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## AVOCATS



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## Repayment of Covid loans - what solutions for companies in difficulty?

*The joint and several loans and guarantees (hereinafter: "Covid loans") set up by the Federal Council to enable companies to cope with the measures taken to combat the Covid-19 pandemic must be repaid within eight years of being granted. Repayment of these loans must begin by 31 March 2022 at the latest. The financial health of many of the borrowers does not allow for such rounding to begin. However, the law on joint and several guarantees in connection with the Covid-19 contains instruments that make it possible to arrange suitable amortization modalities.*

### 1. When and since when must the Covid loans be repaid?

Art. 3 para. 2 of the LCaS-COVID-19 stipulates that Covid loans must be fully amortized within 8 years. However, the law does not define when the loan must be amortized.

The credit agreement between the borrower and the bank, the content of which was laid down in the Ordinance on Joint and Several Guarantees under COVID-19 (aOCaS-COVID-19), provided that banks could impose amortization during the term of the guarantee (Annex 2, Art. 7, aOCaS-COVID-19).

It is therefore up to the bank to determine when the Covid loan should be amortized. The Swiss Bankers Association (SBA) has issued guidelines according to which all Covid loans must start to be amortized as of 31 March 2022. The SBA defines this date as a cut-off date to safeguard the political and financial interests of the Confederation.

If the borrower wants to amortize earlier, he is free to do so and can repay the loan in full or in part at any time.

### 2. What tools are available to the borrower who cannot repay the loan within the stipulated period?

In its guidelines, the SBA states that if a borrower is still severely affected by the consequences of the pandemic on the deadline and therefore does not yet have the financial means to repay the Covid loan, a deferment of between six months and one year can be granted without undue formality and without prior review.

Furthermore, Art. 3 para. 2 CSLA-COVID-19 provides that if the repayment of the loan within the stipulated period would have very serious consequences for the borrower, the lender may, with the agreement of the guarantee organisation, extend the period appropriately, but for a maximum of ten years, on the basis of an amortization plan, provided that the financial risks for the Confederation are 'reduced'.

In other words, if the borrower is able to demonstrate that his financial situation does not allow him to fully repay the loan within the time limit and that the extension of the loan period improves the prognosis for repayment of the loan, he may, with the agreement of the guarantee organization, benefit from an extension of the repayment period by a maximum of two years.

Finally, if the financial situation of the borrower is so serious that bankruptcy is a possibility, the borrower may postpone all or part of the claim with the agreement of the guarantee organization within the framework of composition proceedings or out-of-court financial debt rescheduling, provided that this does not increase the financial risks for the Confederation.

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We recommend that borrowers who are unable to meet their repayment obligations should take the initiative and contact the bank in order to negotiate (1) an extension of the deadline for commencing repayment, (2) and/or an extension of the repayment period, (3) or, in the event of a particularly difficult situation, a partial or complete postponement of the loan.

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**Source :**  
***<https://www.wg-avocats.ch/en/actualites/administrative-law/repayment-of-covid-loans-what-solutions-for-companies-in-difficulty/>***