

FAQs for Lenders on assignment of the guarantee

Coronavirus Business Interruption Loan Scheme Bounce Back Loan Scheme

Can I assign or transfer scheme guarantees and scheme facilities?

Other than in certain limited circumstances, a lender cannot transfer individual scheme facilities without the prior written consent of the British Business Bank (“BBB”) (acting on behalf of the Guarantor¹).

A lender is similarly not able to assign, novate or otherwise transfer the benefit of any scheme guarantee or any of its rights, or obligations under its Guarantee Agreement without the prior written consent of the BBB (acting on behalf of the Guarantor).

For what purpose is the transfer of the scheme guarantees and the scheme facilities permitted?

The transfer of the scheme guarantees and scheme facilities is allowed in certain circumstances in connection with funding the origination of new scheme facilities. For example, if a lender has a block funding arrangement or a warehouse structure where the beneficial interest in the scheme facilities is assigned to the funding provider as part of that arrangement, the scheme guarantees may now also be assigned (subject to certain conditions).

How should I approach the Guarantor if I need to assign scheme guarantees and scheme facilities?

BBB has delegated authority from BEIS to provide consents to assignment. You should send an email to your relationship manager at BBB expressing your interest in assigning or otherwise transferring (by declaration of trust or otherwise) the scheme facilities and the associated scheme guarantees.

Your relationship manager will send you a questionnaire to fill in that will ask you for information about your financing structure. It will also contain various confirmations you will need to provide about the ongoing payments owed to the Guarantor under the Guarantee Agreement. Your relationship manager can also provide you with the standard form templates described below.

What form will the consent take?

As mentioned above, BBB has a standard form agreement (the “Assignee Agreement”) that an entity taking an equitable assignment of the scheme facilities (and the benefit of the scheme guarantee) will be required to enter into. The Assignee Agreement is supplemented by a “Scheme Guarantee Transfer Letter”, which governs the relationship between the party transferring the guarantee and scheme facilities (the “Transferor”) and the recipient of the transfer (the “Transferee”). In particular, it sets out what happens to any in flight recoveries

¹ A lender permitted to assign (a) any scheme facilities in connection with a liquidity scheme provided by the UK Government or any other state, supranational or public body (including, but not limited to, the Term Funding Scheme) and (b), in relation to asset finance scheme facilities only, asset finance scheme facilities where they are funded by the Lender by way of a block financing arrangement for the purposes of securing its payment obligations under the block financing arrangement (provided that the ultimate economic risk of the asset finance scheme facility must remain with the lender).

or claims if the scheme facilities are transferred, and when the Transferor's rights and obligations are switched off and the Transferee's rights and obligations are switched on in relation to the scheme guarantees.

BBB has a similar precedent for transfers by way of declaration of trust.

Will there be any conditions attached to the consent?

Yes, as a general rule, the UK Government and the borrowers should not be in a worse position after the transfer than they were before. For the borrowers, this means that the scheme facilities should continue to be serviced in accordance with the standard of care. For the UK Government this means that the scheme lender fee should still be paid to it, recoveries returned to it and it should still have equivalent rights to audit and monitor the Transferee. These principles will be set out in BBB's standard form documents.

The original lender in relation to the scheme facilities will still be required to retain certain credit risk of scheme facilities in line with its obligations under its Guarantee Agreement.

The original lender will also be expected to pass on the benefit of any reduction it receives in its cost of funds by virtue of entering into the funding arrangement.

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