, France, Germany, Spain and Russia) in order to provide respite for businesses facing challenges due to the COVID-19 outbreak.

5. Debt Management Measures

5.1 Access to financing

The crisis was confirmed as a pandemic by the World Health Organization on March 12, 2020. Since then, sovereign issuers including Panama, Sweden, Abu Dhabi, Israel, Indonesia, Greece, Mexico, Paraguay, Peru and Chile have accessed the market to raise new bond financing. Other sovereigns have chosen to draw down on existing financing arrangements, including (but not limited to) multilateral and regional financial institutions, in order to shore up reserves. Sovereigns issuing bonds have included a COVID-19 pandemic related risk factor.

5.2 Social bonds

New financial products are currently being structured including bonds issued for the purposes of addressing the outbreak, such as "Social Bonds", which the AfDB and the IFC have already issued (see above). Other instruments with a dedicated purpose include green bonds and sustainability bonds (which have a combined green and social purpose). On the corporate front, a number of Chinese corporate issuers have recently raised funds by placing "virus prevention and control bonds," although some critics have pointed out that as little as one third of the proceeds of such bonds have been used to cover expenditures related to the COVID-19 outbreak.

5.3 Forbearance

As discussed above, the IMF, the World Bank Group and the G20 announced their support for forbearance with respect to amounts due to them to free up liquidity for the poorest countries in the face of the outbreak. Countries that are unable to service their debts during this period will likely need to consider ways of introducing standstill mechanisms binding on their private sector creditors, including by use of collective action clause (see below), as a means of avoiding or delaying a debt restructuring. The discussion regarding reverse comparability with the private sector has already begun.

5.4 Debt management tools

State-of-the art sovereign debt instruments include collective action clauses providing for aggregation to mitigate the hold-out risk. Still, many debt instruments have perpetuated the unanimous consent requisite with respect to the payment terms. As debtors confront liquidity and possibly solvency crunches, they will need to carefully assess means available to induce judicious behavior on the part of their private sector creditors. With the pressures caused by the COVID-19 crisis, sovereign issuers may increasingly look to such debt management tools used in recent transactions such as Greece, Barbados, Belize, Ecuador and Ukraine to help restore order to the country's finances.

5.5 Credit default swaps

Measures and announcements by sovereign issuers may impact the sovereign credit default swap (CDS) market. CDSs are used by investors to hedge exposure against a debt default. Competing pressures from a volatile CDS market can affect the dynamics of a sovereign debt restructuring or liability management exercise, and should be borne in mind by issuers and advisors. As an example, the Credit Derivatives Determinations Committee recently adjudicated that Ecuador's consent solicitation to delay interest payments on their sovereign bonds constituted a "Restructuring Credit Event" for the purposes of Ecuador sovereign CDSs.

Cleary Gottlieb has established a COVID-19 Resource Center, providing information and thought leadership on developing events. In addition, we have a COVID-19 Task Force that is acting as a repository for practical solutions, best practice and issue-spotting to help our clients by sharing market experience, insight and advice from across our global presence. If you have any questions concerning this memorandum, please reach out to your regular firm contact.

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