



Bank of
Melbourne

Important information for customers with equipment finance contracts of \$1,000,000 or less.

Are you a business customer who has entered into, renewed or varied an equipment finance contract of \$1,000,000 or less since 12 November 2016? If so, the changes below will apply to your contract.

What is changing and what does it mean for you?

We have a strong commitment to supporting businesses and improving the way we do things. With this in mind, we're strengthening protections under equipment finance contracts, to make them more favourable for our small business customers. This has been done in consultation with the Australian Securities and Investments Commission and the Australian Small Business and Family Enterprise Ombudsman.

The changes take effect from 22 December 2017 and apply to equipment finance contracts entered into, renewed or varied since 12 November 2016 (including renewals and extensions that occur automatically when you retain goods after the end of your equipment finance contract). This notice describes the changes. This notice doesn't apply to automotive finance.

Is there anything you need to do?

No – you'll automatically receive the benefit of the changes described in this notice without the need for any update to your terms and conditions (so you won't receive new terms).

We're here to help.

If you have any concerns or questions about your financing arrangements, please contact your Relationship Manager or call 13 82 66.

What's changing?

Entire agreement clauses	We won't rely on clauses that limit our agreement with you to the written <i>equipment finance contract</i> . This means statements we make to you (in writing or otherwise) can form part of our agreement.
General indemnity clauses	If something goes wrong, we're limiting the kinds of loss we'll ask you to cover. If your <i>equipment finance contract</i> includes a general indemnity, we'll: <ul style="list-style-type: none">• only seek to recover losses that are a direct result of the matters covered by your general indemnity, and• not rely on the general indemnity to claim losses which arise from negligence, fraud or wilful misconduct of:<ul style="list-style-type: none">– any of our (or our related entities') employees, contractors or agents– any receiver or receiver and manager we appoint when exercising our rights as a holder of a security.
Financial indicator covenants	We won't require you to comply with any financial indicator covenants in your <i>equipment finance contract</i> . An example of a financial indicator covenant we won't rely on is an obligation to maintain a particular debt service cover ratio (DSCR).
Unilateral variation clauses	Your <i>equipment finance contract</i> allows us to make changes to fees and charges at any time, without your agreement. We'll give you at least 30 days' notice of these changes.

What's changing?

What can trigger default or repudiation

We can exercise certain rights under your *equipment finance contract* only after a default or after you are taken to have repudiated the contract (eg because you breach a fundamental term). We'll only exercise those rights if one or more of the following occurs. However, this doesn't apply to a *master asset finance facility*.

- you or a guarantor don't pay any amount payable under the *equipment finance contract* or a supporting security interest within 2 business days after its due date
- any of the following happen:
 - you (or, other than for a *goods loan* or a *lease*, a guarantor) become *insolvent*
 - another creditor takes *enforcement proceedings* against you
- you or a guarantor give us incorrect, incomplete or misleading information or make misleading or incorrect declarations or representations to us in connection with your *equipment finance contract* and we consider this materially increases our security risk
- you don't maintain the insurance we require (unless the failure can be rectified and is rectified within 30 days after we ask you to do so or any longer period we agree)
- you don't comply with an obligation not to create or allow another interest in, or dispose, or part with possession of the goods or any property over which we have a security interest (or attempt to do so)
- you don't comply with an obligation:
 - to protect our interest in the *goods*
 - to keep the *goods* in good repair or condition or maintain records relating to the *goods*
 - relating to attaching the *goods* to any property
 - where you have a *goods loan*, to comply with laws or requirements of an authority in connection with the *goods*, or to maintain any necessary registration,(unless the failure can be rectified and is rectified within 30 days after we ask you to do so or any longer period we agree)
- we:
 - call for early repayment of money owing under a separate financing arrangement you have with us (but this doesn't apply to a *goods loan*); or
 - otherwise enforce a security interest we hold over your (or, other than for a *lease*, a guarantor's) assets in connection with any *equipment finance contract*,because of an event of default (however described) under that arrangement (but only if the event of default is of a type that would be permitted if unfair contract terms laws applied to that arrangement)

How does this notice affect master asset finance facilities and escrow facilities?

A *master asset finance facility* may be cancelled at any time. This continues to be the case. If you have a *master asset finance facility* and it's cancelled, we're under no obligation to sign any further goods schedule or goods loan details, for any further goods. However, your existing *equipment finance contracts* under the *master asset finance facility* will continue.

We'll exercise our rights under *escrow facilities* consistently with our commitments described above. However:

- this notice doesn't affect any obligation you have under an *escrow facility* to pay cost overruns (eg where the remaining loan funds aren't sufficient to meet remaining construction costs)
- you can still be in default under an *escrow facility* if you fail to pay cost overruns, the builder becomes insolvent or you fail to comply with obligations relating to construction timetables or milestones and we reasonably consider the relevant circumstances materially increase our security risk or will do so (unless the circumstances can be rectified and they're rectified within 30 days after we ask you to do so or any longer period we agree).

We may be the undisclosed financier for an equipment finance contract

Sometimes we provide equipment finance to customers via an agent. When we do that, we may not be disclosed in the contract as financier. We'll extend the benefit of this notice to customers with an *equipment finance contract* with our agent, regardless of whether we're disclosed in the contract as financier.

What's changing?

How does this notice affect security documents?

If we need to enforce our rights under any securities (eg guarantees, goods security, general security agreements or mortgages) given to us for your *equipment finance contract*, we'll exercise our rights under those securities in a way that is consistent with our commitments described above. However, some securities may secure other arrangements we've entered into with you or your guarantors. Our rights under those other arrangements and corresponding supporting securities aren't affected by this notice.

Meaning of terms

automotive finance	an <i>equipment finance contract</i> which is established through a motor dealer or our Customer Contact Centre or is a novated lease
enforcement proceedings	means a person: <ul style="list-style-type: none"> • commences proceedings in a court to recover a debt or to recover possession of property subject to a security interest • otherwise enforces a security interest by taking possession of property (or taking steps to do so) or exercising a power of sale • applies to a court to appoint a provisional liquidator • enforces a judgment against another person or their assets
equipment finance contract	is our agreement with you under any of the following (excluding <i>automotive finance</i>): <ul style="list-style-type: none"> • a St.George, St.George Finance Limited, St.George Motor Finance Limited or Bank of Melbourne: <ul style="list-style-type: none"> – goods schedule together with: <ul style="list-style-type: none"> – lease agreement terms and conditions – general (<i>lease</i>) – hire purchase agreement terms and conditions – general (<i>hire purchase</i>) – rental agreement terms and conditions (<i>rental agreement</i>) where the total rent instalments are \$1,000,000 or less at the time of the agreement, renewal or variation – goods loan facility details together with goods loan facility standard terms (<i>goods loan</i>) where the loan amount is \$1,000,000 or less at the time of the agreement, renewal or variation – <i>master asset finance facility</i> and each <i>lease</i>, <i>hire purchase</i>, <i>rental agreement</i> or <i>goods loan</i> entered into in connection with a <i>master asset finance facility</i> • each other contract for the provision of equipment finance (however described) which is entered into by you with anyone acting as our agent, where the total consideration payable under the contract is \$1,000,000 or less
escrow facility	our agreement with you under an escrow facility offer letter relating to the construction of goods, if the limit of the facility is \$1,000,000 or less at the time of the agreement, renewal or variation
goods	the goods the subject of your <i>equipment finance contract</i>
insolvent	a person is insolvent if: <ul style="list-style-type: none"> • they're unable, or state they're unable, to pay their debts when they fall due, they enter into any assignment, arrangement or composition with any creditors or are otherwise taken to have committed an act of bankruptcy • they're in liquidation, in provisional liquidation, under administration or wound up or have had a controller (as defined in the <i>Corporations Act 2001</i> (Cth)) appointed to their assets • they're subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute, or dissolved (except to carry out a solvent reconstruction or amalgamation) • they're taken to have failed to comply with a statutory demand • an authority has appointed an administrator or investigator to them or their assets • something having a substantially similar effect to any of the things described above happens to that person
master asset finance facility	a master asset finance facility provided under a facility agreement where the total facilities under the facility agreement are \$1,000,000 or less (based on facility limits at the time of the agreement, renewal or variation). The facility agreement may include facilities in addition to the master asset finance facility and this notice doesn't affect those other facilities.

Updated 1 March 2020