

# 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.

## 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 1300 300 309.



## 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. We'll: <ul style="list-style-type: none"><li>• only seek to recover losses that are a direct result of the matters covered by your general indemnity, and</li><li>• not rely on the general indemnity to claim losses which arise from negligence, fraud or wilful misconduct of:<ul style="list-style-type: none"><li>– our (or our related entities') employees, contractors or agents</li><li>– any receiver or receiver and manager we appoint when exercising our rights as a holder of a security.</li></ul></li></ul>
What can trigger default or repudiation	<p>We can exercise certain rights under your <i>equipment finance contract</i> 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:</p> <ul style="list-style-type: none"><li>• you don't pay any amount payable under the <i>equipment finance contract</i> within 2 business days after its due date</li><li>• any of the following happen:<ul style="list-style-type: none"><li>– you become <i>insolvent</i></li><li>– another creditor takes <i>enforcement proceedings</i> against you</li></ul></li><li>• you give us incorrect, incomplete or misleading information or make misleading or incorrect declarations or representations to us in connection with your <i>equipment finance contract</i> and we consider this materially increases our credit risk</li><li>• you are subject to a change in management (which we reasonably consider to be material) or a change in control (except, in each case, where the change can be rectified and it's rectified within 10 business days after we ask you to do so or any longer period we agree)</li><li>• other than in the case of a <i>goods loan</i>, you don't give us copies of your financial statements, accounts or other financial information in the form we reasonably require within 30 days of the date you are required to give them to us</li><li>• you don't maintain the insurance we require (unless the failure can be rectified and is rectified within 10 business days after we ask you to do so or any longer period we agree)</li><li>• you don't comply with an obligation not to create or allow another interest in, or dispose, or part with possession of the <i>goods</i> or any property over which we have a security interest (or attempt to do so)</li><li>• you don't comply with an obligation:<ul style="list-style-type: none"><li>– to protect our interest in the <i>goods</i></li><li>– to keep the <i>goods</i> in good repair or condition</li><li>– relating to attaching the <i>goods</i> to any property</li><li>– to comply with laws or requirements of an authority in connection with the <i>goods</i>,</li></ul>(unless the failure can be rectified and is rectified within 10 business days after we ask you to do so or any longer period we agree)</li><li>• we:<ul style="list-style-type: none"><li>– call for early repayment of money owing under a separate financing arrangement you have with us; or</li><li>– otherwise enforce a security interest we hold from you,</li></ul>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)</li></ul> <p>Of course, if your current arrangements give you more time to rectify something than what is described above, we'll ensure you're given that extra time.</p>

## How does this notice affect *escrow facilities* and novation agreements?

We'll exercise our rights under *escrow facilities* consistently with our commitments described above. However, nothing in this notice affects our ability to terminate the *escrow facility* if the goods aren't delivered (and, if applicable, installed) and accepted by you within the time required under the *escrow facility* and we reasonably consider this increases our credit 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'll also exercise our rights under any novation agreement associated with a novated lease in a way that is consistent with our commitments described above.

## 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 the 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 the financier.

## 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

<i>enforcement proceedings</i>	<p>means a person:</p> <ul style="list-style-type: none"> <li>• commences proceedings in a court to recover a debt or to recover possession of property subject to a security interest</li> <li>• otherwise enforces a security interest by taking possession of property (or taking steps to do so) or exercising a power of sale</li> <li>• applies to a court to appoint a provisional liquidator</li> <li>• enforces a judgment against another person or their assets</li> </ul>
<i>equipment finance contract</i>	<p>is our agreement with you under any of the following, where Capital Finance Australia Limited is the provider of finance (including where another entity enters into the contract as our agent):</p> <ul style="list-style-type: none"> <li>• a lease, term purchase, rental, finance lease agreement schedule or rental agreement schedule, in each case, where the total instalment payments are \$1,000,000 or less at the time of the agreement, renewal or variation</li> <li>• a novated lease where the total instalment payments are \$1,000,000 or less at the time of the agreement, renewal or variation (<i>novated lease</i>)</li> <li>• a specific security deed (goods) or specific security agreement (goods) schedule where the amount financed is \$1,000,000 or less at the time of the agreement, renewal or variation (<i>goods loan</i>)</li> <li>• a <i>master facility agreement</i> together with each lease schedule, rental schedule, term purchase schedule or secured loan schedule entered into in connection with a <i>master facility agreement</i></li> <li>• 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.</li> </ul>
<i>escrow facility</i>	our agreement with you under a Capital Finance Australia Limited escrow agreement if the amount financed is \$1,000,000 or less at the time of the agreement, renewal or variation
<i>goods</i>	the goods the subject of your <i>equipment finance contract</i>
<i>insolvent</i>	<p>a person is insolvent if:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• 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</li> <li>• 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)</li> <li>• they're taken to have failed to comply with a statutory demand</li> <li>• an authority has appointed an administrator or investigator to them or their assets</li> <li>• something having a substantially similar effect to any of the things described above happens to that person</li> </ul>
<i>master facility agreement</i>	our master facility agreement or master rental with you, in each case, where the total facilities are \$1,000,000 or less (based on facility limits at the time of the agreement, renewal or variation)

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