

## CORPORATE UPDATE

## COVID-19: Future Fund

The Government has this week published the provisional term sheet for the *Future Fund*, a new scheme for growth companies who are facing financial difficulties due to coronavirus. The Government initially intends to make £250m available via the Scheme until the end of September 2020.

**Who can claim?**

- › The Scheme is open to any unlisted UK company which has raised in aggregate £250,000 in private funding in the previous five years.
- › The funding will only be available to the parent company of a corporate group.
- › Unlike the reliefs provided under the Government's Business Interruption Loan Scheme ("BILS"), the Scheme will be available to loss making businesses.

**Matched funding**

- › To utilise the Scheme, businesses will need to agree private third party matched investment.
- › The Government loan cannot constitute more than 50% of the total funding received by the company.
- › This process requires companies to access funding through traditional routes alongside accessing the government relief. This, in effect, allows the government to rely on the diligence and decision making of private investors (a "Matched Investor").

**Terms of the loan**

- › The minimum interest rate of the loan will be 8%.
- › Loans will mature after a maximum of 36 months.
- › The minimum loan principal amount will be £125,000 and the maximum will be £5,000,000.
- › The loans will be unsecured.
- › The Government funding can only be used for working capital purposes and cannot be used to repay any liabilities, dividends, bonus payments, or professional fees (if such fees relate to the company accessing the Scheme).
- › The Government will benefit from a most favoured nation clause; i.e., if the company issues further convertible instruments on more favourable terms then the more favourable terms will automatically apply.

**Conversion and Valuation**

- › The loan provided under the Scheme will automatically convert into equity on the company's next "qualifying funding round" at a 20% discount to the price of the round.

Accrued interest will convert at full price.

- › A "qualifying funding round" is any equity raise equal to or greater than the value of the Government funding round. On a non-qualifying funding round, a Matched Investor can decide whether the loan will convert or be repaid.
- › If the company elects to repay the principal amount advanced under the Scheme, a redemption premium will be payable amounting to 100% of the principal amount.
- › The Government will not set a valuation cap on the conversion, but a cap will automatically apply if one is agreed with the Matched Investor.

**Key Considerations**

- › Accessing the Scheme will mean that, unless a company pays an aggressive repayment premium, the Government will become a shareholder in the company during a future fundraise.
- › The Government will be free to sell (i) the loan; and (ii) following conversion, any shares. The company therefore risks an unknown investor acquiring an interest in the company. Regulated businesses would need to consider how this impacts on the need to obtain regulatory body approval to new investors (e.g. from the Gambling Commission).
- › Government debt must always be the most 'senior' debt in the business. It must be weighed up against the impact having such debt on the balance sheet would have on the appetite of future investors who would have to accept more junior status and the valuation impact of conversion of the Government loan.
- › The terms are aggressive, but reflective of the risk undertaken by the Government. It is suggested that profit making businesses should prioritise the BILS to access lower interest rates. The matched funding requirement is also an obvious barrier and suggests that the Scheme is of most obvious utility to loss-making businesses already at some stage of advancement of a fundraising round. In their case (subject to acceptance of the expensive debt), it offers an opportunity to double funding in difficult times.

**If you would like any further advice or assistance on these issues, please contact Jon Walters (jon.walters@northridgelaw.com)**

This note should not be treated as legal advice and only provides general information on the issues discussed.

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