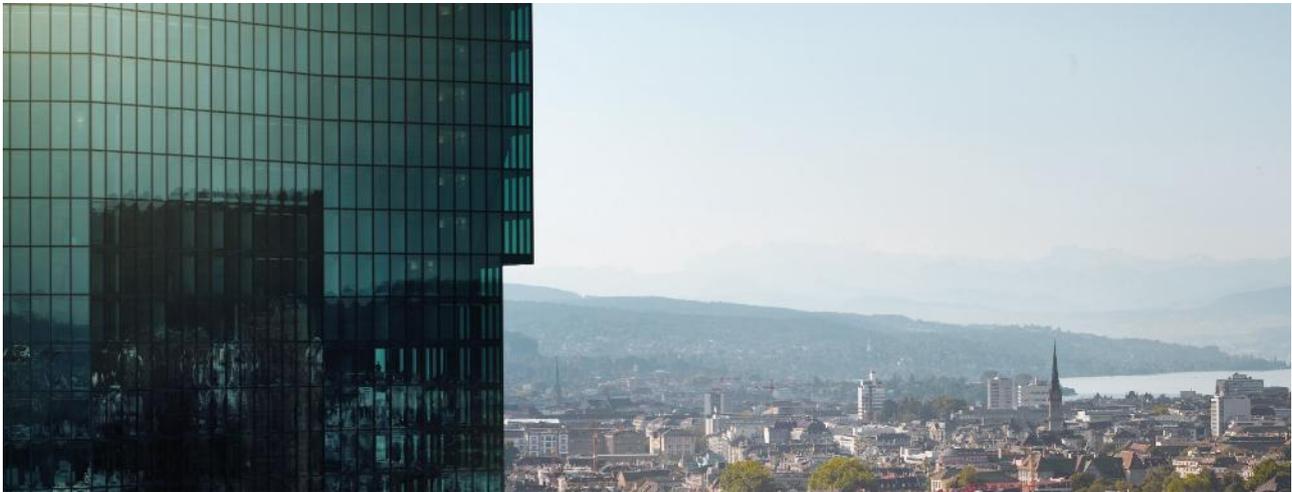


Covid-19: Overview of the measures adopted by the Swiss Federal Council to mitigate economic consequences (status as of March 20, 2020)

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In order to mitigate the negative economic consequences of the rapid spread of Covid-19 | SARS-CoV-2 (coronavirus), the Swiss Confederation has implemented a set of protective measures, which are unprecedented in the history of our country. Given that the situation is evolving rapidly, the Swiss Federal Council continuously updates these measures, last time on March 20, 2020. This Bulletin offers an overview of the measures recently adopted.

Measures relating to courts and debt enforcement

To manage the impact of Covid-19 on the judicial system, the Swiss Federal Supreme Court and the Swiss Federal Council have issued a series of Orders and Emergency Decrees in the past days. These measures severely affect the normal running of proceedings in Switzerland. At present, these are:

- A stay of enforcement in accordance with Art. 62 of the Swiss Federal Law on Debt Enforcement and Bankruptcy (**SchKG**). The stay of enforcement will last until April 4,

2020 (midnight), after which the statutory debt collection holidays begin, which last until April 19, 2020. Thus, until April 19, 2020 (midnight), debt enforcement offices do not carry out enforcement acts, save in proceedings for the freezing of assets and measures that have to be taken without delay in order to protect assets. The stay of enforcement does not result in a standstill of time limits, but only in an extension of these time limits (*i.e.*, the deadlines continue to run and – if they end during one of the above-described periods – are extended). The stay of enforcement does not apply to all deadlines. Hence, a case-by-case assessment remains warranted.

- A standstill or extension of the deadlines relating to proceedings before the Federal Supreme Court from March 19, 2020 to April 19, 2020. The standstill or extension applies to deadlines set by the Federal Supreme Court in its ongoing proceedings (*e.g.*, the deadline set by the court for the

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submission of a statement or the payment of an advance on costs). Statutory time limits are not suspended or extended. Accordingly, appeals to the Federal Supreme Court, in particular against arbitral awards and judgments of the cantonal supreme courts, must be filed within the statutory deadline (but see below).

- *A general extension of the statutory court holidays over the Easter holidays for all federal and cantonal proceedings* (provided that the Easter court holidays apply to such proceedings). These court holidays have already started on March 21, 2020 and will now last until April 19, 2020. Running deadlines are suspended. However, deadlines in summary proceedings, conciliation proceedings, criminal proceedings and mutual assistance proceedings are not affected.
- Several cantons have ordered that all non-urgent or even all hearings are postponed to a date after April 19, 2020 (such as the Canton of Zurich for hearings before the High Court, the District Courts, the Conciliation Judges, or the Tribunal de Première Instance of the Canton of Geneva for all hearings, even urgent ones).

Deadlines before arbitral tribunals are not affected by the Orders and Decrees.

In our experience over the last days, requests to extend running deadlines that can be extended (and sometimes even deadlines that cannot be extended) are granted by the courts and arbitral tribunals more easily – but we expect delays in returning decisions on requests by state courts.

Employment Law

New Orders regarding Employment Law

The Swiss Federal Council introduced new employers' obligation by way of Covid-19 Ordinance 2 (**Covid-19 Ordinance 2**), in particular, with the

purpose of enabling work from home for persons *at high risk*.

Persons *at high risk* are defined as (i) persons aged 65 or older and (ii) persons suffering from any of the following diseases: high blood pressure, diabetes, cardio-vascular diseases, chronic respiratory diseases, diseases and treatments that weaken the immune system, as well as cancer. Affected employees shall give notice to their employer that they are *at high risk*. The employer may request a medical certificate. The medical certificate will simply confirm that the person falls under the category of persons *at high risk*.

The employers' new obligations comprise the following:

- Employers have to enable employees *at high risk* to work from home and to take the required organizational and technical measures to achieve this result.
- If relevant work activities can only be performed at the ordinary place of work due to the nature of the activity or the absence of feasible measures, employers have to take appropriate organizational and technical measures to ensure compliance with the federal recommendations on hygiene and social distancing.
- If it is not possible for employees *at high risk* to carry out their work within the framework of (i) and (ii), *the employer shall grant such employees leave and continue to pay their salaries*.

Extension and simplification of short time work compensation

In order to manage the impact of Covid-19, the Swiss Federal Council has further adopted temporary changes with regard to the entitlement and the application process for short-time work compensation. These changes entered into force with retroactive effect as per March 17, 2020 for a duration of six months.

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The Swiss Federal Council extended the entitlement to short-time work compensation to several groups of employees previously not entitled:

- Employees who work on fixed-term contracts, temporary workers and apprentices;
- persons who work in the business of their spouse or registered partner; and
- "employer-like" employees, such as shareholders of a limited liability company who work as salaried employees in the company.

In addition to expanding the group of persons who can potentially benefit from short-time work compensation, the Swiss Federal Council also simplified the application process. For example, the waiting period for short-time work compensation no longer applies. Employees no longer have to reduce their overtime before they can benefit from short-time work compensation. Also, employers can now ask for the payment of short-time work compensation without having made advanced payments to their employees.

Industries and Construction sites

Companies may continue to operate, but not public facilities.

The Swiss Federal Council issued the following recommendations to employers, which are not mandatory obligations strictly speaking:

- Make the necessary arrangements at the workplace to ensure that the hygiene measures are consistently followed and, as far as possible, to enable the employees to keep the required distance between them (social distancing);
- Inform employees of the protection measures applied and to be complied with at the workplace;
- Allow and offer to work from home whenever possible;

- Not require a medical certificate before the fifth day of absence; and
- Provide maximum flexibility in work schedules and enable the employees not to use public transport during peak hours.

The shutdown of construction sites has not been ordered at the federal level and as a general principle, these may continue to operate. However, several cantons have ordered the interruption of all construction sites on their territory.

Annual general meetings remain possible

Traditional shareholders' meetings of listed and private Swiss companies, with shareholders personally in attendance, are prohibited until at least April 19, 2020. However, the Covid-19 Ordinance 2 allows the board of Swiss companies to require shareholders to exercise their rights – in advance of the meeting – exclusively by mail, electronically and | or through an independent proxy holder. When voting by mail or electronically, the voting instructions are addressed directly to the company; no proxy holder needs to be appointed. Public companies must in any event allow shareholders to give voting instructions to the independent proxy.

This provision also applies to meetings held after April 19, 2020 (or any extension of the Covid-19 Ordinance 2), provided that the invitation to the meeting and such exclusion of personal attendance are published prior to such date.

This pragmatic rule allows Swiss companies to move ahead with shareholder approval of their financial statements and dividend distributions, (re-) elections of directors or auditors, as well as any other agenda items.

The same rules apply to meetings of partnerships, associations and cooperatives.

Measures affecting retail and online stores

All stores, markets, restaurants, bars as well as entertainment and leisure facilities will have to remain closed until April 19, 2020. Grocery stores and

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other stores (insofar as they sell articles for everyday use) as well as, among others, pharmacies, stores selling medical products (such as glasses), sale and repair shops of telecommunications providers, banks and gas stations may open for business.

The federal rules do not define the term '*products for everyday use*' (*Gegenstände des täglichen Bedarfs* | *biens nécessaires à la vie quotidienne*). They only list certain examples such as press articles, animal feed, tobacco, hygiene and paper products. The official comments further clarify that dry cleaners and laundromats are part of everyday use and may thus stay open, while perfumery stores and flower shops must be closed. The local authorities in charge of enforcement made it clear that the exception from the general rule must be construed against the background of the purpose of the Covid-19 Ordinance 2, which aims to ensure that the hygiene recommendations are being complied with and the volume of mobility (*Mobilitätsaufkommen* | *volume de mobilité*) is limited.

Stores, which do not predominantly sell products for everyday use must be closed entirely, unless the products for everyday use are fully and strictly separated from the other products, in which case the store may partially open. For example, flower shops integrated in grocery stores or store levels with clothes and toy departments in department stores must be closed to the public, while the parts of the store where products of everyday use are being sold may remain open. If products for everyday use and other products are sold in the same shelves beside each other (which is often the case with newspapers and press products), and a closure of such products is unpractical, the shelves can remain open entirely.

Online stores as well as offers through or from couriers can remain open. Delivery of the products can be made via postal service to the customer's address, or customers may pick up the products directly at the business premises of the seller, provided that the recommended prevention measures

(in particular, no gatherings of people) are observed and no (further) orders may be placed on site.

Enforcement

If the prevention measures are not implemented, the cantonal enforcement authorities (*i.e.*, the police of commerce) will take appropriate steps and may, if necessary, order the closure of the premises as a measure of last resort (*ultima ratio*).

Financial Measures designed to support the economy

Companies affected by business closures and falling demands may run out of liquidity to cover their running costs. Therefore, and in addition to the compensation for short-time work, the Swiss Federal Council has adopted the following measures to support companies:

- A CHF 20 billion-fund will be set up in order for Small and Medium-sized Enterprises (SME) to obtain *transitional bank loans*. SME should be enabled easily and quickly to access credit financing of up to 10% of their turnover (maximum CHF 20 million). Amounts of up to CHF 0.5 million will be paid out immediately by the banks. Further details (including how to obtain transitional bank loans) will be published in an ordinance to be issued in the coming days.
- Companies will be able to *defer payment of social insurance contributions* (*i.e.*, AHV | IV | EO | ALV) temporarily and without paying interests. This measure also applies to self-employed persons whose turnover has fallen. The AHV compensation fund is responsible for examining requests for payment deferrals.
- Companies will be able to *postpone the payment of taxes* (including VAT, direct federal taxes, etc.) without interests or arrears. Simi-

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larly, suppliers will be able to postpone payments of amounts owed to the Swiss Confederation.

- The Swiss Federal Finance Administration has instructed its administrative units to check and *settle creditor's invoices as quickly as possible*, without waiting for ordinal payment deadlines to expire. Creditors should therefore submit their invoices to the Swiss Confederation as soon as possible.

Extended border controls and visa restrictions

To maintain its ability to combat the Covid-19 epidemic, the Swiss Federal Council has taken the following measures to limit the entry of people from countries and regions at risk:

- Entry into Switzerland (including by air travel) from Italy, France, Germany, Austria, Spain and from all non-Schengen countries is prohibited except for Swiss citizens, holders of a Swiss residence permit (including C, B, L and G permits), persons with a professional reason for entering Switzerland, or persons who are in a situation of absolute necessity.
- Transit (with the intention and the possibility of going directly to another country) and the commercial transport of goods are still permitted.
- The granting of Schengen visas (for short stays up to maximum 90 days), national visas (for stays subject to authorization for more than 90 days) and visa authorizations to persons from countries at risk (*i.e.*, Italy, France, Germany, Austria, Spain and from all non-Schengen countries) is suspended until June 15, 2020. Exceptions are possible for persons who are in a situation of absolute necessity or who are of great importance, such as specialists in the field of health.

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