

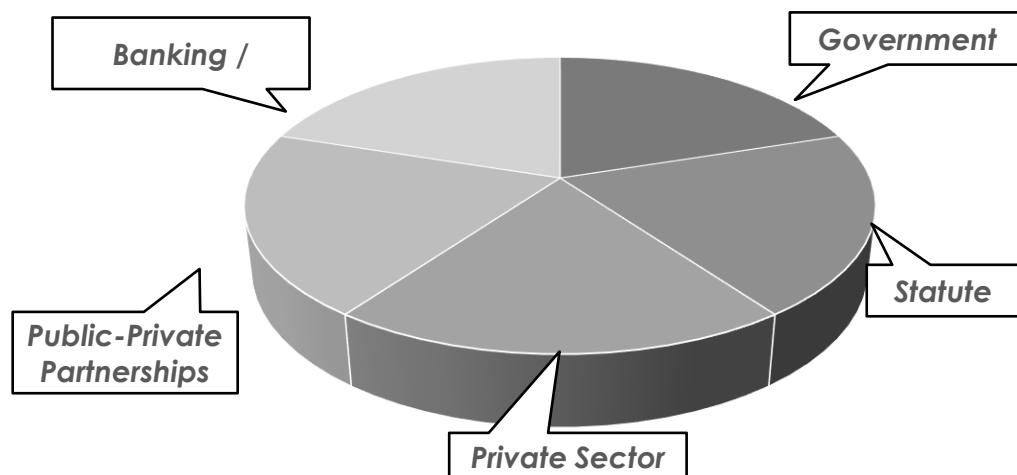
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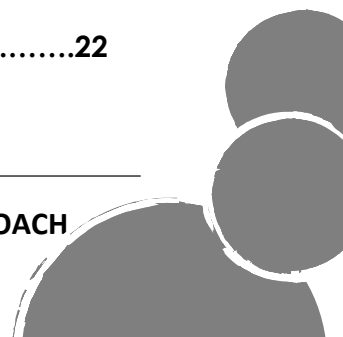
COVID19 - RELIEF AND SUPPORT OPTIONS: A MULTI-DISCIPLINARY APPROACH

*Government, Statutory, Public-Private Partnerships,
Banking/Insurance, Private Sector – As at 5 April 2020*

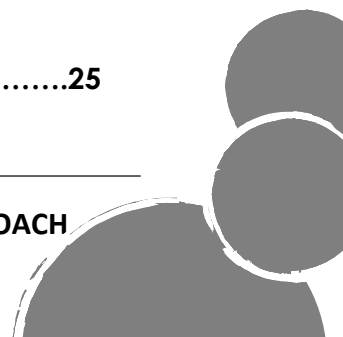
Relief and Support Options for South African businesses and individuals are evolving daily. Below is a high-level summary of the position as at 5 April 2020, divided into the following categories:



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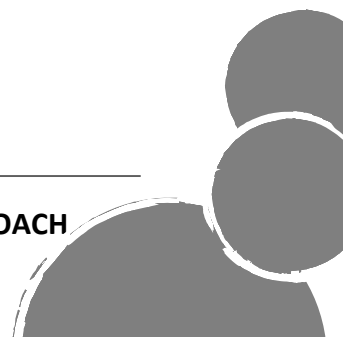
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1. GOVERNMENT – NEW MEASURES

1(a). UNEMPLOYMENT INSURANCE FUND (“UIF”)

These benefit categories are funded by the national Unemployment Insurance Fund (“UIF”) and each have their own set of benefit payments and eligibility requirements. These options act as a safety net for employees, arising from, amongst others, closure of businesses directly impacted by the national lockdown, unemployment, illness and quarantine of the employee or reduced time offered by employers. Importantly, the benefits claimable by the employees range from zero Rand (if the employer pays the employee during the period) to the difference between the benefit level and the amount received by the employee from the employer (subject to a maximum, and employees may not earn more than they would ordinarily earn).

1(a)(i). COVID-19 TEMPORARY EMPLOYEE / EMPLOYER RELIEF SCHEME (C19 TERS) – CAPPED AT R17,702 PER EMPLOYEE PER MONTH

The COVID-19 TERS states that should an employer, as a direct result of COVID-19, close its operations for a three month or lesser period and suffer financial distress, the employer shall qualify for a COVID-19 Temporary Relief Benefit. These benefits are delinked from the normal UIF benefits and form the normal TERS benefits.

The salary benefits are calculated in terms of the Unemployment Insurance Act, 2001, and are the same as maternity leave benefits *i.e. benefit* calculated on a

UIF sliding scale ranging from 38% (highest earners) to 60% (lowest earners) which scale stops at R17 702 per month and any employee earning more than this will only get the 38% maximum benefit which is R6 726.76 per month. If a company can still afford

to pay its employees a portion of their salaries, the COVID-19 TERS may be used to “top up” salaries.

1(a)(ii). C19 TERS ILLNESS BENEFITS

The COVID-19 TERS benefit extends the UIF illness benefit to employees who are quarantined for 14 days due to COVID-19, irrespective of whether the employee is ill or not.

1(a)(iii). NATIONAL DISASTER BENEFIT – CAPPED AT R3,500 PER EMPLOYEE PER MONTH

In the event that an employer decides, as a direct result of Covid-19, to close its business and send employees home, the employer can apply for the National Disaster Benefit. Unlike the COVID-19 TERS benefit which requires a company to be in financial distress, the National Disaster Benefits seemingly only requires an employer to shut its business.

The amount payable is fixed at a flat rate of R3 500 per month, per employee for the duration of the period which the employer has shut its business or a maximum period of 3 months, whichever is shorter. If an employee is ill, temporarily laid off or unemployed for longer than three months, the normal UIF benefits will apply.

Importantly, the benefits are delinked from the normal UIF benefits and, as such, the usual requirement that for every 4 days worked the employee accumulates 1 credit day does not apply.

The flat rate offered in terms of the National Disaster Benefit may be more beneficial to employees than the COVID-19 TERS which calculates benefits in terms of section 12 and 13 of the UIA. The

employer should consider which option best suits its employees' needs.

1(a)(iv). EXISTING UIF BENEFITS

The existing UIF benefits relating to unemployment benefits, illness benefits, maternity benefits, parental benefits, adoption benefits and dependents' benefits continue to apply. The existing benefits may not be claimed simultaneously to the COVID-19 relief benefits.

1(b). COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT

COVID-19 has been declared to be a compensable disease in terms of the Compensation for Occupational Injuries and Diseases Act 130 of 1993 ("**COIDA**").

Compensation is provided for "*occupationally-acquired COVID-19*" which means that the disease is contracted by an employee arising out of and in the course of his or her employment. In this respect, a claim can only be made to the

Compensation Fund if the employee satisfies certain pre-conditions.

Temporary Total Disablement ("**TTD**") is a level of disability which renders an employee completely unable to render any job function on a temporary basis. TTD payments shall be made for as long as such disablement continues but not for a period exceeding 30 days. In terms of suspected and unconfirmed cases, an employee must abide by self-quarantine practices as recommended by the World Health Organisation ("**WHO**") and the employer will be liable for remuneration for the days of absence. In respect of confirmed cases, TTD shall be paid from the date of diagnosis up to 30 days.

In the event that there are complications, the Commissioner has the right to review the case. In all accepted cases of COVID-19, medical aid shall be provided for a period of not more than 30 days from the date of diagnosis.

Lastly, if an employee dies as a result of occupationally-acquired COVID-19, reasonable burial expenses and widow's and dependents' pensions shall be payable, where applicable.

A “domestic employee employed as such in a private household” is not covered by COIDA and the employer may be liable for these costs.

1(c). DEBT RELIEF FINANCE SCHEME

The Debt Relief Fund is designed and tailored to provide financial relief on current debts and repayments of small, medium and micro enterprises (“**SMMEs**”). In order to qualify for assistance for funding, the SMME must demonstrate the direct relation/connection of the impact or the potential impact of the novel COVID-19 pandemic on its business operations. The Debt Relief Fund will also assist entities in acquiring raw material, paying labour and other operational costs.

These interventions will be planned to match the patterns of the SMMEs cash flow projections, as well as the extent of the affect suffered as a result of COVID-19 (not as a result of pre-existing difficulties).

To access the necessary finances, SMMEs are required to register on the SMME South Africa platform. This will require SMMEs to provide general information such as details of its shareholders, their employee demographics and whether they require financial assistance or non-financial assistance, amongst other information, which must be incorporated into its application.

In order to qualify for financial assistance, SMMEs must meet the following criteria:

- 100% owned by South African citizens;
- employ at least 70% South African nationals;
- be registered with the South African Revenue Service;
- be tax-compliant;
- must have been registered with CIPC by at least 28 February 2020;

- must be registered on <https://smmesa.gov.za>; and
- Priority will be given to businesses owned by women, youth and persons with disabilities.

1(d). BUSINESS GROWTH / RESILIENCE FACILITY

The key difference between the Debt Relief Fund and the Business Growth/Resilience Facility ("the Facility") is that the Facility acts as a soft loan and is targeted towards SMMEs that are manufacturing what could be considered as "*essential goods*".

The establishment of the Business Growth/Resilience Facility has been specially designed and tailored to ensure the autonomy and ultimate success of SMMEs in South Africa. The COVID-19 pandemic has had a severe impact on the financial prosperity of SMMEs who operate in compromised local and global markets. In accordance with the National Treasury Instruction Note No. 8 of 2019/2020, the Facility will provide much reprieve for SMMEs by offering a diverse range of financing options, which seek to alleviate the impact of the COVID-19 pandemic.

Considering the above, the Small Businesses Development Department has offered the Facility to SMMEs who manufacture or supply products as listed in the aforementioned Instruction Note. SMMEs operating in the logistical sphere are also invited to enrol on the website for support. The spectrum will offer a wide range of facilities to other spheres in due course.

In order to qualify for the above funding, there are specific criteria which must be met, which include the same criteria listed above for the Debt Relief Fund, as well as annual turnover thresholds for each sector in order to register on the national SMME database.

1(e). TOURISM RELIEF FUND

A R200 million fund has been made available by the Department of Tourism to assist SMME's and various tourism sub-sectors in the industry impacted by travel restrictions.

Preference will be given to SMME's in rural areas and townships and those owned by women, young people and people with disabilities.

To be eligible for assistance, the SMME must satisfy the applicable qualifying criteria.

1(f). SPAZA SHOP SUPPORT SCHEME

This just announced scheme will assist owner-operated spaza shops with seed and network capital or business buying and access to business support tools, such as bookkeeping. This will enable spaza shop operators to continue to operate, providing essential goods.

The operators will be required to obtain a permit to trade from the relevant local municipality. The Department of Small Business Development ("the DSBD") will also assist operators to register with the South African Revenue Service ("SARS"), the Unemployment Insurance Fund ("the UIF"), the Companies and Intellectual Property Commission ("the CIPC") and will further assist those that do not have bank accounts to open same. The operators must however be willing to buy locally made goods from designated South African Small Businesses.

The scheme will also encourage spaza shops to meet the required hygiene regulations during the National Lockdown.

South African citizens seeking to register for support are required to have South African Identity documents and a permit to trade, whilst foreign spaza shop owners are required to be admitted to South Africa "lawfully" and hold

valid passports with relevant business visas or permits allowing them to work or operate a business.

1(g). MUNICIPALITIES

Most municipalities have not provided any financial measures to support communities during the COVID-19 Lockdown.

One notable exception is the Stellenbosch Municipality which has offered the following relief measures:

- A payment reprieve/holiday on property rates, from 1 April to 30 June 2020;
- No interest will be charged for property rates billed over the abovementioned period (subject to certain criteria);
- Free basic water allocation for indigent residents will be increased from 6 to 10 kilolitres per household from 1 April to 30 June 2020; and
- A temporary suspension of all credit control measures and procedures will be implemented until the end of April 2020, meaning that all electricity meters that were blocked as a result of overdue accounts, will be unblocked and residents will be able to purchase and upload electricity freely during the abovementioned period.

The City of Johannesburg will reconnect all residents whose water and lights were cut due to non-payment and are considering relaxing some credit control policies to give businesses some relief during the 21-day Lockdown.

Many municipalities are not implementing credit control measures during the lockdown period (seemingly because they are unable to do).

1(h). RELAXED COMPETITION RULES FOR RETAIL SECTOR

The Minister of Trade, Industry and Competition has issued a block exemption ("the Exemption") for the Retail Property Sector.

The Exemption exempts a category of agreements or practices between designated retail property tenants and landlords from the application of section 4 (Agreements between competitors) and section 5 (Agreements between suppliers, firms and customers) of the Competition Act 89 of 1998 ("the Competition Act") at the request of and in coordination with the Department of Trade, Industry and Competition.

The Exemption applies solely to agreements or practices related to:

- payment holidays and/or rental discounts for tenants;
- limitations on the eviction of tenants; and
- suspensions or adjustments to lease agreement clauses that restrict retail tenants from undertaking reasonable measures required to protect their viability during the national crisis.

Further, the Exemption extends to South African designated retail tenants in the clothing, footwear, home textile, personal care services and restaurant sectors, including small and independent retailers, unless otherwise authorised by the Minister or the Competition Commission.

1(i). TAXATION AND TAX ADMINISTRATION – SPECIAL PROVISIONS

1(i)(i). PAY-AS-YOU-EARN ("PAYE")

POSTPONEMENT OF THE PAYMENT OF EMPLOYEES' TAX LIABILITY FOR TAX COMPLIANT SMALL TO MEDIUM SIZED BUSINESSES

Measures to assist tax compliant SMMEs to alleviate cash flow shortfalls during this period have been proposed

For the purposes of this proposal, SMMEs are small to medium sized businesses "*with an annual turnover not exceeding R50 million*".

In view of the above, the following tax measures are proposed for a period of four months from 1 April 2020 to 31 July 2020:

- Tax compliant SMME's will be allowed to postpone 20% of their PAYE liabilities over the next four months (from the payment due on 7 May), without SARS imposing administrative penalties and interest for the late payment thereof.
- The postponed PAYE liability must be paid to SARS in equal instalments over the six-month period commencing on 1 August 2020. Therefore, the first payment must be made on 7 September 2020.

Interest and penalties will however apply if the employer has understated the PAYE liability for any of the four months.

1(i)(ii). PROVISIONAL TAX

POSTPONEMENT OF THE PAYMENT OF PROVISIONAL TAX LIABILITY FOR TAX COMPLIANT SMALL TO MEDIUM SIZED BUSINESSES

The following tax measures have been proposed for a period of twelve months from 1 April 2020 to 31 March 2021:

- A portion of the payment of the first and second provisional tax payments will be postponed without the imposition of administrative penalties and interest for the late payment of the deferred amount.
- The first provisional tax payment due from 1 April 2020 to 30 September 2020 will be based on 15% of the estimated total tax liability (instead of 50%), while the second provisional tax

payment from 1 April 2020 to 31 March 2021 will be based on 65% of the estimated total tax liability (instead of 50%).

- Provisional taxpayers with postponed payments will be required to pay the full tax liability when making the third provisional tax payment to avoid interest charges.

EXAMPLE 1:

COMPANY A	FINANCIAL YEAR END	ESTIMATED TAX LIABILITY	P1	P2	P3	TOTAL PROVISIONAL TAX
	30-Jun-20	R3,000,000	31-Dec-19	30-Jun-20	31-Dec-20	
	<i>Current law</i>		50%	50%	0%	
			R1,500,000	R1,500,000	-	R3,000,000
	<i>Temporary relief</i>		50%	15%	35%	
			R1,500,000	R450,000	R1,050,000	R3,000,000
	CASH FLOW RELIEF			R1,050,000		

EXAMPLE 2:

COMPANY B	FINANCIAL YEAR END	ESTIMATED TAX LIABILITY	P1	P2	P3	TOTAL PROVISIONAL TAX
	28-Feb-21	R800,000	31-Aug-20	28-Feb-21	30-Sept-20	
	<i>Current law</i>		50%	50%	0%	
			R400,000	R400,000	-	R800,000
	<i>Temporary relief</i>		15%	50%	35%	
			R120,000	R400,000	R280,000	R800,000
	CASH FLOW RELIEF		R280,000			

1(i)(iii). EMPLOYMENT TAX INCENTIVE (“ETI”)

EXPANSION OF THE EMPLOYMENT TAX INCENTIVE AGE ELIGIBILITY CRITERIA AND AMOUNT CLAIMABLE

The Employment Tax Incentive (“ETI”) programme (“**the Programme**”) is aimed at encouraging employers to hire young and less experienced work seekers (also referred to as “**qualifying employees**”). It reduces an employer's cost of hiring young people through a cost-sharing mechanism with the government, while leaving the wage the employee receives unaffected.

The Programme allows for an employer to claim the ETI in respect of a *qualifying employee*:

- who is between the ages of 18 and 29; and
- has a monthly remuneration of less than R6,500.

The employer can only claim the said ETI for the first 24 months of the *qualifying employee*'s employment. They may claim a maximum of R1,000 per month per *qualifying employee* in the first year of employment and R500 in the second year of employment.

In order to assist with job retention, and assist businesses that may be experiencing significant distress, the Government has proposed expanding the Programme for a period of four months

- The maximum amount of ETI claimable during the four-month period for *qualifying employees* will be increased from R1,000 to R1,500 in the first year of employment and from R500 to R1,000 in the second year of employment.

- A monthly ETI claim in the amount of R500 will be allowed during the four-month period for employees from the ages of:
 - 18 to 29 who are no longer eligible for the ETI as the employer has already claimed ETI in respect of those employees for 24 months; and
 - 30 to 65 who are not eligible for the ETI due to their age.

- SARS will further fast track the payment of the ETI reimbursements from twice a year to monthly to allow compliant employers to have cash on hand as soon as possible.

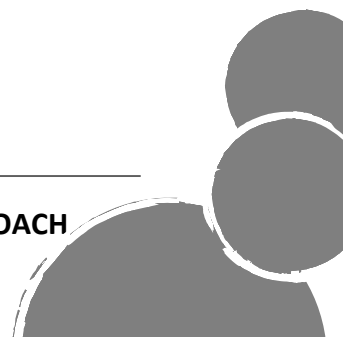
The above will however only apply to employers that were registered with SARS as at 1 March 2020.

EXAMPLE 1:

The employer has 5 employees earning R5,000 per month each. The employer can retain up to an additional R2,500 from the employer's PAYE liability each month between April and July.

EXAMPLE 2:

The employer has 3 employees. The employer claims the ETI for employee A, the employer exhausted ETI claims for the 25-year old employee B two years ago, and employee C is 36 years old and has never been a qualifying employee. The employees each earn R3,000 per month. The employer will be able to retain R2,000 per month. Since there are only 3 employees, the amount will likely be claimed as a reimbursement from SARS.



	REMUNERATION	ETI	EXPANDED ETI	TOTAL
EMPLOYEE A	R3,000	R1,000	R500	R1,500
EMPLOYEE B	R3,000		R500	R500
EMPLOYEE C	R3,000		R500	R500
TOTAL	R12,000			R2,000

1(i)(iv). VALUE ADDED TAX (“VAT”) AND CUSTOMS DUTY RELIEF FOR IMPORTERS OF “ESSENTIAL GOODS”

SARS announced that the importation of “essential goods” as defined in Regulation to the Government Gazette of 25 March 2020 issued under the Disaster Management Act 57 of 2002 (“the Disaster Management Act”), will be exempt from VAT under Schedule 1 to the VAT Act 89 of 1991 (“the VAT Act”).

Further, on 29 March 2020, SARS included a full rebate of customs duty under Schedule 4 to the Customs and Excise Act 91 of 1964 (“the Customs and Excise Act”).

The goods listed under Schedule 1 of the VAT Act include, *inter alia*, goods imported for the relief of distressed persons in cases of famine or other national disaster. This relief is granted provided that an import certificate is obtained from the *International Trade Administration Commission* (“ITAC”) and that such goods shall not be sold or disposed of to any party who is not entitled to any privileges thereunder.

A comprehensive list of the qualifying goods is available on the ITAC website. The website also provides detailed guidelines on the procedures to follow to apply for the abovementioned certificate. It is important to note however that the VAT exemption only applies to the importation and not to the supply of essential goods by a vendor in the course or furtherance of his enterprise.

1(f)(iv). SUMMARY OF SPECIAL PROVISIONS

	TAX SUBSIDY	PROVISIONAL CORPORATE INCOME TAX PAYMENTS	POSTPONEMENT OF PAYE LIABILITIES	SARS ETI PAYMENTS
RELIEF	R500 per month for the next 4 months	Portion of provisional payments over the next 6 months with no penalties or interest	Company allowed to postpone 20% of PAYE liabilities without penalties or interest for the next 4 months	ETI reimbursements paid monthly and not twice a year
REQUIREMENTS	Only for employees earning less than R6,500 under the ETI	Turnover less than R50 million	Turnover less than R50 million	Normal ETI rules

NOTE:

The above information was extracted and adapted from the draft explanatory notes detailing the COVID-19 tax measures and the circumstances under which they will apply. These measures will be legislated pursuant to two Bills, namely the Disaster Management Tax Relief Bill and the Disaster Management tax Relief Administration Bill which will be tabled when parliament reconvenes later this year for retrospective enactment. Same were published for public comment alongside their draft explanatory memorandum on the National Treasury and SARS websites on 1 April 2020.

1(j). IDC COVID-19 ESSENTIAL SUPPLIES INTERVENTION

The Industrial Development Corporation ("**IDC**") has established this intervention with the primary aim of providing funding to companies in order to acquire and/or manufacture and supply essential supplies on an urgent basis to combat the COVID-19 pandemic.

The IDC will provide support *inter alia* in the following ways:

- R500 million for trade finance to import essential medical products
- Short term loans to companies for once-off contract of import funding

1(k). MCEP COVID-19 PROGRAMME

The Manufacturing Competitiveness Enhancement Programme (“**MCEP**”) has offered funding towards manufacturing companies that provide essential products that have become scarce due to the high demand caused by the outbreak of the COVID-19 pandemic. Funding will however be limited to a R30 million per applicant in total.

2. GOVERNMENT – EXISTING STATUTE

2(a). BASIC CONDITIONS OF EMPLOYMENT ACT

2(a)(i). ANNUAL LEAVE

The general rule is that annual leave is determined by the employer.

The current situation is no different. Employers are entitled to place employees on mandatory annual leave during the period of Lockdown.

The employer’s ability to do so is subject to the terms of the employment contract and relevant leave policies. It is preferable to reach an agreement with employees in this regard.

2(a)(ii). NO WORK/NO PAY

The duty to pay wages arises as a reciprocal obligation to services rendered by employees. If an employee is prohibited from rendering his/her service (through no fault of the employer), then

employer is not obliged to pay the employee's wage. The principle of "no work no pay" is applicable during the Lockdown period.

2(a)(iii). WHAT ABOUT WORKING FROM HOME?

Employees do not have a right to work from home. Employees must work at the direction of the employer and as agreed in terms of the employment agreement. If it is a viable option, and at the discretion of the employer, working from home may be permitted. In such circumstances, employees are entitled to their full remuneration and benefits (as if they were working at their usual workplace).

2(b). LABOUR RELATIONS ACT

The Labour Relations Act 66 of 1995 ("LRA") ensures that every employee has the right not to be unfairly treated or dismissed. These rights apply even during the COVID-19 pandemic. Prior to any retrenchment (including temporary lay-off, reduced working hours, or reduced pay) or dismissal, the employer must ensure that there is a substantively fair reason for the dismissal and that a substantively fair process has been followed.

2(c). TAXATION – EXISTING PROVISIONS

Late payments (or partial late payments (ie. short payments)) of Provisional Tax, PAYE and Value Added Tax attract an automatic 10% late payment penalty.

If a taxpayer is "incapable" of complying with its payment obligations, SARS must remit the penalty, or a portion thereof. Incapability of payment can arise from a natural or human-made disaster, as well as a civil disturbance, or disruption in services.

In addition, if payment of these taxes would result in an immediate danger to the continuity of the taxpayer's business operations and the employment of its employees, the penalties, or a portion thereof, should be remitted.

SARS has issued a binding ruling which refers to the Covid-19 pandemic as "beyond the control" of taxpayers.

2(d). BUSINESS RESCUE AND LIQUIDATION

2(d)(i). BUSINESS RESCUE

Business rescue is an alternative to liquidation for companies which find themselves in financial distress, but which have reasonable prospects of being turned around. It allows for the rehabilitation of financially distressed companies by restructuring their affairs and failing that the winding up of such companies in an orderly fashion at maximum benefit to creditors, without resorting to liquidation.

2(d)(ii). LIQUIDATION

Corporations that are insolvent and have no prospects of recovery should be liquidated, either by the company itself, or by its creditors (if there is any advantage to creditors in doing so).

2(d)(iii). COVID BUSINESS RESCUE ASSISTANCE ("COBRA")

Schindlers Attorneys, IQ Business, Engaged Business Turnaround and Agility have formed a consortium to bring their extensive legal, accounting, technology and business turnaround expertise to help businesses in financial distress.

Together, these businesses have launched a crisis management centre called the COBRA (Covid Business Rescue Assistance) War Room.

The initiative aims to assist and sustain South African businesses through the Covid-19 crisis with free services to help them receive coordinated bank, government and stakeholder support. If required, a structured business rescue process can be initiated, with the objective of rehabilitating affected companies.

Those who need urgent business rescue support are encouraged to visit the COBRA War Room website for more information: www.COBRA.org.za

2(e). DEBT REVIEW AND SEQUESTRATION

2(e)(i). DEBT REVIEW

This is a process similar to Business Rescue, but for individuals who are unable to pay their creditors, but may be able to do so if given time to re-arrange their affairs and settle creditors in an orderly fashion on renegotiated terms.

2(e)(ii). SEQUESTRATION

This is a process similar to Liquidation, but for individuals who are unable to pay their creditors, with no prospect of recovery.

3. PUBLIC-PRIVATE PARTNERSHIPS

3(a). THE SOLIDARITY FUND

The Solidarity Fund ("**the Fund**") is designed to be an umbrella platform for all South Africans to contribute towards the fight against the COVID-19

pandemic. The aim of the fund is to pool contributions from all sectors of society. The fund is currently not offering financial support to individual South Africans or SMME's.

The pooled contributions will be used to provide direct support for the healthcare system. It will procure supplies for both the private and public healthcare sector in order to increase the capacity of the healthcare system. The Fund also aims to provide humanitarian aid and support to vulnerable persons and will also embark upon a solidarity campaign which will mobilise the citizenry to take an active role in the fight against the COVID-19 pandemic. In this regard, R100 million has been made available through the Fund for the procurement of additional personal protective equipment for health workers.

4. BANKING/INSURANCE

4(a). BANKING

All Banks have waived the Saswitch ATM cash withdrawal fee during COVID-19 Lockdown period. This means that no punitive fee will apply when one withdraws cash using an ATM of another Bank. This came into effect on 28 March 2020 and will apply to most accounts until mid-night on 16 April 2020.

4(a)(i). STANDARD BANK OF SOUTH AFRICA LTD

Standard Bank has offered a payment holiday to SMME's for the period 1 April 2020 to 30 June 2020. Relief has also been offered to small businesses, students and bond homeowners.

4(a)(ii). ABSA LTD

ABSA's corporate and business clients are offered solutions based on their unique requirements and operations. The ABSA

relief programme for retail clients offers a 3 month payment holiday and allows customers to reduce their monthly repayments. Bond homeowners may also apply for relief.

4(a)(iii). NEDBANK LTD

Nedbank is offering individualized solutions to its Clients in the following forms of individualized relief:

- Payment arrangements
- Payment holidays
- Restructures

Nedbank clients requiring an early release on investment funds **(to supplement cash flow challenges)**, may withdraw these funds without penalty fees being charged. Nedbank will waive the penalty fee on early withdrawal, up to a maximum of R200,000 at an overall portfolio level. This offer will apply between 24 March 2020 and 30 June 2020. Clients must confirm, in writing, that the early release request is due to income shortfall.

4(a)(iv). FIRST NATIONAL BANK (“FNB”) / RAND MERCHANT BANK (“RMB”)

FNB has adopted the following measures, effective from 1 April 2020 until 30 June 2020:

- Instalment cashflow relief, during which part or no instalments/repayments will be due for a specific period. A preferential interest rate will apply to the COVID-19 relief interventions given.
- No fees will be charged for any relief granted;
- Assistance with processing credit insurance claims, where possible;
- Individualized bridge facilities for those who need it.

It is important to note that Interest and fees will continue to accumulate on outstanding balances.

4(b). INSURANCE

4(b)(i). CREDIT INSURANCE

Credit insurance is often mandatory when concluding loan and finance agreements. It is payable, amongst others, in the event of a borrowers inability to meet obligations under a credit agreement due to unemployment or loss of earnings.

(4)(b)(ii). INSURANCE RIGHTS UNDER TYPICAL EXISITNG POLICIES FOR BUSINESS INTERRUPTION

Business Interruption ("BI") cover is offered by insurers to compensate businesses for pecuniary loss suffered due to an unforeseen business interruption, which is resultant from either physical damage to the insured property, which contributes to the running of the business, or another key external event or peril, which event has caused an unforeseen BI and which peril is specifically included in the policy schedule and/or policy wording as being covered.

- **THE PURPOSE:**
 - to reinstate the business to the same financial position that it would have occupied, had the loss not occurred (subject to the limit of indemnity contained in the policy schedule); and
 - to cater for any additional costs incurred by the insured as a result of the BI in order to minimise further loss of revenue (costs of mitigation), which could

include the increased cost of working incurred by the insured as a result of the BI.

- **COVER WHERE BI IS AS A RESULT OF COVID-19:**

To determine if a business is covered for BI caused by COVID-19, the business needs to check, firstly, whether the business actually has BI cover and, secondly, whether the BI cover extends to interruptions caused by infectious diseases (or something similar). Ordinarily, BI insurance only covers interference with a business as a consequence of physical damage to property due to fire, a natural disaster (storm, wind, lightning, earthquake, etc.). Damage as a result of an infectious disease, is often excluded because infectious diseases do not normally result in physical damage to the insured's property. Accordingly, an insured's policy schedule and policy wording will need to be carefully examined, to determine whether infectious diseases are specifically included in the BI cover.

Another possibility for the insured may be to check if the policy schedule/wording provides BI cover in instances where the government declares a national shutdown, such as the one we currently find ourselves in.

BI cover, like all insurance cover, is subject to the terms and conditions of the policy schedule and policy wording. Accordingly, cover that is not already catered for in the policy documents cannot be later read into the policy.

5. PRIVATE SECTOR

5(a). SUKUMA RELIEF PROGRAMME

The Rupert Family and Remgro Limited have donated R1 billion to alleviate the impact of the COVID-19 crisis. The donation is managed by Business/Partners (Pty) Ltd who have set up a platform called the *Sukuma Relief Programme* ("**The Programme**"). The Programme offers distinct and separate financial aid to formal sole proprietors, close corporations, companies and trusts.

5(a)(i). SOLE PROPRIETORS

For formal sole proprietors, a grant of R25,000 per qualifying business is offered.

5(a)(ii). CLOSE CORPORATIONS, COMPANIES AND TRUSTS

For close corporations, companies and trusts, the Programme offers financial aid in the form of an unsecured interest-bearing loan of between R250,000 and R100 Million coupled with a non-payable grant of R25,000 per qualifying business. The loan portion will be interest free for 12 months with no repayment obligations during this period. However, after 12 months, the loan is repayable and will incur interest at the prime rate from month 13. There is no security requirement for the loan.

All applicants are required to provide evidence of financial activity prior to the COVID-19 outbreak, as well as be both tax and regulatory compliant, and be formally registered in the case of close corporations, companies and trusts.

The application platform which is only available online provides that the process is simple and fast and will be done through electronic communication. Applicants are requested to submit all required documents in their application which will be reviewed by knowledgeable and experienced investments teams and if successful, can expect the financial aid in the form of one single payment within 7 working days of their application.

5(b). SOUTH AFRICA FUTURE TRUST

The Oppenheimer family have donated R1 Billion to alleviate the impact of the COVID-19 crisis on the employees of SMME's.

This donation has been used to establish the South Africa Future Trust ("SAFT").

SAFT allows SMMEs to apply for an interest free loan (for the benefit of their employees) repayable by the SMME within five years.

"Eligible SMME employers apply for the scheme via their preferred partner bank and provide a list of names of employees "at risk" due to COVID-19. The SMME must be an existing client of the partner bank in order to apply"

"SMMEs submit any supporting documentation on behalf of their staff as required. Qualifying employees receive funds directly from the partner bank."

Eligibility includes annual turnover of below R25m, trading for at least 2 years, sustainable business as on 29 February and demonstrated adverse impact due to Covid-19.

6. CONCLUSION

It is imperative that businesses do a comprehensive assessment before making applications for relief. It is advisable to seek counsel/legal advices before making application in order to prevent avoidable rejections.

Schindlers Attorneys, Notaries and Conveyancers are fully operational and available to assist you should you require any advice in respect of the above.

DISCLAIMER:

This circular is intended as an easy reference guide in South Africa. The information contained herein is a summary of some of the key issues and an overview of relevant legislation. Due to time and space limitations, specific details affecting the businessperson may not have been covered. This circular should therefore not be relied upon for detailed planning, but for guidance only. The reader is advised

to consult a professional adviser for specific advice and information, and for guidance on new and existing legislation which may affect business and personal planning. This circular should not be treated as a substitute for advice. Professional advice must therefore be sought in relation to any aspect referred to in this circular. While every care has been taken in the compilation of this circular, no responsibility of any nature whatsoever shall be accepted for any inaccuracies, errors or omissions herein.

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