

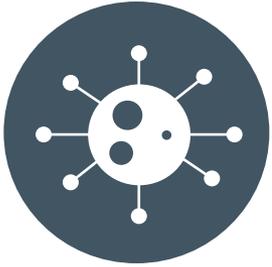
ALLEN & OVERY

Covid-19 - Coronavirus measures
implementing forbearance, deferral
and/or suspension for debt
obligations

30 April 2020

ALLEN & OVERY

Covid-19 – a global impact



The onset of Covid-19 has seen devastating impact across the globe. Mortality and grief for loved ones are gripping many thousands of people worldwide. The imposed 'lock down' and associated social distancing measures have had a devastating effect on economic activity and have hurt in particular businesses in the travel, entertainment and leisure sectors.

That said, subdued consumer confidence has created a much broader dampening of economic activity. To cater for this unprecedented pandemic scenario, governments across the globe have enacted many emergency funding and support schemes in order to alleviate the hopefully short term liquidity difficulties encountered by businesses and individuals.

Such measures can be divided into four broad categories:

1. Corporate Guarantee and liquidity measures administered through state bodies or central banks – these are targeted at a broad spectrum of businesses from those that are highly rated to small and medium enterprises being the motor of economic activity;
2. Deferral of state taxes, business rates, VAT and other dues to the state;
3. Measures to allow businesses to implement furlough measures whilst the employees receive still a great proportion of their salary up to a determined cap;
4. Measures to implement forbearance, deferral and/or suspension for debt obligations of individuals and certain corporates to financial institutions (in some countries this extends to other contractual obligations and to entities other than financial institutions).

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Survey focus



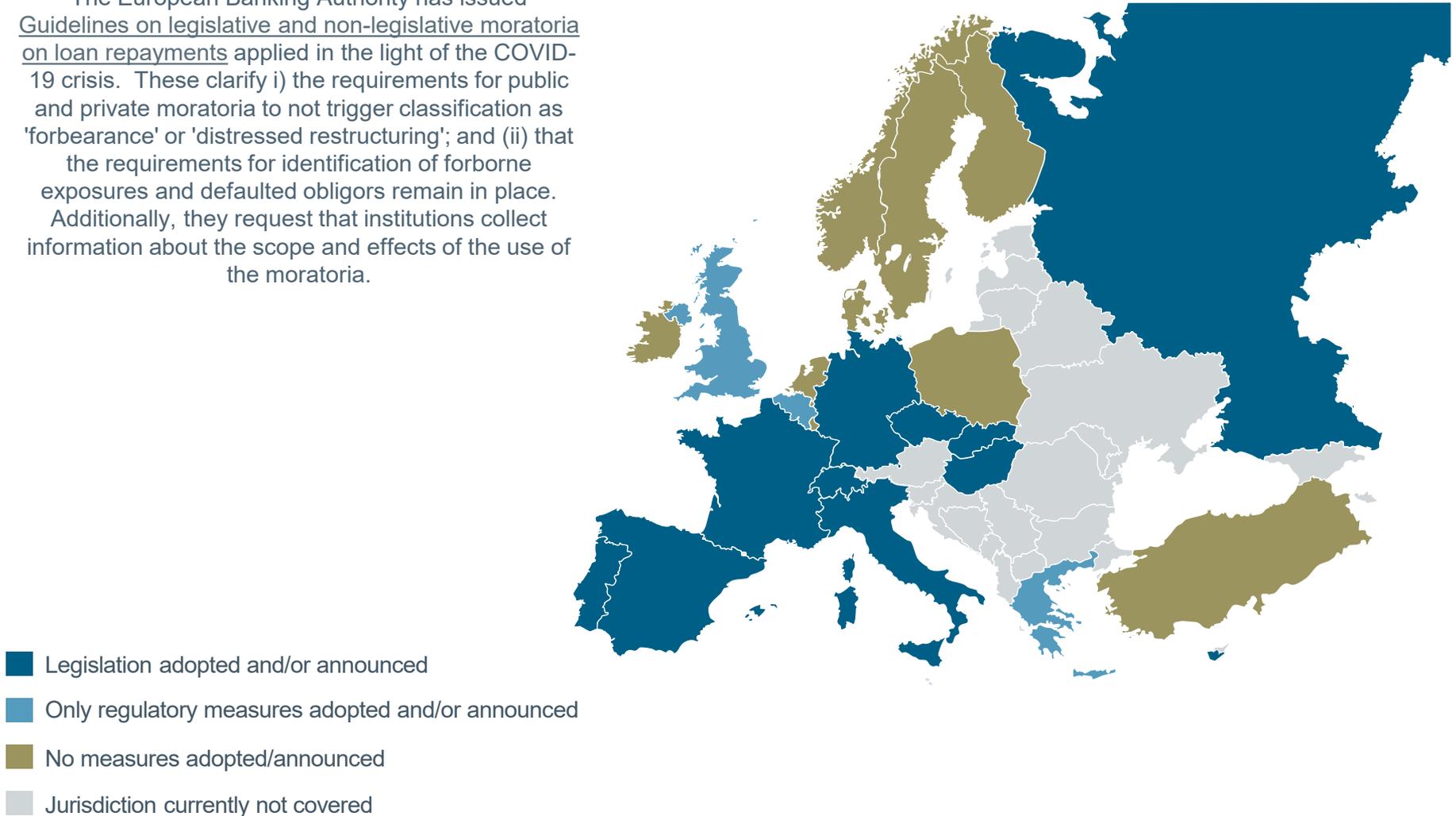
The focus of this legal survey is on providing a high level comparative view of the measures set out in the last category - measures to implement forbearance, deferral and/or suspension for debt obligations of individuals and certain corporates to financial institutions - as on 24 April.

It is important to note that whilst there are similar themes in terms of scope of application and the community of intended beneficiaries, each country has chosen its individual path to achieve this. The outcome is a patchwork of different measures that have to be interpreted and analysed in accordance with their terms and where sanctions, level of compulsion and resulting impact on one's balance sheet may well be different depending on the precise details of the measure in the country concerned.

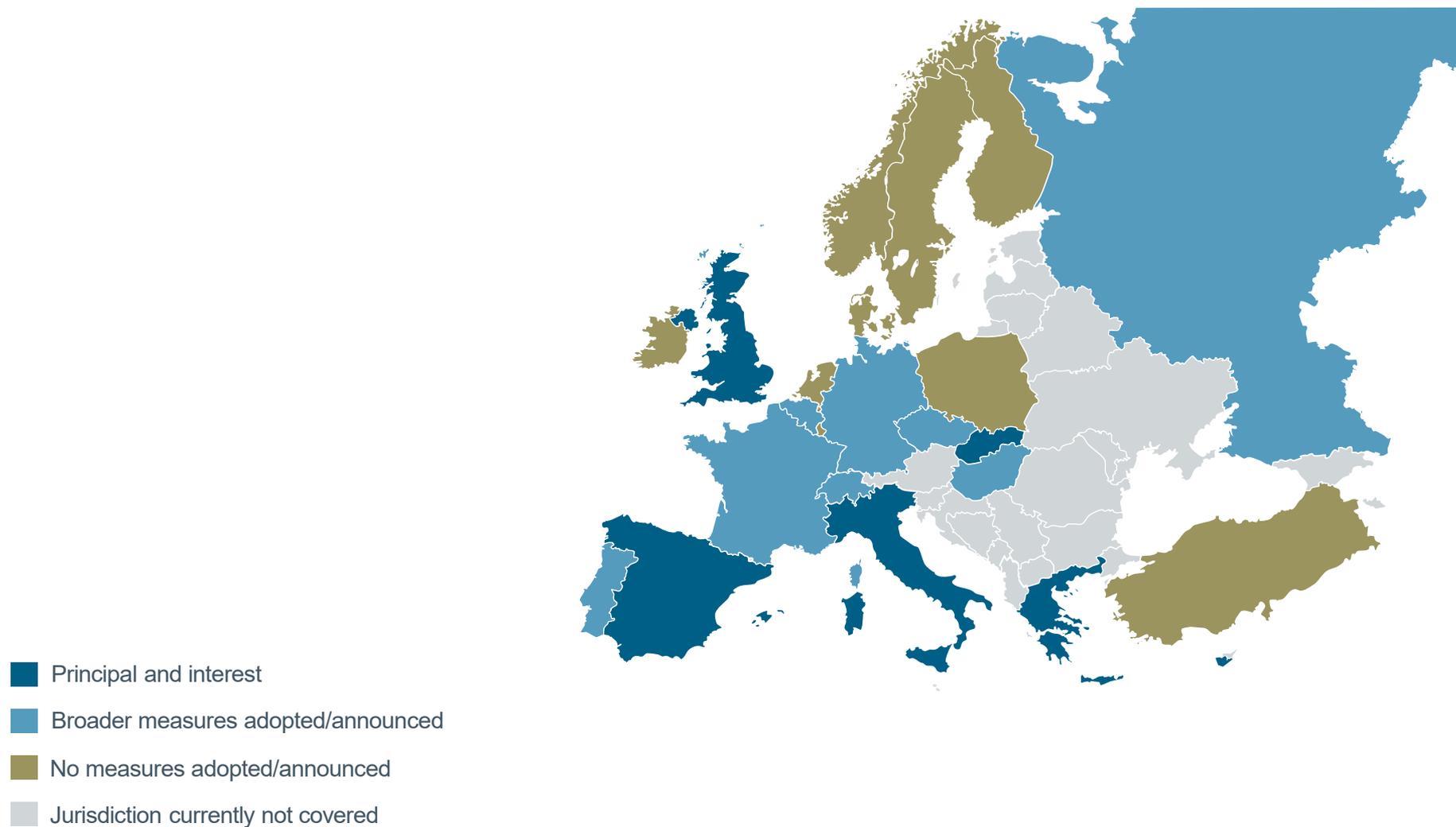
We expect this snapshot to continue to develop as the size and scale of economic impact emerges in the coming weeks and potentially months and would be happy to engage with clients to develop strategies to keep abreast of this complex area and ensure that their customer and counterparty engagement is both prudent and within the spirit of the numerous measures. Please do reach out to the relevant contacts listed in each jurisdiction if you would like any assistance.

Europe - Covid-19 response - debt obligations

The European Banking Authority has issued Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis. These clarify i) the requirements for public and private moratoria to not trigger classification as 'forbearance' or 'distressed restructuring'; and (ii) that the requirements for identification of forbore exposures and defaulted obligors remain in place. Additionally, they request that institutions collect information about the scope and effects of the use of the moratoria.



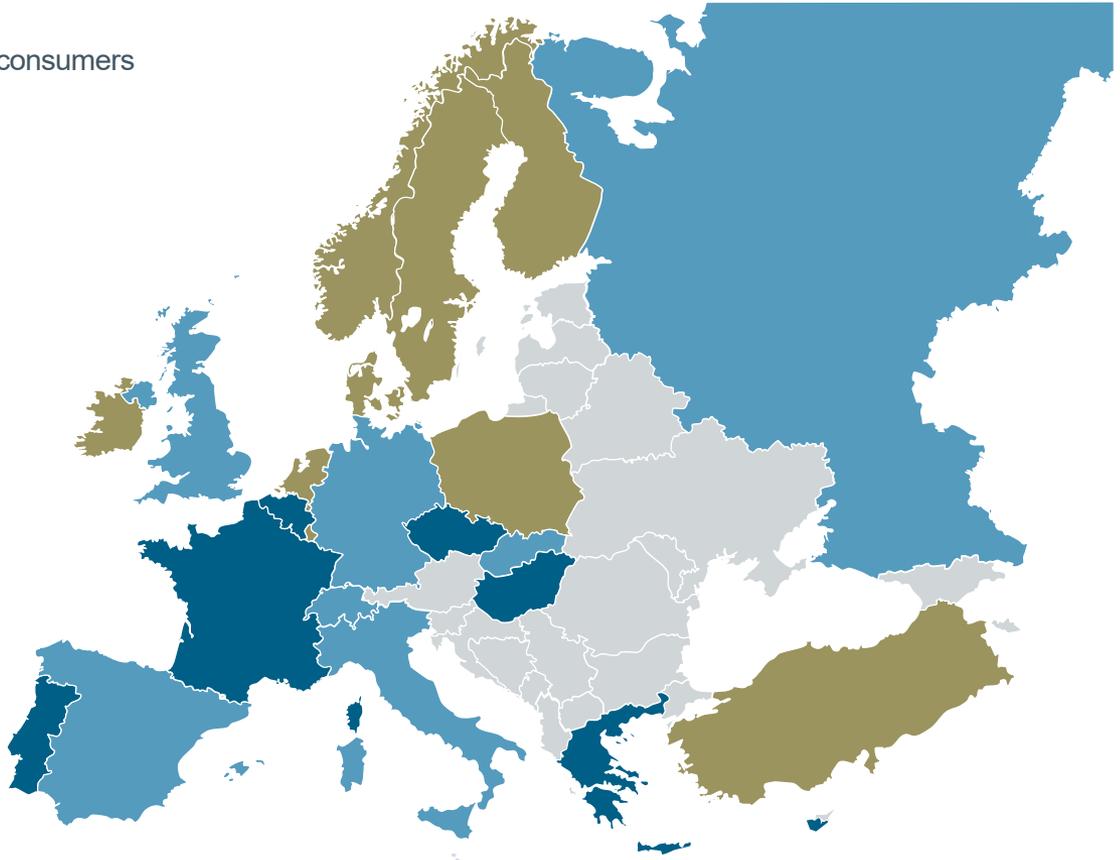
Europe - Scope of forbearance measures



Europe - Obligors in scope

Please note:

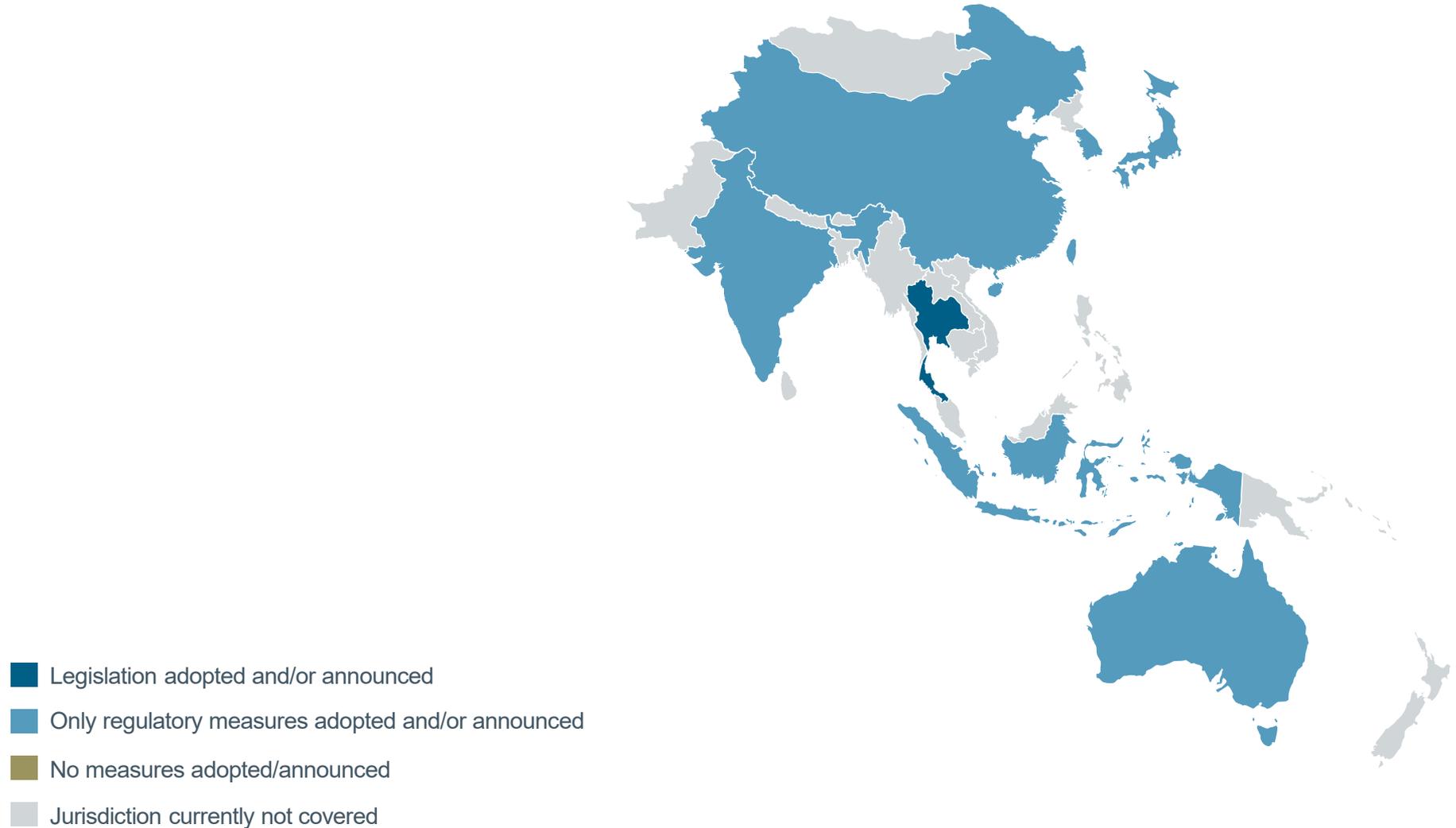
- In Germany and Spain the measures cover only retail consumers
- In Switzerland the primary focus are SMEs



Measures primarily focused at:

-  Retail consumers and SMEs
-  Broader scope including larger companies
-  No measures adopted/announced
-  Jurisdiction currently not covered

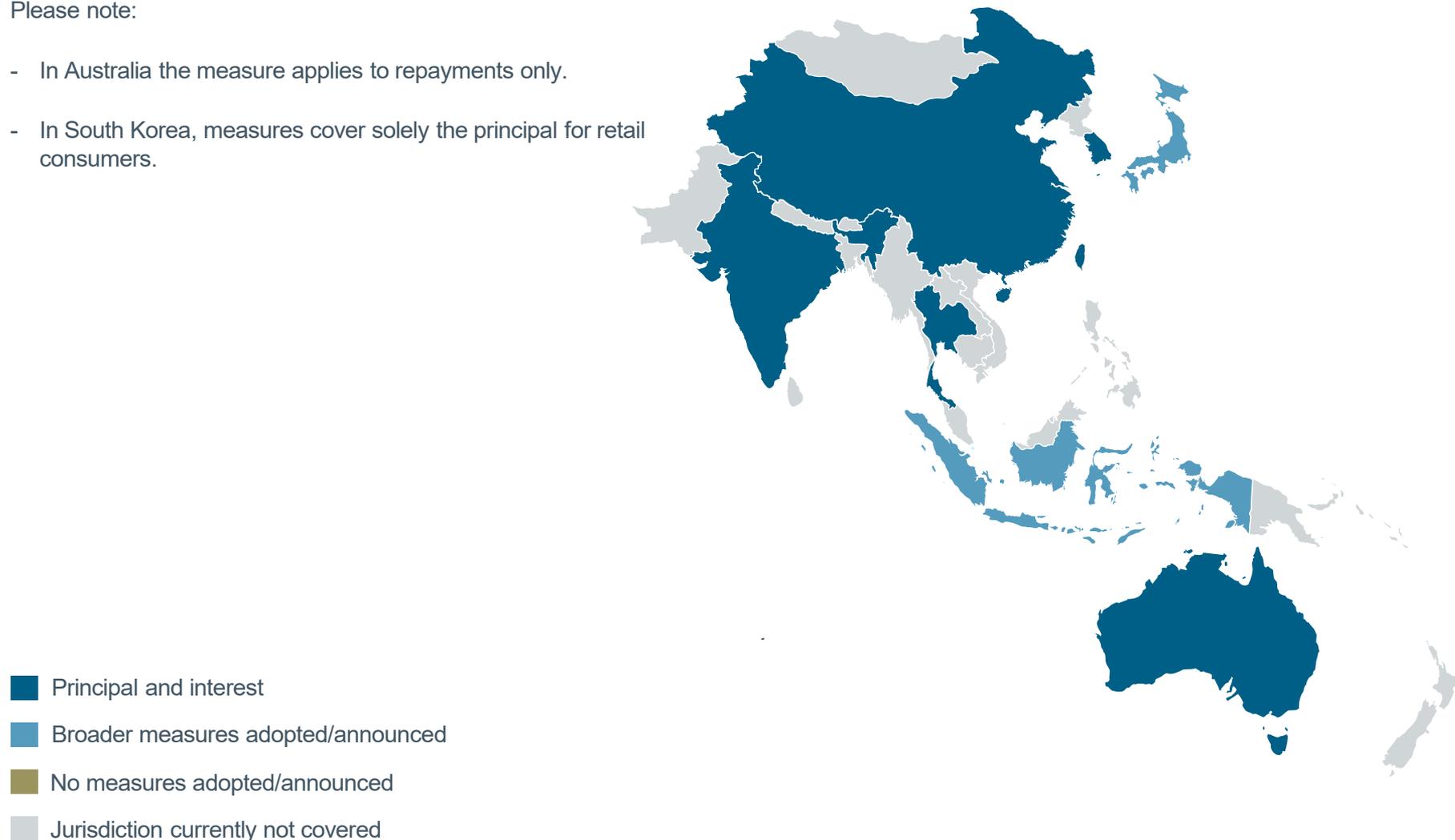
Asia Pacific - Covid-19 response - debt obligations



Asia Pacific - Scope of forbearance measures

Please note:

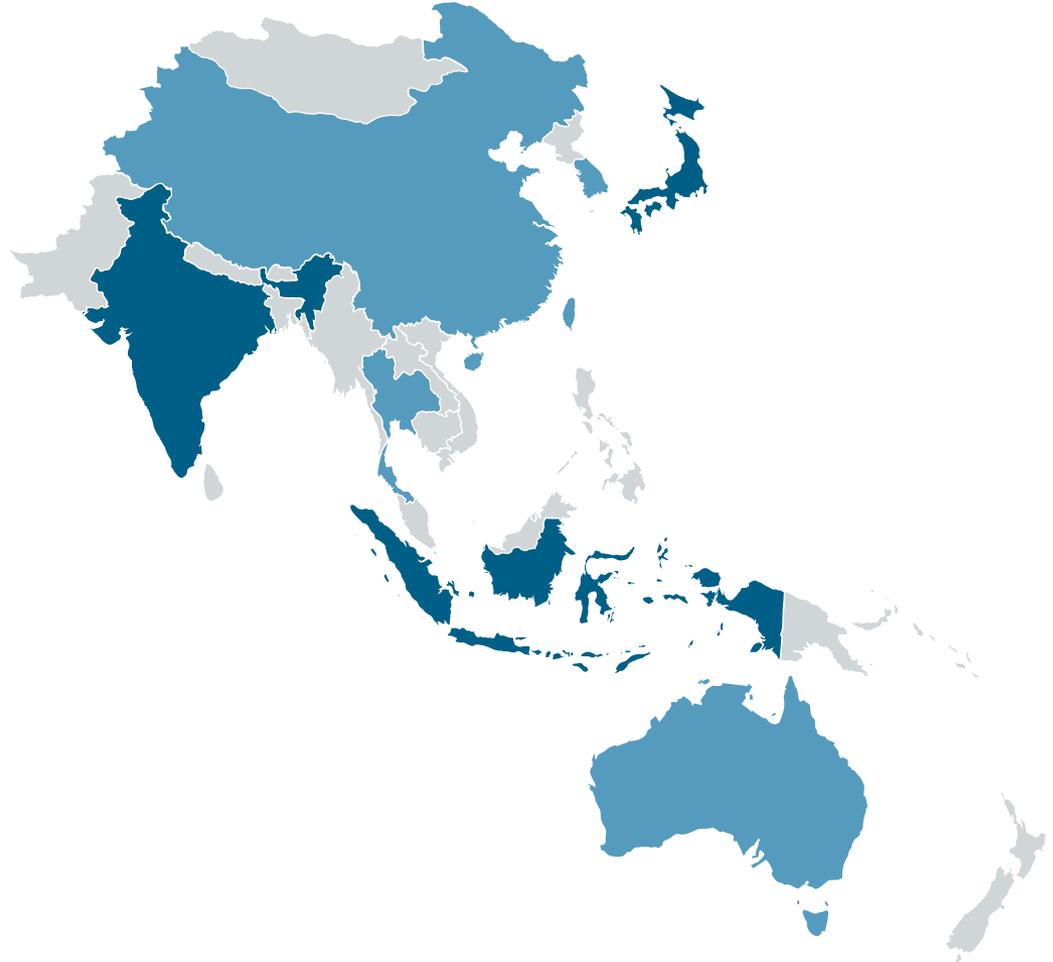
- In Australia the measure applies to repayments only.
- In South Korea, measures cover solely the principal for retail consumers.



Asia Pacific - Obligors in scope

Please note:

- In China measures apply solely to SMEs, except for in the region of Hubei – measures apply to all companies
- In Thailand measures apply solely to SMEs



Measures primarily focused at:

- Retail consumers and SMEs
- Broader scope including larger companies
- No measures adopted/announced
- Jurisdiction currently not covered

North Africa and the Middle East - Covid-19 response - debt obligations



- Legislation adopted and/or announced
- Only regulatory measures adopted and/or announced
- No measures adopted/announced
- Jurisdiction currently not covered

North Africa and the Middle East - Scope of forbearance measures

Please note:

- In Saudi Arabia, principal and interest payments are deferred solely for healthcare workers.



- Principal and interest
- Broader measures adopted/announced
- No measures adopted/announced
- Jurisdiction currently not covered

North Africa and the Middle East - Obligors in scope

Please note:

- In Morocco, measures apply to solely to companies.



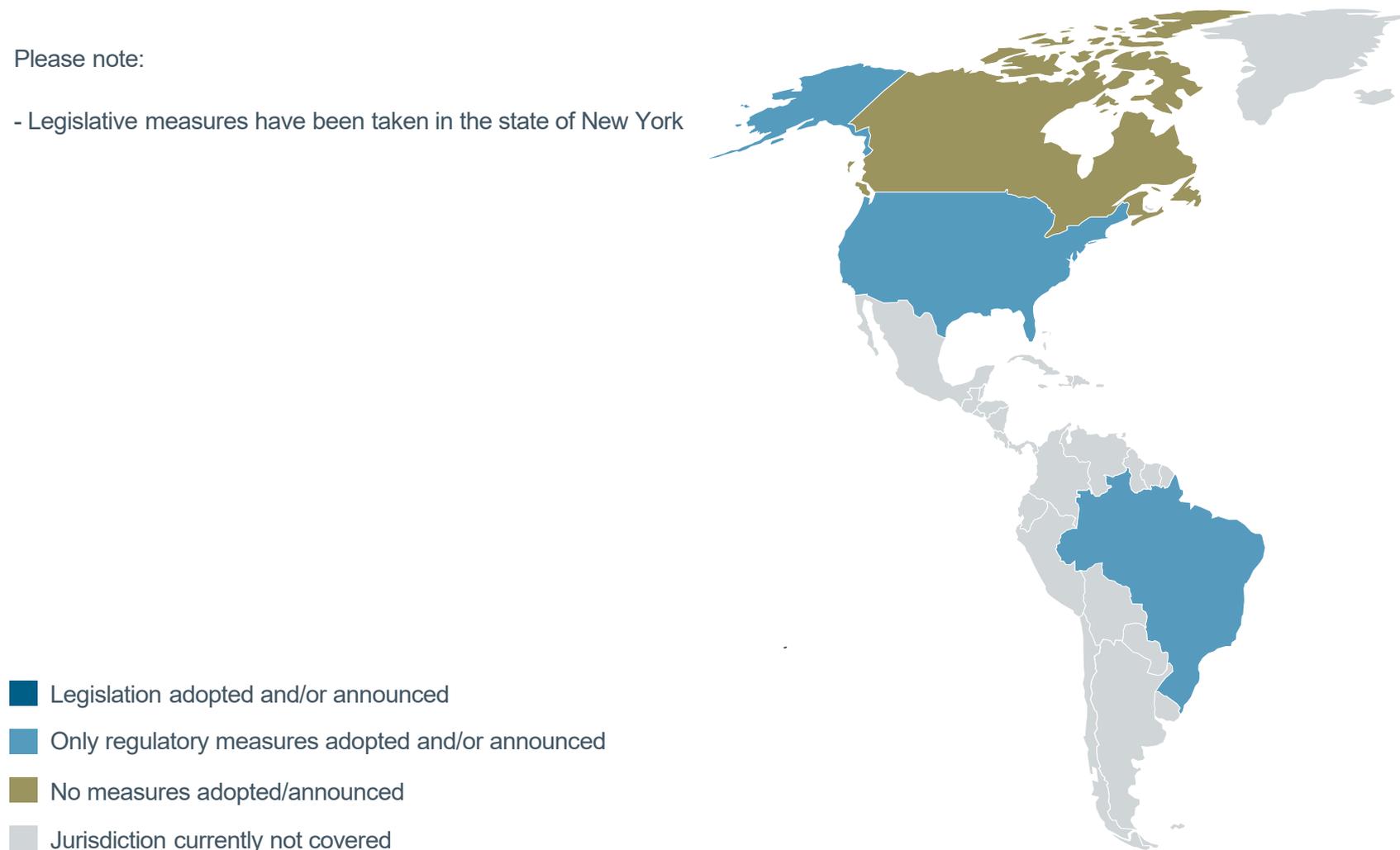
Measures primarily focused at:

-  Retail consumers and SMEs
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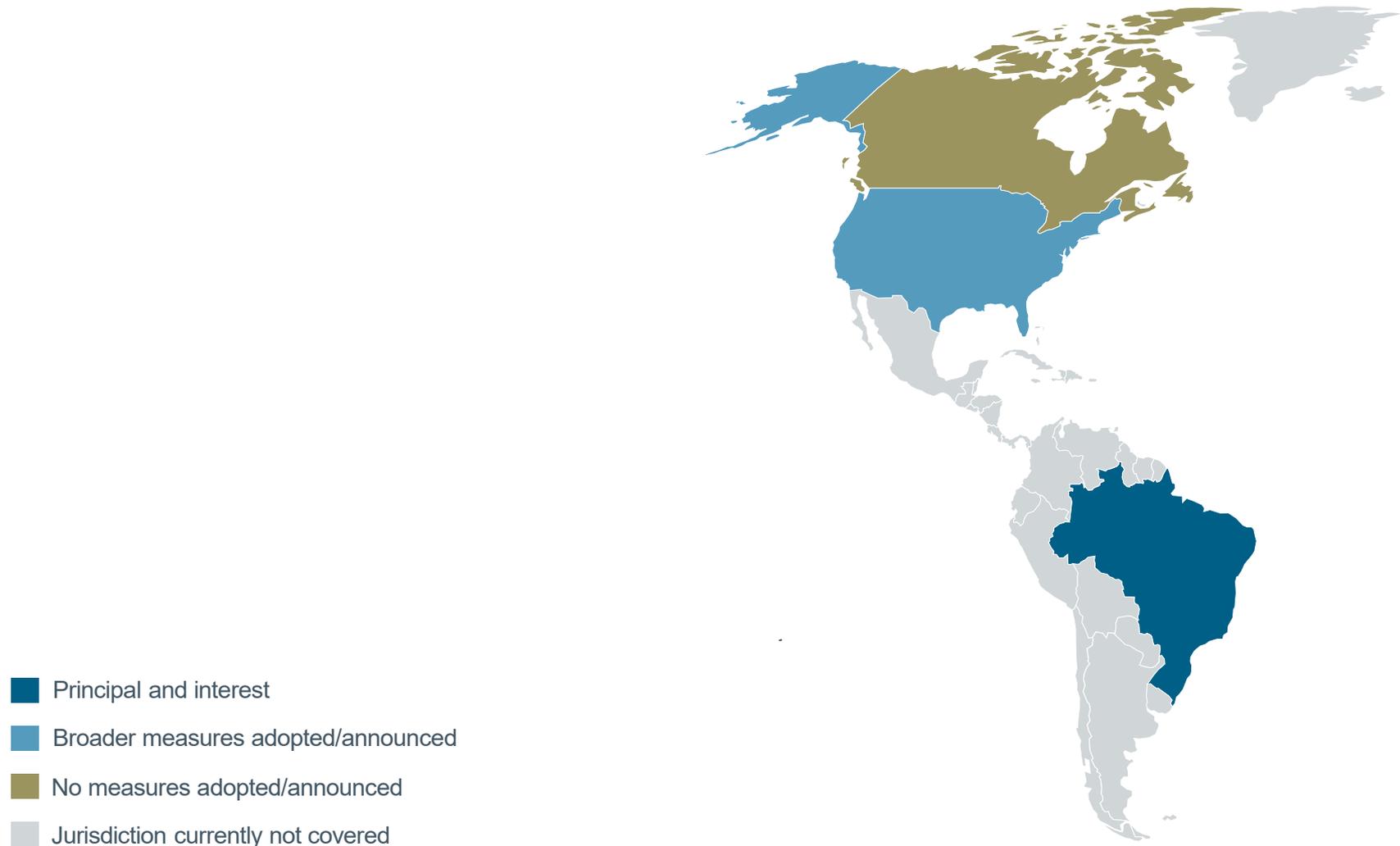
North and South America - Covid-19 response - debt obligations

Please note:

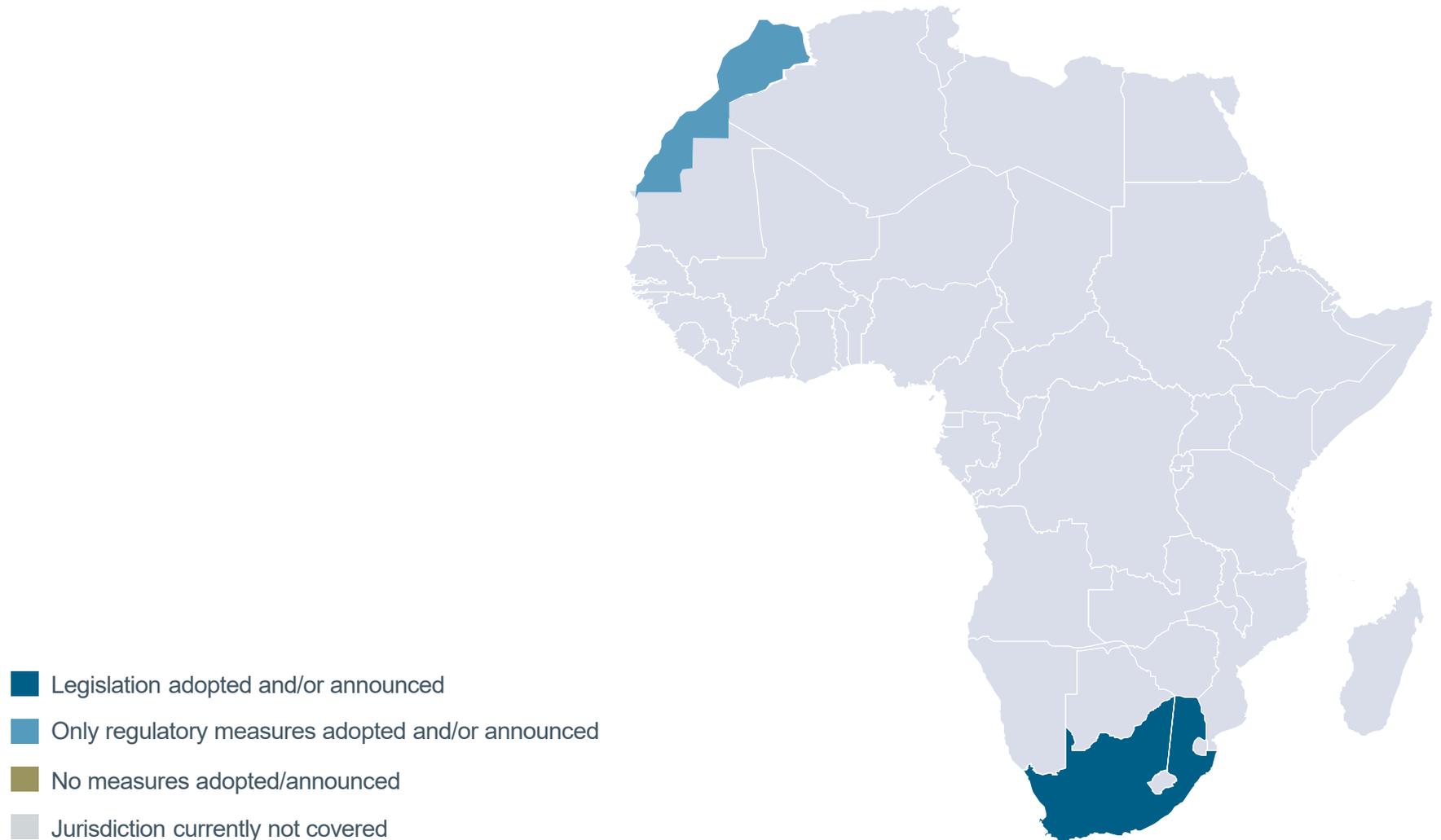
- Legislative measures have been taken in the state of New York



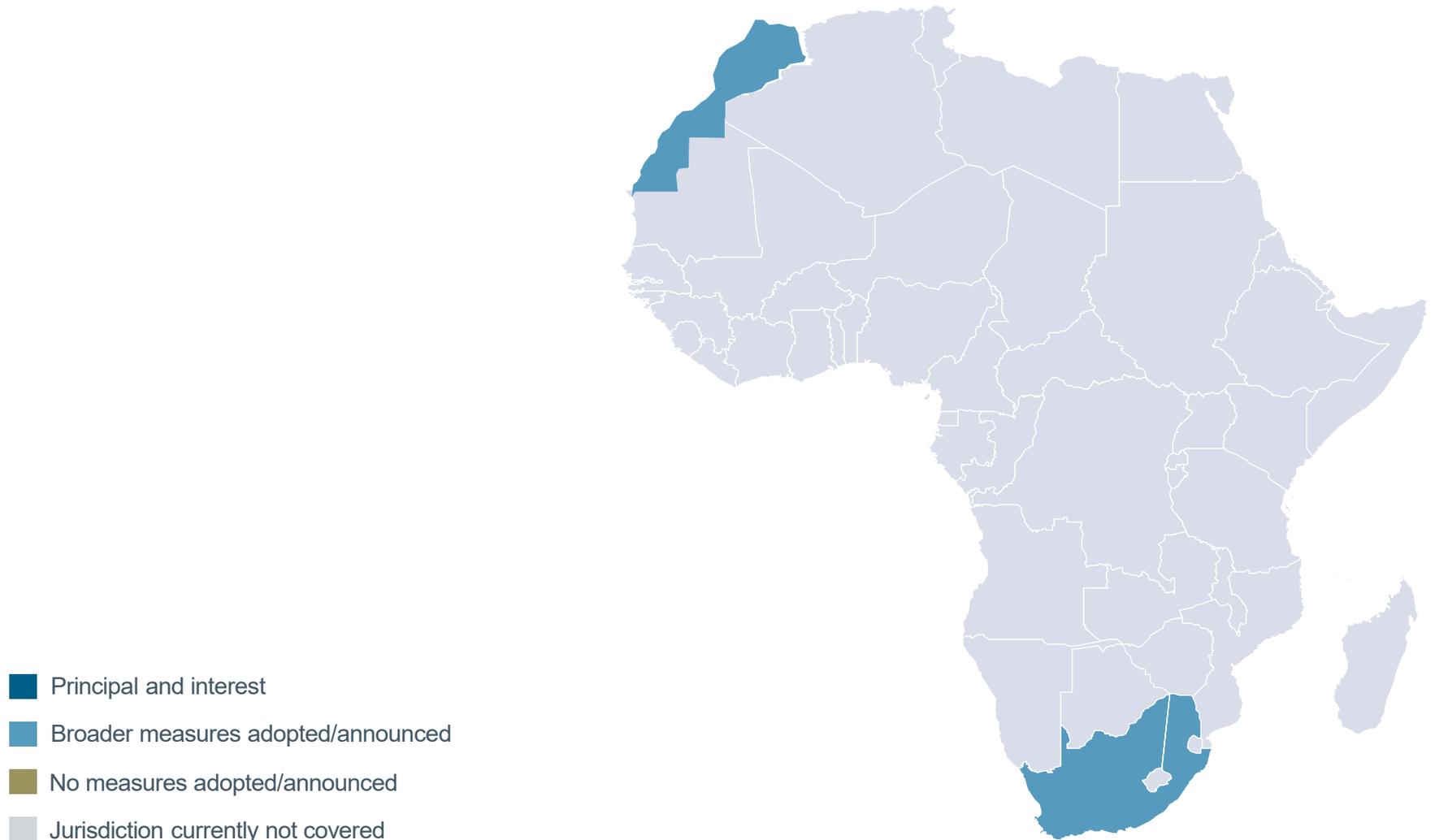
North and South America - Scope of forbearance measures



Africa - Covid-19 response - debt obligations



Africa - Scope of forbearance measures



Please note:

- Where measures are in draft or proposed, we have categorised these as existing measures and interpreted them based on information available in the expectation that they will be adopted. These measures are subject to change or may in fact not be adopted.
- There may be conditions for the borrowers to meet before being eligible.
- The maps illustrate the broadest potential application of the measures.
- In some cases moratoria are mandatory and in others optional.
- The duration of the moratoria varies both between jurisdictions and between individual measures within a jurisdiction.
- Where only industry measures have been taken we describe this as “no measures” but a voluntary scheme may be in place, notably Ireland and Poland.
- In other jurisdictions with measures, additional measures by the industry may have been taken.



Belgium



Sylvia Kierszenbaum
Allen & Overy, Antwerp

Regulatory measures

B2B and B2C Charter – Payment Holiday Regime

- On 31 March, Belgian banks committed to granting a payment holiday to certain corporates, self employed professionals and non-profit organisations granting a payment holiday until 31 October 2020 at the latest, free of charge.
- The B2B Charter applies to certain loans, overdrafts and fixed advances and only applies to principal – interest remains due and payable.

Legislative proposals

State Guarantee Scheme –awaiting Royal Decree

- On 26 March, Belgian banks and the State commit to guaranteeing losses on newly granted "corona" bridge loans and credit facilities for 'viable' non-financial companies, SMEs and professionals.
- Applies only to new loans and credit facilities with a maximum duration of 12 months.
- Threshold of EUR 50bn – losses will be allocated between State and the banks.

Further measures

- Federal government announced fiscal package of €8 -10 billion.



Cyprus



George Apostolou, Petros Kiteos
Harneys

Legislative Proposals

Minister of Finance Decree (the Taking of Emergency Suspension Measures by Financial Institutions and Regulatory Authorities Decree, RAA 134/2020) - 30 March

- Allows for the mandatory suspension, upon application by the borrower to the pertinent financial institution, of the loan and facilities instalment and interest payments to a financial institution, for nine months, that is until 31 December.
- Those eligible are natural and legal persons, public-law bodies, self-employed persons and corporations who or which, as of 29 February:
 - Do not present any arrears in the payment of their instalments of more than 30 days from the relevant date provided for in their loan or facilities agreements.
 - Must also be facing financial difficulties as a result of the Covid-19 pandemic.
- Provided an applicant borrower meets the above criteria, a Financial Institution may not reject such applicant's application.
- Similarly, the taking of recovery measures by Financial Institutions against loans or facilities covered by the suspension is also suspended under the Decree.



Czech Republic



Petra Mysakova, Silvie Horackova
Allen & Overy, Prague

Legislative Proposals

Act No. 177/2020 Coll – ‘The Covid Loan Act’

- Effective from 17 April
- Imposes mandatory moratorium, should borrower opt-in, for principal payments.
- Further obligations are suspended for retail borrowers until 31 October:
 - Interest and periodical payments; and ‘asset stripping’
- Applies to loans utilised before 26 March, and in some cases to loans agreed but not utilised by this date.

Further measures

‘Commercial Lease Act’

- The protection period relating to leases expires on 31 December. This Act forbids the landlords to terminate the lease solely on the grounds of the tenant’s failure to pay the rent falling due between 12 March – 30 June, if such failure has been caused predominantly by the Covid-19 pandemic.

‘Covid Justice Act’ – insolvency proceedings

- Certain debtors, will have the opportunity to file for a moratorium and the right of a creditor to file for insolvency of a debtor, will both be suspended until the end of August. The obligation of a debtor to file for its insolvency will be suspended for six months following this Act’s effectiveness.



Denmark



Troels Tuxen
Bech Bruun

Legislative/regulatory measures

There are currently no legislative or regulatory measures implementing forbearance, deferral and/or suspension for debt obligations.

Further measures

Wage compensation scheme

- From 9 March until 8 July, employers who anticipate layoffs of at least 30% of employees or more than 50 employees are entitled to salary reimbursement.

Compensation for fixed costs:

- Compensation for businesses’ fixed costs capped at DKK 110 mill per company. Compensation is dependent on the downturn in revenue during the period from 9 March to 8 July, but businesses which have been forced to close due to the crisis will receive 100% compensation.

Deferral of payment of income tax and VAT:

- The deadlines to pay income tax withheld from salaries has been extended by four months. The VAT deadlines have also been extended depending whether payments are monthly, quarterly or semi-annually.

Government Guarantee Scheme:

- The Danish Government has initiated a guarantee scheme for loans to companies doing business within the airline, travel, hotel, service and tourist industry in Denmark.



Finland

 [Pekka Jaatinen](#)
Castrén Snellman

Legislative/regulatory measures

There are currently no legislative or regulatory measures implementing forbearance, deferral and/or suspension for debt obligations.

Further measures

Proposed business development aid amendment

- Business development aid is granted by the Centres for Economic Development, Transport and the Environment (ELY Centres). The aid granted by the ELY Centres to mitigate the impact of the market and production disruption caused by the coronavirus epidemic is intended for small enterprises.
- Aid may be granted for carrying out a situation analysis and for development measures in the market and production disruption caused by the coronavirus epidemic. The amount of aid for preparing a situation analysis may be up to 80% of the eligible costs but not exceeding EUR 10,000, and for development measures up to 80% of the eligible costs but not exceeding EUR 100,000.



France

 [Christophe Jacquemin](#)
Allen & Overy, Paris

Legislative measures

Ordinance n°2020-306 on 25 March as supplemented by Ordinance no. 2020-427 of 15 April 2020 (the Ordinance)

- General suspension of certain sanctions following contractual breach for both corporates and retail.
- Applies to events having occurring since 12 March relating to the non-performance of contractual obligations (for payment obligations this is only until 24 June) The length of protection is determined by applying a methodology set out in the Ordinance.
- Does not apply to financial guarantees of article L211-36 of the Financial and Monetary Code – following sanctions are ineffective:
 - payments ordered by way of penalty (astreintes)
 - contractual penalty clauses;
 - termination clauses; and
 - acceleration clauses.

Ordinance n°2020-316 of 25 March

- Obligors are small companies, not controlled by commercial entities with less than 10 employees.
- Provides that no penalty, damages, indemnity, termination and no exercise of any security or guarantee can be triggered by the reason of the late payment of any sum due under any commercial lease where any such payments were due between 12 March and 23 July.
- Forbids any interruption or suspension of supply of electricity, gas or water by utility providers or the termination of supply contracts during a period between 26 March and 23 May.



Germany

 **Alexander Behrens**
Allen & Overy, Frankfurt

Legislative measures

Gesetz zur Abmilderung der Folgen der COVID-19-Pandemie im Zivil-, Insolvenz- und Strafverfahrensrecht (COVInsAG) Standstill under consumer contracts for consumers and microenterprises

- If entered into before 8 March and becoming due between 1 April and 30 June, if
 - the consumer would otherwise, due to Covid-19 endanger its adequate livelihood; or
 - Micro-enterprise – jeopardise economic basis of business.
- Does not apply to lease/ agreements, loan agreements and labour law claims.

Suspension of landlord's right to terminate a lease agreement

- Rights are suspended from 1 April to 30 June if the non-payment is based on Covid-19.

Deferral of payments under consumer loans

- Payment obligations entered into before 15 March becoming due between 1 April and 30 June are deferred for 3 months if the consumer suffers extraordinary losses of income based on COVID 19 making the performance unreasonable (unzumutbar).



Greece

 **Christos Paraskevopoulos, Vassiliki Salaka**
Karatzas & Partners

Regulatory measures

Ministers of Finance, Development and Investment and Hellenic Bank Association – 30 March

- For affected businesses, employees and self-employed: a suspension of the payment of instalments of the principal, due on 18 March, until at least 30 September (3 month minimum for self-employed and employees).
- Small employers and affected self-employed will also receive a “special purpose” compensation of €800, for three months.
- The State will cover the amount owed as interest of qualifying businesses’ loans from April -June provided that the total amount of support of each will not exceed €800,000.

Ministry of Finance Decision – 10 April

- A payment deferral scheme has been provided for affected businesses, employees and lessors to these businesses in relation to VAT payments and scheduled payments in the context of the debt settlement scheme. Recovery of payments is suspended until 31 August.
- A payment deferral scheme has also been provided for affected businesses in relation to social security contributions for February and March.

Further measures

- State funding support measure for affected businesses.
- Rent reduction for businesses that lease commercial properties and are in suspension or in temporary prohibition for March and April – applies also to primary residence of affected employees.



Hungary

 Zoltan Lengyel

Allen & Overy, Budapest

Legislative Measure

Government Decree no. 47/2020 (18 of March)

- Debtors under credit agreements, loan agreements and financial lease agreements concluded on a commercial basis and already existing on 19 March are granted a payment extension until 31 December.
- For capital, interest and other fee payment obligations applicable to loans already disbursed under such agreements. The deadline for the performance of these payment obligations shall be extended by the term of the payment moratorium.
- The payment moratorium applies to both retail and corporate loans. The payment moratorium extends to equivalent provisions under related security agreements and unilateral commitments.
- In addition, the Decree sets out that lease agreements in certain sectors, such as hospitality, cannot be terminated before 30 June 2020 and the rent may not be increased.



Ireland

 Robert Cain
Arthur Cox

Legislative/Regulatory measures

- There are currently no legislative or regulatory measures implementing forbearance, deferral and/or suspension for debt obligations.

Industry Measures

Banking & Payments Federation Ireland Joint statements

- Voluntary agreement between lenders and servicers to grant payment breaks to personal and business borrowers for 3 months from 18 March.
- Voluntary agreement between five retail banks to provide additional support to business customers on a case-by-case basis – no period specified.
- Voluntary deferral by lenders and servicers of court proceedings for 3 months from 18 March for businesses, employees and personal customers who are “impacted” by the COVID-19 pandemic, but does not specify if and how any impact will be measured.

Further Measures

Emergency Measures in the Public Interest (Covid-19) Act 2020

- Prohibits rent increases and eviction for residential leases until 27 June and eviction for commercial for duration of legislation.



Italy

 **Craig Byrne**
Allen & Overy, Milan

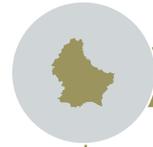
Legislative measures

Cura Italia Decree no. 18, 17 March 2020

- Possibility to request moratorium on principal payments (and potentially interest payments) on amortising loans.
- Ban on revoking existing credit lines (the State will guarantee up to a predefined amount upon application by lender (the Central Guarantee Fund)).
- For SMEs and micro-enterprises until 30 September.

Decree no. 9/2020

- Temporary forbearance on payments of certain mortgage loans in respect of primary residences.
- Only for retail consumers meeting certain characteristics and having experienced significant decline in turnover.



Luxembourg

 **Carole Schmidt**
Allen & Overy, Luxembourg

Legislative/Regulatory measures

- There are currently no legislative or regulatory measures implementing forbearance, deferral and/or suspension for debt obligations.

Industry measures

MoU between six participating banks under the Luxembourg Bankers' Association (ABBL) – 17 April

- Six month (maximum) moratorium on principal and interest of loans for non-financial companies, self-employed persons, agricultural companies and non-profit associations that meet certain criteria.
- It may be requested for any loan or leasing transaction within the meaning of Luxembourg legislation applicable to the financial sector, except for:
 - loans in connection with which, on 18 March, repayment difficulties were already noted;
 - loans granted to property developers for the purchase / sale / development phase.

Further measures

Draft Bill

- State guarantee scheme up to a limit of EUR 2.5 billion for new loans granted by credit institutions.

Grand-Ducal Regulation of 25 March 2020

- All deadlines prescribed in proceedings before the judicial (i.e. civil, commercial and criminal) and administrative courts are suspended from 18 March – 31 December.



Netherlands



Gerard Kastelein
Allen & Overy, Amsterdam

Legislative/Regulatory measures

- There are currently no legislative or regulatory measures implementing forbearance, deferral and/or suspension for debt obligations.

Industry measures

Joint decision by ABN Amro, BNG Bank, Deutsche Bank, ING, Rabobank, Volksbank and Triodos Bank

- Companies healthy prior to crisis are offered a six-months postponement for the repayment of their loans. The current offer is a minimum arrangement, which allows banks to provide additional tailored support to its clients.

Further Measures

- The European Commission has approved an extension to the pre-Covid-19 state aid framework: the Dutch Corporate Finance Guarantee (Garantie Ondernemingsfinanciering, GO).
- Bridge financing will become available to agricultural companies under the Borgstellingskrediet voor de Landbouw scheme.
- The Borgstelling MKB Kredieten (BMKB) scheme enables SMEs to attract financing in amounts which would otherwise not be available increasing the BMKB budget, expanding credit availability, decreasing interest rates and expanding accreditation to lenders other than banks.



Norway



Tormod Ludvik Nilsen
Wikborg Rein

Legislative/Regulatory Measures

- There are currently no legislative or regulatory measures implementing forbearance, deferral and/or suspension for debt obligations.

Further measures (adopted and proposed)

- A compensation scheme for otherwise sustainable businesses where the amount of support will depend, among others, on the size of revenue loss, the size of the enterprise's unavoidable fixed costs and whether the enterprise has been ordered by the government to close.
- Measure allowing loss-making companies to re-allocate up to NOK 30 million of the loss in 2020 against taxed surplus from 2018 and 2019 and refunding the tax value of this loss in 2020.
- Postponing deadlines for payment of value added tax, employer tax, advance tax for self-employed and companies, and several exercise taxes, including CO2.
- A state guarantee scheme for bank loans to enterprises, with a total guarantee volume of NOK 50 billion. The state guarantees 90 per cent of each bank loan.



Poland



Pawel Mruk-Zawirski, Justyna Stelmach

Allen & Overy, Warsaw

Legislative measures

Covid-19 shielding package

- Banks may modify the terms and conditions of loans with SMEs and micro enterprises if the loan was granted before 8 March and borrower's financial standing has been assessed since 30 September 2019.
- Modifying the loan agreement must not deteriorate the borrower's financial standing.
- No period specified.

Regulatory measures

Polish Financial Supervision Authority statement

- Banks may apply the less stringent approach when making assessments as to financing corporate borrowers, including where they have lost creditworthiness due to Covid-19, but there is no legal obligation to do so.

Industry measures

Polish Banking Association circular

- Associated banks may allow borrowers to postpone payment of all instalments for three months for any type of loan.

Further measures

- The shielding package also contains measures limiting rights and obligations to commercial and residential leases.



Portugal



Andre Figueiredo

PLMJ

Legislative measures

Decree-Law no. 10-J/2020, of 26 March

- Moratorium of principal, payment of interest and fees until 30 September under:
 - contracts with instalment repayments; or
 - bullet contracts that mature within this period.
- Interest will continue to accrue and be capitalised.
- Prohibition of total or partial termination, but does not create an obligation to renew.
- Applies to companies and individuals (for residential loans) that meet certain requirements.
- Provides for a special framework for the granting of personal guarantees by the State, and the granting of mutual guarantees.

Further measures

Law 1-A/2020 of 19 March

- Suspension of the right to terminate residential and commercial lease agreements until the end of the Covid-19 measures.



Russia



Andrey Panov

Allen & Overy, Moscow

Legislative measures

Federal Law No 98-FZ dated 1 April

- Tenants in any sector may apply for a grace period in relation to the lease payments due in 2020 in accordance with the criteria to be specified by the Russian Government.
- The tenants may request the reduction of the lease payments during 2020 if they were unable to use the property due to the acts of the regional governments aimed at fighting against coronavirus.

Federal Law No. 106-FZ dated 3 April

- Enables natural persons, professionals and certain SMEs to apply for a moratorium with respect to loans for up to 6 months when their income has been materially affected by Covid-19.

Federal Law No. 149-FZ dated 24 April and No. 98-FZ (1 April)

- Six month insolvency moratorium and prohibition of certain other enforcement actions against qualifying debtors, identified by the State.
- The creditors cannot initiate bankruptcy proceedings and enforcement against pledged assets is prohibited;
- Restrictions on debtors include any payment of dividends, buy back or purchase of any issued shares and set-off any similar mutual counterclaims.



Slovakia



Renatus Kollar, Matus Kudlak

Allen & Overy, Bratislava

Legislative measures

Slovak Debt Relief Act – effective as of 9 April.

- Provides in relation to consumers and SMES for voluntary (i.e. based on request) stay on repayment of either loans principal or both loans principal and interest.
- It further prohibits acceleration of loans during the term of stay.
- Up to nine months for bank lenders or 3+3 months for non-bank lenders.

Act No.92/2020 Coll. which forms amendment to the Slovak COVID Act (Insolvency Amendment) – effective 12 May.

- An entrepreneur (both individual and legal entity) may request for the court to issue a temporary moratorium in relation to insolvency proceedings including enforcement proceedings and the requirement to file for bankruptcy.
- Only applies to proceedings initiated after 12 March.
- The counterparty may not terminate the contract, withdraw from the contract or refuse performance under the contract for the entrepreneur 's delay.
- May last until 1 October but under certain circumstances (Government action) can be prolonged until the end of 2020.

Act no. 62/2020 Coll. (Slovak COVID Act) – effective as of 27 March

- Prohibits enforcement of security in relation to auctions or similar processes; the sale of property in execution by a court appointed executioner; and enforcement of a pledge.



Sweden



Lars-Henrik Andersson

CIRIO

Legislative/Regulatory measures

- There are currently no legislative or regulatory measures implementing forbearance, deferral and/or suspension for debt obligations.

Further measures

- Enhanced possibilities to receive a deferral of tax payments. The deferral may not exceed more than 3 months' tax payments and can last up to one year. Personal payment liability for taxes may therefore be avoided without the company having to go into bankruptcy or company reorganisation.
- Reduced social contribution fees.
- Governmental subsidies of 50% of the total discount of rent discount agreed with the landlord up to 50%.
- A lending programme with a state guarantee of 70% of each loan provided to SME that suffers from Covid-19 effects but have a viable underlying business.



Spain



Salvador Ruiz Bachs, Michael Corbacho Cambero

Allen & Overy, Madrid

Legislative measures

Royal decree-law 8/2020, 17 March

- Suspension of mortgage payments and of the accrual of ordinary and default interest until 18 April.
- Applies only to mortgages in relation to principal dwellings and debtors and guarantors that have certain characteristics and have suffered loss as a result of Covid-19.
- Applies to the payment of any amounts owed under the loan agreement including: principal, interest, and fees.



Switzerland

 Rene Boesch

Homburger AG, Switzerland

Legislative measures

Covid-19 Insolvency Ordinance

- Effective April 20 until October 20.
- The moratorium covers all claims against SMEs, which arose prior to the granting of the moratorium (with the exception of claims that would be ranked in the first priority in case of a bankruptcy [so-called first-class claims], such as certain claims of employees).
- If the composition court has granted a Covid-19 moratorium, all lenders must take this into account.
- Expected to last for a period of up to 3 months, to potentially be extended for a further 3 months.
- Obligor must apply to composition court who will make the decision whether to grant the moratorium.
- Certain facilitations are also provided for all companies:
 - A waiving of the requirement to provide provisional restructuring plans.
 - A grace period before the declaration of bankruptcy until 31 May.
 - A temporary extension of the maximum period for which a provisional moratorium period can be granted from four to six months.



Turkey

 Umut Gurgey, Burak Ozsoy

Gedik & Eraksoy

Legislative/regulatory measures

- There are currently no legislative or regulatory measures implementing forbearance, deferral and/or suspension for debt obligations.

Further measures

- The Turkish Government has adopted a decision whereby it has suspended time limits in relation to all legal proceedings, including those before civil, criminal and administrative courts and enforcement/bankruptcy proceedings until 30 April.



United Kingdom

 Etay Katz, Jo Owens
Allen & Overy, London

Regulatory measures

FCA support for motor finance and high-cost credit firms – 24 April

- 3 month payment freeze for motor finance, buy-now pay-later, rent-to-own and pawnbroking agreements. For high-cost short term credit (including payday loans) payments will be frozen for one month with no additional interest charged.

FCA guidance on credit card debt and personal loans – 6 April

- Expectation that firms should offer a payment deferral for up to 3 months to retail customers whose financial position is affected, or is reasonably likely to be affected.

FCA guidance on overdrafts – 6 April

- Two relief methods that apply where retail customers using overdrafts have difficulties, or reasonably expect to have difficulties with their finances:
 - 3 month interest free overdrafts, up to a certain limit.
 - Expectation that overdraft interest rate pricing remains fair.
- Affected loans are not to be treated as impaired.

FCA statement on credit card debt – 17 March

- Allows customers in persistent credit card debt more than customary period to respond to firms' communications.

PRA 'Dear CEO letter' – 26 March

- Expectation that PRA regulated firms consider 'waiving the breach' of loan covenants when due to Covid-19.



Australia

 **Adam Stapledon**
Allen & Overy, Sydney

Regulatory measures

The Australian Prudential Regulation Authority (APRA)

Guidance on regulatory approach in relation to Covid-19 support packages– 23 March.

- APRA advised that lenders need not treat the period of repayment holiday as a period of arrears, and loans which have been granted a repayment deferral as part of a Covid-support package need not be regarded as restructured.
- APRA requires all ADIs to report to APRA the nature and terms of any repayment deferrals and the volume of loans to which they are applied.

Industry measures

Australian Banking Association (ABA)

- Business relief package allowing for loan repayment deferral.
- The four main Australian banks have also put in place measures that extend the scope of the scheme established by the ABA, including more customers within the scope and additional support measures.

Further measures

- Temporary increase in the threshold at which creditors can issue a statutory demand.
- Temporary relief for directors from any personal liability for trading while insolvent



China

 **Jane Jiang**
Allen & Overy, Shanghai

Regulatory measures

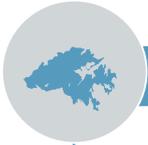
Joint Circular implementing provisional postponement in Principal and Interest Repayment for Loans to SMEs and Micro Enterprises

- People's Bank of China (PBOC), China Banking and Insurance Regulatory Commission (CBIRC), Ministry of Finance (MOF), amongst others.
- Repayment extension for principal and interest between 25 January and 30 June 2020, but lender may grant further extension.
- Obligors: SMEs dependent on meeting certain criteria.

Further measures

- Other circulars have encouraged sector-specific industries, local governments and landlords to take effective measures and issue policies to reduce rents and introduce other financial stimuli.

**Services in relation to the laws of the People's Republic of China are provided through Allen & Overy Lang Yue (FTZ) Joint Operation Office.*



Hong Kong (SAR), China

 Charlotte Robins
Allen & Overy, Hong Kong

Regulatory measures

HKMA press release – 17 April

- Pre-approved principal payment holiday scheme for all corporate customers
- All bilateral loan principal payments of eligible customers falling due within a 6-month period between 1 May - 31 October will be pre-approved for deferment.

HKMA and HKMC Insurance Limited press release – 3 April

- Requests that banks consider arrangements to automatically offer extensions of loan tenor or principal repayment holidays to qualified SMEs without requiring them to make an application.
- Request further extension to trade financing facilities for SMEs facing financial pressure due to delays in shipment.

HKMA press release – 13 February

- Sets out specific types of relief offered by some banks across a range of sectors: SMEs, import-export sector, transportation and retail consumers.
- Measures include payment holidays and fee reductions.

HKMA circular – 6 February

- Welcomed and encouraged banks to consider similar relief action to others to assist SMEs and retail customers.
- Measures include principal moratorium for residential and commercial mortgages, fees reduction for credit card borrowing, and restructuring of repayment schedules for corporate loans.



India

 Niloufer Lam
ZBA

Regulatory measures

Reserve Bank of India – Covid-19 Regulatory package – 27 March and 17 April (Resolution timelines and asset classification)

- 3 month moratorium on loan payments (whether, principal or interest and credit card amounts) due between 1 March and 31 May on all working capital facilities and term loans (including agricultural term loans, retail and crop loans).
 - Interest is not written off, but deferred until 1 June.
 - Each applicable lending institution has the option whether to utilize the package terms for its borrowers.
- Asset classification standstill from 1 March, 2020 to May 31, 2020 for accounts on which applicable lending institutions have granted a moratorium or deferment, and which were classified as 'standard' as on 29 February.
- The RBI framework requires lenders to implement a resolution plan within 180 days from the end of the review period of 30 days for stressed assets. However, in light of Covid-19, the period for the resolution plan is extended by 90 days.



Indonesia



Daniel Ginting, Tarsis Halintar

Ginting & Reksodiputro in association with Allen & Overy

Regulatory measures

Indonesian Securities Exchange (OJK) new countercyclical policies –Valid 14 April 2020- 14 April 2021

- The regulation provides non-bank financial services institutions (NBFIs) with a flexibility to, amongst others, issue and apply specific policies on determination of asset quality and restructuring of financing for certain debtors
- A number of relaxations are set out by OJK on the determination on asset quality and financing restructuring.

OJK new countercyclical policy

- Provides Indonesian banks (conventional, sharia and rural banks) with a flexibility to issue a more relaxed policy that deals with classification of quality of loan assets and credit restructuring.
- The banks would have to determine the criteria for affected debtors and affected sectors or industry. Credit restructuring may be applied against credits provided before or after the borrowers suffer the effect of Covid-19.
- Classification of quality of loan assets / credit restructuring – banks have discretion to determine criteria for affected debtors, sectors or industry; banks permitted to extend new credit to borrowers impacted, and such credit will be subject to a 'relaxed' regime of assets quality.
- Measures are valid until 31 March 2021.



Japan



Osamu Ito, Matthias Voss

Allen & Overy, Tokyo

Regulatory measures

Emergency Economic Measures for Response to Covid-19 – Financial Services Authority – 7 April (Originally March 6) 16 April extension)

- Requests flexibility in accommodating customer requests in adjusting borrowing terms including the period of deferment and period of loan.
- Not to treat all cases automatically and formalistically, where companies fall foul of financial covenants,
- On 16 April, depository institutions and e-money claim recording institutions were requested to deal with matters in relation to the handling of bills in the same manner.

Various FSA and Government Ministry Announcements

- The FSA has requested in different sectors through industry associations that moratoria measures and flexibility be introduced including:
 - Life insurance and non-life insurance payments.
 - Labour insurance payments.
 - National/local tax payments for enterprises or individuals that have been affected by Covid-19 – deferral for a year.
 - Utilities operators in relation to payment of bills.
- Ministry of Land, Infrastructure, Transport and Tourism (MLIT) has issued requests that landlords/lessors consider taking flexible measures such as deferral of rent payments – no limitation according to sector.



Singapore



Shuhui Kwok
Allen & Overy, Singapore

Legislative measures

Covid-19 (Temporary Measures) Act – 7 April

- A temporary moratorium on enforcement of certain types of contracts entered into before 25 March, covering commercial leases, certain loan facilities granted by banks or finance companies to SMEs, construction contracts, performance bonds, as well as contracts for the provision supply of goods and services for construction projects, contracts for events and tourism-related transactions.
- Parties will also be prohibited from commencing court and insolvency proceedings.
- Temporary relief for individuals and businesses in financial distress, including an increase of the monetary threshold for bankruptcy insolvency and lengthening of the statutory period to respond to demands from creditors.
- Moratorium period of six months from 20 April applies to obligations that arise on or after 1 February.

Regulatory measures

The Monetary Authority of Singapore (MAS), together with various industry regulators have put together an opt in package of measures to help individuals and SMEs

- Measures for retail consumers include a moratorium on residential property loans, conversion of unsecured credit card debt to loans with capped interest and installment payment plans for general insurance policies.
- SMEs can apply for payment moratoriums on certain loans as well as low-cost funding amongst other relief.



South Korea



David Rho, Hannah Kim
Allen & Overy, Seoul

Regulatory measures

Korean Financial Services Commission and the Financial Supervisory Service Covid-19 Financial Support Plan Guidelines

- All financial sectors will extend their loan maturity and interest payment date by at least 6 months from 1 April for eligible SMEs in relation to loans maturing before 30 September.
- SMEs with annual sales of under 100 million will automatically be eligible for the forbearance measures.

Further extension provided for individual debtors - 29 April

From 29 April 2020 to 31 December 2020, the following measures will take effect for individual debtors:

- Single loan individual borrowers experiencing temporary repayment difficulties may be eligible to extend the loan maturity date for 6-12 months. Does not include interest.
- Multiple credit loan individual borrowers: May be eligible to extend loan maturity date up to 12 months. Individual debtors who continue to default on debt repayment for more than 3 months may be eligible to receive debt restructuring support and discounts to the principal amount.
- Long-term delinquent borrowers: The Korean Asset Management Corporation (KAMPO) will acquire bad debts that fail to be cured/resolved through the above measures (1) and (2) and will support delinquent borrowers to restructure the debts, including extending maturity debts (up to 2 years), discounts to the principal amount and implementing long-term instalment .



Thailand

 Stephen Jaggs, Anchalee Limviriyalers
Allen & Overy, Bangkok

Legislative measures

Emergency Decrees - Financial assistance to SMEs – effective 19 April

- A loan payment holiday (both principal and interest) of 6 months for all SMEs with a credit line not exceeding 100 million baht; payment holiday will not be considered as a missed payment and will not impair the credit history of those SMEs. Commercial banks to provide payment holidays to affected SMEs without entering into any agreement with such SMEs.
- Soft loans to support liquidity for each non-listed SME whose loans have not been classified as non-performing loan, with a credit line not exceeding certain limits.

Regulatory measures

Bank of Thailand circular – 28 February 2020

- Requested the cooperation of commercial banks to restructure debt obligations across a number of sectors.
- Several Thai banks have since issued a range of debt moratoria effective from 1 April.
- Measures vary across different Thai banks, but may include: deferral of payment of principal only / deferral of payment of principal and interest / reduction of payment per instalment.
- Types of loans include: home loans, personal loans, credit card payments, SME business loans,
- Moratoria / payment deferral periods also remain at the discretion of banks, generally varying between 3 months to 12 months.



Saudi Arabia



Julian Johansen

Khoshaim & Associates in cooperation with Allen & Overy

Regulatory measures

Saudi Arabian Monetary Authority (SAMA) Announcements: 22 and 29 March

- Three months payment holiday for all public and private sector healthcare workers (free of any additional costs) on their consumer loans, home loans and lease financings.
- SAMA confirmed the importance of supporting private sector customers in the fight against Covid-19, with measures including:
 - Restructuring loans without additional costs.
 - Exemption from electronic transaction fees and overdraft fees for at least 6 months.
 - Recalculation of credit card interest at lower rates.

SAMA announcement of Private Sector Financing Support Program with a value of approx. SAR 50 billion – 14 March

- Includes the deposit of approximately 30 billion SAR* with Saudi banks and non-bank financial institutions (NBFIs), in return for a 6 month deferment of payment obligations owed by SMEs to those banks and NBFIs.
- The provision of business continuity finance totaling 13.2 billion SAR for SMEs, to be provided through Saudi banks and NBFIs.
- The deposit of 6 billion SAR with local banks and NBFIs in order to enable banks and NBFIs to issue bank guarantees to SMEs without charging fees.



UAE



Jodi Norman

Allen & Overy, Dubai

Regulatory measures

Central Bank of the UAE (CBUAE) -Targeted Economic Support Scheme (TESS) – 15 March

- A direction from the CBUAE that banks and finance companies should offer payment holidays under existing facilities until the end of the year on both principal and interest.
- A recommendation from the CBUAE that banks and finance companies provide additional financing (including working capital and new credit lines) at reduced rates:
 - in each case to private sector corporates, SMEs and individuals affected by Covid-19.

Department of Economic Development and Department of Finance, in conjunction with registered banks

- The initiatives for affected individuals include:
 - A deferral on existing loan and credit card instalments for up to 3 months, with no additional charges.
 - Halt foreclosures on defaulting mortgages and suspension of bank accounts until 30 September.
- Some measures apply to all individuals, irrespective of whether they have been impacted by Covid-19 including a deferment of interest on new loans for up to 3 months and a reduction of interest charges for eligible customers;
- The initiatives also address SMEs impacted by Covid-19 including a deferment of instalments on existing loans and credit cards for up to 3 months; and a reduction on banking charges and merchant service fees and minimum average balance requirements.



Brazil



Eduardo Kappel, Bruno Soares

Allen & Overy, Sao Paulo

Regulatory measures

Brazilian National Development Bank (BNDES) - Internal resolution

- Standstill program allows corporate borrowers who opt in to defer debt service payments (principal and interest) due to BNDES under financing agreements entered into with the bank.
- Any debt service payments so postponed is capitalized and paid rateably in accordance with the relevant scheduled debt service payments falling due after the end of the standstill period.
- Debt service payments falling due since February 2020 are eligible for deferral. Opt-in period ends June 30, 2020.

Brazilian National Monetary Council (CMN) - Resolution

- The measure relaxes certain cash provisioning requirements that must be met by retail banks when renegotiating debt repayment conditions with small businesses and borrowers of consumer loans.
- The measure allowed retail banks to offer obligors a 60-day standstill period for debt service payments
- Effective through September 2020.

Further measures

- Legislative bill under discussion which will likely allow tenants to postpone rental payments and / or relax price adjustment undertakings.



Canada



Simon Williams

Torys LLP

Further measures – Federal

- Interest-free loans of up to CAD\$40,000 available to small businesses and not-for-profits through the Canada Emergency Business Account are eligible for a 25% loan forgiveness (up to CAD\$10,000) if the loan is repaid before December 31, 2022.

Further measures – Federal in conjunction with the provinces

- Government will provide forgivable loans to qualifying commercial property owners to cover 50% of three monthly rent payments payable by eligible small business tenants for the months of April, May and June.
- The loans will be forgiven if the mortgaged property owner agrees to reduce the eligible small business tenants' rent by at least 75 per cent for the three corresponding months under a rent forgiveness agreement, which will include a pledge not to evict the tenant while the agreement is in place.



United States

 Bill Satchell

Allen & Overy, Washington D.C.

Legislative measures – New York

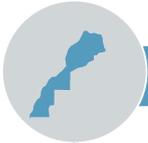
Executive Order No. 202.9, (section 29A of NY Executive Code) - March 21

- All local banks subject to the jurisdiction of the Department of Financial Services expected to grant a forbearance to any person or business who has a financial hardship as a result of the Covid-19 pandemic for a period of 90 days.
- Expected not to be a total forbearance for qualified financial contracts where daily margining is required to help manage exposure.

Regulatory measures

Federal and state banking regulators interagency statement

- Encouraged financial institutions to work with borrowers, viewing prudent loan modifications as a positive proactive action – institutions will not be criticised for doing so in a safe and sound manner.
- Supervised institutions will not be directed to automatically categorize loan modifications as troubled debt restructurings (TDRs).



Morocco



Omar Sinaceur
Allen & Overy, Casablanca

Regulatory measures

- Economic intelligence committee** (Comité de veille économique) – 19 March / **Professional group of Moroccan banks** (Groupement professionnel des banques marocaines) – 18 and 28 March.
- Deferral of payments, upon request, of all the loans and leasing agreements for businesses directly impacted by the Covid-19 crisis, without penalties or additional fees.
 - Until 30 June (renewable one time, it being specified that Moroccan credit institutions are free to go beyond these measures to support the clients).

Further measures

- Regulatory : Economic Watch Committee (Conseil de Veille Economique)**
- Introduction of zero-interest credit for auto-entrepreneurs impacted by the Covid- 19 crisis:
 - Extension of the benefit of the DAMANE OXYGENE scheme to companies operating in the real estate sector:
 - Opens an exceptional overdraft of 95% of the amount of credit granted to companies affected by Covid-19.
- Decree-law n°2-20-292** - 23 March and Decree n°2-20-293 - 24 March promulgating the state of health emergency from 20 March until 20 April (both Decrees have been published in the Official Gazette).
- Suspension of all the statutory deadlines and enforcement measures until the end of the state of health emergency.



South Africa



Anthony Colegrave, Brittany Kleinhans
Allen & Overy, Johannesburg

Legislative measures

- Covid-19 Block Exemption for banking sector: 23 March**
- Promotes commercial banks acting in a concerted manner (which would otherwise be prohibited under the restrictive practice provisions of the Competition Act) to develop a common approach to minimise the negative impact on impacted businesses and individuals:
 - Payment and debt relief;
 - Limitations set on asset repossessions;
 - The extension of credit lines.

Regulatory measures

- Directive D3/2020 on matters related to the treatment of restructured credit exposures – 6 April**
- Supports the Covid-19 related relief initiatives, such as payment holidays being offered by banks, in order to provide relief to certain borrowers in the retail and corporate sector.
 - It provides banks with capital relief on restructured loans that were in good standing before the Covid-19 crisis.
 - Permits banks to classify certain qualifying loans that are being restructured due to Covid-19 as “Covid-19 restructured loans” – impacts risk weight assigned to the loan.
 - Will remain in effect for minimum 6 months.

Further measures

A block exemption has also been introduced with regards to the retail sector to allow the agreement of payment holidays and rent adjustments.

Participating law firms

- **Canada:** Torys LLP
- **Cyprus:** Harneys
- **Denmark:** Bech Bruun
- **Finland:** Castrén Snellman
- **Greece:** Karatzas & Partners
- **India:** ZBA
- **Indonesia:** Ginting & Reksodiputro in association with Allen & Overy
- **Ireland:** Arthur Cox
- **Norway:** Wikborg Rein
- **Portugal:** PLMJ
- **Saudi Arabia:** Khoshaim & Associates in cooperation with Allen & Overy
- **Sweden:** CIRIO
- **Switzerland:** Homburger AG
- **Turkey:** Gedik & Eraksoy

