

France Relaunch: Economic Recovery and Growth amid the COVID-19 Pandemic

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Synopsis

France continues to grapple with the unprecedented dual challenge of an alarming health crisis and an ensuing economic crisis provoked by the COVID-19 pandemic. Constant efforts to maintain and refuel economic activity resulted in the implementation of an array of significant governmental measures,¹ the most recent keystone measure being the EUR 100 billion France Relaunch plan² ('*France Relance*', hereafter the Relaunch plan), presented by the French Prime Minister on 3 September 2020. A simplified break down of all the measures of the Relaunch plan as applicable to individuals, businesses, local authorities and administrative bodies may be accessed on the dedicated government website.³ The Relaunch plan, as the name aptly suggests, aims to revive the economy by restoring the pre COVID-19 pandemic level of GDP⁴ by 2022, coupled with a larger long term objective of transforming the French economy, by 2030, into one which is more independent, more competitive, more attractive and more sustainable. Thus, in the words of the French President, the ambitious Relaunch plan strives to 'transform risk into chance, crisis into opportunity.'⁵

With a view to attain these objectives, the Relaunch plan is structured on three principal axes -ecological transition, competitiveness and social and territorial cohesion- consisting of allocations of EUR 30 billion, EUR 34 billion and EUR 36 billion respectively.⁶ Further, the draft finance bill for 2021 (*projet de loi de finances 2021*) (hereafter PLF 2021), presented by the Ministry of Economy, finance and relaunch on 28 September 2020, provides for a budgetary allocation of EUR 36.4 billion as commitment authorisations and

EUR 22 billion as payment credits, of a total budget of EUR 152.8 billion for 2021, towards the financing requirements of the measures of the Relaunch plan during 2021.

The authors briefly present some of the primary measures of the Relaunch plan pertaining to providing an impetus to the competitiveness of businesses and industries in France thereby increasing the overall attractiveness of the country as a global business destination (I) and measures relating to the safeguarding of employment in France to ensure social cohesion (II).

I. Competitiveness and increasing the attractiveness of the country

1.1 Corporate taxation (reduction in production taxes)

The Relaunch plan provides for a EUR 20 billion reduction in production taxes payable by businesses and industries during 2021-2022. This reduction primarily aims to foster the relocation and establishment of businesses and industries in France thereby promoting the competitiveness and economic attractiveness of the country. Further, this tax reduction is to be implemented in accordance with a combination of three distinct measures:

- Reduction of 50% of the contribution on the added value of companies (*cotisation sur la valeur ajoutée des entreprises*, hereafter CVAE) as regards all businesses liable to pay this tax. This reduction corresponds to the elimination of the tax share on the regional level amounting to EUR 7.25 billion;

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- 1 Measures such as amendments to insolvency legislation, creation of a solidarity fund for small businesses and the EUR 300 billion state guaranteed loans scheme, known as the *Prêt Garanti par l'Etat*, or PGE – for more information on these loan schemes, see A. Sorensen, 'France: A Country at War against the Coronavirus Pandemic', (2020) 17:3 *International Corporate Rescue*.
- 2 The detailed Relaunch plan may be accessed and/or downloaded online from the Government website <www.gouvernement.fr/france-relance>.
- 3 <www.planderelance.gouv.fr>.
- 4 The *Projet de loi de finances 2021* has forecast a positive 8% growth in France's GDP in 2021 resulting mainly from the implementation of the Relaunch plan.
- 5 Translated from French into English with the original quotation being – *Transformer le risque en chance, la crise en opportunité*.
- 6 D.G. Trésor, 'Launch of the French recovery plan' <www.tresor.economie.gouv.fr/Articles/2020/09/15/launch-of-the-french-recovery-plan>, 15 September 2020.

- Reduction of 50% of property tax on built-up property (*taxe foncière sur les propriétés bâties*) and property tax for businesses (*cotisation foncière des entreprises*) as regards industrial establishments comprising about 32,000 businesses and operating 86,000 establishments. This entails a reduction of EUR 1.75 billion of property tax on built-up property and a reduction of EUR 1.54 billion of property tax for businesses; and
- Lowering of the capping rate of territorial economic tax (*contribution économique territoriale*) from 3% to 2%. This lowering of the tax would ensure that all or part of the benefits availed of by businesses through reductions in CVAE and property taxes do not become neutralised by the capping.
- Phasing out of the 25% surcharge applied to certain income of professionals who are not members of an accredited management body. This measure would benefit small businesses, artisans and self-employed persons; and
- Introduction of an optional VAT group scheme, whereby legally independent persons who are closely interlinked financially, economically and in their organisation may be considered as a single taxable person for tax purposes. This would reinforce the neutrality of VAT on the organisational choices of groups, mainly in sectors carrying out tax-exempt transactions, and would simplify the management of this tax.

Gains resulting from these tax reduction measures are estimated to benefit 41% of middle-sized companies⁷ (MSEs), 33% of small and medium sized companies⁸ (SMEs) and very small companies⁹ (VSEs) and 26% of large companies¹⁰ and the principal beneficiary sectors would be the industrial and commerce sectors with 37% and 15% of the gains respectively.

The PLF 2021 provides for certain additional measures to promote the competitiveness of businesses:

- Extension by an additional period of three years of the exemption from payment of property tax for businesses (*cotisation foncière des entreprises*) in the event of the creation or extension of establishments, on the basis of a decision by the local authorities;
- Neutralisation, on a temporary basis, of the tax consequences of the free revaluations of assets of businesses (*révaluations libres d'actifs*) which would make it possible to spread out the taxation resulting from such transactions over a period of five years or fifteen years depending on the nature of the property;
- Restoration, on a temporary basis, of the system of spreading out of the capital gain attained during a sale-leaseback transaction (*opération de cession-bail d'immeuble*) by a company, so as not to curb the use of this type of transaction, which is likely to improve the cash flow of certain companies;
- Grant of an equity guarantee of up to EUR 1 billion by Bpifrance Financement¹¹ (hereafter BPI), to identified investment funds,¹² which will bear the Relaunch label with regard to their investments in the equity and quasi equity of French companies or companies having a permanent establishment in France. The PLF 2021 provides for an allocation of EUR 150 million in commitment authorisations and payment credits for this purpose; and
- Grant of participatory loans amounting to EUR 10 billion extending up to EUR 20 billion to VSEs, SMEs and MSEs. These loans to be granted by banks during 2021 would be long-term, subordinated loans similar to quasi-equity financing. There is a further possibility to refinance these loans by professional investors for their own account or on behalf of their clients. This scheme would be supported by a partial state guarantee of up to EUR 2 billion.

1.2 Corporate financing (strengthening of equity and quasi equity)

With an allocation of EUR 3 billion, the Relaunch plan focuses on strengthening the equity and quasi equity of VSEs, SMEs and MSEs. This is sought to be achieved through a joint effort of institutional investors such as banks, insurers and private equity firms on the one hand and the State on the other. The Relaunch plan provides for two strategic measures in this respect:

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- 7 Employing less than 5,000 employees and generating a turnover not exceeding EUR 1,500 million or a balance sheet total not exceeding EUR 2,000 million.
- 8 Employing less than 250 employees and generating a turnover not exceeding EUR 50 million or a balance sheet total not exceeding EUR 43 million.
- 9 Employing less than 10 employees and generating a turnover or a balance sheet total not exceeding EUR 2 million.
- 10 Employing more than 5,000 employees or generating a turnover exceeding EUR 1.5 billion and a balance sheet total exceeding EUR 2 billion.
- 11 BPI stands for Banque Publique d'Investissement.
- 12 National and regional investment funds having an investment policy which supports, in accordance with a sustainable investment approach, the strengthening of equity and quasi equity of companies.

With specific regard to certain VSEs,¹³ there is a scheme for the grant of loans ranging between EUR 10,000 and EUR 50,000 which may be granted for a term of 5 years by the BPI from the first quarter of 2021 without any security or personal guarantee in order to specifically support these VSEs to make intangible investments as also tangible investments having a low pledge value such as fitting-out work, equipment designed or produced for its own needs and computer equipment.

2. Social cohesion

2.1 Safeguarding employment (part time work measures)

The Relaunch plan, with an aim to prevent large scale lay-offs and safeguard employment in all durable business sectors, provides for an allocation of EUR 6.6 billion, of which EUR 4.4 billion would be provided by the State and EUR 2.2 billion would be provided by Unédic¹⁴ to be utilised towards the following two non-cumulative¹⁵ measures:

- *Activité partielle de droit commun* (literally meaning *partial activity under common law*) is a three-month long measure with a one-time renewal, which will enter into force on 1 November 2020. This measure aims to safeguard employment, mainly with regard to jobs closer to the minimum wages threshold. All businesses suffering a one-off decline in their activity due to the COVID-19 pandemic are eligible to avail of this measure; and
- *Activité partielle de longue durée* (literally meaning *long term partial activity*), is a measure enforced on 1 July 2020 in accordance with the law dated 17 June 2020,¹⁶ and its application decree dated 28 July 2020,¹⁷ with the primary aim to safeguard employment and assist the economic activity of businesses. All businesses established in France, which have suffered a lasting decrease in their economic activity due to the COVID-19 pandemic are eligible to avail of this measure, irrespective of their sector of activity or size. Employers may apply to avail of this measure till 31 June 2022.

Activité partielle de droit commun

This measure provides for benefits which may be availed of by both employers and employees:

Employers have the possibility to reduce the working hours of their employees and in return receive an allowance corresponding to 36% of the previous gross remuneration of the employees within the limit of 4.5 of minimum wages. This allowance will be financed by the State and by Unédic. As a result of the reduction in the working hours, the employment contract between the employer and the employee stands suspended with regard to the hours not worked by the employee; and

Employees whose working hours are reduced and who would thereby be working on a part time basis would be compensated by employers for up to 60% of their previous gross remuneration for the hours not worked within the limit of 4.5 of minimum wages. The state and Unédic will finance up to 85% of this compensation to be paid to employees with this figure being 100% in the event of businesses belonging to the most affected sectors by the COVID-19 pandemic such as hotels and restaurants, tourism, events, air travel, sports and culture till 31 December 2020.

Activité partielle de longue durée

With an objective similar to that envisaged by the *activité partielle de droit commun*, this measure also provides for benefits which may be availed of by both employers and employees, subject to employers complying with certain pre-requisite conditions and undertaking reciprocal engagements:

- Employers, in order to benefit from this measure, are required to sign a collective agreement which may be in the form of an establishment, enterprise or group agreement or even a single document based on a broad branch agreement (hereafter the Agreement);
- Once signed, the Agreement has to be sent to the administrative authority which is the departmental unit of the DIRECCTE,¹⁸ on delegation of the Prefect of the department, for its approval and authorisation. In the near future, it may be possible to directly submit the Agreement online for approval on the dedicated government portal.¹⁹ Further,

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13 VSEs which are existing and are registered since more than 3 years and employing between 3 and 50 employees.

14 Union Nationale Interprofessionnelle pour l'Emploi dans l'Industrie et le Commerce.

15 It is possible for businesses to implement these measures simultaneously in the event of difficulties in the supply of raw materials or energy or on the occurrence of a disaster, bad weather conditions or other exceptional circumstances or lastly in the case of transformation, restructuring or modernisation of the business.

16 Loi No. 2020-734 du 17 juin 2020 relative à diverses dispositions liées à la crise sanitaire, à d'autres mesures urgentes ainsi qu'au retrait du Royaume-Uni de l'Union européenne - (Article 53).

17 Décret No. 2020-926 du 28 juillet 2020 relatif au dispositif spécifique d'activité partielle en cas de réduction d'activité durable.

18 Directions Régionales des Entreprises, de la Concurrence, de la Consommation, du Travail et de l'Emploi.

19 <www.activitepartielle.emploi.gouv.fr/apart/>.

employers are also required to send the Agreement electronically on the TélÉAccords platform which is the service for filing collective agreements of companies;

- Once the Agreement is approved and the authorisation granted, initially for a period of 6 months with a possibility of subsequent renewal subject to certain conditions, employers may enforce the measure for a maximum duration of 24 months, whether consecutive or not, over a period of 36 consecutive months;
- As a part of this measure, employers are allowed to reduce the working hours of their employees by up to 40% of the legal working hours- or up to 50% in exceptional circumstances – and in return receive an allowance corresponding to 56%²⁰ or 60%²¹ of the previous gross remuneration, within the limit of 4.5 of minimum wages, financed by the State and Unédic. As a result of this reduction in the working hours, the employment contract between the employer and the employee stands suspended with regard to the hours not worked by the employee;

- Employees would be compensated by up to 70%²² of their previous gross remuneration for the hours not worked within the limit of 4.5 of minimum wages; and
- As a counterpart of the strong intervention by the public authorities and the efforts of employees, employers are required to make certain commitments related to safeguarding employment and professional training of employees. A failure to comply with these commitments would entail an obligation to reimburse the allowance received on demand of the administrative authority.

Conclusion

The Relaunch plan is indisputably a remarkable effort of the Government to do whatever it may take to not only revive the French economy but also to transform it. But its success is far from certain, given the necessity of a rapid and efficient implementation in an ever challenging and uncertain crisis environment, which is a serious concern considering the size of the corresponding debt burden for the next generations.

Notes

20 With respect to agreements submitted from 1 October 2020 and onwards.

21 With respect to agreements submitted before 30 September 2020.

22 85% of this compensation would be provided by the State and 15% by the employer.