

Enterprise Finance Guarantee

Lender Manual

**2012**

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The EFG Scheme – An Introduction

The Enterprise Finance Guarantee

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1. Introduction

1.1 The Enterprise Finance Guarantee

The Enterprise Finance Guarantee (“EFG”) was launched in January 2009 as a successor to the Small Firms Loan Guarantee scheme (“SFLG”). The EFG is a Government guarantee scheme, delivered via accredited lenders (the “Lenders”) and focussed upon improving access to working capital and investment funding for SMEs in the UK.

EFG can be used to **facilitate new lending** to and, in certain circumstances, **restructuring the existing debt** of an SME which a Lender considers viable but which lacks the security normally required by the Lender.

EFG lending may take the form of a **term loan, an overdraft or an invoice finance facility**.

EFG may only be used to facilitate the provision of finance in cases where such finance**would not otherwise have been made available** on the grounds that the SME is unable to provide some or all of the security the Lender would normally require. Subject to all eligibility criteria being met, the EFG provides the Lender with a 75% guarantee on the net loss (i.e. after any recoveries) in the event that the borrowing SME defaults. By using the EFG the Lender is agreeing to bear the remaining 25% of any loss.

The Government’s total exposure to any individual Lender’s annual portfolio of EFG-backed lending is capped but at a level well above the portfolio default rate most Lenders would expect to experience in their SME lending.

Delivery of EFG, including the decision on whether or not it is appropriate to use in connection with a specific lending transaction, is fully delegated to the participating Lenders. **There is no automatic entitlement to receive an EFG facility even if a business believes it satisfies the basic eligibility criteria.**

All of the main High Street banks plus a number of other lending institutions are participating in EFG. A list of participating Lenders is available from the website of the Department for Business, Innovation and Skills (“BIS”) – [www.bis.gov.uk/policies/enterprise-and-business-support/access-to-finance/enterprise-finance-guarantee/efg-list-of-Lenders](http://www.bis.gov.uk/policies/enterprise-and-business-support/access-to-finance/enterprise-finance-guarantee/efg-list-of-Lenders).

This Lender Manual is a practical guide to Lenders on how the EFG operates. The EFG Legal Agreement does, however, take precedence over the contents of this Lender Manual.

Capital for Enterprise Ltd (“CfEL”), acting on behalf of the Secretary of State for the Department for Business, Innovation and Skills, is the principal contact point for all Lenders for EFG operational matters. BIS is the Government department responsible for EFG policy.

1.2 Key Manual Updates

The key updates in this third issue of the Lender Manual are as follows:

|  |  |  |
| --- | --- | --- |
| **Issue** | **Description** | **Section** |
| Quick Reference Guides | Quick Reference Guides have been added to the chapters on Eligibility, Criteria (Types of EFG), and Application Process. | 2.2, 3.2,  5.1 |
| Cross references to the Web Portal Manual | Cross references to corresponding sections of the Web Portal Manual (v.1) have been included where appropriate. |  |
| Enquiries and Service Level Agreement | Contact details for CfEL for enquiries. CfEL have introduced a Service Level Agreement (“SLA”) for responding to Lender queries. | 1.4, 1.5 |
| Use of personal guarantees | Clarification on policy of use of personal guarantees. | 2.4 |
| Sales figure for start-ups | Clarification of the figure to enter on the Web Portal for start-up businesses. This should be the forecast outturn for the year. | 2.5.1 |
| Eligible sectors | Latest guide to sector eligibility. The Appendix includes guidance on restricted sectors (in agriculture, fisheries and road transport) where a *de minimis* limit applies. | 2.5.2 and Appendix 9.5 |
| Exports | Clarification of EFG policy on exports. | 2.5.5 |
| Share transfers | Clarification of policy on corporate transactions. | 2.5.7 |
| Eligibility examples |  | 2.7 |
| Option to lend as EFG Type-A or Type-B | Clarification on the option to lend as either Type-A or Type-B. | 3.4 |
| Provision of additional funds with EFG Overdraft Refinancing |  | 3.5, 3.6 |
| Using CITR with EFG | This new section outlines the regulations for CDFIs with regards to taking advantage of both EFG and CITR. | 4.5 |
| 20 day processing target for EFG applications |  | 5.5 |
| Refinancing EFG debt from other lenders | Clarification of policy on refinancing debt held by other Lenders. | 6.1 |
| Change in loan purpose | In the event that a Borrower wishes to use an EFG facility for a purpose that is different to that which was originally envisaged, the Lender must appraise whether the facility still meets EFG eligibility criteria. | 6.3.2 |
| Payment of the Guarantee Premium | Further guidance is provided on premium payments to the Premium Collection Agent (“PCA”). | 6.5 |
| EFG Demands and Recoveries | Updated chapter providing greater detail with regards to EFG Demands and Recoveries. | 7 |
| The Claim Limit | Details on how the Claim Limit impacts upon the effective guarantee rate of EFG. | 7.7 |
| Lender Audits and file notes |  | 8.4 |
| Enhanced Audit for early defaults | Loans that are demanded on the Borrower within six months of drawdown may be selected for an Enhanced Audit, which will examine the Lender’s assessment of initial loan eligibility and the subsequent Demands and Recoveries position. | 8.5 |

1.3      Other EFG Materials Available to Lenders

The following materials are also available from CfEL on request:

* EFG Web Portal Manual – Issue One March 2010. The EFG Web Portal is the primary means of interaction between the Lender and CfEL and this interaction is conducted via a secure encrypted web based portal.
* Guidance Note on Revised Premium Collection Arrangements for SFLG and EFG Schemes – Revised in February 2012.
* EFG Key Messages Document – Revised in February 2012.

1.4      Enquiries

Whilst CfEL welcomes enquiries from Lenders, the vast majority of enquiries received by CfEL can be answered by reference to the Lender Manual, Web Portal Manual and Web Portal itself. Lenders are encouraged to use common sense when applying the rules of the scheme to unusual situations.

Please note that CfEL would usually expect enquiries to come via the Lender’s principal EFG contact rather than Relationship Managers.

CfEL receive a very large number of requests to reverse or cancel basic inputting errors on the Web Portal. Such changes require the use of a third party IT supplier which can take up to a month or more to be implemented. CfEL recognise that from time to time requests of this nature are unavoidable, and are working to improve the speed of this service. Nevertheless, Lenders are requested to keep such requirements to a minimum.

Enquiries where clarification is sought over guidance as given in the Manuals, or where our guidance may appear to contradict with other sources of information (such as that given by BIS or Business Link) are welcomed.

Brief, simple enquiries can be made via the “Request for Information” function on the Web Portal (see Web Portal Manual v.1 section 5.6). For more detailed or complex queries, please use the Web Portal to alert CfEL that a more detailed email will follow.

1.5      Service Level Agreement

CfEL recognises that Lenders value swift responses to queries and will use reasonable endeavours to respond to any Lender query within 3 business days. Where a query is complex and requires more time, this will be explained to the Lender. Where a query requires referral to a third party, resolution may take longer than the stated 3 business days. In such instances CfEL commit to refer the query to the third party within a period of 3 business days. CfEL will attempt to seek a speedy resolution to the issue thereafter but is reliant upon third parties in these instances.

1.6 Feedback

Feedback on potential improvements or amendments to EFG design or processes is formally solicited during the audit process. Nevertheless, CfEL welcome feedback on any aspect of EFG design at any time.

1. Borrower Eligibility

2.1 Introduction

There are three central criteria to EFG eligibility:

1. **Viability**: The Lender must be of the opinion that the Applicant can viably service and repay the proposed debt, assessed according to the Lender’s normal commercial credit policies. The ultimate purpose of the scheme is to facilitate lending to SMEs which would not otherwise be possible due to lack of security. It is not a mechanism for a Lender to shift risk from its own balance sheet to the Government (see section 2.3 for more detail);
2. **Security**: The Lender has assessed security availability according to its normal commercial criteria and has established that insufficient security is available to meet its normal lending criteria. The Lender would be prepared to offer the Applicant finance if more collateral was available (see section 2.4 for more detail); and,
3. **EFG Specific Tests**: EFG is aimed at UK SMEs. The tests relate to business size and sector, loan amount and term. Restrictions apply for certain industrial sectors and activities (see section 2.5 for more detail).

Note that even if credit sanction for a proposed EFG loan has been granted internally within the Lender’s own organisation, eligibility for EFG can only be confirmed once the Applicant’s details have been loaded on to the Web Portal (and the Applicant confirmed as eligible).

2.2 Quick Reference Guide

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Description** | **Manual Reference** |
| Viability | The Lender believes that the Applicant has a viable borrowing proposal and that the EFG facility can be serviced and repaid | 2.3 |
| Security | The Lender would be prepared to offer the Applicant finance if more collateral was available. Security can be charged alongside the EFG facility. All forms of security are eligible other than Principal Private Residence (“PPR”) | 2.4 |
| Maximum turnover | Group sales must not exceed £41m | 2.5.1 |
| Amount | £1k to £1m, subject to *de minimis* limits | 2.5.2 |
| Industrial sector | Most sectors are now eligible. Coal is ineligible, whilst partial restrictions apply to agriculture, fish farms, insurance, banking, formal education and road transport | 2.5.2 |
| Term | Term loan: 3 months – 10 years  Overdraft: 3 months – 2 years  Invoice Finance: 3 months – 3 years | 2.5.3 |
| Exports | Restrictions apply in certain circumstances where EFG directly supports exports | 2.5.5 |
| Share transfers | EFG is generally eligible for acquisitions where there is clear benefit to the business | 2.5.7 |

2.3 Viability

Evaluation of the Applicant’s viability is devolved to each Lender, which must use its normal commercial lending criteria to appraise each proposal. The Lender may proceed if:

* the Lender believes that the Applicant has a viable business plan and that the EFG facility can be serviced and repaid;
* the Lender would be prepared to offer the Applicant finance if more collateral was available; and,
* the Lender believes a term loan, overdraft or invoice finance facility is the appropriate debt instrument to use in terms of the Applicant’s finance raising.

Enterprises which have defaulted on historic EFG (or SFLG) schemes are not disqualified from applying for EFG (assuming all normal eligibility criteria are met). The individual lending decision is at the discretion of the Lender.

However, EFG should not be used as a mechanism for a Lender to shift risk from its own balance sheet to the Government.

2.4 Security

The rules regarding security are as follows:

1. **The Lender should investigate all available security and either charge or discount as unavailable this security, according to its normal credit and security assessment procedures.**

Definition of security: All business or, if appropriate, personal assets which a Lender would look to as security for business borrowing in the normal course of business.

* For sole traders and partnerships, Lenders should investigate the personal assets of the individuals owning the business (as per normal commercial practice).
* For a limited company, potential security would include all standard business security (for example, fixed charges, debentures, corporate guarantees) plus Personal Guarantees from directors / shareholders / third parties as appropriate.
* Personal Guarantees can be Supported or Unsupported, as deemed appropriate by the Lender.
* Unsupported Personal Guaranteesfrom a director / shareholder are frequently viewed as a means of demonstrating personal commitment from the Borrower and a Lender is entitled to request this security, if to do so is consistent with the Lender’s normal commercial lending criteria.
* For Supported Personal Guarantees, Lenders can look to any personal asset of the Guarantor other than their Principal Private Residence (PPR). Charging a PPR is strictly prohibited for EFG.
* **Lenders should make Borrowers aware that in the event of default, the Borrower remains liable for 100% of the outstanding EFG debt and that normal recovery and enforcement procedures (against the Borrower or Guarantor) will be pursued by the Lender before any demand is made on the scheme guarantee. The provision of an EFG guarantee does NOT remove any liability for the borrowing from the Borrower / Guarantor.**

Having examined all potentially available security, the Lender will have one of four security scenarios:

1. The Lender believes the Borrower has **sufficient security** available to secure the borrowing requirement. By definition, the borrowing requirement can be funded via a standard commercial facility and EFG does not need to be used.
2. The Lender believes the Borrower has **no additional security** available to secure the borrowing requirement. Consequently, the borrowing requirement cannot be funded by a standard commercial facility. In these circumstances, EFG **can** be used to support the full borrowing requirement.
3. The Lender believes the Borrower has **some but insufficient additional security** to fully secure the borrowing requirement. In these circumstances, EFG **can** be used to support the full borrowing requirement. The Lender should charge all (additional) available security to support the EFG borrowing (listed as new or additional security in the EFG Facility Letter), in which case this additional security will be known as “Linked Collateral” for EFG purposes. In the event of Borrower default, any proceeds realised from this Linked Collateral must be used to repay outstanding EFG borrowings in priority to any other outstanding debt.
4. Alternatively, the Lender could use the additional available security to facilitate an additional borrowing facility on normal commercial terms, with any **funding shortfall** thereafter funded via a **wholly unsecured EFG facility**.

The Lender has complete discretion on which funding structure to adopt.

**Whenever EFG is to be used, the Lender must be able to confirm that it would lend to the Borrower but for the lack of available security. The Lender makes a statutory declaration to this effect.**

Security can be released by the Lender provided that this is in-line with normal commercial procedures, and that the justification for the release of any security is kept on the Borrower’s file (by way of a credit application or some other documentation as appropriate to the Lender) for potential audit purposes. The release of any security to deliberately transfer risk from the Borrower to Government is a misuse of the scheme.

Please note that the Borrower is not obliged to have exhausted all possible options of finance before being eligible. For example, the Borrower may have been refused a term loan or overdraft but offered invoice finance. The Borrower is able to refuse the offer of invoice finance and seek a term loan and / or overdraft with EFG support (subject to other eligibility criteria). However, it is not the Borrower’s right to demand an EFG loan. Offers of EFG-backed lending are totally at the discretion of the Lender.

**2) For EFG, Principal Private Residences (PPRs) are excluded as potential security**

The only type of security which is ineligible for EFG is a charge over a Borrower or Guarantor’s Principal Private Residence (“PPR”). This follows rules for EFG, where Ministers were clear that they wished to avoid individuals losing their homes as a result of having personally guaranteed borrowings to businesses backed by EFG. Any other specific inclusions or exclusions result from the Lender’s own security policies.

**Areas for Lenders to consider:**

***Is there equity in the PPR? If so, is the Borrower or Guarantor willing to provide a charge over the PPR?***

* If a Borrower or Guarantor has equity in their PPR (sufficient to fully or partially secure the borrowing requirement), a Lender needs to ascertain the willingness of the Borrower or Guarantor to provide a charge over the PPR.
* If the Borrower or Guarantor is willing to provide a charge over the PPR, then the Lender has the option of providing the additional funding via a normal commercial facility. Any additional funding requirement thereafter could potentially be provided by EFG.
* Where the Borrower or Guarantor is **unwilling** to provide a charge over the PPR, then it is **the Lender’s decision** whether to:
  + Accept the Borrower and / or Guarantor’s stance (and accept that the PPR is beyond consideration). In this instance, EFG will be permissible. The Lender should keep a note on file providing a clear explanation as to why the Applicant’s refusal to provide security was accepted. This is NOT to be viewed as a mechanism for transferring risk from the individual or the Lender to the scheme;

or,

* + Decline the funding request (both EFG and on normal commercial terms) on the grounds that there was security available but the Borrower and / or Guarantorrefused to make it available.

***For the avoidance of doubt:* *Under no circumstances can a PPR be taken as security (directly or indirectly) for an EFG backed facility.***

* In a recovery scenario (where the PPR has not been charged but the Lender wishes to pursue this asset via a charging order), any funds subsequently realised from this action **cannot** be used to reduce outstanding EFG exposure.
* Even though a PPR cannot be taken as security to support an EFG, a Lender should assess whether a refusal by the Applicant to provide a charge over a PPR to support a normal commercial loan is reasonable. The unwillingness itself may be interpreted as the Applicant’s lack of commitment to, or confidence in the project to be funded.
* Similarly, where a Borrower or Guarantor appears to have access to security other than his / her PPR (e.g. an investment property, boat, etc) but refuses to charge that asset to the Lender or where the asset is held jointly with another (often the spouse) and they argue that the asset cannot be offered as security because the co-owner refuses to give permission, it is the Lender’s decision on whether to accept the Borrower or Guarantor’s request to exclude such assets from consideration in making a lending decision.
* **The existence of the EFG should not be seen by Borrowers or their advisors as a mechanism for putting personal assets beyond consideration nor should a Lender entertain use of EFG in this context.**

***Mixed use property***

* In the event that a property is used as both PPR and a business location (such as a flat above a shop and there is a single title deed), as the flat is the Borrower’s PPR then for EFG purposes, the property is deemed the PPR. As such, for an EFG facility, the Lender cannot charge this asset or call upon it in the course of a security and recoveries process. However, if the property is the subject of a mortgage independent of the EFG facility and that mortgage is not being serviced in accordance with the terms of the agreement, then the fact that the Borrower also has an EFG facility does not affect the Lender’s ability to follow their normal course of action in respect of pursuing the breach of the mortgage terms. In summary, mixed use property can be viewed and used as standard security for normal commercial lending but cannot be used to secure EFG lending.

2.5 EFG Specific Tests

2.5.1 Group Turnover Limit

**Lending to businesses, not individuals unless the individual is a sole trader or partner**

EFG is to support businesses and not personal lending. Therefore, EFG loans cannot be made to company directors in their personal names for investing into a limited company. EFG loans can be made to sole traders, partners and limited companies BUT lending cannot be made to individuals in a personal capacity.

**Maximum group sales of £41 million**

The maximum annual turnover of the Applicant (or Applicant’s group) must be no more than £41m. The source of the turnover figure should be the latest management or statutory accounts, whichever is deemed appropriate according to each Lender’s normal credit assessment criteria.

For start-ups, or businesses which have traded for less than 12 months, the turnover figure should be the forecast outturn for the first 12 months of trading.

**Groups and common directors**

Where the Borrower is a company within a larger group, aggregated turnover for the whole group of companies should be used, as per the latest consolidated group accounts.

In instances where “common” directors are involved with separate legal companies or groups, there is no requirement to “group” such applications.

**UK domiciled business**

Businesses which are owned by foreign parents are eligible to apply for EFG provided the Applicant is trading in the UK and the EFG funding is going towards a business activity in the UK.

Similarly, where a business has UK ownership but is registered abroad, the business is eligible to apply for EFG provided the Applicant is trading in the UK and the EFG funding is going towards a business activity in the UK. The “core” of a business’ operations must be in the UK.

2.5.2 Amount of EFG Facility

EFG guarantees are generally available for a minimum facility £1k and a maximum of £1m, although Lenders are free to set higher minimum and lower maximum thresholds for their use of EFG, in accordance with their own lending product specifications and market positioning. Please note that the lending must be made in pound sterling.

**£1m outstanding facility limit for EFG**

There is a £1m outstanding facility limit for EFG. No Borrower may have more than £1m of outstanding guaranteed term loan debt or guaranteed overdraft or invoice finance facilities available for use (or a combination amounting to £1m in aggregate) at any one time. Applicants may benefit from more than one EFG-backed facility so long as the aggregate outstanding at any one time does not exceed £1m.

Any previous SFLG borrowing does not count towards the £1m limit.

**€200,000 rolling three-year State Aid limit**

The assistance provided through EFG, like many Government-backed business support activities, is regarded as State Aid and is governed according to the European Commission's *de minimis* State Aid rules. To comply with the *de minimis* State Aid rules, the total value of the applicant's *de minimis* State Aid for the last three years (including that arising from the current EFG application) must be no more than €200,000, or the relevant lower threshold where advised for restricted industries including agriculture, fish farming and road transport. Further guidance regarding restricted sectors is available in Appendix 9.5. It should be noted that this guidance is correct as at the date of publication, and is subject to change.

The amount of State Aid received by the Borrower is calculated via the Web Portal. The calculation takes into consideration a number of factors, such as the value, term and repayment profile of the facility, the amount of Premium paid and the potential for default.

**Verification of Borrower’s State Aid**

As part of the appraisal process the Lender must ask the Applicant to confirm that receipt of the EFG-backed facility will not result in the Applicant breaching the £1m outstanding facility limit for EFG limit or the rolling three-year €200,000 State Aid limit (or lower where a restricted industry is concerned). The Lender may accept the Applicant’s declaration as being sufficient confirmation of this point. However, should the Lender have any reason to believe that the Applicant may in fact be in breach of the limits, there is a duty upon the Lender to make further enquiries which may ultimately lead to rejection of the Application.

If a Borrower is found to be in breach of the limits once the loan has been drawn, the Lender must cancel the EFG facility by marking the loan as “No Claim” on the Web Portal (see Web Portal Manual v.1 section 12.3). It will be a commercial decision for the Lender whether or not to permit the facility to continue (without the guarantee) from that point.

**Restricted industries**

EFG is not allowed for loans to businesses operating in the following sectors:

* Coal
* Banking, finance and associated services (except professional services)
* Formal education (except vocational training)
* Insurance and associated services (except brokers and agents)
* Public administration, national defence, and compulsory social security

Further information on these restricted industries is available at Appendix 9.5. A lower three-year rolling *de minimis* State Aid limit applies to agriculture, aquaculture and road transport, as follows:

* Agriculture **–** €7,500
* Fisheries **–** €30,000
* Road transport **–** €100,000

The current version of the EFG Web Portal calculates the amount of State Aid (see Web Portal Manual v.1 section 8.3) but where restricted industries are concerned, the Web Portal does not automatically test that the *de minimis* level has been breached. CfEL will periodically investigate potential breaches of the *de minimis* rules and the EFG may be withdrawn on loans where State Aid limits have been exceeded.

Lenders should use the Web Portal to check for eligibility and additionally refer to Appendix 9.5 to establish whether any of the lower limits apply. Eligibility should be checked at the earliest opportunity in order to avoid any potential wasted effort by the Lender or Applicant.

It should be stressed that the overarching principle with regards to industrial sector is the specific activity to which the EFG backed finance is to be applied. If a business is active in a number of sectors, including some restricted sectors, EFG can still be used if the funds are specifically for investment, working capital or refinancing in a qualifying sector. In this instance, when entering the SIC code on the Web Portal, the SIC code selected should be that of the qualifying sector to which the funds are being applied (more information on entering SIC codes on the Web Portal is available in the Web Portal Manual v.1 section 7.2).

2.5.3 Facility Term and Margin

The permissible term parameters are as follows:

* **EFG term loan** – between three months and ten years;
* **EFG overdraft** – between three months and two years; and,
* **EFG invoice finance facility** – between three months and three years.

More details with regards to each type of facility can be found in the relevant parts of section 3 of this Manual.

**Repayment options**

For all types of EFG, the Lender has the option to require:

* Regular repayments (monthly, quarterly, annually at discretion of Lender) over the facility term; or,
* Bullet repayment at expiry (in which case, the Lender’s assessment must include consideration of the Borrower’s capacity to make repayment, either outright or via a refinance at expiry).

**Capital repayment holidays**

Capital repayment holidays (“CRH”) are permissible but are at the discretion of the Lender and must comply with the Lender’s standard credit procedures. In all instances, the EFG facility must still be fully repaid within ten years.

**Tranche drawdowns and facility availability period**

The Lender can allow the Borrower to draw down the EFG facility gradually, as and when it is needed. However, in the event of gradual draw down, the first tranche must be drawn down within six months of the EFG facility being offered, or within the standard timeframe applied by the Lender, whichever is shorter.

Upon initial drawdown, the Lender must update the Web Portal within 10 business days of the draw down. It is the Lender’s responsibility to keep the Web Portal up-to-date at all times, including where draw down or repayment has occurred.

In the event that a Borrower decides to use subsequent tranche drawdowns for a different purpose than that originally stated, the Lender must consider whether the facility is still eligible for EFG (see section 6.3.2).

**Arrangement fees and interest rate margin**

The Lender may charge an arrangement fee and price the interest rate margin for the EFG facility in accordance with their normal pricing policies.

2.5.4 EFG Purpose

**EFG purpose**

EFG can be used in a qualifying sector for:

* investment;
* working capital; or,
* refinancing.

2.5.5 Exports

**Restrictions on EFG for exporting**

As EFG operates under the *de minimis* State Aid rules it cannot be used to specifically support export-related activities. This is because public support for exporting is particularly sensitive from a competition perspective and so is covered by separate EU agreements. This does not mean, however, that because a business exports it is automatically ineligible from receiving an EFG-backed loan. It is the purpose to which the borrowed funds will be put which is the determinant.

EFG applications will be ineligible if the amount of funding required is specifically linked to a quantity of goods or value of services being exported. Therefore, a facility to provide working capital specifically in support of export sales will be ineligible because working capital requirements are usually driven by sales orders.

Lenders need to consider whether the funding is in support of **dedicated export activities** **or to promote exports**. Activities which would be **ineligible** in this context include, for example, the financing of:

* an advertising campaign outside the UK;
* an individual export order;
* the manufacture of a product which is only available to customers in an overseas market;
* the establishment of a representative office outside the UK or the appointment of an overseas agent; and,
* the setting up of a distribution network overseas.

Activities not directly related to specific exports are **eligible**, including:

* participation in trade fairs, general promotion and marketing rather than in relation to an individual export order;
* feasibility studies or consultancy support to facilitate the launch of a new or existing product into a new market; and,
* specific activities (e.g. generic product development, equipment purchase or facilities enhancement activities) within the UK operations of a business, irrespective of the current composition of market(s) into which the business sells.

Note that this spending does not necessarily have to take place in the UK.

Care should be taken when assessing applications from SMEs whose customers are UK based exporters. In such scenarios, whilst the company’s services may be linked to export activities – crucially, the company itself may not actually export. Such a company, subject to its industrial sector and the other eligibility criteria, may therefore be eligible for EFG.

**Export Enterprise Finance Guarantee**

Where specific export finance is required, Export Enterprise Finance Guarantee may be applicable. Export Enterprise Finance Guarantee is a separate scheme from core EFG. More information can be found at <http://www.bis.gov.uk/policies/enterprise-and-business-support/access-to-finance/ex-efg>.

**Protectionism**

The *de minimis* rules are also designed to prevent protectionism. EFG therefore cannot be used if provision of the finance is being made conditional on the use of domestically produced goods or services in preference to imports.

2.5.6 Lenders Providing Mezzanine and Equity Funding

Lenders who have made or are making an equity investment in an Applicant, as part of a funding package potentially including EFG facilities, are reminded of the scheme’s eligibility criteria and should refer to CfEL. Typically, a Lender cannot lend to an Applicant with the backing of EFG, if the Applicant also currently benefits from an equity investment from the same Lender.

2.5.7 Share Transfers

EFG is designed to stimulate economic growth and all EFG lending is intended to add economic value to the borrowing businesses. Share transfers (including purchases of minority interests, share buy-backs and corporate acquisitions effected via the purchase of a business’ trade and assets) do not in themselves introduce new funds into a business and are often motivated by personal gain. It is not within the spirit of EFG for it to be used for the benefit of individuals rather than businesses.

Share transfers may however impact on corporate control, and if this is of clear benefit to the business, then EFG may be used in support of the transaction. The Lender must be prepared to defend any decision to the auditor, and it is recommended that Lenders prepare a file note justifying the use of EFG, where appropriate.

2.5.8 National Loan Guarantee Scheme

EFG and the National Loan Guarantee Scheme (NLGS) are two different schemes. EFG helps businesses that lack the collateral to borrow under normal circumstances. Under EFG, Government guarantees individual loans. An EFG borrower is able to apply for new loans under the NLGS subject to complying with State Aid rules. Similarly, an NLGS borrower could apply for an EFG loan subject to State Aid rules. Businesses should contact participating Lenders for advice.

2.6 Eligibility Flow Chart

The following chart can be used to appraise eligibility for EFG:



2.7 Eligibility Examples

**Example 1 – General Eligibility**

* The Applicant, a limited company with a turnover of over £1m per annum, is an insurance brokerage business specialising in commercial insurance products.
* Mr Smith, the owner / manager has decided to expand geographically and £50k of funding (repayable over 3 years) is required to open a new office in a neighbouring town plus working capital. A business plan has been presented to the bank.
* The RM thinks that the business can service the loan, and asks what security is available. The business has no chargeable assets (the new office will be on a 5-year lease). Mr Smith’s personal net asset statement shows he has no material assets available, but Mr Smith says that he may be able to get his brother to offer a personal guarantee for £12.5k supported by a charge over his house – and that this will mean that the bank would be 100% covered on a £50k EFG.

***Example 1 – Appraisal***

|  |  |  |
| --- | --- | --- |
| **Issue** | **Eligible?** | **Notes** |
| Viability | Yes | * The RM believes the business can service the facility |
| Security | No | * Personal guarantee is valid for EFG BUT a lender cannot take a charge over a PPR if EFG to be used * A personal guarantee does not cover a ring-fenced 25% of the loan * If a charge over the PPR is available, the RM should consider whether this proportion of the funding requirement could be offered via a normal commercial loan |
| UK business / export restriction | Yes | * Business is UK based and expansion is not overseas |
| Turnover | Yes | * £1m sales |
| Amount | Yes | * £50k |
| Term | Yes | * 3 years |
| Sector | Yes | * Insurance brokerage (so long as not writing policies) |

**Summary:** The security offered by the Applicant, relating to the PPR, does not appear suitable for EFG purposes. However, as the Applicant meets the viability and general EFG eligibility tests, the proposal is still probably eligible. If, after further checks on security availability, no security is available for EFG, a facility would be appropriate.

**Example 2 – General Eligibility**

* Jolly Burger is a giant US corporation which operates thousands of fast food restaurants under franchise agreements. Mr Bloggs holds one of the Jolly Burger restaurant franchises in Birmingham (operating as Jolly Burger (Birmingham) Limited) and has approached the bank for funding to help buy the Jolly Burger franchise in Wolverhampton, as the current franchisee is retiring.
* The sale price is £100k. Mr Bloggs is contributing £30k and is applying for the remaining £70k via a 5-year term loan, plus a £10k overdraft for 12 months. The debt would be in the name of a new limited company, Jolly Burger (Wolverhampton) Limited and Mr Bloggs is the sole shareholder of each company. The RM thinks that the combined business will be able to service the debt, but would normally want to see significant security for a loan such as this.
* Mr Bloggs has no assets other than a share portfolio worth about £40k.

***Example 2 – Appraisal***

|  |  |  |
| --- | --- | --- |
| **Issue** | **Eligible?** | **Notes** |
| Viability | Yes | * The RM believes the two companies can service the requested borrowing facility |
| Security | Maybe | * Normal commercial practice applies: Would the Lender normally take a charge over the share portfolio? * If so, can the Lender provide some of the funding via a normal commercial loan? |
| UK business | Maybe | * Probably a “UK business” but check the franchise agreement |
| Turnover | Maybe | * Probably. Only use Jolly Burger’s turnover if it has a controlling influence over the franchisee (subject to normal commercial lending practice) |
| Amount | Yes | * £70k + £10k |
| Term | Yes | * 5 years / 12 months |
| Sector | Yes | * Restaurant / food outlet is eligible |
| Business transfer | Yes | * Acquisition will enable target business to continue |

**Summary:** Further checks need to be undertaken in order to ensure the general EFG eligibility tests are all satisfied. In terms of security, even if the Lender generally takes a charge over shares, this still appears insufficient to meet a Lender’s standard security requirements. Therefore, this proposal is probably eligible for EFG.

3 EFG Types A – F

3.1 Introduction

The range of uses for the EFG scheme has been widened to support lending in a variety of different borrowing scenarios. EFG can be used to support lending via any combination of the following variables:

1. Type of Debt Instrument:
   * Term loan
   * Overdraft
   * Invoice finance facility
2. Security:
   * Secured
   * Unsecured
3. Funding Requirement:
   * New or increased amount of borrowing
   * No increased amount or re-financing

For EFG borrowing proposals, these different options are classified lending types A, B, C, D, E or F on the EFG Web Portal. Quick reference details for each of these types are shown in section 3.2. Each lending type has slightly differing eligibility criteria and these are covered in this chapter.

3.2 Quick Reference Guide

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **EFG Type** | **Debt type** | **Additional overall funding required?** | **Amount** | **Term – 3 months to:** | **2% Premium applied to:** | **Notes** | **Ref** |
| **A** | Unsecured Term Loan | Yes | £1k - £1m | 10 years | Outstanding balance |  | 3.3 |
| **B** | Partially Secured Term Loan | Yes | £1k - £1m | 10 years | Outstanding balance | Includes facilities with Unsupported PGs | 3.4 |
| **C** | Term Loan for Overdraft Refinance | No, unless substantially all of facility is refinanced | £1k - £1m | 10 years | Outstanding balance |  | 3.5 |
| **D** | Term Loan for Debt Consolidation | No, unless substantially all of overdraft facility is refinanced | £1k - £1m (Type-D limited to 20% of portfolio) | 10 years | Outstanding balance | Refinancing for term loans, overdrafts and / or invoice finance | 3.6 |
| **E** | Overdraft Guarantee | Yes | £1k - £1m | 2 years | Total facility limit (regardless of utilisation) | Guarantee applies to new or additional facility only | 3.7 |
| **F** | Invoice Finance Guarantee | Yes | £1k - £1m | 3 years | Total facility limit (regardless of utilisation) | Guarantee applies to additional advance only – to 30% of gross debtors (up to 100% maximum advance) | 3.8 |

**Note that where an EFG facility includes any element of refinancing it must be classified as a Type-C or Type-D, as appropriate.**

3.3 Type-A – New Term Loan with No Security

**Eligibility Criteria**

Amount: Minimum £1k up to maximum £1m

Purpose: To be used for new borrowings via term loan where the Borrower is viable but has no available collateral to secure the new borrowing requirement according to the Lender’s normal credit criteria

Lending Product: Term Loan

Guarantee Term: Minimum 3 months up to maximum 10 years

Premium Payment: 2% per annum, quarterly in advance against outstanding loan balance

Lender Security: Subject to the Lender’s normal commercial criteria, all available security (business or personal, excluding Principal Private Residence (PPR)) should be considered to back the EFG loan. Type-A loans to be considered where no additional security whatsoever is available from the Borrower

**Example of Type-A lending**

The Application:

* An existing business wishes to borrow £50k to finance a R&D project.
* It currently has a commercial mortgage of £400k on a property valued at £575k, representing a LTV of 70%\*, which is the Lender’s maximum LTV.
* No more security is available.

*\*Note: the 70% LTV is for illustrative purposes only – normal Lender credit criteria, including specification of LTVs, will apply in all instances.*

The Outcome:

* The Relationship Manager (“RM”) assesses that the Applicant can afford to repay £50k over a 10-year period, assessed according to normal lending criteria.
* The RM is minded, however, to decline the application because a) there is no more lending capacity in the property, which is already at the bank’s maximum LTV; and b) there is no further security available.
* The use of EFG to facilitate the additional funding requirement is, therefore, appropriate because the only issue preventing the approval of the Application is the lack of security.

3.4 Type-B – New Term Loan with Partial Security

**Eligibility Criteria**

Amount: Minimum £1k up to maximum £1m

Purpose: To be used for new borrowings via term loan where the Borrower is viable but has some though insufficient security to secure the borrowing requirement according to the Lender’s normal credit criteria

Lending Product: Term Loan

Guarantee Term: Minimum 3 months up to maximum 10 years

Premium Payment: 2% per annum, quarterly in advance against outstanding loan balance

Lender Security: Subject to the Lender’s normal commercial criteria, all available security (business or personal, excluding PPR) should be considered to back the EFG loan

Operational Considerations: Where additional security (of any kind and value, including Personal Guarantees) is being provided by the Borrower in support of the EFG facility, the application should be entered onto the EFG Web Portal as a Type-B loan

**Example of Type-B lending (1)**

The Application:

* An existing business wishes to borrow £50k to refurbish its commercial premises.
* It currently has a commercial mortgage of £400k on a property valued at £575k, representing LTV of 70%\*, which is the Lender’s maximum LTV.
* It is anticipated that the refurbishment will add £50k of value to the property.
* No more security is available.

*\*Note: the 70% LTV is for illustrative purposes only – normal Lender credit criteria, including specification of LTVs, will apply in all instances.*

The Outcome – Using Type-B EFG:

* The RM assesses that the Applicant can afford to repay £50k over a 3-year period, assessed according to the Lender’s normal lending criteria.
* The RM is minded, however, to decline the application because a) total facilities relating to the property will be £450k, against a revised property valuation of £625k, giving a LTV of 72%, which is above the Lender’s maximum LTV; and b) there is no further security available.
* The use of EFG to facilitate the additional funding requirement is, therefore, appropriate because the only issue preventing the approval of the Application is the shortfall in the value of the security.

**Example of Type-B lending (2)**

* The Application is the same as in Example (1) above; however, the Borrower is offering to provide a Personal Guarantee for £25,000 supported by a charge over his main residential property. EFG is INELIGIBLE in these circumstances.

**Example of Type-B lending (3)**

* The Application is the same as in Example (1) above; however, the Borrower is offering an Unsupported Personal Guarantee. EFG is ELIGIBLE for the full additional borrowing requirement, Personal Guarantee also to be provided.

**Flexibility between Type-A and Type-B facilities**

In many Type-B scenarios, following normal lending criteria, the availability of the additional security by the Borrower could in itself be sufficient to induce a Lender to provide a standard commercial facility. A Type-A EFG facility may then be available to make up any shortfall in the required amount. Taking the same situation as Example (1) above:

The Outcome – Using a commercial loan plus a Type-A EFG instead of 100% Type-B EFG:

* Following normal commercial lending criteria, the RM is prepared to lend without EFG backing so long as the LTV is no more than the bank’s maximum LTV of 70%.
* The refurbishment creates additional security of £50k. At its maximum LTV of 70%, the bank is prepared to lend £35k on normal terms.
* As the Applicant requires a total of £50k there is still a £15k shortfall. The RM has assessed the Applicant’s proposal as viable under normal lending criteria, and £15k is lent as a Type-A EFG with the other £35k funded via a commercial loan.

**Deciding whether to lend as Type-A or Type-B EFG**

Where the option is available, the decision whether to lend as 100% Type-B EFG, or as a combination of a commercial loan plus a Type-A EFG loan, is a commercial decision for each Lender.

3.5 Type-C – New Term Loan for Overdraft Refinancing

**Overview**

An EFG term loan aimed at existing businesses which:

* have built-up “hardcore” positions on their current overdraft facility;
* may require additional headroom on their overdraft facility to enable continued trading; and,
* have no or only partial additional security to offer to the Lender.

Type-C is designed to help put the business on a more stable financial footing and to improve the Applicant’s working capital position. In all instances, the business must be able to service its overall borrowing requirement. Where hardcore debt has developed due to trading losses, the Lender must apply normal lending criteria in assessing the business’ likelihood of returning to profitability and being able to service future borrowing requirements.

To be eligible for EFG, an overdraft facility must still be in place following the refinancing. A straight swap of hardcore debt from overdraft to EFG term loan without the provision of a continued overdraft facility is INELIGIBLE for EFG.

Where the refinancing is for all (or substantially all) of the existing overdraft facility, then a new material overdraft facility will need to be made available, meaning that under such circumstances there will be an increase in the overall level of funding. Where significantly less than 100% of the overdraft is being refinanced there is no requirement for an increase in net funding to the Borrower as a material overdraft will remain in place.

For clarity, where any part of a new EFG term loan is used to repay any portion of an overdraft, this is Type-C refinancing, even when the primary motive is additional funding and an overdraft repayment is incidental to a term loan for investment.

**Eligibility Criteria**

Amount: Minimum £1k up to maximum £1m

Purpose: As above

Lending Product: Term Loan

Guarantee Term: Minimum 3 months up to maximum 10 years

Premium Payment: 2% per annum, quarterly in advance against outstanding loan balance

Lender Security: Subject to the Lender’s normal commercial criteria, all available security (business or personal, excluding PPR) should be considered to back the EFG loan

Eligibility Restrictions: A straight swap of hardcore debt on overdraft to EFG term loan without the provision of a continued overdraft facility is INELIGIBLE for EFG. The replacement overdraft should be at an appropriate level for the Borrower – see section “Frequently Asked Questions” later in this section for further information. The Lender must not have cancelled or reduced the existing overdraft facility in the previous 3 months, or cancel or reduce the new overdraft facility within 3 months

Operational Considerations: Even where additional security is being provided by the Borrower as part of the EFG proposal, the application should be still be entered on to the EFG Web Portal as a Type-C loan

**Worked Example**

The Application:

* An existing business requires £50k of additional working capital to continue trading. The existing facilities are:
  + a commercial mortgage of £300k on a property valued at £575k
  + a hardcore overdraft of £100k
* Total existing debt of £400k represents 70%\* LTV on the security of £575k. This is the bank’s maximum LTV and no more security is available.
* The RM applies normal commercial lending criteria and believes that the business can afford to repay £100k over a 10-year period, assessed according to normal lending criteria.
* As the facilities are already at the maximum LTV, and as there is no more security available, the RM is minded, however, to decline the application due to insufficient security.

*\*Note: the 70% LTV is for illustrative purposes only – normal Lender credit criteria, including specification of LTVs, will apply in all instances.*

The Outcome:

* The use of Type-C EFG to refinance the overdraft and facilitate the additional funding requirement is appropriate because the only issue preventing the approval of the application is the lack of security. The resulting position is as follows:
  + a commercial mortgage of £300k on a property valued at £575k
  + Type-C EFG loan of £100k
  + £50k fully fluctuating overdraft

**Frequently Asked Questions:**

***Does the replacement overdraft have to be for the same amount as the original overdraft?***

No – but it is important to remember that the EFG Legal Agreement states that the replacement overdraft must be at an appropriate level for the borrowing needs of the Applicant, which is for the Lender to assess. Remaining or new overdrafts that are at “token” levels are not in the spirit of EFG.

***If the Applicant does not wish to have a replacement overdraft facility, can the existing overdraft still be transferred to an EFG loan?***

No – This would constitute a straight refinance exercise which is subject to additional rules and restrictions under EFG.

***When all (or substantially all) of the overdraft facility is being refinanced, rather than provide a replacement overdraft, can alternative products such as invoice discounting or business visa facility be provided instead?***

No – Where Type-C refinancing is concerned, the EFG Legal Agreement specifically refers to a replacement overdraft facility only.

3.6 Type-D – New Term Loan for Debt Consolidation or Refinancing

**Overview**

An EFG term loan aimed at businesses which have existing borrowing via term loan (or term loan plus overdraft and / or invoice finance). The business is viable but is struggling to service its existing debt and requires a rescheduling of the debt **to ease cash flow pressure and ensure ongoing viability**. In addition, the value of existing security held by the Lender is inadequate to meet the Lender’s normal security requirements and the Borrower has no more security available.

This product is available to a) conventional EFG Lenders (providers of term loans and overdrafts) and b) invoice financiers. The terms differ slightly for the two types of Lenders and hence are separately detailed below.

**Misuse of Type-D EFG**

Lenders must not use Type-D EFG to refinance existing debt when future viability is uncertain and where it appears likely that, even following the refinance, the Borrower may soon enter administration or insolvency proceedings. Such a transaction would be viewed as a transfer of risk to the taxpayer and a potential misuse of the scheme.

As discussed in section 8.5, defaults on EFG facilities within 6 months of drawdown may result in an Enhanced Audit.

**TYPE-D LENDING FOR CONVENTIONAL LENDERS:**

**Eligibility Criteria**

Amount: Minimum £1k up to maximum £1m

Purpose: To be used to refinance one or more existing term loan(s) where the Applicant requires a debt reschedule to ease cash flow strain and where existing security value (where there is security) is insufficient to meet normal Lender requirements, and no further security is available

Lending Product: Term Loan

SME Eligibility: The Lender must be able to confirm that:

* + - The Applicant is no longer able (or is forecast to be unable) to meet the repayment terms for the existing loan(s), necessitating a rescheduling of the loan repayment terms onto either a longer repayment term (up to a maximum 10 years) or onto an interest-only capital repayment holiday basis (such terms to be determined by the Lender in accordance with normal commercial lending practice)
    - A rescheduling of the loan(s) is required in order to ease the future debt servicing burden of the Applicant and to help safeguard future viability
    - The value of any security held (including any additional available security) at the time of loan rescheduling must be insufficient to meet the Lender’s normal security requirements
    - The Applicant is viable and appears able to service the EFG facility (assessed according to normal Lender credit criteria) following the refinancing

Guarantee Term: Minimum 3 months up to maximum 10 years

Premium Payment: 2% per annum, quarterly in advance against outstanding loan balance

Lender Security: Subject to the Lender’s normal commercial criteria, all available security (business or personal, excluding PPR) should be considered to back the EFG Loan

**Eligibility Restrictions**

Usage of Type-D is limited to a maximum of 20% of each Lender’s utilised EFG Lending Allocation at any point in time. This 20% cap will be reviewed periodically by CfEL.

1. Type-D is aimed at existing term loan debt only and cannot be used to refinance other types of debt instrument (e.g. bonds, guarantees, indemnities, business visa). However, where a Lender wishes to include existing overdraft exposure within a debt consolidation exercise with existing term debt, inclusion of the overdraft exposure is permitted as part of Type-D lending.
2. As with Type-C EFG, where an overdraft is included in the refinancing package, the Lender must continue to provide an overdraft facility following the refinance, at an appropriate level. As such, where all (or substantially all) of an existing overdraft is being refinanced, the requirement for an overdraft to remain in place means that there will need to be an increase in total lending to the Borrower.
3. An increase in term loan exposure (beyond the sum of the current outstanding value(s) of the loan(s) being consolidated and rescheduled) is permitted.
4. Where an Applicant has a number of term loans and is struggling to meet the existing repayment terms, the Lender can select which of the existing term loans to include within the rescheduling exercise and amalgamate these loans into one new consolidated loan for the Applicant.
5. Rather than guaranteeing the whole of the consolidated loan balance under EFG (which may be expensive for the Borrower), the Lender has the option of splitting the consolidated term loan into two separate loan facilities – one secured by existing Lender security and one secured by the EFG guarantee:
   1. Loan Facility X (conventional loan) to be the proportion of the new consolidated loan amount which can be covered by existing (or additional available) security from the Applicant, if any security is available. This loan would then not be covered by EFG as a suitable level of existing security is available.
   2. Loan Facility Y (EFG loan) to be the “unsecured” element of the new consolidated loan amount, requiring the EFG Government guarantee.
   3. The percentage split between the conventional and EFG term loans (Loan Facilities X and Y) is at the Lender’s discretion but is expected to be in accordance with their normal lending criteria with regard to LTV ratios when assessing the value of security held.
   4. The terms and conditions and repayment profiles of Loan Facilities X and Y should be identical and reflect the Lender’s normal commercial criteria. The only exception is pricing – the Lender may charge different interest margins on Loan Facilities X and Y according to its normal lending practice.
6. The splitting of the new consolidated loan balance into two separate tranches is completely at the discretion of the Lender. If no Lender security is held or if the value of any security held by the Lender is NIL, then the Lender can fund the whole of the new consolidated loan balance via EFG.

***Example of Type-D lending (1) – Existing facility is single term loan, secured***

The Application:

An existing business has a £95k term loan backed by £135k of security (70% LTV).

* Six months later the term loan outstanding is £90k and security value has fallen to £90k (100% LTV). No more security is available.
* The Borrower is struggling to meet the monthly capital and interest repayments on the loan and appears likely to default on the loan unless the term of the existing loan is extended or switched to interest-only.
* The RM applies normal commercial lending criteria and believes that the business can service reduced monthly repayment costs (as a consequence of extending the loan term).
* However, as the LTV ratio is now considerably beyond the maximum of 70%\*, and as there is no more security available, the RM is aware that a sanction of restructured facilities is unlikely due to a lack of security cover.
* By using EFG Type-D, the restructure is possible.

*\*Note: the 70% LTV is for illustrative purposes only – normal Lender credit criteria, including specification of LTVs, will apply in all instances.*

The Outcome:

* The Lender will split the existing £90k term loan into two loans:

1. Loan X would be for £63k (providing 70% LTV against current security value of £90k)
2. Loan Y for £27k to be supported by an EFG guarantee

***Example of Type-D lending (2) – Existing facility is single term loan, unsecured***

The Application:

* An existing business has an unsecured £95k term loan.
* Six months later the term loan outstanding is £90k.
* The Borrower is struggling to meet the monthly capital and interest repayments on the loan and appears likely to default on the loan unless the term of the existing loan is extended or switched to interest-only.
* The RM applies normal commercial lending criteria and believes that the business, after extending the outstanding loan term, could service the reduced monthly repayment cost.
* However, as there is no security for the debt, and as none is available, the RM is minded to call in the loan rather than restructure, because there is insufficient security.
* By using EFG Type-D, the restructure is possible.

The Outcome:

* The £90k term loan is refinanced as a £90k Type-D loan, supported by a 75% EFG guarantee

***Example of Type-D lending (3) – Multiple term loans, secured***

The Application:

* An existing business has £210k of debt backed by security valued at £300k (LTV of 70%\*), as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Debt  (£000) |  | Security  (£000) | LTV  (%) |
| Term loan 1 | 60 |  | 80 | 75% |
| Term loan 2 | 100 |  | 120 | 83% |
| Term loan 3 | 50 |  | 100 | 50% |
|  | 210 |  | 300 | 70%\* |

*\*Note: the 70% LTV is for illustrative purposes only – normal Lender credit criteria, including specification of LTVs, will apply in all instances.*

* Six months later there is £170k of debt backed by security valued at £210k (LTV of 81%) as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Debt  (£000) |  | Security  (£000) | LTV  (%) |
| Term loan 1 | 50 |  | 55 | 91% |
| Term loan 2 | 90 |  | 85 | 106% |
| Term loan 3 | 30 |  | 70 | 43% |
|  | 170 |  | 210 | 81% |

* The Borrower is struggling to meet the monthly capital and interest repayments on the loans and appears likely to default on the loans unless the term of the existing debt is restructured.
* The Lender wishes to extend the outstanding term on Loans 2 and 3 to reduce monthly cost to the Borrower.
* However, as the facilities are now considerably beyond the maximum LTV of 70%, and as there is no more security available, the RM is therefore minded to call in the loan rather than restructure, because there is insufficient security.
* By using EFG Type-D, the restructure is possible.

The Outcome:

Where a Type-D EFG is used to refinance multiple loans, and where there is some security available, the Lender will have the option of:

1. refinancing the entire debt as partially secured EFG debt;
2. splitting the debt into secured non-EFG debt plus unsecured EFG debt; or,
3. splitting the debt into secured non-EFG debt plus partially secured EFG debt.

In this instance the Lender has chosen option “b” – keeping Term Loan 1 as non-EFG debt and refinancing Term Loans 2 and 3 as EFG backed and non-EFG backed loans in proportion to the available security – as follows:

* The RM calculates the additional security required to achieve maximum LTV on Term Loan 1:
  + £50k / 70% = £71.4
* The RM then calculates how much remaining security is available to cover Term Loans 2 and 3:
  + £210k - £71.4k = £138.6k
* The RM then calculates how much non-EFG debt (Loan X) will be available using this security:
  + £138.6k x 70% = £97k
* A Type-D EFG is used to secure the remaining balance (Loan Y)
  + £170k - £50k - £97k = £23k

***Example of Type-D lending (4) – Multiple loans plus overdraft facility, secured***

The Application:

|  |
| --- |
| Existing Facilities Existing Security Value  Overdraft – £50k limit (£30k hardcore debt) Debenture – £132k  Term Loan 1 – £50k Legal Charge 1 – £55k  Term Loan 2 – £90k Legal Charge 2 – £85k  Term Loan 3 – £30k  Total Debt – £220k Total Security – £272k (giving overall LTV of 81%)  In the above example, the Lender may refinance the full £220k of existing exposure or any proportion of it as the Lender deems appropriate. However, when an overdraft is included in a Type-D refinancing, the Lender must ensure that an overdraft facility is still in place following the refinance. In this example, it is assumed that the full £220k exposure will be refinanced (including the £50k overdraft facility rather than just the hardcore element) and that a replacement overdraft of £25k will be provided (NOTE – it is up to the Lender to decide the most appropriate level of replacement overdraft. The provision of only a nominal level of replacement overdraft is against the spirit of Type-C and may be subject to EFG audit).  In order to calculate the appropriate levels of Loans X and Y for the above example, the following process may apply:   * The Lender should value existing security (according to normal Lender security valuation methodology) and deduct from this security value a suitable level of cover for the facilities not included within the refinance exercise – in this example, the replacement overdraft facility of £25k. * From the remaining security available, the Lender should then calculate how much can be allocated to the “secured” Loan X (according to standard Lender security criteria, with 70% LTV assumed for the purposes of this example). * The remaining balance should be allocated to Loan Y.   The Outcome   * Overdraft – £25k (replacement overdraft facility at level deemed appropriate by the Lender). * Lender takes total available security of £272k and subtracts the necessary amount to provide security for the £25k replacement overdraft (£25k, requiring 70% LTV, gives a total security requirement of £35k). Remaining security available is £272k - £35k = £237k. * From the £237k of remaining security, the Lender needs to calculate the maximum level of term debt this can secure at normal LTV ratios. So, £237k at 70% LTV would secure a maximum loan of £166k. Loan X would, therefore, be £166k. The remaining term loan exposure constitutes the balance on Loan Y (£220k - £166k = £54k).   Total facilities are:   * Replacement overdraft – £25k * Term Loan X – £166k * Term Loan Y – £54k |

**Frequently Asked Questions on Type-D for Commercial Lenders**

***Do the facilities being refinanced need to have been provided by the existing Lender, i.e. can a Lender refinance borrowings from other Lenders assuming the eligibility criteria for Type-D are met?***

When examining a “new to Lender” borrowing proposal, EFG can be considered if all eligibility criteria for EFG are met. However, in these circumstances, any EFG facility provided would by implication be classified as either a Type-A or Type-B loan, rather than a Type-D refinanced loan.

Type-D is for refinancing of term loans of existing customers only.

***The Lender wishes to undertake a debt restructuring exercise whereby all existing term loans and the outstanding balance on overdraft are to be consolidated onto one new term loan. The Borrower has insufficient security to cover the existing level of debt but can afford repayments on a new term loan over an extended period of time. Can EFG be used to assist with this scenario?***

On the basis the proposed new loan is serviceable, the Lender can confirm that the restructure must occur to ensure on-going viability of the Borrower and the Borrower has insufficient security, it appears that this scenario would be eligible for Type-D under EFG. See worked example 4 above for an illustration of this type of scenario.

***Some of the existing loans for a Borrower are already on a term of 15 years. Is there any way to include loans with an existing term of 10 years plus within the refinance option?***

It is up to the Lender to choose which existing loans can be refinanced using this product – it is acknowledged that where the existing term loan is for more than 10 years, it may not be appropriate to include within the refinance scenario (as by switching to EFG, the term would be shorter and, therefore, cause additional strain on the cash flow of the Borrower). EFG is really aimed at short term loans (say 2-5 years) where the Borrower is struggling to meet existing repayments and where a lengthening of the term up to 10 years would ease that cash flow strain.

***Can different margins be charged on Loans X and Y?***

Yes – The margins to be charged are determined by the Lender according to their normal commercial practice.

***Why do the terms of Loans X and Y have to be the same (other than on pricing)?***

CfEL would not wish to see Loan X being repaid at an accelerated pace to Loan Y, thereby leaving the higher risk proportion of the debt (covered by the Government guarantee) outstanding for longer.

***Can asset finance and HP loans be refinanced under Type-D?***

HP loans are outside the scope of Type-D and, therefore, ineligible for EFG.

***The Lender’s standard facility documentation includes an all monies and liabilities clause whereby all security charged covers all indebtedness of the Borrower to the Lender. If existing term debt is restructured via an EFG refinance, the security charged for the old term loan must now be classed as existing collateral for the EFG term loan. If the Borrower subsequently goes into default, does this mean that the EFG loan has to be repaid before any other Lender indebtedness?***

By refinancing an existing term loan(s) onto an EFG term loan, the Lender is gaining the benefit of a 75% guarantee from the Government to support an existing borrowing scenario (whereas a Government guarantee would normally only apply when additional debt is being provided to the Borrower). The Lender’s potential loss position with this Borrower is, therefore, reduced due to the provision of the Government guarantee.

In the event of the Borrower subsequently defaulting, security relating to the refinanced term loan(s) would be realised and these proceeds would be used to repay Loan X term debt in the first instance. However, as the Government has provided a supplementary guarantee to help refinance this same term debt, it is only right and proper that any security proceeds should then be used to pay down the outstanding balance on any remaining Loan Y exposure. A claim under the Government guarantee could then be made for the outstanding Loan Y exposure.

Where the Lender lists the same security items in facility letters for all Borrower exposure (for example, term loans, which are being refinanced but the same security is also listed for an overdraft, which is not part of the refinance), it is recognised that under a default scenario, the Lender is likely to repay the overdraft exposure first. This is allowed and a change from this practice is not required. The expansion of Type-D does not alter the general principles relating to the realisation of security in connection with EFG lending as set out in Schedule 2 of the EFG Legal Agreement.

***What happens where the existing security for term debt includes a Personal Guarantee supported by a charge over a PPR – does this also have to be listed as security for the EFG Loan Y refinance loan?***

This is the one exception to the existing security rule – where any form of charge over a PPR (direct or indirect) is included within the existing term loan security package, this must not be included as security for the Loan Y refinance loan.

***When a debt consolidation exercise is undertaken, the Lender often wishes to marginally increase overall exposure on the consolidated term loan to cover fees or to provide a slight top up in exposure to the Borrower. Can the term loan exposure level be increased under Type-D EFG refinance?***

An increase in term loan exposure is allowed so long as the increase is included at the time of the refinance exercise and is made subject to all the standard EFG eligibility criteria.

***Where existing term loans are due to expire and / or these have a lump sum repayment profile, is an EFG refinance allowed to extend the term of these loans?***

Provided the core criteria for Type-D are met – i.e. the Borrower is unable to continue to meet the existing loan repayments, a default will occur unless a rescheduling occurs and security is inadequate to meet normal Lender requirements – then this scenario should be eligible for EFG refinance.

***Why is a Lender’s utilisation for Type-D capped at 20%?***

BIS is keen to ensure that Type-D is being correctly operated by Lenders and also that it is not being used as a vehicle for shifting riskier existing borrowings from the Lender’s balance sheet onto the taxpayer. A limitation on each Lender’s entitlement to utilise the refinance option will allow BIS to review utilisation. This cap may be reviewed periodically by CfEL.

**TYPE-D LENDING FOR INVOICE FINANCIERS**

**Overview**

Where a current invoice finance facility becomes overpaid for a valid commercial reason (for example, due to a customer or debtor insolvency or a withdrawal of a credit limit), then an EFG term loan facility (Type-D) could be considered to repay the overpaid position, enabling a phased repayment of the overpaid position to avoid undue cash flow strain, where existing security value (where there is security) is insufficient to meet normal Lender requirements and no further security is available.

**Eligibility Criteria**

Amount: Minimum £1k up to maximum £1m

Purpose: As above

Lending Product: Term Loan

Guarantee Term: Minimum 3 months to maximum 10 years

Premium Payment: Quarterly in advance against outstanding loan balance

Lender Security: Subject to the Lender’s normal commercial criteria, all available security (business or personal, excluding PPR) should be considered to back the EFG Loan

Eligibility Restrictions: Usage of Type-D is limited to a maximum 20% of each of the Lender’s utilised EFG Lending Allocation at any point in time. This 20% cap will be reviewed periodically by CfEL

Neither the agreed funding limit nor the prepayment percentage provided by the Lender on any existing facilities may be reduced except in accordance with the Lender’s normal commercial criteria for managing those facilities. Transfer of risk from the Lender to the Government on existing borrowings by retrospectively reducing an existing prepayment percentage or limit in order to create opportunity for refinance by EFG-backed lending is outside the spirit of the programme. For the avoidance of doubt, this does not affect day-to-day changes in the outstanding balance as invoices are presented or paid

***Worked Example for Invoice Financiers***

A debtor of your client has recently had its credit rating reduced from “medium risk” to “high risk” and consequently, you reduce your prepayment percentage for this debtor from 80% to 65%. As a consequence, you have an immediate overpaid position on this debtor of £100k. Rather than claw this amount back in one lump sum by paying less than 65% on subsequent invoices raised with this debtor, you agree instead to refinance this £100k overpayment onto an EFG term loan, repayable over 12 months with monthly repayments.

In order to be eligible for an EFG loan, you credit assess your client to satisfy yourself that the £100k can be repaid from on-going cash flow over the next 12 months and also satisfy yourself on whether the client has any additional security they can provide to secure the new term loan.

3.7 Type-E – Overdraft Guarantee Facility

**Eligibility Criteria**

Amount: Minimum £1k up to maximum £1m

Purpose: To be used for new or increased overdraft facilities only where the Borrower has insufficient security to secure the borrowing requirement according to the Lender’s normal credit criteria

Guarantee Term: Minimum 3 months up to a maximum 24 months, in monthly increments

Lending Product: Overdraft

Facility Renewal Option: A guaranteed overdraft facility may be made available to a Borrower over a maximum total period of 24 months from the initial granting of the guaranteed facility. The extent to which the total possible term is utilised and the structure within that utilisation (e.g. 2 x 12 month facilities, 4 x 6 month facilities, 8 x 3 month facilities) is for the Lender to determine subject to their normal credit sanction and overdraft review procedures

Premium Payment: Quarterly in advance against the total EFG Overdraft Guarantee Facility limit, irrespective of utilisation

Lender Margin: The Lender can charge a margin and fee on the EFG Overdraft Guarantee Facility in-line with normal commercial terms. This may include charging split margins on the EFG overdraft compared to the Lender overdraft if deemed appropriate by the Lender

Lender Security: Subject to the Lender’s normal commercial criteria, all available security (business or personal, excluding PPR) should be considered to back the EFG Overdraft Guarantee Facility

Default Procedure: In the event of Borrower default, the Lender should realise all available security and apply these proceeds in direct reduction of a) outstanding Lender debt b) outstanding EFG-backed debt. Outstanding Lender debt to be repaid in full prior to repayment of EFG debt.

Claim Against Guarantee: Lender is entitled to claim 75% of the outstanding balance of the utilised EFG-backed element (subject to the Claim Limit). In addition, any interest that has accrued prior to the earlier of the date on which the Lender makes Demand for repayment on the Borrower and the scheduled expiry date of the facility may be included in the Claim on the Guarantee.

Eligibility Restrictions:

* The Government guarantee covers the specified EFG Overdraft Guarantee Facility only and does NOT extend to the existing Lender overdraft or any excess position above the agreed limit
* The EFG Overdraft Guarantee Facility is available to supplement Lender overdraft facilities only. It is not available to cover other working capital debt instruments, for example, bonds, guarantees, indemnities or credit cards.
* The EFG Overdraft Guarantee Facility is not to be used to replace or refinance existing Lender overdraft facilities:
  + For existing overdraft facilities, the Lender must not have cancelled or reduced the overdraft facility in the previous 3 months.
  + Where the Lender has declined a Borrower’s request for a new or increased overdraft facility in the previous 3 months but is now granting an EFG overdraft facility, the Lender should be prepared to justify the change in stance towards the Borrower during an EFG audit.
  + The Lender must not cancel or reduce any existing Lender overdraft facility during the lifetime (maximum 2 years) of the EFG Overdraft Guarantee Facility – the Lender can only reduce the Lender overdraft facility once the EFG Overdraft Guarantee Facility has been repaid in full.

Operational Considerations: Any increase to an existing overdraft provided under the EFG Overdraft Guarantee Facility is to operate on a “top up” basis (i.e. it is to operate as an additional overdraft limit to supplement the Borrower’s existing overdraft limit, where one exists). Since the EFG Overdraft Guarantee Facility will operate via a top up arrangement to the existing overdraft facility, any funds credited to the overdraft current account during the normal course of business, will extinguish EFG exposure first.

***Example 1***

* Lender overdraft facility of £50k, EFG Overdraft Guarantee Facility of £25k, total facility of £75k.
* Outstanding balance is £65k overdrawn.
* Borrower credits £10k to the account. Resulting balance is £55k overdrawn, meaning that the Lender overdraft is fully utilised at £50k and the EFG Overdraft Guarantee Facility is utilised at £5k.

***Example 2***

* The Borrower has an existing overdraft facility of £50k which is secured by a debenture over the assets of the business. The company needs a £25k increase in its overdraft facility to fund the costs involved in bidding for a new contract – this contract has been granted to the company but is not due to come on stream for another 2 months. The increase in the overdraft is required for a 6 month period only. The company has no additional security to provide (and the Directors have no personal wealth).
* The company can afford to service the cost of the increased overdraft and repayment of the additional £25k will come from profitability linked to the new contract.
* The Applicant would be eligible for an EFG Overdraft Guarantee Facility. The total overdraft facility would be £75k, of which £50k would be the Lender overdraft facility and the remaining £25k would be backed by the EFG Overdraft Guarantee Facility.

**EFG Overdraft Guarantee Facility - Frequently Asked Questions**

***Can the EFG Overdraft Guarantee Facility be used for a group overdraft facility?***

Yes – Provided the group’s turnover is below £41m and the other eligibility criteria for the EFG overdraft facility are all met. In this case it is the group which is the Borrower.

***Why is the EFG Overdraft Guarantee Facility available for up to 24 months when most Lenders’ normal maximum overdraft term is 12 months?***

Although it is recognised that overdrafts are usually provided for a maximum of 12 months at a time, the 24 month maximum enables the Lender to plan ahead, anticipating possible requests from Borrowers for renewal of the EFG Overdraft Guarantee Facility in parallel with their core overdraft facility on at least one occasion without needing to reassess EFG eligibility.

***Why is the minimum term 3 months?***

This is for 3 reasons: firstly, to correlate with the minimum term currently offered for an EFG term loan. Secondly, the administration involved in setting up an EFG Overdraft Guarantee Facility (same as for a term loan) would make shorter term facilities (1 or 2 months) potentially unattractive to operate and administer. Thirdly, the minimum Premium able to be collected for the EFG guarantee is for a 3-month period.

***A customer’s existing overdraft facility has 7 months until expiry. Can the EFG Overdraft Guarantee Facility be provided for the same period so that both facilities expire simultaneously?***

Yes – An EFG Overdraft Guarantee Facility can be provided for any term between 3 – 24 months, so a 7-month facility can be provided. Borrowers need to be made aware, however, that the guarantee Premiums will be collected quarterly in advance, with the first Premium collected within one month of draw down, and will not be reimbursed in the eventuality that the facility is not made available for the full duration of the relevant quarter. Therefore, for a 7-month facility, three Premiums would be collected, in months 1, 4 and 7, with the third Premium collected in month 7 being for quarter three (months 7 – 9) even though the facility will only be available for one month of that quarter.

***What happens at expiry of the EFG Overdraft Guarantee Facility?***

At expiry of the stated term of the EFG Overdraft Guarantee Facility, one of three things must occur:

* The outstanding balance on the EFG Overdraft Guarantee Facility must be repaid by the Borrower and the limit cancelled;
* Subject to credit approval for renewal of the facility, the limit can be renewed up to a maximum period of 24 months via the Web Portal. Renewal must be in advance of the expiry of the current EFG Overdraft Guarantee facility as the Government guarantee will fall away at the expiry date of this facility as recorded on the EFG Web Portal; or,
* The Lender could renew the facility again – beyond the 24 month maximum allowed by EFG – at which point all risk for the renewed facility would lie with the Lender.

***What happens if an EFG Overdraft Guarantee Facility reaches its expiry date and has not been renewed or repaid?***

The EFG overdraft facility will cease to be guaranteed and all exposure risk will lie with the Lender.

***The EFG Premium on a term loan is payable on the outstanding balance. For the EFG Overdraft Guarantee Facility, why is the Premium paid on the limit of the EFG overdraft facility (rather than the outstanding balance)? How is the Premium calculated?***

The Premium is paid on the limit of the EFG overdraft facility as the Borrower has the opportunity to use the full value of the facility at any time if desired. To require the Lender to calculate the average drawn balance for each Borrower for each quarter and then recalculate the Premium payable each quarter would be a disproportionate burden. It is important that the Lender makes the Borrower aware of the Premium calculation as early as possible.

***If an EFG Overdraft Guarantee Facility is provided and, then, subsequently repaid by the Borrower (so that the full 24 month availability period is not fully utilised), is the Lender able to offer a subsequent EFG Overdraft Guarantee Facility at a later date?***

No. Lenders have until expiry of each EFG round to make offers (the current round, at the time of writing, ending 31 March 2013). If an EFG-backed overdraft has been granted prior to this deadline, Lenders have the capacity to enable the Borrower to use the facility for up to a maximum of 24 months from the date of first use, although that use must be continuous.

However, if an EFG Overdraft Guarantee Facility is requested for a shorter period or repaid in full, any subsequent request to provide another EFG Overdraft Guarantee Facility will need to be processed as a new application and will be subject to the rules in force at the time the application is made.

***Must the EFG Overdraft Guarantee Facility be operated on a separate current account to the existing customer overdraft or must both be operated on the same account?***

This is a commercial decision for the Lender. Ideally, the EFG Overdraft Guarantee Facility should be operated via a limit marked on the Borrower’s main current account. Where an existing overdraft facility is already in place, the EFG Overdraft Guarantee Facility should be shown as an increased limit (over and above the existing overdraft limit) on the Borrower’s main current account.

By operating a single current account, the Borrower needs to use only one cheque book and only has to manage one single account.

If the EFG Overdraft Guarantee Facility was to be operated via a separate current account to the Borrower’s main current account, a number of potential issues would arise: the Borrower would need to operate via 2 separate cheque books and 2 separate bank accounts thereby making cash management more difficult; the Borrower could use one overdraft facility more than the other (for example, use the EFG Overdraft Guarantee Facility in full, whilst not using the “normal” overdraft which would be against the whole spirit of needing the EFG guarantee); finally, having 2 separate accounts may increase the likelihood of “cross firing” between the two accounts.

If a Lender’s systems require two separate accounts to be operated, then the Lender will be required to demonstrate at audit that sufficient cross checks are in place to guard against preferential use of the EFG Overdraft Guarantee Facility over the normal facility.

***Why are there restrictions on using the EFG Overdraft Guarantee Facility in instances where an existing overdraft has been reduced or cancelled in the previous 3 months, or where a new or increased overdraft has been refused in the previous 3 months?***

The EFG Overdraft Guarantee Facility is to be used for new / additional borrowing requirements only and NOT to substitute or refinance existing overdraft facilities. This “3 month” rule has, therefore, been included to help safeguard against any potential misuse of the EFG overdraft for the purposes of refinancing.

Similarly, if a new or additional overdraft facility for a Borrower has been rejected on credit grounds over the previous 3 months but is now being sanctioned via the EFG overdraft facility, then the Lender must have documented its justification for the change in stance towards the Borrower and must be able to confirm the application now meets normal lending criteria.

This restriction does not apply to borrowing proposals which have been declined due to lack of available security only.

***The guidelines stipulate that the EFG Overdraft Guarantee Facility can only be used for a maximum of 24 months. Why is that? What is supposed to happen when the 24 months are up?***

The idea behind the EFG Overdraft Guarantee Facility is that it provides a temporary uplift in working capital. It is not intended to become a permanent or long term borrowing feature and if the Lender believes a long-term debt product is more appropriate, then consideration should be given to using a term loan rather than an overdraft.

The 24 month limitation on the provision of the EFG Overdraft Guarantee Facility therefore emphasises the time-limited nature of an overdraft and encourages careful consideration of the most appropriate debt instrument for the Lender to offer to the Borrower. Once the 24 months have expired, the Borrower must repay the debt so the Lender must have reasonable certainty as to the Borrower’s likely means of repayment when initially assessing whether the facility should be granted. Alternatively, repayment may be achieved via staged reductions over the lifetime of the facility.

In certain circumstances an alternative repayment route may be to refinance the outstanding balance with a term loan at expiry so that repayment through a staged reduction of the debt is achieved over a longer period. However, as the EFG scheme is time-limited it would be inappropriate for a Lender to assume that eventual refinancing through EFG will be either possible or appropriate at the time the EFG-backed overdraft is agreed. Instead it should be assumed that any refinance upon expiry will have to be on normal commercial terms and without the benefit of the EFG guarantee.

***Can a Lender overdraft facility be repaid or reduced whilst an EFG Overdraft Guarantee Facility remains in place?***

No. It is against the scheme rules for a “normal” overdraft to be repaid or reduced whilst an EFG overdraft facility is in place – this would detract from the underlying rationale for requiring a “top up” guarantee in the first place.

***Where an EFG Overdraft Guarantee Facility has been provided for (say) 6 months, how can this facility be renewed for a further 6 months?***

Provided that the Lender has originally requested the EFG Overdraft Guarantee Facility for a term of sufficient length to cover the initial and renewed periods, the renewal has been sanctioned according to the Lender’s normal commercial procedures and arrangements for collection of the EFG Premium are in place, then the Lender has the necessary cover to provide a facility letter to the Borrower without further intervention.

***What happens if a Borrower exceeds the EFG Overdraft Guarantee Facility limit?***

The Government guarantee covers the stated EFG Overdraft Guarantee Facility only and does not cover any excess position on the account or any element of the Borrower’s “normal” overdraft facility. In the event of an excess occurring on the account, all liability for the excess balance lies therefore with the Lender.

***Is the EFG Overdraft Guarantee Facility affected at all by “Clayton’s Case”?***

The implications of Clayton’s Case are fully covered in the EFG Legal Agreement. Operationally, the EFG guarantee operates according to the terms detailed in this Manual.

***Do Lenders have to charge the same margin on the EFG Overdraft Guarantee Facility as on the “normal” overdraft facility?***

Normal commercial terms of the Lender apply.

***Can normal excess fees be charged in the event of the Borrower exceeding the EFG Overdraft Guarantee Facility limit?***

Normal commercial terms of the Lender apply.

***A Lender’s current facility documentation states that the customer overdraft is repayable upon Demand? Is this in any way affected by provision of an EFG Overdraft Guarantee Facility?***

Normal legal terms of the Lender apply.

***Does a Lender’s existing facility documentation need to be amended in any way to accommodate the EFG Overdraft Guarantee Facility?***

The Lender’s standard overdraft facility letter will require an additional paragraph covering EFG exposure (as with EFG term loans). Full details are provided in the EFG Legal Agreement.

3.8 Type-F – Invoice Finance Guarantee

**Overview**

**For Existing Clients / New Borrowing**

Where an existing client requires further funds for working capital but the Lender is not prepared to advance anything further against the client’s receivables, then an additional facility can be considered under the EFG. This would take the form of an increased prepayment percentage (backed by the EFG Invoice Finance Guarantee Facility).

**For New Clients / New Borrowing**

Where a potential new client requires finance for working capital or to repay existing borrowing in excess of the commercially agreed receivables facility, an EFG facility can be considered subject to the normal EFG conditions. This would take the form of an increased prepayment percentage (backed by the EFG Invoice Finance Guarantee Facility).

**Eligibility Criteria**

Amount: Minimum £1k up to maximum £1m

Lending Product: Invoice Finance Line

Maximum % of the Gross Debtor Book: Up to 30% of gross debtors (subject to total invoice finance facility percentage - Lender’s existing line and additional EFG-backed element not exceeding 100% of gross debtors). The EFG guarantee facility must be defined with both a maximum value (in £) and a maximum percentage of the gross debtor book

Guarantee Term: Minimum 3 months up to a maximum of 3 years

Premium Payment: 2% annually against the total EFG Invoice Finance Guarantee Facility limit, payable quarterly in advance by the Borrower

Lender Security: Assignment of debtor book. Lender may take additional security if available and deemed appropriate by the Lender (other than a charge over a PPR, which is strictly prohibited)

Default Procedure: In event of Borrower default, the Lender should realise all available security and apply these proceeds in direct reduction of a) outstanding Lender debt b) outstanding EFG-backed debt. Outstanding Lender debt to be repaid in full prior to repayment of EFG debt

Claim Against Guarantee: Lender is entitled to claim 75% of the outstanding balance of the utilised EFG-backed element (subject to the Claim Limit). In addition, any interest that has accrued prior to the earlier of the date on which the Lender makes Demand for repayment on the Borrower and the scheduled expiry date of the facility may be included in the Claim on the EFG guarantee facility

Restrictions: Neither the agreed funding limit nor the prepayment percentage provided by the Lender on any existing facilities may be reduced except in accordance with the Lender’s normal commercial criteria for managing those facilities. Transfer of risk from the Lender to the Government on existing borrowings by retrospectively reducing an existing prepayment percentage or limit in order to create opportunity for replacement by EFG-backed lending is outside the spirit of the Scheme. For the avoidance of doubt, this does not affect day-to-day changes in the outstanding balance as invoices are presented or paid

***Worked Example:***

|  |
| --- |
| Assume a client has gross debtors of £1m with an agreed prepayment percentage or initial prepayment of 80%. Subject to the Borrower and proposition meeting EFG eligibility criteria, the Lender could agree to increase the prepayment percentage by 20% (100% - 80%) with an upper limit of a maximum of £200k.  For EFG purposes this will be treated as a maximum potential exposure of £200k and recorded as such in all facility documentation. However, at any one time, the actual liability of 20% of gross debtors could be lower than this value. It is anticipated that the Lender will use its **facility limit** (on internal systems) to control the maximum guarantee liability internally.  The Borrower will be charged the EFG guarantee Premium on the full £200k even though this may not be fully drawn at all times.  In the event of Borrower default, the Lender will collect the book debts and realise any other available security. These funds would then be used to repay the outstanding balance on the funding line. In the event of there being any shortfall in repaying the outstanding indebtedness, a claim can be made under the EFG guarantee facility subject **to the lower of the upper EFG facility limit or the value of 20% of gross debtors** at the time of the event of default. The Claim will be settled for 75% of the eligible outstanding debt.  In the event of the Lender requiring an increase in the upper limit of the guaranteed facility (say due to the growth of the business) then a new EFG application for the additional amount would need to be made and the two facilities operated concurrently, but with the older facility being fully utilised before use is made of the newer one. |

**Type-F Invoice Finance Guarantee - Frequently Asked Questions**

***Why is the EFG Invoice Finance Guarantee Facility available for a maximum of three years only? What happens when the three years have passed?***

The EFG scheme has been established in response to the current economic climate to assist SMEs struggling to access finance. A three-year timeframe has been deemed a suitable period to offer temporary working capital assistance to SMEs. If Lenders believe that support will be required over a longer period then they should consider carefully whether it may be more appropriate to offer a term loan, for which repayments may be profiled flexibly over up to ten years. Alternatively, a Lender may consider that an invoice finance facility of up to three years is appropriate, but with the recognition that an appropriate repayment vehicle will subsequently need to be put in place over a further term.

***What happens if the guarantee facility reaches expiry and has not been renewed (up to a maximum period of 3 years) or repaid?***

The guarantee would expire and all exposure and risk would lie with the Lender.

***Is the EFG available to factoring companies as well as invoice discounters?***

Yes, subject to accreditation, it is open to all Lenders operating in the invoice finance sector which lend to eligible SMEs.

***What will be the audit process for invoice financiers?***

CfEL have appointed auditors familiar with the invoice finance sector to review a sample of facilities granted by each Lender.

1. EFG for CDFIs

4.1 Policy Summary

EFG may be used to allow banks to lend capital to CDFIs for subsequent on-lending to SMEs.This allows EFG to support the CDFI sector while also encouraging commercial relationships between banks and CDFIs.

This approach works in the same way as “conventional” EFG in most respects but with some changes as follows:

* It allows EFG lending for the purpose of providing capital for on-lending (which is otherwise ineligible).
* The CDFI is not required to pay the 2% per annum Premium on the money it borrows from a bank under an EFG facility. This is in recognition of the particular issues that CDFIs face in raising capital and the need to ensure that CDFI customers are able to access the finance they need.
* It operates the EFG Claim Limit at the level of the individual loan from bank to CDFI rather than at the level of the bank’s portfolio, ensuring that each CDFI borrowing from a bank shares the risk in proportion to their take-up of capital from that bank.
* It sets the criterion for a claim against EFG in relation to the performance of the CDFI’s portfolio of on-lending rather than, as would be the case in a direct comparison with ‘conventional’ EFG, the failure of the CDFI in the event of losses arising from on-lending.
* The criterion for and limit of the extent of a claim against the EFG guarantee is that: where there is an overall loss at maturity of the CDFI’s portfolio, net of any recoveries made according to their normal loan management procedures **(and net of any direct claims against the EFG guarantee made by the CDFI on individual loans to SMEs, if the CDFI is itself an accredited EFG Lender)**,leading to a shortfall in the CDFI’s capital repayments due to the bank.
* In the event of such a loss, the bank is entitled to claim 75% of the shortfall in capital repayments due from the CDFI up to the Claim Limit (say 13%, as in 2010/11). The CDFI is responsible for covering the remaining 25% of the shortfall up to the 13% Claim Limit and 100% of the shortfall beyond the 13% Claim Limit.
* For example, a £1m bank facility to a CDFI will have a Claim Limit of 9.75% (being 75% of a Claim Limit of 13%), translating into £97,500. If the CDFI has net losses of £100k on the £1m facility, then it will be able to claim the full 75%, or £75k. If losses are £200k then the CDFI’s claim will be limited to £97,500, rather than £150k (being 75% of £200k).

4.2 Frequently Asked Questions

***How is this different?***

CDFIs (which, as financial intermediaries, were previously excluded from receiving EFG-backed loans to finance their own lending) are now eligible for EFG loans for the purpose of providing capital for on-lending.

***How will this work where a CDFI is also an accredited EFG Lender?***

There will be no change as EFG will operate independently at each level (bank to CDFI and CDFI to SME). This will ultimately provide additional security for banks’ lending to EFG accredited CDFIs.

***Does a CDFI need to be an EFG accredited EFG Lender to receive a bank loan guaranteed under EFG?***

Banks can lend to CDFIs whether they are EFG accredited or not. CDFIs will, however, need to demonstrate to the bank that they will be able to repay the loan.

***If the CDFIs are lent funds with an EFG loan, can they make a loan which is part funded with other public funding? For example, a loan of £50k which could be funded £25k bank (EFG), £12.5k ex-RDA and £12.5k ERDF?***

In the case where a CDFI blends capital from a number of sources in one loan then for the purposes of EFG-backed bank lending to CDFIs the calculations done in the event of default would simply need to be done on a pro-rata basis. Once public funds (in this case from ex-RDA and ERDF) have been loaned out and then repaid, they are classified as having been recycled. When such recycled money is re-lent by the CDFI, the CDFI will be able to claim against any defaults on loans with this money, and any loans using such funds can count towards raising the Claim Limit (see also section 4.4 on mixing funds).

The benefit to the bank under the guarantee is only accrued in relation to that proportion of the defaulting loan that was made using capital the bank had loaned to the CDFI.

***Can a CDFI draw down the loan over time so they can use it to meet on-going requirements for capital?***

As with any EFG loan the draw down profile and any other conditions are a matter for negotiation between the bank and the CDFI, provided that the loan remains within the overall eligibility criteria.

***Is there a limit on the amount that can be borrowed by a CDFI under the scheme?***

It is £1m, the same as for any other EFG Borrower.

***Now that CDFIs can borrow in this way under EFG are there any restrictions on their use of the funds borrowed?***

Funds borrowed from a bank through this mechanism must be used as capital for on-lending to SME customers of the CDFI. If a CDFI (like any other business) wished to borrow for working capital or investment project purposes then it should apply for a bank loan in the normal way and the Lender will decide whether or not it wishes to lend, including deciding whether or not it is appropriate to make that loan with the backing of EFG.

***Banks often require Personal Guarantees and / or other security to be provided from the Directors of a business before they are prepared to lend, including under EFG. Will similar guarantees be expected from a borrowing CDFI’s Directors?***

The taking of Personal Guarantees from Borrowers is a commercial matter for the Lender and not an eligibility condition of EFG. In all lending decisions the availability of security, including the provision of Personal Guarantees, will be explored by the Lenders. However, in most cases where banks have established relationships with CDFIs there is an understanding of the differences between the role and status of the management of the CDFI compared with that of an owner-managed profit-distributing small business.

***Won’t this mean that banks will make inappropriate (high risk) loans to CDFIs?***

This provides an additional guarantee for banks but the CDFI will still need to demonstrate to the bank that it has appropriate lending procedures and is capable of servicing the loan. Lenders will still be exposed to risk and so it will not be in their interests to make inappropriate loans to CDFIs which they do not have confidence in.

***Won’t banks only want to lend to CDFIs who are EFG accredited?***

This is a commercial decision for the bank and will be informed by Lenders’ assessments of applications for loans of capital for on-lending from CDFIs. Any CDFI which a bank deems credible can benefit.

***Will there be a cap on what the banks can claim on the loans they make to CDFIs under the scheme?***

The normal EFG Claim Limit will apply. However, the cap will operate at the level of each individual loan from a bank to a CDFI. This is to ensure that all participating CDFIs remain directly accountable for their borrowing and to aid implementation. Say the Claim Limit on money lent to CDFIs from banks will be 13% (as in 2010/11) and the guarantee rate 75%, both as in ‘conventional’ EFG, meaning that the total amount claimable by the bank on each EFG loan to a CDFI will be 9.75% of the amount drawn and on-lent by the CDFI.

***How will the bank claim against the EFG for these loans? Won’t it mean CDFIs going into administration?***

The bank will claim based on the performance of the CDFI’s portfolio of loans made from the capital provided by the bank. The Lender will make a single claim either on maturity (full repayment) of the loan to the CDFI, or sooner if the threshold for the maximum possible Claim (see above) is reached while the portfolio of on-lending by the CDFI is still active. It is for the bank to determine the level of monitoring information it requires from the CDFI on the performance of the portfolio of on-lending in order to determine when and how much to claim.

***Can a bank benefit from Community Investment Tax Relief (CITR) on an EFG loan to a CDFI?***

Yes, subject to the CITR rules being satisfied. In practice the principal restriction to be taken into account is that the CDFI is not entitled to then on-lend those funds as EFG loans and treat them as a relevant investment for CITR purposes. More details on CITR can be found in section 4.5 below.

4.3 Worked Examples

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Example 1: CDFI is NOT an accredited EFG Lender*** | | | |  |  |
|  |  |  |  |  |  |
| Amount borrowed by CDFI for on-lending (£) | | |  |  | 500,000 |
|  |  |  |  |  |  |
| EFG Guarantee Rate (%) | |  |  |  | 75 |
|  |  |  |  |  |  |
| EFG Claim Limit (%) | |  |  |  | 13 |
|  |  |  |  |  |  |
| **Performance of CDFI's Portfolio of On-lending** | | | | | |
| **Loan Reference** | **Loans by CDFI to Clients (£)** | **Repaid in Full?** | **Balance Outstanding at Default (£)** | **Subsequent Recovery by CDFI (£)** | **Net Loss to CDFI (£)** |
| 1 | 30,000 | Y | 0 | 0 | 0 |
| 2 | 20,000 | N | 5,000 | 0 | 5,000 |
| 3 | 50,000 | N | 25,000 | 5,000 | 20,000 |
| 4 | 50,000 | N | 25,000 | 2,500 | 22,500 |
| 5 | 50,000 | Y | 0 | 0 | 0 |
| 6 | 25,000 | Y | 0 | 0 | 0 |
| 7 | 25,000 | N | 10,000 | 0 | 10,000 |
| 8 | 75,000 | N | 35,000 | 10,000 | 25,000 |
| 9 | 30,000 | Y | 0 | 0 | 0 |
| 10 | 20,000 | Y | 0 | 0 | 0 |
| 11 | 50,000 | Y | 0 | 0 | 0 |
| 12 | 25,000 | N | 20,000 | 2,500 | 17,500 |
| 13 | 40,000 | Y | 0 | 0 | 0 |
|  | **490,000** |  | **120,000** | **20,000** | **100,000** |
|  |  |  |  |  |  |
| Maximum shortfall against which bank may claim (£) | | |  | (£490k \* 13%) | 63,700 |
| *(Cap Rate % of Amount Drawn and On-Lent by CDFI)* | | |  |  |  |
|  |  |  |  |  |  |
| Maximum possible claim which bank may make (£) | | | (75% \* £490k \*13%) | | 47,775 |
| *(Pro-rata on Shortfall at Guarantee Rate %)* | | |  |  |  |
|  |  |  |  |  |  |
| Shortfall between capital borrowed by CDFI from bank and repayments of capital to CDFI by SMEs (£) | | | | | 100,000 |
|  |  |  |  |  |  |
| Actual claim made by bank (£) | |  |  |  | **47,775** |
| *(Lesser of maximum possible claim and guaranteed percentage of net loss incurred by CDFI on portfolio)* | | | | |  |
|  |  |  |  |  |  |
| Amount to be found by CDFI to repay remainder of loss to bank (£) | | | |  | 52,225 |
|  |  |  |  |  |  |
| Total loss carried by CDFI (£) | |  |  |  | **52,225** |
|  |  |  |  |  |  |

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| ***Example 2: CDFI is an accredited EFG Lender and uses EFG in some on-lending of EFG-backed bank capital*** | | | | | | | |  |  |
|  |  |  |  |  |  |  |  |  |  |
| Amount borrowed by CDFI for on-lending (£) | | |  |  |  |  |  | 500,000 |  |
|  |  |  |  |  |  |  |  |  |  |
| EFG Guarantee Rate (%) | |  |  |  |  |  |  | 75 |  |
|  |  |  |  |  |  |  |  |  |  |
| EFG Cap Rate (%) | |  |  |  |  |  |  | 13 |  |
|  |  |  |  |  |  |  |  |  |  |
| CDFI's own EFG Claim Limit available (£) | | |  |  |  |  |  | 25,000 |  |
|  |  |  |  |  |  |  |  |  |  |
| **Performance of CDFI's Portfolio of On-lending** | | | | | | | | | |
| **Loan Reference** | **Loans by CDFI to Clients (£)** | **Repaid in Full?** | **Balance Outstanding at Default (£)** | **Subsequent Recovery by CDFI (£)** | **Loan Guaranteed under CDFI's own Accreditation? (If "Y" then capital does NOT qualify for CITR)** | **Loss to CDFI prior to claim under own EFG Claim Limit (£)** | **EFG Claim by CDFI (£)** | **Loss to CDFI (£) (Including CDFI's 25% risk on own EFG loans and any further shortfall following exhaustion of own EFG Claim Limit)** | **Losses Eligible for "transferring" to count towards bank claim against EFG Claim Limit** |
| 1 | 30,000 | Y | 0 | 0 | N | 0 | 0 | 0 | 0 |
| 2 | 20,000 | N | 5,000 | 0 | Y | 5,000 | 3,750 | 1,250 | 0 |
| 3 | 50,000 | N | 25,000 | 5,000 | N | 20,000 | 0 | 20,000 | 20,000 |
| 4 | 50,000 | N | 25,000 | 2,500 | Y | 22,500 | 16,875 | 5,625 | 0 |
| 5 | 50,000 | Y | 0 | 0 | N | 0 | 0 | 0 | 0 |
| 6 | 25,000 | Y | 0 | 0 | Y | 0 | 0 | 0 | 0 |
| 7 | 25,000 | N | 10,000 | 0 | N | 10,000 | 0 | 10,000 | 10,000 |
| 8 | 75,000 | N | 35,000 | 10,000 | Y | 25,000 | 4,375 | 20,625 | 14,375 |
| 9 | 30,000 | Y | 0 | 0 | N | 0 | 0 | 0 | 0 |
| 10 | 20,000 | Y | 0 | 0 | Y | 0 | 0 | 0 | 0 |
| 11 | 50,000 | Y | 0 | 0 | Y | 0 | 0 | 0 | 0 |
| 12 | 25,000 | N | 20,000 | 2,500 | Y | 17,500 | 0 | 17,500 | 13,125 |
| 13 | 40,000 | Y | 0 | 0 | N | 0 | 0 | 0 | 0 |
|  | **490,000** |  | **120,000** | **20,000** |  | **100,000** | **25,000** | **75,000** | **57,500** |
|  |  |  |  |  |  |  |  |  |  |
| Maximum shortfall against which bank may claim (£) | | | |  |  |  |  | (£490k \* 13%) | 63,700 |
| *(Cap Rate % of Amount Drawn and On-Lent by CDFI)* | | | |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |
| Maximum possible claim which bank may make (£) | | | |  |  |  |  | (75% \* £490k \* 13%) | 47,775 |
| *(Pro-rata on Shortfall at Guarantee Rate %)* | | |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |
| Shortfall between capital borrowed by CDFI from bank and CDFI's direct ability to repay bank (£) | | | | | | |  |  | 75,000 |
|  |  |  |  |  |  |  |  |  |  |
| Actual claim made by bank (£) | |  |  |  |  |  |  | (75% \* £57,500) | **43,125** |
| *(Lesser of maximum possible claim and guaranteed percentage of bank's eligible losses arising from CDFI portfolio)* | | | | | | | |  |  |
|  |  |  |  |  |  |  |  |  |  |
| Amount to be found by CDFI to cover bank's "25%" loss arising from EFG lending to CDFI (£) | | | | | |  |  | (£57,500 - £43,125) | 14,375 |
|  |  |  |  |  |  |  |  |  |  |
| Amount to be found by CDFI to cover direct loss arising from own EFG lending repayable to bank (£) | | | | | | |  | (£75,000 - £57,500) | 17,500 |
|  |  |  |  |  |  |  |  |  |  |
| Total loss carried by CDFI | |  |  |  |  |  |  |  | **31,875** |
|  |  |  |  |  |  |  |  |  |  |
| NB: This example assumes that the CDFI has its own EFG accreditation which it has used to cover identified loans in this portfolio and others in other portfolios, and that £25k of the CDFI's own claim limit is available for use in connection with this portfolio. Demands are assumed to occur in the order in which the loans are listed, meaning that the full 75% is claimable in relation to the first two "own EFG" Demands (Loans 2 & 4), a partial claim is possible on the third (Loan 8) and no claim is possible on the fourth (Loan 12). In all four cases the CDFI bears the first 25% of the loss incurred. | | | | | | | | | |
|  |  |  |  |  |  |  |  |  |  |
| Further Detail re. Loan 8: Loss to CDFI is £25k. As loan is made under the CDFI's own EFG accreditation the loss is split 25% CDFI : 75% EFG = £6,250 : £18,750. But the CDFI only has £4,375 of own EFG Claim Limit remaining. EFG shortfall of £14,375 (£18,750 - £4,375) is therefore "transferable" to the losses eligible for inclusion in the bank's claim against its own EFG Claim Limit. | | | | | | | | | |

4.4 Mixing Eligible and Non-Eligible Funding Sources

In addition to appraising the eligibility of the Applicant for EFG, CDFIs and other smaller lenders also need to consider the eligibility of their own funds to be lent under the EFG programme. Funding sources for CDFIs are often from a mix of public and private sources, including local authority grants, ERDF funds and ex-RDA funds inter alia, as well as funding provided on a commercial basis (see section 4.5 for CITR restrictions).

CDFIs and other smaller lenders are responsible for each checking the eligibility of such funding to be on-lent with the backing of EFG. It is often the case that the first loan made from a funding source may not qualify for EFG backing, but will do so when it has been recycled. In some instances, the funding may only qualify once the funds have been recycled twice.

Where a portion of a CDFI’s or smaller lender’s funds are ineligible for EFG, the CDFI or smaller lender must determine how eligible and ineligible funds are being channelled into individual investments. For example, a CDFI or smaller lender has a total fund of £1m but only £200k is eligible for EFG support. Where the CDFI or smaller lender does £300k of lending and all cases are eligible for EFG – the CDFI or smaller lender will need to be clear whether it has done either £200k of EFG lending plus £100k of non-EFG lending, or £300k of lending where only 20% of each individual facility has the backing of the EFG.

4.5 Use of CITR and EFG

4.5.1   Introduction

The Community Investment Tax Relief (“CITR”) scheme is intended to stimulate private investment in disadvantaged communities by providing a tax incentive to individuals and companies that invest in accredited CDFIs.

The tax relief is worth up to 25% of the value of the investment in the CDFI and is spread over five years, starting with the year in which the investment is made.

A CDFI that receives capital that benefits from CITR (“CITR Funding”) may not lend using EFG unless it has met certain thresholds with regards to non-EFG lending. In all, the value of EFG lending is restricted to approximately 25% of the CDFI’s fund (see below). However, an investment which benefits from CITR can also be in the form of an EFG loan from an accredited Lender to the CDFI.

HMRC has published a comprehensive online manual with regards to CITR which can be found here: [www.hmrc.gov.uk/manuals/citmanual](http://www.hmrc.gov.uk/manuals/citmanual).

4.5.2   Restrictions on EFG Lending when using CITR Funding

Under SI2003/96 Regulation 8, all CDFIs must invest most of their CITR Funding in “Qualifying Enterprises” (such as those focussed on disadvantaged geographies or demographics), and the investments themselves must be “Relevant Investments” which includes most loans and equity investments, but does not include EFG facilities.

The required levels of onward investment in Relevant Investments in Qualifying Enterprises increases over the years that follow the date on which the CDFI was first granted accreditation. Within the first year 1, 25% of the CDFI’s fund must be invested in Relevant Investments in Qualifying Enterprises. Within two years and three years at least 50% and 75% (respectively) of the investment fund must have been so invested. In practice, unless the CDFI is making very short term investments, it will be restricted to ensuring that the value of its EFG backed facilities does not exceed 25% at any stage.

As EFG is designed to stimulate lending above and beyond a Lender’s normal lending output, CfEL would envisage that EFG facilities will represent less than 25% of a CDFI’s fund in the majority of cases.

For example, a CDFI lender has a capital funding pot of £1m of which £500k benefits from CITR. The remaining £500k comes from an eligible (for EGF) funding source. In practice, the CDFI lender has only £625k of funding (£500k + £125k (£500k x 25%)) that can be used for EFG.

Section CITM3010 of the HMRC manual gives further guidance on the calculations involved with regards to the size of the fund and the investments that it makes.

1. The EFG Application Process Using the EFG Web Portal

5.1 Quick Reference Guide

The following table summarises the key stages of the application process using the EFG Web Portal.

The EFG Web Portal Manual is available to all Web Portal users. However, this chapter provides an overview of the end-to-end operational process for the provision of an EFG loan.

Reference is given to the loan status (on the EFG Web Portal) and the changes that are made to the Web Portal at each stage (more information on Web Portal states is provided in section 5.2). Additionally the table summarises the timing rules that are applicable at each stage of the application process.

|  | **Key Stages** | **Process and Status** | **Timing Rules** | **Ref** |
| --- | --- | --- | --- | --- |
| 1 | Initial Appraisal of the Borrowing Proposal | Initial appraisal of lending proposition to be considered for EFG. Lender must be comfortable that the proposition is viable, but that absence or inadequacy of security makes the proposal unsupportable. |  | 5.3.1 |
| 2 | Check Eligibility | Check Eligibility via Web Portal. Facility status recorded as ***Eligible.*** | ***Eligible*** status will automatically expire if not ***Cancelled*** or progressed to ***Complete*** on the Web Portal within 6 months. | 5.3.2 |
| 3 | Credit Approval  (May precede Stage 2 – depending on Lender’s process) | Application approved under local discretion or referred to internal credit team to obtain sanction depending on Lender’s processes and criteria. |  | 5.3.3 |
| 4 | Data Protection and Disclosure Declaration | Lender must ensure that they have authorisation from customer to disclose information to BIS via Web Portal. In most cases an authorisation will already exist but a downloadable Data Protection and Disclosure Declaration is available from the Web Portal. |  | 5.3.4 |
| 5 | Completing the Application | Enter remaining customer and facility details in order to update the facility status to ***Complete***. | ***Complete*** status will automatically expire on the Web Portal if not ***Cancelled*** or ***Offered*** within 6 months. | 5.3.5 |
| 6 | Print and Issue Documentation for Customer Completion and Acceptance | * Facility Letter (Lender’s own document but must include EFG-specific clauses, such as the Premium) * Direct Debit Mandate (available from Web Portal but Lender may keep stock of paper forms) * Information Declaration (from Web Portal) * State Aid Letter (from Web Portal) * Premium Schedule (from Web Portal) * Security Charges (Lender’s own documentation – when applicable) | Facility Letter Date cannot precede the date of progress from ***Eligible*** or ***Incomplete*** to ***Complete*** by more than thirty days.  (For a Type-E overdraft guarantee facility the Lender must not have cancelled or lowered any overdraft in previous 3 months). | 5.3.6 |
| 7 | Offer Facility to Applicant | When all documentation has been issued update the facility status to ***Offered.*** | Portal status must be updated to ***Offered*** within 10 business days of Facility Letter Date. | 5.3.7 |
| 8 | Facility Drawn Down and Guaranteed | When completed documentation is received back from the customer (and, if appropriate, charges over security have been perfected) the Lender may release the funds and update the facility status to ***Guaranteed***.  Lender is responsible for sending a copy of the Direct Debit mandate to the Borrower’s bank (account from which Premium will be paid) and details of the EFG Guarantee Premium to the Premium Collection Agent (the “PCA”). | The guarantee lapses if facility is not drawn within 6 months. Lenders may set shorter acceptance periods in accordance with their own commercial practices.  Web Portal status must be updated within 10 business days of draw down (and 10 business days of any subsequent tranche draw down). | 5.3.8 |
| 9 | Repayment and Closing Facilities | When loan is repaid, update facility status to ***Repaid***. | Web Portal status must be updated to ***Repaid*** within 10 business days of the repayment. | 5.3.9 |

5.2 Different EFG States and the Web Portal

Throughout its life on the EFG Web Portal, an EFG facility will be in one of a number of “states”, including the following:

**State Meaning**

Eligible Application has been loaded on the Web Portal on an anonymous basis and basic eligibility checks undertaken, with a positive result.

Incomplete A signed Data Protection and Disclosure Form is held. Business and facility details have been entered into the eligibility check but some details remain outstanding.

Complete Full business and facility details have been provided and a full eligibility check undertaken. This stage provides the definitive ruling on whether an EFG Application is eligible.

Offered Facility Letter plus all other EFG documentation has been prepared and forwarded to the Applicant. Lenders have 10 business days to change the status of an application to “Offered” once the documentation has been sent out to an Applicant.

Guaranteed EFG offer has been accepted by the Borrower and the facilities have been “Guaranteed”.

Drawn Once the Borrower has accepted the EFG offer and has drawn down at least an initial tranche of funds, the Lender has 10 business days to update the Web Portal to show the current status of the applicant as Drawn.

Repaid Once the EFG facility has been fully repaid by the Borrower, the Lender has 10 business days to update the Web Portal to show the current state of the Borrower as Repaid.

Lender Demand If the Lender has made Demand on the Borrower for repayment of the EFG facility, the Lender has 10 business days to update the Web Portal to show the current state of the Borrower as Lender Demand.

Guarantee Demand For delinquent EFG facilities, once the Lender has satisfied all security realisation procedures and / or reached 18 months after Lender Demand, the Lender can make Demand upon the guarantee from BIS (a “Claim on the Guarantee”).

Settled Payment under the guarantee has been made by BIS.

Recovered Any money recovered from the Borrower by the Lender (for example, via realisation of security) to be paid back to CfEL (BIS).

For a full listing of Web Portal EFG “states” – see Web Portal Manual v.1 (section 4.0).

5.3 Typical EFG Application Process

5.3.1 Initial EFG Appraisal

* Applicant and RM discuss borrowing proposal.
* The Lender must be comfortable that the proposition is viable, but that absence or inadequacy of security makes the proposal unsupportable.
* Applicant will need to provide all the information normally required by a Lender in connection with a normal borrowing proposal, typically including:
  + Business Plan – including details of the purpose of the facility and details of other borrowings of the business;
  + Suite of financial information – to include historic trading figures, management accounts and financial projections;
  + Details on any other publicly funded support received by the business within the past three years; and,
  + Details of any security available – business or personal – to secure the borrowing proposal.
* RM will look to provide a normal commercial borrowing facility wherever possible but can consider using EFG if:
  + the applicant appears viable and the borrowing can be repaid;
  + no or insufficient security is available to meet the Lender’s normal security requirements; and,
  + the borrowing proposal meets basic EFG eligibility criteria as detailed in section 2.

5.3.2 Check Eligibility

* The RM will assess eligibility against the basic criteria directly or in consultation with the Lender’s central EFG processing team who can provide guidance and load the basic details of the proposal onto the EFG Web Portal. At this stage, the process is anonymous.
* For some Lenders, the RM would, at this stage, complete a deal pro-forma and forward this through to the Lender’s central processing team for EFG so that the proposal can be loaded onto the Web Portal and eligibility officially confirmed or otherwise. The Applicant would need to give permission to allow their details to be entered onto the Web Portal. Details regarding any existing State Aid provided to the Applicant must also be obtained.
* If rejection is at the Web Portal eligibility stage, the Web Portal will provide a reason for the rejection, which the RM should feed back to the Applicant. The Web Portal will automatically record details of all rejected EFG applications.

5.3.3 Credit Approval

* Credit approval may precede Stage 2 – dependent upon Lender’s process.
* The RM will prepare a credit application and obtain credit sanction for the borrowing proposal.
* Upon receipt of credit sanction, the RM will complete some form of application form / pro-forma to provide all of the necessary information on the transaction for entry on to the EFG Web Portal by the central processing team, including details of any support received from other public programmes which constitute State Aid.
* If the Application is rejected by the Lender at the viability stage (by the RM or credit sanctioner), then this is a commercial decision by the Lender and should be presented as such to the Applicant. If the Applicant is unhappy with the decision made, the Applicant should be advised to follow the Lender’s normal complaints procedure with escalation to the Financial Ombudsman if deemed necessary by the Applicant.

5.3.4 Data Protection and Disclosure Declaration

* If they haven’t already done so, the Applicant must give permission, using the EFG Data Protection and Disclosure Form (or similar) to allow their business details to be entered onto the EFG Web Portal. The wording of this Declaration should follow a standard format – see Appendix 9.1.
* The RM pro-forma plus the Applicant’s Data Protection and Disclosure Form are forwarded to the central processing team for input onto the EFG Web Portal.

5.3.5 Completing the Application

* Enter remaining customer and facility details and update the facility status to Complete.

5.3.6 Print and Issue Documentation

* Once eligibility is confirmed, the central processing team will produce the following documentation from the EFG Web Portal.

**The State Aid Letter**

* The State Aid Letter is used to inform the Applicant how much *de minimis* State Aid has been received relating to the facility guaranteed within the EFG scheme.
* The amount of *de minimis* State Aid, calculated using the Premium Payment and State Aid Calculator, is added to the State Aid Letter and should be sent to the Applicant when the EFG scheme facility is offered. See Appendix 9.2 for a sample letter.

**The Premium Schedule**

* See section 6.5 for full details on the collection of the Premium payments.
* Premiums are due on all facilities that have been guaranteed and drawn within the EFG scheme. For term loans, the Premium is based on the outstanding balance of the EFG loan throughout its term. For Overdraft Guarantee and Invoice Finance Guarantee facilities, the Premium is calculated on the maximum lending limit allocated to the Borrower, irrespective of utilisation level.
* To calculate the Premium payments required for an EFG application, use the Premium Payment and State Aid Calculator within the Web Portal.
* This information should then be distributed to the Applicant to allow them to understand what their financial obligations are during the facility term.
* See Appendix 9.3 for a Premium Payment Schedule sample letter.
* In addition, the Premium Payment and State Aid Calculator identifies the amount of *de minimis* State Aid applicable for the EFG facility, which needs to be entered into the EFG Web Portal and entered onto the State Aid Letter to inform the Applicant of the amount of State Aid applicable for the new EFG facility.

**Direct Debit Mandate**

* Premium payments are paid using direct debit. In order to put the EFG Scheme Facility and related Scheme Guarantee in place, a Direct Debit Mandate must be completed by the Applicant. The mandate is available in the Web Portal.
* See section 6.5 for full details on the collection of the Premium payments.

**Information Declaration**

* The Information Declaration confirms to the Applicant all information entered onto the Web Portal by the Lender. The Information Declaration has space for two signatories. The Information Declaration should include the same Borrower signatures as those that are on the Facility Letter and, therefore, there may be the need for one signature or, in some cases, two or more signatures. See Appendix 9.4 for a sample letter.

**Facility Letter**

* The central processing team also often produces the Facility Letter for the new EFG facility although this is sometimes created by the RM. **Note that the Facility Letter must contain additional clauses relating to the payment of the Premium, in accordance with the EFG Legal Agreement.**
* Typically, these additional clauses are:
  + that the Secretary of State has agreed under Section 8 of the Industrial Development Act to guarantee the Borrower's payment obligations or the amount outstanding, under the scheme facility on the terms agreed between the Lender and the Secretary of State and subject to the payment by the Borrower of the Scheme Guarantee Premium;
  + that the Borrower shall pay to the Secretary of State quarterly payments of the Scheme Guarantee Premium, at such times and in such manner as the Secretary of State may require, the due date and amount of each such payment being as specified in the Premium Payment Schedule;
  + that the Lender shall at all times be entitled (but not obliged) to pay any sum due from the Borrower to the Secretary of State in respect of the Scheme Guarantee Premium under the Facility Letter and the Borrower shall forthwith on demand reimburse the Lender for any sums paid by the Lender to the Secretary of State in that respect;
  + that the Borrower's undertakings to pay the Scheme Guarantee Premium are expressed to be for the benefit of, and to be enforceable by, the Secretary of State notwithstanding that the Secretary of State is not a party to the Facility Letter; and,
  + that the Borrower shall not be permitted to make any drawdown under the scheme Facility Letter or make any utilisation of the increased scheme facility, unless and until the Borrower provides a satisfactory means of payment of the first instalment of the Scheme Guarantee Premium and returns the Direct Debit Mandate and the Information Declaration to the Lender, each duly signed, dated and completed, and, as regards the Information Declaration, without any amendments or variations having been made to the information contained therein (if the Information Declaration is returned by the Borrower with any amendment or variation to the information contained therein or the Borrower informs the Lender, having received such Information Declaration, that any of the information contained therein needs to be amended or varied then other provisions shall apply).

**Security Charges**

* If additional security is required as a consequence of granting the EFG facility, this will be instructed by either the RM or a central processing team who will monitor progress pending completion of the security charging process.

5.3.7 Offer Facility to Applicant

* All documentation is then forwarded to the Applicant for signature and return.
* The Lender, having made the offer of the EFG facility, must update the Web Portal as soon as reasonably practicable but in any event within 10 business days of the date of the offer.

5.3.8 Facility Drawn Down and Guaranteed

* Once the facility documentation has been signed and returned by the Applicant and where necessary, all security procedures have been completed, the EFG facility will then be drawn down and the Web Portal updated to Guaranteed (within 10 business days of draw down).
* The availability period allowed for draw down of the EFG facility should reflect the Lender’s normal business practice, subject to a maximum period of 6 months. For example, if the Lender normally allows one month for acceptance of the offer and three months thereafter for drawdown, the terms of the EFG facility should reflect this standard practice.
* If the Applicant draws down the EFG facility in tranches, with the first tranche only drawn within 6 months, there is not a new time limit for drawing down the remainder of the EFG facility. The period allowed for drawdown is subject to the Lender’s normal criteria and agreement with the Applicant, as set out in the facility letter.

5.3.9 Repayment and Closing Facilities

* When the loan is repaid, the Web Portal status must be updated to “Repaid” within 10 business days of the repayment. It is also the Lender’s responsibility to cancel the direct debit.
* Partial repayments are permissible. If a partial repayment is made outside the normal repayment profile agreed for the facility then the Lender must update the Web Portal and recalculate the Premium Schedule, advising the customer accordingly.
* Recalculation must be performed as soon as practically possible after repayment has been received, noting that any change will be effective from the next quarterly Premium collection.

5.4 Adjusting Facility Details Prior to Loan Drawdown

5.4.1 Adjusting the Interest Margin

The interest rate can be changed at any time until the loan is “Offered”, at which point a formal Facility Letter must have been produced. Between this point and draw down, the loan details cannot be changed. The Offer is effectively “locked down” in the EFG Web Portal and there is no facility within the Web Portal to change the margin. In practice, however, if the Lender wishes to change the margin, they may do so though such a change cannot be recorded against the EFG facility details on the Web Portal.

Chapter 9 of the Web Portal Manual v.1 addresses how to update the Web Portal after the loan details have been completed.

5.4.2 Adjusting the Facility Amount

The facility amount can be changed at any time until the loan is “Offered”, at which point a formal Facility Letter must have been produced. The Lender’s ability to change the facility amount will depend upon whether a decrease or increase in the facility amount is required.

For a reduction in the facility amount, the Lender can take the original facility offer to “Guaranteed” and then go to the “Change Amount or Terms” screen within the Web Portal, register a lump sum reduction in the facility amount and proceed with the EFG facility at the new lower amount. A revised Premium Schedule would need to be generated and forwarded to the Borrower.

If a higher facility amount is required, then the Lender must either reject the original facility offer and start the process again, or proceed with the original facility through to “Guaranteed” and then offer the additional amount as a new top-up EFG facility.

If the Lender wishes to change the facility amount prior to drawdown, the existing “Offered” loan should be “Cancelled” on the Web Portal and a new loan application processed.

5.4.3 Adjusting the Term or Repayment Profile

If the scheduled final date for repayment of the EFG facility is likely to change, this must be recorded on the Web Portal.

Early repayment of an EFG facility is permissible. Early repayment charges are subject to the Lender’s normal charging criteria. However, no further EFG Premiums will be collected after the Lender has updated the Web Portal to advise that the EFG facility has been “Repaid” and the Borrower has been advised to cancel their direct debit payment.

The repayment profile can be changed at any time until the loan is “Offered”. Once “Guaranteed”, further changes can then be made using the “Change Amount or Terms” screen in the Web Portal where alterations to the repayment profile can be made. A revised Premium Schedule will also need to be generated and forwarded to the Borrower.

Again, if the Lender wishes to change the facility term or repayment profile prior to drawdown, the existing “Offered” loan should be cancelled on the Web Portal and a new loan application processed.

Once a term loan has been repaid it is “Closed” and cannot be redrawn. Should more funds be required a new facility needs to be applied for. Similarly, should a tranche of a loan be repaid (early or otherwise) it cannot be redrawn – a fresh application needs to be made. Utilisation of invoice finance and overdraft facilities can fluctuate up to the prevailing agreed maximum limit throughout their terms.

5.4.4 Deciding Not to Make an Offer

If a Lender offers an EFG facility to an Applicant, but decides subsequently to withdraw the offer, the Applicant should be informed and the Web Portal updated accordingly (change the facility status to show “Loan Cancelled”).

5.5 20 Day Response Target

On 1 August 2010, a 20 business day processing target for EFG proposals was introduced. This target has been adopted by all of the main High Street banks and also some of the smaller EFG lenders.

The clock for the 20 business days starts when all necessary information has been provided by the SME and / or their advisors such that the Relationship Manager (“RM”) is in a position to prepare a credit application. If customer-specific due diligence needs to be undertaken prior to the credit application being prepared, then the clock will start once that due diligence has also been completed.

The 20 business days will include the time taken for preparation of the credit application, sanctioning of the credit application, through to production of an Offer (or Decline) Letter for the SME. The 20 day target is measured to the provision of an Offer Letter and not to draw down of funds.

In order to accurately calculate turnaround times on applications, and recognising that the point of interface between the commercial lending process and the EFG Web Portal process varies between Lenders, there is a requirement to record on the Web Portal the date on which the RM received a fully documented borrowing proposal from the SME. **This date should be recorded during the Loan Entry stage of the Web Portal process in dd/mm/yyyy format in the fourth Lender-defined field.**

We would suggest that, in order to have both a clear audit trail and also supporting evidence in the event of any future dispute on processing time between the SME and the Lender, Lenders should ensure that a mutually agreed start date for each proposal is recorded, for example, by the SME and RM both signing the application form to confirm that all documentation was provided on a specific day. Precisely how the capture of an agreement to this start date might best be achieved is a matter for each individual Lender to determine.

The emphasis is on the Lender, and specifically the RM, to ensure that the SME is aware from the beginning of the borrowing relationship what information they and / or their advisors must provide in order that a credit application can be prepared and considered. Where necessary, the RM should consult with their credit department in advance to ensure all necessary information is requested upfront by the RM. In-line with existing good practice, the RM should advise the SME upfront on the different stages involved in the application process and likely timescales. Where a Lender’s credit department subsequently requests that the RM obtains additional information from the SME and / or their advisors before the application can be progressed, the clock for the 20 day turnaround should not be stopped.

In the event of BIS or CfEL receiving complaints from individual SMEs on the time taken to process an EFG application these will be referred to the operational lead for each Lender.

1. Managing EFG Facilities Once Guarantee is in Place

6.1 Refinancing EFG Debt from Another Lender

6.1.1 Refinancing EFG Debt – Introduction

Often when switching Lender, a business will need to negotiate new borrowings from Lender B (to which the business is moving) **specifically in order to repay existing lending** provided by Lender A (which the business is leaving). It is possible in such cases that **the original lending provided by Lender A is EFG-backed and the new lending from Lender B to replace it also satisfies the EFG eligibility criteria.**

EFG facilities **cannot be transferred / reassigned** between Lenders. Existing EFG facilities must be repaid and then processed as new by the new Lender so as to avoid complications regarding the Annual Claim Limit in place for each separate Lender.

As reported in section 2.5.2 the eligibility rules regarding *de minimis* State Aidrequire that no business (or group) can a) have EFG facilities of over £1m outstanding at any one time and b) receive no more than €200,000 of State Aid over a rolling three-year period. As an EFG facility cannot be transferred between Lenders, the implication is that re-applying for a comparable EFG facility would count towards the €200,000 rolling three-year State Aid limit.

The practical arrangements described below are, therefore, intended to ensure that the presence of EFG does not act as a barrier to the freedom of businesses to switch between Lenders. Where the practical arrangements are followed, then any contribution towards the €200,000 rolling three-year State Aid limit arising from the issue of the replacement EFG facility can be ignored.

6.1.2 Practical Arrangements

These arrangements apply specifically in connection with Lender B providing an EFG-backed facility to a switching Borrower which previously had an EFG-backed facility from Lender A, in order for the Borrower to be able to fully repay the balance of that facility to Lender A. They are, therefore, limited to an EFG-backed facility provided by Lender B which:

* Is for a **value not exceeding the outstanding capital balance** of the previous facility from Lender A at the point of switching, which itself may not exceed the original value of the facility when first provided by Lender A. For the avoidance of doubt, no outstanding interest, early redemption penalties or other charges may be added to the EFG-backed loan provided by Lender A. Any additional borrowing requirements identified by Lender B at the time of switching or thereafter, in connection with which the use of EFG may be appropriate, must be considered as a separate transaction.
* Once the replacement loan has been created it can then be extended. However, the lending should be over a term which, when combined with the elapsed term of the previous facility provided by Lender A, does not exceed the maximum permitted term for the type of facility involved. For the avoidance of doubt Lender B is allowed to extend the term of the facility to the maximum term permitted for that type of facility. For example, a business originally had an 8-year term loan with Lender A. After 5 years it moves to Lender B so Lender B provides a loan covering the outstanding balance over the remaining term of 3 years. Lender B subsequently agrees to an extension. The maximum extension Lender B is entitled to offer is 2 years (NOT 7 years).

Note that this treatment is specific to EFG and does not apply to SFLG.

6.1.3 Web Portal Adjustments

Further information on how to update the Web Portal in respect of refinancing debt from another Lender can be found in the Web Portal Manual v.1 section 11.6. The following should be considered:

For Lender A:

* On receipt of the funds from Lender B the facility should be reported as “Repaid”.
* As a courtesy, Lender A should remind their former customer of the need to cancel their Direct Debit Mandate.
* Lender A now has no further entitlement to claim against the Guarantee.
* The “contribution” of the facility to Lender A’s Claim Limit remains unchanged.

For Lender B:

* The fact that the switching Borrower had previously been provided with an EFG-backed facility by Lender A does not remove the requirements for Lender B to undertake their normal commercial due diligence and to establish that it remains appropriate to provide the Borrower with an EFG-backed facility on this occasion.
* Each case should be entered as a new application and processed through to “Guaranteed” and “Initial Draw” in the usual manner, paying particular attention to the variations to standard procedures detailed below.
* There is no need to issue a replacement State Aid Letter for the replacement facility. However, the Borrower should be advised that their existing State Aid Letter is still in force. The Lender should make a file note explaining why no letter has been issued.
* For the avoidance of doubt, these instructions provide the practical authorisation for Lenders to apply the variations listed in the handling of qualifying cases.

Lenders should expect that a sample of such cases will be audited in future cycles of Lender Audit.

It is likely to be of assistance to Lender B if, at the time of Application, the Borrower is able to provide a copy of the Information Declaration applicable to their previous borrowing from Lender A.

6.2 Refinancing of Non-EFG Debt from Another Lender

Credit assessment and risk appetite will vary between Lenders and it is natural for Borrowers to consider alternative sources of finance. EFG is not to be used by a Lender as a mechanism for building market share. However, when taking on a new customer’s debt, EFG may be appropriate and it is therefore permissible for one accredited Lender to use an EFG to take on a business’ non-EFG debt that has been held by another accredited Lender. These circumstances would not be viewed as refinancing for the purposes of Type-C or Type-D EFG.

6.3 Changing Legal Status of the Borrower or Facility Purpose

6.3.1 Changing Legal Status

Applicants occasionally have an existing EFG (or SFLG) loan and then subsequently wish to change legal status. For most Lenders, a change of legal status of the Borrower (for example, from sole trader to limited company) would require a revised credit application with a reassessment of security requirements (for example, a Personal Guarantee may be required when legal status changes from sole trader to limited company), a change of facility and security documentation and a change in the name of the bank account.

Assuming no increase in borrowing is required, existing debt would be repaid and then re-drawn in the name of the new borrowing entity. Where an existing SFLG loan is in operation, this would also need to be repaid as part of the change of name of the borrowing entity. The borrowing would then need to be re-drawn as an EFG loan – the terms and conditions of the EFG loan may or may not be the same as for the old SFLG loan, depending upon the Lender’s credit criteria at that point in time.

For an existing EFG loan, this would also need to be repaid and a new EFG loan drawn – again, the terms and conditions of the new EFG loan may or may not be the same as the old EFG loan, depending upon the prevailing credit assessment of the Lender. These circumstances would not be viewed as refinancing.

As discussed, the eligibility rules require that no business (or group) exceeds the £1m EFG outstanding facility limit and / or the €200,000 rolling three-year State Aid limit. Where the legal status of the Borrower has been changed, but where the fundamental business has not been changed, then the EFG renewal will not affect the position for either limit.

6.3.2 Changing Facility Purpose

On occasion, a Borrower will wish to use an EFG facility for a purpose other than that which was specified in the facility application. This can occur when funds have already been drawn, or when requesting a tranche draw down.

Under such circumstances the Lender must consider whether the facility is still eligible for EFG. If it is, the Lender should make a file note recording the fact that the loan has been reappraised and is still eligible for EFG (in terms of viability, security and the UK SME Test). Under such circumstances, the same EFG will remain in place. Where the loan fails to meet EFG eligibility, no further tranches may be drawn. If the loan has already been drawn, it should be repaid or refinanced by commercial debt.

6.4 Adjusting Facility Details Once Guarantee is in Place

6.4.1 Adjusting the Interest Margin

As stated in section 5.4.1, the interest rate can be changed at any time until the loan is “Offered”, at which point a formal Facility Letter must have been produced. Between this point and draw down, the loan details cannot be changed. The Offer is effectively “locked down” in the EFG Web Portal and there is no facility within the Web Portal to change the margin. In practice, however, if the Lender wishes to change the margin, they may do so though such a change cannot be recorded against the EFG facility details on the Web Portal.

Chapter 9 of the Web Portal Manual v.1 addresses how to update the Web Portal after the loan details have been completed.

6.4.2 Adjusting the Facility Amount

Again, the facility amount can also be changed at any time until the loan is “Offered”, at which point a formal Facility Letter must have been produced (as stated in section 5.4.2). The Lender’s ability to change the facility amount will depend upon whether a decrease or increase in the facility amount is required.

For a reduction in the facility amount, the Lender can take the original facility offer to “Guaranteed” and then go to the “Change Amount or Terms” screen within the Web Portal, register a lump sum reduction in the facility amount and proceed with the EFG facility at the new lower amount. A revised Premium Schedule would need to be generated and forwarded to the Borrower.

If a higher facility amount is required, then the Lender must either reject the original facility offer and start the process again, or proceed with the original facility through to “Guaranteed” and then offer the additional amount as a new top-up EFG facility.

If the Lender wishes to change the facility amount prior to drawdown, the existing “Offered” loan should be “Cancelled” on the Web Portal and a new loan application processed.

6.4.3 Adjusting the Term or Repayment Profile

As stated in section 5.4.3, if the scheduled final date for repayment of the EFG facility is likely to change, this must be recorded on the Web Portal.

Early repayment of an EFG facility is permissible. Early repayment charges are subject to the Lender’s normal charging criteria. However, no further EFG Premiums will be collected after the Lender has updated the Web Portal to advise that the EFG facility has been “Repaid” and the Borrower has been advised to cancel their direct debit payment.

The repayment profile can be changed at any time until the loan is “Offered”. Once “Guaranteed”, further changes can then be made using the “Change Amount or Terms” screen in the Web Portal where alterations to the repayment profile can be made. A revised Premium Schedule will also need to be generated and forwarded to the Borrower.

Again, if the Lender wishes to change the facility term or repayment profile prior to drawdown, the existing “Offered” loan should be cancelled on the Web Portal and a new loan application processed.

Once a term loan has been repaid it is “Closed” and cannot be redrawn. Should more funds be required a new facility needs to be applied for. Similarly, should a tranche of a loan be repaid (early or otherwise) it cannot be redrawn – a fresh application needs to be made. Utilisation of invoice finance and overdraft facilities can fluctuate up to the prevailing agreed maximum limit throughout their terms.

6.5 Payment of the EFG Guarantee Premium

6.5.1 Introduction

The EFG Guarantee Premium is the amount of money the Borrower pays to BIS as a contribution towards the costs of Government providing the scheme rather than to cover the cost of the risk.

The scheme is far from self-financing. The availability of the guarantee is deemed to have made the difference between the Borrower not being able to obtain a loan and being able to obtain a loan – i.e. a binary decision. In return for Government providing the means (i.e. the guarantee) for the Lender to say “Yes” to the Borrower when they would have otherwise said “No” the Borrower pays a contribution.

Please note that in July 2011 CfEL appointed a new Premium Collection Agency (“PCA”) for both the EFG and SFLG schemes. This PCA has put in place a series of systems and processes intended to simplify and automate collection arrangements. As a result, a revised guidance note on these collection arrangements has been circulated to Lenders.

The Guidance Note on Revised Premium Collection Arrangements for SFLG and EFG Schemes (Revised in February 2012) is available from CfEL on request.

Please also refer to section 5.3.6 and Appendix 9.3 for details on the Premium Payment Schedule.

6.5.2 Premium Value

The Premium payable to BIS is 2% per annum, payable quarterly in advance, on the outstanding balance of the EFG loan (or on the total EFG facility limit for Type-E Overdraft Guarantee or Type-F Invoice Finance Guarantee).

This amount will be set out in the Premium Payment Schedule accompanying the Scheme Facility Letter. The documentation will explain how much is due and the timing and amount of each quarterly payment.

6.5.3 Payment Arrangements

An independent PCA is contracted to collect all Premiums on behalf of BIS by direct debit. The Direct Debit Mandate is available from the Web Portal.

The first direct debit is collected within a month of draw down (see section 6.5.4 below). It is essential that the Direct Debit Mandate has been completed and signed before draw down takes place. The original signed Direct Debit Mandate is to be sent to the branch of the relationship bank for processing. It is recommended that if the Lender is not the relationship bank that a copy of the Direct Debit Mandate is also kept on file.

**Premium Refunds**

Guarantee Premiums are collected quarterly in advance and are not reimbursed in the eventuality that the facility is not made available for the full duration of the relevant quarter, i.e. no refunds are available where a facility’s duration in months is not divisible by three, or where an early settlement means that the period covered by the quarterly premium will extend beyond the date on which the facility is repaid.

**Premium References in DDIs**

Lenders commonly use the loan reference number as part of the Direct Debit Mandate reference. CfEL have been advised that the direct debit system cannot handle the “+”, which forms a part of an EFG reference number, as generated by the Web Portal (e.g.: “24GATHG+01”). It is suggested that the”+01” suffix is dropped when using the loan reference on the Direct Debit Mandate.

6.5.4 Payment Timetable

**The first Premium payment**

The first Premium payment is made approximately one month following draw down. The current process is as follows:

* Drawdown is made and the Lender sends the original Direct Debit Mandate to the Borrower’s bank (which may be the same organisation).
* At the start of each week the PCA runs a report from the EFG Web Portal which advises which facilities have been granted the previous week. The PCA matches the Direct Debit Mandates received to the newly guaranteed facilities on the Web Portal.
* The PCA then verifies the information, and the Premium payment occurs three weeks after the match has been made. Generally, the whole process takes about 4 weeks.
* For example, if a loan is guaranteed on the portal on Monday day 1, the PCA will extract the portal (schedule) information the following week, match the Direct Debit Mandate to the Premium Payment Schedule extract over the following 3 weeks or so, and the Premium is collected at the earliest opportunity – but generally on Tuesday day 30. Initial Premiums are always taken on a Tuesday.

**The second Premium payment**

The second payment is on the 14th of the month, on the fourth calendar month following drawdown.

**The third and all subsequent payments**

The third and all further Premium payments are made on the 14th of the month, exactly 3 months following the previous payment.

**Rescheduling facilities**

* Lenders notify BIS of the rescheduling of loans via the Web Portal.
* On the first working day of each month the PCA runs a report which details all rescheduled loans. Old reschedules are deleted and new schedules are then established.
* Note that rescheduling is only possible for changes to Premiums in the following month (this is clearly highlighted on the Web Portal).
* For example, if a Lender enters a reschedule on the 2nd of the month for a payment on the 14th of the month, this will not be actioned until the 14th of the following month.

6.5.5 Non-Payment of the Premium

In the event of a Borrower failing to make the direct debit payment:

* If the Borrower fails to make the first Premium payment, the guarantee is not valid. Therefore, it is imperative from the Lender’s perspective that this first payment is honoured.
* If a subsequent Premium payment is missed, the Lender (via the designated point of contact for non-payment of Premiums) will be told in writing within 10 business days by the PCA that the Borrower has failed to make a payment. Note that the PCA will contact the Lender on one occasion only to inform of a missed payment.
* When a Premium payment is missed, in order to keep the guarantee active, the Lender can make a Premium payment on behalf of the Borrower and then reclaim the payment from the Borrower. The Premium payment should be paid within twelve weeks of the date the original Premium was due (i.e. before the next quarterly payment is due) or, if the EFG facility is for 1 year duration or less, the overdue Premium must be paid within 6 weeks.
* If the overdue Premium payment has not been made within this timeframe, the Lender has a further 14 weeks to remedy the situation. Failure by the Lender to act at the 6 month point after the original due date of the guarantee Premium will result in the Government guarantee for the EFG facility automatically expiring.

There is a fundamental principle in the operation of EFG that the provision and continuing validity of the guarantee is conditional on the Premium being paid. The Lender’s ability to benefit from the guarantee is dependent upon the Borrower paying the Premium. For this reason the Lender may step in and pay the premium on the Borrowers behalf in order to be certain of the continuity of the Guarantee.

The timeline for making-up any missed Premium payment is a concession intended to assist the Lender rather than a justification for being in arrears (which is contrary to the fundamental principle above). Therefore, there is a requirement to make up the arrears before settlement of a Demand.

6.5.6 Further Notes on Premium Payments

* When a Lender has more than one customer which has missed the Premium payment then technically a separate cheque should be issued for each missed Premium. However, the PCA will accept cheques that aggregate overdue Premiums from more than one Borrower so long as any such payment is accompanied by a list breaking the payment down into the individual amounts. Note however that payments relating to “Legacy SFLG”, “New SFLG” and EFG must not be mixed. Separate payments are required for each category of guarantee.
* If the Premiums are not paid, the guarantee lapses after 6 months, and this includes scenarios where the Lender or Borrower has cancelled a direct debit in error. The direct debit should only be cancelled if:
  1. there is a Claim to BIS on the guarantee;
  2. the loan has been repaid early; or
  3. the Lender has decided that the guarantee is no longer appropriate.
* A reconciliation of Premiums actually collected compared with those due to be collected is performed monthly by CfEL. This process includes the issuing of exception reports to any Lender for which anomalies have been identified.

6.5.7 Direct Debit Indemnities

It is the Lender’s responsibility to ensure that the Premium Schedule is up-to-date. Inaccurate schedules may result in incorrect payments being made under the direct debit system. The Lender must also ensure that the direct debit is cancelled at the end of the loan period.

Where the Borrower pays too much Premium as a result of Premium Schedules being out-of-date, the Borrower will be entitled to raise an indemnity claim against the Lender. The Lender may then enter a dialogue with CfEL with regards to any refund.

1. EFG Demands and Recoveries

7.1 Overview

The following table outlines the key stages in the Demands and Recoveries process.

A summary of the process, and how it compares to SFLG, is provided in section 7.6.

7.2 Key Stages in the Demands and Recoveries Process

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* Demand on the Borrower is defined as the date on which the Lender makes Formal Demand in writing to the Borrower for repayment of the outstanding borrowing (this does not include periods of negotiation prior to the Lender issuing Formal Demand).
* The date of Demand on the Borrower must be notified on the EFG Web Portal within 10 business days of the Demand being made.
* The amount entered on the Web Portal should ideally be the total outstanding capital that is owed on the EFG-backed facility, as stated in the Demand Letter. However, if the Lender’s normal practice is to aggregate capital and interest (and in some circumstances, fees) to give a single figure on the Demand Letter, or to aggregate amounts owing on multiple facilities, then this is the figure that should be recorded on the Web Portal at this stage. The key point here is that to assist with any subsequent audit of the facility by the External Auditor, the figure entered on the Web Portal as the Demand on the Borrower (“Lender Demand”) must be exactly the same as the Lender Demand figure as stated on the Demand Letter.
* Some smaller lenders do not issue Formal Demand letters to borrowers but instead issue a Letter of Termination. Any such letter should be treated as the Formal Demand on the Borrower for the purposes of the EFG process.
* Continued payment of the Premium is not required once a Demand has been made on the Borrower.
* Following Demand on the Borrower, the Lender’s normal practice in terms of interest charging should continue. For example, if it is the Lender’s normal practice to charge default interest following Demand on the Borrower, then it should continue to do so.
* Section 11.3 of the Web Portal Manual v.1 addresses how to record Demand on the Borrower on the Web Portal.



**Overriding Principles**

* **The existence of the EFG guarantee does not reduce the liability of the Borrower in terms of any outstanding indebtedness to the Lender. The Borrower is liable for 100% of the outstanding EFG exposure**. Therefore, Lenders should pursue Borrowers for repayment of all outstanding EFG exposure as per normal recoveries procedures.
* The EFG guarantee is provided to the Lender (not to the Borrower) to provide security cover in the event that the Lender is unable to recover full repayment from the Borrower and is left with an outstanding “bad debt”. It should be made clear to the Borrower that the EFG guarantee does not protect the Borrower from liability under the remaining exposure, nor does it “step in” to repay or reduce exposure on behalf of the Borrower.
* Where only EFG exposure exists (as all other Lender exposure has been repaid) and security remains available, the Lender should pursue such security in order to reduce or repay outstanding EFG exposure. The only exception to this rule is if the remaining security relates to a charge over a Principal Private Residence (PPR), which should not be pursued.



**Practical Application**

1. **Realisations from secured (i.e. formally charged) business or personal assets in relation to EFG exposure (i.e. “Linked Collateral”)**:

Pursue as per normal Lender procedures on repayment and recoveries of charged business or personal assets. This will include:

* 1. For **unincorporated businesses**, pursue security realisations from charged business or personal assets or from third party security or guarantees. No charge over a PPR can be in place for security in support of an EFG; and,
  2. For **limited companies,** pursue security realisations from business or personal assets in relation to Personal Guarantees (if applicable). For example, from debentures, fixed asset charges and mortgages, as well as any other standard business related security.

1. **Realisations from secured (i.e. formally charged) business or personal assets in relation to other Lender commercial debt:**

* The Lender should follow their normal security realisation procedures in relation to security charged in support of other Lender commercial debt.
* If all Lender commercial debt has been repaid from security proceeds and only EFG debt remains, surplus security proceeds should be used to repay outstanding EFG debt. The only exception to this rule is if the outstanding security proceeds relate to proceeds from the sale of a PPR. In this instance, these funds cannot be used to repay EFG exposure and should instead be returned to the Borrower (see guidance below on prohibition on proceeds from sale of a PPR for EFG).

1. **Recoveries from unsecured business or personal assets / any other unsecured recoveries,** **including:**

* Any repayments (lump sum, ad-hoc or regular repayments) made to the Lender on a voluntary basis by the Borrower;
* Any payments made to the Lender following legal proceedings against the Borrower, including:
  + - any bankruptcy or insolvency proceedings (including Individual or Company Voluntary Arrangements); and,
    - The proceeds of enforcement action against the Borrower which the Lender pursues towards recovery of the debt.

1. **Recovery procedures against unsecured sole traders and partners and / or Guarantors in relation to EFG exposure:**

* It is recognised that Lenders will usually pursue sole traders, partners and guarantors where personal liability exists for outstanding indebtedness.
* Pursue as per normal Lender procedures on recoveries where personal liability of the Borrower exists, including enforcement procedures where to do so is in-line with the Lender’s normal practice for recoveries.
* Lenders must observe that EFG rules strictly prohibit the pursuit or application of sale proceeds from a PPR to repay EFG exposure.
* Where a charge over a PPR exists in relation to other Lender exposure, the Lender should pursue funds from the sale of the PPR as per normal procedures BUT in the event that funds are realised from the PPR and other Lender exposure is fully repaid, if a surplus of proceeds remains, this surplus CANNOT be used to reduce any outstanding EFG exposure and the surplus proceeds should be returned to the Borrower.
* It is recognised that this is a distortion of normal commercial practice for Lenders but is a consequence of the prohibition of PPR related funds being used to repay EFG exposure. The EFG Legal Agreement makes it clear that a Lender cannot take into account any funds received, recovered or realised from any PPR when calling upon any guarantee, indemnity or other security provided by an individual as a means of securing the EFG facility.
* In the event that a property is used both as PPR and a business location (such as in a flat above a shop) and there is one single title deed covering both properties, as the property is the Borrower’s PPR then it is “Excluded Residential Security”. As such, the Lender cannot call upon it in the course of the security and recoveries process specific to the EFG backed loans. The Lender can pursue such a property in relation to any other Lender exposure.
* A Borrower with personal liability may, in exceptional circumstances, wish to make a voluntary settlement in respect of the outstanding EFG-backed debt from proceeds of a PPR sale. **For the avoidance of doubt, where EFG debt is held, the Lender must confirm to the Borrower that no such payment is permissible under EFG rules.** It is recognised that this is likely to represent a deviation from the Lender’s normal realisation and recoveries practice but is in place to reflect the prohibition on acceptance of PPR security (or proceeds arising from sale of a PPR at the recoveries stage).
* In the event that the only asset available to a Borrower with personal liability or Guarantor is a PPR and the only outstanding debt relates to EFG, the Lender would not be expected to pursue the Borrower / Guarantor to bankruptcy.
* Where other Lender debt is also outstanding and the Lender wishes to pursue repayment of this other outstanding debt via a charging order over the PPR and / or bankruptcy proceedings against the individual, the decision whether or not to do so is a matter for the Lender in accordance with their normal practice. However, if action is taken, the outstanding EFG exposure must remain out of scope.

1. **Use of Debt Collection Agents**

* Where it is the Lender’s normal commercial practice to use the services of a Debt Collection Agent (“DCA”) it should continue to do so. The DCA needs to be informed with regards to the prohibition on using PPR proceeds to repay EFG.

1. **Sale of Outstanding Debts to a Third Party**

* Note that if a Lender sells any outstanding EFG debt to a DCA or any other third party, the proceeds received should be classed as a recovery and any such proceeds should be used to reduce outstanding EFG exposure.

1. **Cessation of Recovery Procedures**

* The Lender should follow its normal commercial practices in terms of recovery and enforcement procedures. This includes cessation of pursuit of Borrowers where no further repayment is likely or possible, as per normal procedures. To assist audit, a file note should be made noting the commercial justification for the decision not to continue pursuing recovery.

1. **Recovery Costs**

* Lenders are permitted to deduct from the recovery proceeds all reasonable costs incurred in realising the value of the recovery.

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**Making a recovery from an EFG Borrower may not automatically lead to a recovery to the Scheme. The following steps show how to apportion recoveries in accordance with Schedule 2 of the EFG Legal Agreement:**

**Step 1 – Categorise Debt**

* **Divide the outstanding Lender exposure into EFG Debt and non-EFG Debt (“Commercial Debt”).**
* **Where there is Commercial Debt, categorise that debt into either:**
  + **Commercial Debt issued before or simultaneous to the EFG Debt; and / or,**
  + **Commercial Debt issued after the EFG Debt.**

For practical purposes, “Commercial Debt issued simultaneous to the EFG Debt” means where the new Commercial and EFG Debt were issued as part of the same funding package to the Borrower. We would anticipate that the facility letter for each would have the same or very similar date even if drawdown does not occur at the same time. Typically, funding lines will be “marked as available” on or around the same date as the EFG Debt – although CfEL reserves its discretion to examine specific cases on an individual basis.

Where Commercial Debt is offered (or existing limits are increased) alongside EFG Debt, it is the net amount of such new or increased facilities which is treated as simultaneous debt for the purposes of the recovery provisions.

**Step 2 – Apply Proceeds from EFG Linked Collateral**

* “Linked Collateral” is any new security that is specifically listed in the EFG Facility Letter.
* Any recoveries from Linked Collateral must be used to repay EFG Debt first.

***Notes / Exceptions***

* *Where the Linked Collateral was also granted in connection with the simultaneous provision by the Lender of Commercial Debt, the proceeds from the Linked Collateral may be used to discharge the simultaneous Commercial Debt (but not any prior dated Commercial Debt) in priority to the EFG Debt.*
* *Under such circumstances the priority order will be: 1) Commercial Debt issued simultaneously to the EFG Debt; 2) EFG Debt; and 3) other Commercial Debt.*
* *Where EFG Debt has been fully repaid using Linked Collateral, and there is a surplus, the Lender may apply the surplus to Commercial Debt however it sees fit.*

**Step 3 – Apply Priority Rules to Outstanding Debt**

* **Apply priority rules to the remaining recovery funds and outstanding debt:**
  + **Where there is only EFG Debt then all of the proceeds will apply to the EFG Debt (where permitted).**
  + **Any Commercial Debt issued prior or simultaneous to the EFG Debt ranks before EFG Debt for receipt of remaining recovery proceeds.**
  + **If prior or simultaneous Commercial Debt has been fully repaid and there remains a surplus of recovery funds, this surplus should be split (pro-rata) between any remaining EFG Debt and any Commercial Debt issued after the EFG Debt.**
  + **To undertake this pro-rata split of the remaining recovery funds, use the Recovery Formula**

)

(

A

x C

A+B

Where:

* + A is the current outstanding value of EFG Debt
  + B is the current outstanding value of Commercial Debt
  + C is the value of remaining recovery funds available
  + Deduct the appropriate proportion of remaining recovery funds from the outstanding EFG balance to give a reduced outstanding EFG balance.

***Notes / Exceptions***

* *PPR funds (whether arising through the enforcement of security or otherwise) are never permitted to be applied to an EFG Debt.*
* *For the avoidance of doubt, having realised funds attributable to a PPR and applied it to Commercial Debt, any surplus proceeds thereafter should be returned to the owner of the PPR and not applied to EFG Debt.*
* *Where a Lender is applying recoveries from a) PPR and b) other (non-PPR) assets to Commercial Debt, Lenders must follow their normal procedures in relation to the order of application of the PPR and the non-PPR assets.*
  + *If there is Commercial Debt that a) is backed by a specific legal charge (for example, a chattels mortgage); and b) the charge does not include an “all monies and liabilities” clause then, in such circumstances, the related Commercial Debt should be repaid in the first instance with any surplus monies thereafter, if any exist, to go to the Borrower.*
  + *Where the Borrower has a prior (to EFG debt) overdraft then the value of the “prior debt” is up to a maximum of the overdraft limit at the time that the EFG was offered. If at default, the balance on the overdraft is higher than the limit (prior to EFG being granted) and / or the overdraft limit has been subsequently increased, then this additional overdraft balance (or limit, if limit has been increased) ranks on an equal basis to EFG debt in terms of priority for receipt of recovery proceeds. All overdraft exposure up to the original overdraft limit (when EFG facility was granted) has priority over EFG for receipt of recovery proceeds.*

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The EFG provides the Lender with a guarantee equivalent to 75% of the outstanding value of any individual facility, after recovery proceeds have been applied (the “Guarantee Rate”), subject to the Annual Claim Limit.

**Process**

* The Lender should make each Claim on the Guarantee individually on the EFG Web Portal. Note that the value recorded on the EFG Web Portal should be 100% of the outstanding EFG balance (after application of recovery proceeds if appropriate) and should not be reduced to reflect the 75% of the EFG guarantee at this stage, as the EFG Web Portal automatically applies the 75% to the figure entered.
* The Claim on the Guarantee should not include any interest that has accrued and which is outstanding on the EFG facility (save where the EFG facility is either an eligible overdraft or invoice finance / factoring facility in which case interest which has accrued prior to the earlier of the date on which the Lender makes Demand for repayment on the Borrower and the scheduled expiry date of the facility may be included).
* Where a defaulting EFG facility has any form of Business Insurance (“BLRI”) linked to the facility, any payments received under the insurance should be claimed and applied to the outstanding balance as a recovery prior to any Claim on the Guarantee. Any cancellation costs or other charges relating to the insurance cannot be added to the amount of the Claim.
* If the Lender chooses to place recovery funds from Linked Collateral in a suspension or impersonal account prior to making a Claim on the Guarantee, such recoveries should not be applied to the outstanding balance of an EFG facility before making a Claim. When such funds are subsequently released, they should be treated as any other post-claim recovery (as described in Step 6 below).
* When a debt restructure is agreed between the Lender and the Borrower, a Claim may be made where, following demand on the Borrower, any potential restructuring would not be expected to result in repayment of all (or significantly all) of the outstanding amount. A Claim can also be made once a debt has been restructured for the full outstanding amount but the Borrower subsequently defaults and demand is, again, made on the Borrower.
* Where the restructuring is a change to the repayment profile but not the total anticipated repayment, then the loan should continue as normal. The EFG Web Portal should be used to reflect any changes in the structure of the debt (using the “Change Amount or Terms” screen). If a restructure follows Demand on the Borrower, and the total anticipated repayment is for the full outstanding amount, then the status of the facility should be changed back to “Guaranteed”.
* If the Lender believes that a full repayment of the outstanding amount is less certain than originally envisaged, but still realistically possible, a Claim should not be made. However, a Claim may be made if the Lender does not believe that the Borrower has the capacity to fully repay the debt under the original or restructured terms – as evidenced by normal commercial procedures.

**Timing Rules for Making a Guarantee Claim**

* A Claim on the Guarantee must be made within 6 months of completion of the recovery process or 24 months of Lender Demand, whichever is the sooner.
* Note that a Claim on the Guarantee is not to be a substitute for normal recovery procedures. Where no security is available a Lender should follow its normal recoveries processes, and may then make a Claim on the Guarantee. The value of the Claim on the Guarantee may differ to the value of the Demand on the Borrower, which may include interest payments and fees. Moreover, capital repayments may have been received in the intervening period.
* In the following example the Lender has attempted recovery for one month before stopping (and has made a note of the commercial justification for ceasing the process). The Lender then has a further 6 months in which to make a Claim on the Guarantee.
* In the following example, the Lender attempts recovery for 10 months, records the termination of the recovery effort, and can, therefore, make a claim any time before 16 months.
* Where the recovery process remains incomplete 18 months after Formal Demand has been made on the Borrower by the Lender, then the Lender can, at this point, make a claim to BIS for 75% of the outstanding principal amount of the EFG balance.
* Although a Claim is made at this point, the Lender is expected to continue their recovery procedures thereafter (subject to normal commercial practice).

**Demand Invoice**

* The Demand Invoice is the document via which the Lender formally seeks payment from CfEL for all of the Claims on the Guarantee which have been recorded on the Web Portal during the preceding quarter.
* Claims may be made on a quarterly basis, on quarters ending 31st March, 30th June, 30th September and 31st December. To make a claim, Lenders must forward a hard copy of the Demand Invoice (and Recoveries Statement, where applicable) to CfEL at the end of the quarter reflecting activity recorded on the Web Portal over the period.
* Each Demand Invoice should be presented on the Lender’s letterhead or other official stationery and should contain the following information:
  + The date on which it is being submitted
  + A unique reference number assigned by the Lender
  + The period / quarter to which it refers
  + A name and contact details for queries
  + For each facility against which Demand is being made:
    - the loan reference number
    - the business name
    - the amount being claimed
* The total number and value of the Demands listed on the invoice
* Only one Demand Invoice may be submitted for each quarter and should be submitted as soon as possible after the end of the quarter to which it refers. Any EFG facilities omitted from a Demand Invoice in error should be included on the following quarter's Demand Invoice.
* The maximum amount claimable in respect of those EFG facilities offered in any one scheme period is the Annual Claim Limit for the Lender in respect of that period.

**Settlement of Demand**

* CfEL will advise the Lender of the settlement of each individual EFG facility by changing the status of the loan record on the Web Portal from "Demand against Guarantee" to "Settled".
* CfEL will make payment to the Lender within 30 days of receipt of the Demand Invoice. Demands and Recoveries are “netted off” each quarter by the Lender and BIS will make a payment within 30 days to the Lender for the net amount. In the event that recoveries are higher than claims in any one quarter, the Lender should send a cheque for the difference, payable to “BIS”.

**Web Portal**

* Section 12.4 of the Web Portal Manual v.1 addresses how to record Claims on the Guarantee on the Web Portal.
* The Web Portal enables each Lender to access details of their on-going utilisation of their Annual Claim Limit in respect of any annual scheme period.



**Further Recoveries**

* Once a Claim on the Guarantee has been made the Lender is still obliged to be mindful of further potential recoveries. Whilst there is no backstop date for recoveries to be made, Lenders should apply their normal commercial judgement to decide when it is appropriate to cease recovery activity.
* If further recoveries are made after settlement of the Claim, Lenders should apply the same apportioning rules as described in Steps 2 and 3 above.
* For recoveries made subsequent to the Guarantee Claim, the following Recovery Formula should be used:

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A

x 75%

x C

A+B

Where:

* + - A is the outstanding value of EFG Debt at the time of the Guarantee Claim
    - B is the current outstanding value of Commercial Debt
    - C is the value of remaining recovery funds
    - The resulting balance from the Recovery Formula is the amount due to BIS as a recovery refund
* Note: Any interest (on Commercial Debt and EFG Debt) accrued after a Claim has been made on the EFG guarantee, CANNOT be deducted from any subsequent recovery proceeds.
* If, after applying these apportioning rules, a refund is due to the Secretary of State, this recovery amount should be included on the next Recoveries Statement.

**Regular Recovery Plans**

* It is recognised that there will be situations where repayment programmes may involve very small monthly repayments. To help reduce administration, where small regular payments are concerned, it is not necessary to update the Web Portal monthly and make quarterly submissions in the Recoveries Statement. Instead, repayments may be aggregated together for submission with less frequency, but preferably at least once per year.

Recoveries Statement

* The “Managing Recoveries” screen within the Web Portal will assist in calculating the correct amount due to the Secretary of State. Repayment details should be recorded on the Web Portal for each EFG facility and, then, on a quarterly basis, repayments across the Lender’s whole portfolio should be entered onto the Recoveries Statement.
* The Recoveries Statement is the document on which the Lender summarises the amounts due to the Secretary of State arising from any recoveries arising from previously settled Demands and accompanies payment of those Recoveries to the Secretary of State.
* Each Recoveries Statement should be presented on the Lender’s letterhead or other official stationery and should contain the following information:
* The date on which it is being submitted;
* A unique reference number or other identifier assigned by the Lender;
* The quarter to which it refers; and,
* A name and contact details for queries.
* For each EFG facility against which a recovery has been made and payment is due to the Secretary of State:
* the loan reference number;
* the business name; and,
* the amount recovered.
* The information on the Recoveries Statement should be consistent with the information already entered on the EFG Web Portal in connection with the facilities affected. The total number and value of the recoveries should be listed on the Recoveries Statement.
* Only one Recoveries Statement may be submitted for each quarter and should be submitted as soon as possible after the end of the quarter to which it refers. Any EFG facilities omitted from a Recoveries Statement in error should be included on the following quarter's Recoveries Statement.
* Please note that more than one recovery can be made per EFG facility.
* In transactional terms funds recovered are netted off from the value of Demands for which settlement is required.
* Following any recovery, update the Web Portal status to “Recovered”. CfEL will then update the Web Portal status to “Realised”.

**Incorrect Calculations and Losses**

* If the Lender claims the incorrect amount of money under the EFG guarantee then the Lender must repay the money as soon as reasonably practical if it has received an overpayment.
* If the Lender did not claim enough money because of an administrative mistake, the scheme will pay the full amount due as soon as reasonably practical.
* The scheme cannot be held responsible for any other loss or disadvantage the Lender may suffer as a result of being a member of the scheme.

7.3 Additional Notes for EFG Overdraft Guarantee (Type-E)

The maximum guarantee liability payable by the Government will be based upon the outstanding balance on the EFG overdraft facility or the maximum EFG Overdraft Guarantee Facility limit, whichever is the lower.

**Example**

* Lender overdraft facility limit of £50k, EFG Overdraft Guarantee Facility limit of £25k, total facility limit of £75k.
* Outstanding balance is £65k overdrawn. Borrower goes into default and no further debits are allowed on the overdraft account. Against outstanding balance of £65k overdrawn, the Lender overdraft is fully utilised at £50k and the EFG overdraft facility is utilised at £15k.
* Following realisation and application of security proceeds, maximum claimable amount under the guarantee is the outstanding balance of £15k (and not the £25k EFG limit).

Following default, any funds subsequently credited to the overdraft account (other than security realisation proceeds) are to be credited to reduce any outstanding EFG overdraft exposure first. Credit funds are not to be channelled to reduce the Lender overdraft first.

In the event of Borrower default and the Lender refusing to honour any further debits to the overdraft account, any interest or charges accrued thereafter on the total outstanding overdraft balance CANNOT be added to the EFG portion of the overall overdraft, even if headroom exists between the overdraft balance and the EFG limit.

For the avoidance of doubt, only interest which has accrued prior to the earlier of the date on which the Lender makes Demand for repayment on the Borrower and the scheduled expiry date of the facility may be included in any Claim on the Guarantee. No charges can be claimed at any time.

Where any interest (or charges) has been applied after such a date, the Lender should deduct any interest and charges which may have been debited to the EFG overdraft when making a Claim under the Guarantee. Interest can still be applied in terms of the outstanding balance owed by the Borrower, but the Lender will not be able to claim for this under the EFG. This will be examined as part of the auditing of EFG Demands.

CfEL would not expect to see any debits to the EFG overdraft resulting from repayment of other Lender facilities, for example, ad hoc lump sum repayments to term loans. Normal business transactions are allowed.

In the event of Borrower default, a reduction in the Lender’s overall exposure to the Borrower (for example, repayment of the outstanding balance on a term loan) via debits to the EFG portion of the overdraft current account (other than normal day to day transactions) should not be seen.

7.4 Worked Examples of EFG Default Scenarios

**SCENARIO ONE**

***Recovery before a Claim on the Guarantee***

Outstanding EFG Debt (capital only) at default: £20,000

Outstanding Commercial Debt at default:

* £60,000 term loan issued at same time as the EFG Debt

Security held and funds subsequently realised by the Lender:

* Charge over machinery (all monies) in relation to the term loan – which is sold for £40,000 before the Lender makes a Claim on the Guarantee

**Step 1 – Categorise Debt**

* EFG Debt exposure is £20,000
* Commercial Debt exposure is £60,000, which is simultaneous debt

**Step 2 – Apply proceeds from Linked Collateral**

* Not applicable

**Step 3 – Apply Priority Rules to Outstanding Debt**

* £40,000 is realised from the charge over machinery
* This is used by the Lender to repay the Commercial Debt term loan, leaving £20,000 of Commercial Debt remaining

**Step 4 – Claim on the Guarantee**

* Lender is entitled to claim 75% x £20,000 = £15,000

**Step 5 - Apply Recoveries following a Claim on the Guarantee**

* Not applicable

***Summary***

Outstanding Commercial Debt: £20,000 (£60,000 - £40,000 recovery)

Outstanding Lender EFG Debt: £5,000 (£20,000 - £15,000 guarantee payment)

Government guarantee paid: £15,000

£40,000**SCENARIO TWO**

***Recovery before a Claim on the Guarantee (2)***

Outstanding EFG Debt (capital only) at default: £20,000

Outstanding Commercial Debt at default:

* £60,000 term loan issued before the EFG Debt

Security held and funds subsequently realised by the Lender:

* Charge over machinery (all monies) in relation to the term loan – which is sold for £70,000 before the Lender makes a Claim on the Guarantee
* The Borrower also volunteers to release £10,000 of equity in his house to help pay any outstanding debt

**Step 1 – Categorise Debt**

* EFG Debt exposure is £20,000
* Commercial Debt exposure is £60,000, which is debt issued before the EFG

**Step 2 – Apply proceeds from Linked Collateral**

* Not applicable

**Step 3 – Apply Priority Rules to Outstanding Debt**

* £70,000 is realised from the charge over machinery
* This is used by the Lender to fully repay the Commercial Debt term loan, leaving £10,000 of surplus funds
* The £10,000 is applied to the £20,000 EFG loan, leaving £10,000 EFG exposure
* Although the Borrower has offered to release equity in his home (PPR), any such funds cannot be applied to EFG debt, and the offer must be declined

**Step 4 – Claim on the Guarantee**

* Lender is entitled to claim 75% x £10,000 = £7,500

**Step 5 – Apply Recoveries following a Claim on the Guarantee**

* Not applicable

***Summary***

Outstanding Commercial Debt: £0 (£60,000 - £60,000 recovery)

Outstanding Lender EFG Debt: £2,500 (£20,000 - £10,000 recovery - £7,500 guarantee payment)

Government guarantee paid: £7,500

£10,000**SCENARIO THREE**

***Recovery before a Claim on the Guarantee (3)***

Outstanding EFG Debt (capital only) at default: £20,000

Outstanding Commercial Debt at default:

* £60,000 term loan issued before the EFG Debt

Security held and funds subsequently realised by the Lender:

* Charge over machinery (all monies) in relation to the term loan – which is sold for £50,000 before the Lender makes a Claim on the Guarantee
* Personal Guarantee in support of the EFG for £20,000 (Linked Collateral), which is realised before the Claim on the Guarantee

**Step 1 – Categorise Debt**

* EFG exposure is £20,000
* Commercial Debt exposure is £60,000, which was issued before the EFG

**Step 2 – Apply proceeds from Linked Collateral**

* The £20,000 Personal Guarantee is applied to the EFG, fully extinguishing the EFG exposure

**Step 3 – Apply Priority Rules to Outstanding Debt**

* £50,000 is realised from the charge over machinery
* This is used by the Lender to repay the Commercial Debt term loan of £60,000, leaving £10,000 outstanding exposure

**Step 4 – Claim on the Guarantee**

* There can be no Claim on the Guarantee as the EFG has been fully repaid by the Linked Collateral
* Total loss to the Lender is:
  + £10,000 on the Commercial Debt

**Step 5 – Apply Recoveries following a Claim on the Guarantee**

* Not applicable

***Summary***

Outstanding Commercial Debt: £10,000 (£60,000 - £50,000 recovery)

Outstanding Lender EFG Debt: £0 (£20,000 - £20,000 recovery)

Government guarantee paid: £0

£10,000**SCENARIO FOUR**

***Recovery before a Claim on the Guarantee (4)***

Outstanding EFG Debt (capital only) at default: £20,000

Outstanding Commercial Debt at default:

* £60,000 term loan issued before the EFG Debt

Security held and funds subsequently realised by the Lender:

* The Commercial Debt is supported by a charge (all monies) over commercial property. A recovery is made on the commercial property, realising £40,000
* A Personal Guarantee for £30,000 was also in place in support of the Commercial Debt (all monies). A recovery has been made from the Personal Guarantee for £30,000, deriving from sale proceeds from a Principal Private Residence

**Step 1 – Categorise Debt**

* EFG exposure is £20,000
* Commercial Debt exposure is £60,000, which was issued before the EFG

**Step 2 – Apply proceeds from Linked Collateral**

* Not applicable

**Step 3 – Apply Priority Rules to Outstanding Debt**

* £40,000 is realised from the charge over commercial property. This is used by the Lender to repay the Commercial Debt term loan of £60,000, leaving £20,000 exposure
* £30,000 is realised from PPR. £20,000 of this is used to fully repay the outstanding exposure on the Commercial Debt
* The £10,000 remaining recovery may not be applied to the EFG and must be returned to the Borrower

**Step 4 – Claim on the Guarantee**

* Lender is entitled to claim 75% x £20,000 = £15,000

**Step 5 – Apply Recoveries following a Claim on the Guarantee**

* Not applicable

***Summary***

Outstanding Commercial Debt: £0 (£60,000 - £40,000 recovery - £20,000 PPR recovery)

Outstanding Lender EFG Debt: £5,000 (£20,000 - £15,000 guarantee payment)

Government guarantee paid: £15,000

£20,000

**Note:** In the above example, if the £30,000 PPR recovery is applied before the £40,000 machinery recovery, then there would be no return of funds to the Borrower. It is envisaged that Lenders would normally apply non-PPR recoveries before a PPR recovery. The Lender must apply its normal commercial practice, but where PPR recoveries are applied first, the use of such policy should be recorded in file notes.

**SCENARIO FIVE**

***Recovery before a Claim on the Guarantee (5)***

Outstanding EFG Debt (capital only) at default: £20,000

Outstanding Commercial Debt at default:

* £30,000 term loan issued after the EFG Debt

Security held and funds subsequently realised by the Lender:

* Charge over property (all monies) in relation to the Commercial Debt – which is sold for £40,000 before the Lender makes a Claim on the Guarantee

**Step 1 – Categorise Debt**

* EFG Debt exposure is £20,000
* Commercial Debt exposure is £30,000, which was issued after the EFG

**Step 2 – Apply proceeds from Linked Collateral**

* Not applicable

**Step 3 – Apply Priority Rules to Outstanding Debt**

* £40,000 is realised from the charge over the property
* As the Commercial Debt was issued after the EFG Debt it has equal (pro-rata) priority to the EFG Debt for receipt of recovery funds
* The £40,000 is therefore applied pro-rata to the EFG Debt as follows:
  + ((A)/(A+B)) x C = ((20,000)/(20,000 + 30,000)) x £40,000 = £16,000
  + £20,000 outstanding EFG Debt less £16,000 leaves £4,000 outstanding on the EFG Debt
  + Repayment towards Commercial Debt is £24,000 (£40,000 - £16,000). Applying this £24,000 to the £30,000 Commercial Debt leaves £6,000 outstanding)

**Step 4 – Claim on the Guarantee**

* Lender is entitled to claim 75% x £4,000 = £3,000

**Step 5 – Apply Recoveries following a Claim on the Guarantee**

* Not applicable

***Summary***

Outstanding Commercial Debt: £6,000 (£30,000 - £24,000 recovery)

Outstanding Lender EFG Debt: £1,000 (£20,000 - £16,000 recovery - £3,000 guarantee payment)

Government guarantee paid: £3,000

£10,000

**SCENARIO SIX**

***Recovery following a Claim on the Guarantee (1)***

Outstanding EFG Debt (capital only) at default: £20,000

Outstanding Commercial Debt at default:

* £60,000 term loan issued before the EFG Debt

Security held and funds subsequently realised by the Lender:

* Charge over property (all monies) in relation to the Commercial Debt – which is sold for £70,000 after the Lender makes a Claim on the Guarantee

**Step 1 – Categorise Debt**

* EFG exposure is £20,000
* Commercial Debt exposure is £60,000, which was issued before the EFG

**Steps 2 – 3**

* Not applicable – no recovery before the Claim

**Step 4 – Claim on the Guarantee**

* Lender is entitled to claim 75% x £20,000 = £15,000

***Summary so far***

Outstanding Commercial Debt: £60,000

Outstanding Lender EFG Debt: £5,000 (£20,000 - £15,000 guarantee payment)

Government guarantee paid: £15,000

£80,000

**Step 5 – Apply Recoveries following a Claim on the Guarantee**

*Revisit Steps 2 – 3: Not applicable – there is no PPR or Linked Collateral*

*Revisit Step 4 – Apply Priority Rules to Outstanding Debt*

* £70,000 is realised from the charge over the property
* This is used by the Lender to fully repay the Commercial Debt term loan of £60,000, leaving £10,000 surplus recovery funds which can be used to reduce outstanding EFG Debt
* Of this £10,000, 75% needs to be refunded back to the scheme as its share of the recovery proceeds. To calculate the amount to be repaid to the scheme, calculate 75% of surplus recovery funds (i.e. £10,000 x 75%)
* £7,500 is, therefore, to be refunded to the scheme (the refund must always be lower than the amount claimed under the guarantee)
* The remaining £2,500 can be used by the Lender to reduce its outstanding EFG exposure

***Summary***

Outstanding Commercial Debt: £0 (£60,000 - £60,000 recovery)

Outstanding Lender EFG Debt: £2,500 (£20,000 - £15,000 guarantee payment - £2,500 recovery)

Government guarantee paid: £7,500 (£15,000 - £7,500 refund)

£10,000

**SCENARIO SEVEN**

***Recovery following a Claim on the Guarantee (2)***

Outstanding EFG Debt (capital only) at default: £20,000

Outstanding Commercial Debt at default:

* £60,000 term loan issued after the EFG Debt

Security held and funds subsequently realised by the Lender:

* Charge over property (all monies) in relation to the Commercial Debt – which is sold for £50,000 after the Lender makes a Claim on the Guarantee.

**Step 1 – Categorise Debt**

* EFG exposure is £20,000
* Commercial Debt exposure is £60,000, which was issued after the EFG

**Steps 2 – 3**

* Not applicable – no recovery before the Claim

**Step 4 – Claim on the Guarantee**

* Lender is entitled to claim 75% x £20,000 = £15,000

***Summary so far***

Outstanding Commercial Debt: £60,000

Outstanding Lender EFG Debt: £5,000 (£20,000 - £15,000 guarantee payment)

Government guarantee paid: £15,000

£80,000

**Step 5 – Apply Recoveries following a Claim on the Guarantee**

*Revisit Steps 2 – 3: Not applicable – there is no PPR or Linked Collateral*

*Revisit Step 4 – Apply Priority Rules to Outstanding Debt*

* £50,000 is realised from the charge over the property
* As the Commercial Debt was issued after the EFG it has equal (pro-rata) priority to the EFG Debt for receipt of recovery funds
* Of the £50,000 the amount repayable to the Secretary of State is calculated as follows:
  + ((A)/(A+B)) x C = ((20,000)/(20,000 + 60,000)) x £50,000 = £12,500
  + £12,500 x 75% = £9,375
  + The final guarantee settlement is therefore the original claim of £15,000 less refund of £9,375 = £5,625
  + The Lender can keep the remaining recovery funds (25% x £12,500 = £3,125) and apply it to its outstanding EFG Debt
* In addition, the Lender can also apply the outstanding balance of recovery funds (£50,000 - £12,500 = £37,500) towards repayment of its outstanding Commercial Debt

***Summary***

Outstanding Commercial Debt: £22,500 (£60,000 - £37,500 recovery)

Outstanding Lender EFG Debt: £1,875 (£20,000 - £15,000 guarantee payment - £3,125 recovery)

Government guarantee paid: £5,625 (£15,000 - £9,375 refund)

£30,000

**SCENARIO EIGHT**

***Recovery following a Claim on the Guarantee (3)***

|  |
| --- |
| Outstanding EFG Debt (capital only) at default = £110,000 (against limit of £150,000)  Outstanding Commercial Debt at default:   * An overdraft provided prior to the EFG facility with outstanding balance of £10,000 * A term loan provided subsequent to the EFG facility with outstanding balance of £30,000   Security held and funds subsequently realised by the Lender:   * Charge over machinery (all monies) which is sold for £40,000 after the Lender makes a Claim on the Guarantee |

**Step 1 – Categorise debt**

* EFG Debt exposure is £110,000
* Commercial Debt exposure is £40,000
  + £10,000 of which is prior debt
  + £30,000 is subsequent debt

**Steps 2 – 3:** Not applicable – the recovery is not made until after the Claim on the Guarantee

**Step 4 – Claim on the Guarantee**

* Lender is entitled to claim 75% x £110,000 = £82,500

***Summary so far***

Outstanding Commercial Debt: £40,000

Outstanding Lender EFG Debt: £27,500 (£110,000 - £82,500 guarantee payment)

Government guarantee paid: £82,500

£150,000

**Step 5 – Apply Recoveries following a Claim on the Guarantee**

*Revisit Step 2: Not applicable – there is no Linked Collateral*

*Revisit Step 3 – Apply Priority Rules to Outstanding Debt*

* Following the claim under the Guarantee, £40,000 is realised from the charge over machinery.
* This is used by the Lender to repay in full the outstanding overdraft of £10,000 leaving a surplus of £30,000
* Out of the surplus of £30,000 an amount is repayable to the Secretary of State – calculated as follows :
  + ((A)/(A+B)) x C= ((110,000)/(110,000 + 30,000)) x £30,000 = £23,571
  + £23,571 x 75% = £17,679
  + Refund payable to the Secretary of State = £17,679
  + The Lender can keep the remaining recovery funds (25% of the £23,571 = £5,892) and apply it to its outstanding EFG Debt
* The Lender can apply the balance of £6,429 (£30,000 - £23,571) towards repayment of the Commercial Debt term loan.

***Summary***

Outstanding Commercial Debt: £23,571 (£40,000 - £10,000 recovery - £6,429 recovery)

Outstanding Lender EFG Debt: £21,608 (£110,000 - £82,500 guarantee payment - £5,892 recovery)

Government guarantee paid: £64,821 (£82,500 - £17,679 refund)

£110,000

**SCENARIO NINE**

***Recoveries before and after a Claim on the Guarantee***

|  |
| --- |
| Outstanding EFG Debt (capital only) at default = £110,000 (against limit of £150,000)  Outstanding Commercial Debt at default:   * An overdraft provided prior to the EFG facility with outstanding balance of £30,000 * A commercial mortgage which was provided after the EFG facility with outstanding balance of £250,000   Security held and funds subsequently realised by the Lender:   * Charge over machinery (all monies) which is sold for £40,000 before the Lender makes a Claim on the Guarantee * A charge over a factory building to which the commercial mortgage relates (all monies) which is sold for £275,000 after the Lender makes a Claim on the Guarantee * A Personal Guarantee for £50,000 (taken when the EFG facility was provided) provided by the Managing Director of the business through which £40,000 is obtained (after the Lender makes Claim on the Guarantee) |

**Step 1 – Categorise Debt**

* EFG Debt exposure is £110,000
* Commercial Debt exposure is £280,000:
  + £30,000 on overdraft (prior debt)
  + £250,000 relating to a commercial mortgage (subsequent debt)

**Step 2 – Apply proceeds from Linked Collateral**

* Not applicable

**Step 3 – Apply Priority Rules to Outstanding Debt**

* The Lender applies the £40,000 realisation from the charge over machinery to repay in full the overdraft leaving a surplus of £10,000
* This surplus then needs to be applied pro-rata to the outstanding EFG Debt and Commercial Debt and is calculated as follows:
  + ((A)/(A+B)) x C = ((110,000)/(110,000 + 250,000)) x £10,000 = £3,060 (leaving £106,940 outstanding on the EFG Debt)
  + Repayment towards Commercial Debt = £10,000 - £3,060 = £6,940 (the Lender uses this towards repayment of the commercial mortgage: £250,000 - £6,940 = £243,060)

**Step 4 – Claim on the Guarantee**

* Lender is entitled to claim 75% x £106,940= £80,205

***Summary so far***

* Outstanding Commercial Debt: £243,060 (£280,000 - £30,000 recovery - £6,940 recovery)
* Outstanding EFG Debt: £26,735 (£110,000 - £3,060 recovery - £80,205 guarantee payment)
* Government guarantee paid: £80,205

£350,000

**Step 5 – Apply Recoveries following a Claim on the Guarantee**

*Revisit Step 2 – Apply proceeds from PPR – not applicable*

*Revisit Step 2 – Apply proceeds from Linked Collateral*

* The Personal Guarantee is Linked Collateral – therefore, 75% of £40,000 = £30,000 must be repaid to the Secretary of State and the remaining £10,000 can be retained by the Lender and applied to the EFG Debt
* Resulting EFG Debt is therefore £26,735 - £10,000 = £16,735 and resulting guarantee claim is £80,205 - £30,000 = £50,205

*Revisit Step 3 – Apply Priority Rules to Outstanding Debt*

* All of the £275,000 recovery from the charge over the factory building is to be apportioned between the EFG Debt and the Commercial Debt (as there remains no outstanding prior Commercial Debt against which it can be applied, the overdraft having already been repaid in full)
* Out of the surplus of £275,000 the amount repayable to the Secretary of State is calculated as follows:
* The amount owing on the EFG Debt in total is:
  + The guarantee (as paid earlier) £80,205
  + Less the recovery from the Linked Collateral (£30,000)
  + Plus the outstanding Lender EFG Debt £16,735
  + =A (in the formula) £66,940
  + ((A)/(A+B)) x C= ((66,940)/(£66,940 + 243,060)) x £275,000 = £59,382
  + 75% is repaid to the Secretary of State: 75% x £59,382 = £44,536 (the final guarantee balance is £50,205 - £44,536 = £5,669)
  + 25% is retained by the Lender: 25% x £59,382 = £14,845. This can be used to repay outstanding EFG Debt: £16,735 - £14,845 = £1,890
* The balance of recovery monies from the sale of the commercial property of £215,618 (£275,000 - £59,382) can be paid towards repayment the commercial mortgage:
  + £243,060 - £215,618 = £27,442

***Summary***

Outstanding Commercial Debt: £27,442 (£243,060 as above - £215,618 recovery)

Outstanding EFG Debt: £1,890 (£26,735 as above – 10,000 recovery - £14,845 recovery)

Government guarantee paid\*: £5,668

£35,000

\*Original claim of £80,205, less repayment from the Personal Guarantee of £30,000, less repayment from the commercial property of £44,536.

**Checking the Above**

The net result should be the same, whether recoveries are made before or after a Claim on the Guarantee. A way of checking complex claims after the guarantee is to calculate the same, as if all claims are made before the Claim on the Guarantee. This is demonstrated below using the above example.

**Step 1 – Categorise Debt**

* EFG Debt exposure is £110,000
* Commercial Debt exposure is £280,000:
  + £30,000 on overdraft (prior debt)
  + £250,000 relating to a commercial mortgage (subsequent debt)

**Step 2 – Apply proceeds from Linked Collateral**

* Apply the £40,000 Personal Guarantee to the £110,00 EFG Debt, leaving EFG Debt of £70,000

**Step 3 – Apply Priority Rules to Outstanding Debt**

* The Lender applies the £40,000 realisation from the charge over machinery to repay in full the overdraft leaving a surplus of £10,000
* This is added to the £275,000 recovery on the commercial mortgage, giving £285,000 surplus
* This surplus then needs to be applied pro-rata to the EFG Debt calculated as follows:
  + ((A)/(A+B)) x C= ((70,000)/(70,000 + 250,000)) x £285,000 = £62,344
  + EFG Debt of £70,000 less £62,344 gives £7,656 outstanding
  + Repayment towards Commercial Debt = £285,000 - £62,344 = £222,656.
  + Commercial Debt of £250,000 less £222,656 = £27,344

**Step 4 – Claim on the Guarantee**

* Lender is entitled to claim 75% x £7,656 = £5,742
* Outstanding EFG Debt is £7,656 less £5,742 = £1,914

***Summary*** *(some differences due to rounding)*

Outstanding Commercial Debt: £27,344 (£280,000 - £30,000 recovery - £222,656 recovery)

Outstanding Lender EFG Debt: £1,914 (£110,000 - £40,000 recovery - £62,344 recovery - £5,742 guarantee payment)

Government guarantee paid: £5,742

£35,000

7.5 Demands & Recovery Procedure – Flowchart





7.6 Key Differences in Demands and Recoveries Rules for EFG and SFLG Schemes

In the circumstances leading to the need to **make a Guarantee Claim**, Lenders must follow their **normal commercial practice**, subject to noting the following scheme-specific parameters:

| ***Criterion or Defining Characteristic*** | **Legacy SFLG** | **New SFLG** | **EFG** |
| --- | --- | --- | --- |
| *Defining Loan Offer Period for respective schemes* | Up to 30th November 2005  (NB loans Offered prior to 1st April 2003 subject to different Guarantee Rates) | Loans offered on or after 1st December 2005 | Loans and other facilities offered from 14th January 2009 |
| *Entitlement to add fees and / or charges to the outstanding loan balance for the purposes of the claim* | None | None | None |
| *Entitlement to claim interest* | Up to 9 months of accrued interest counted back from date of Guarantee Claim or date when Borrower ceased to meet interest payments, whichever is the shorter | Up to 6 months of accrued interest counted back from date of Guarantee Claim or date when Borrower ceased to meet interest payments, whichever is the shorter | None, except in respect of Overdraft and invoice Finance Guarantee Facilities (Types E and F), for which interest accrued prior to the earlier of Demand on the Borrower and the Facility Expiry Date may be included in the Guarantee Claim |
| *Entitlement to claim fixed rate break costs (where specified in the Facility Letter)* | Up to 1.25% of the outstanding capital balance per remaining year of the fixed interest rate | None | None |
| *Timeframe within which Claim must be made* | Within 12 months of Demand on Borrower | Within 6 months of Demand on Borrower | Within 24 months of Demand on Borrower. Claims may be made sooner where the recovery process has been completed, or after 18 months, if the process remains incomplete |
| *Basis of Guarantee Claim Calculation*  *(NB: The Web Portal performs calculation based on component variables input by Lender. Do not attempt to “mix” calculation on and off Web Portal)* | Outstanding Capital at Default  *Plus*  Up to 9 months accrued interest  *Plus*  Any eligible break costs  *All multiplied by*  The Guarantee Percentage  (75% from 1st April 2003, either 70% or 85% previously. Web Portal holds Guarantee Percentage information) | Outstanding Capital at Default  *Plus*  Up to 6 months accrued interest  *All multiplied by*  The Guarantee Percentage  (always 75%) | Outstanding Capital at Default  *Plus*  Eligible Interest (Types E and F only)  *All multiplied by*  The Guarantee Percentage  (always 75%) |
| *Web Portal Entry*  *(NB: This guidance intended specifically for staff familiar with the use of the Web Portal)* | Enter component variables of calculation separately as instructed. Web Portal automatically applies the applicable Guarantee Percentage and calculates Claim value | Enter component variables of calculation separately as instructed. Web Portal automatically applies the 75% Guarantee Percentage and calculates Claim value | Enter component variables of calculation (net of any security realisations, etc) as instructed. Web Portal automatically applies the 75% Guarantee Percentage and calculates Claim value |

When  **realising security and undertaking other recovery action**, Lenders must follow their **normal commercial practice**, subject to noting the scheme-specific parameters:

| ***Criterion or Defining Characteristic*** | **Legacy SFLG** | **New SFLG** | **EFG** |
| --- | --- | --- | --- |
| *Is it permissible to make a Claim while Security Realisation and Recovery actions are still underway?* | Yes | Yes | Yes, but only once at least 18 months have elapsed from the date of Demand on Borrower. (NB: If all Recovery actions have been completed in under 18 months then Claim may be made immediately) |
| *Is it permissible to deduct Security Realisation and Recovery costs from proceeds prior to entering the scheme Claim and / or Post-Settlement Recoveries process?* | Yes – All reasonable costs may be deducted from the proceeds received | Yes – All reasonable costs may be deducted from the proceeds received | Yes – All reasonable costs may be deducted from the proceeds received |
| *Are there any assets / recoveries, whether Charged or Uncharged, which are specifically excluded from consideration?* | Any security where the charge form does not have an “all monies and liabilities” clause  Any personal asset not used in the business (although if the Lender assumes ‘see through’ to the background assets of a sole trader when making an initial credit decision, all background personal assets are assumed to be used as part of the business) | Any security where the charge form does not have an “all monies and liabilities” clause  Any personal asset not used in the business (although if the Lender assumes ‘see through’ to the background assets of a sole trader when making an initial credit decision, all background personal assets are assumed to be used as part of the business) | Principal Private Residence |
| *Is the Lender permitted to deduct from proceeds any interest on an outstanding commercial debt which has accrued since the date of Claim on Guarantee before apportioning Post-Settlement Recovery proceeds?* | Yes | Yes | No |
| *Priority for Security Realisation and Recovery proceeds received*  *(NB: Web Portal performs calculation based on component variables input by Lender. Do not attempt to “mix” calculation on and off Web Portal)* | Lender Commercial Debt issued prior to or simultaneous with SFLG Debt ranks ahead of SFLG  Lender Commercial Debt issued after SFLG Debt ranks on an equal basis with SFLG Debt  However, prior to signature of the agreement migrating management of Legacy SFLG cases to the Web Portal, Lenders had and in the majority of cases exercised the right to request on a case by case basis that the ranking of subsequent Lender Commercial Debt be altered so that it ranked ahead of SFLG Debt  Remaining recoveries are then apportioned as for New SFLG (next column), except that in practice where the concession regarding the ranking of subsequent Commercial Debt has been invoked then B = 0 and thus those recoveries are attributable in full to the SFLG Debt.  The proportion of the recovery to be refunded to BIS is dependent upon the Guarantee Percentage applicable to the loan concerned.  (This is 75% in most remaining cases, but 70% or 85% in respect of loans Offered before 1st April 2003) | Lender Commercial Debt issued prior to or simultaneous with SFLG Debt ranks ahead of SFLG  Lender Commercial Debt issued after SFLG Debt ranks on an equal basis with SFLG Debt  Remaining recoveries are then apportioned pro-rata between the outstanding balances of the subsequent Commercial and SFLG Debts  The proportion of the recovery to be refunded to BIS is therefore determined by the formula:    **(A/(A+B)) x C x 75%**  Where:  A = outstanding SFLG exposure at Date of Guarantee Claim  B = outstanding subsequent Lender Commercial Debt at time of recovery  C = total recovered funds available | Note the importance of TWO distinctions:   1. Timing – whether recoveries were made prior or subsequent to a Guarantee Claim having been made; and, 2. Type – for each timing case, whether the recoveries arise from Linked Collateral or from other proceeds   **RECOVERIES MADE PRIOR TO GUARANTEE CLAIM**  **1 – From Linked Collateral**  Apply proceeds from Linked Collateral to EFG Debt except if there is also Commercial Debt issued simultaneously, in which case apply proceeds to linked Commercial Debt first with any surplus funds thereafter applied to EFG Debt  **2 – All other proceeds**  Lender Commercial Debt issued prior to or simultaneous with EFG Debt ranks ahead of EFG for receipt of recovery proceeds  Lender Commercial Debt issued after EFG Debt ranks on an equal basis  Recoveries are apportioned pro-rata between the outstanding balances of the subsequent Commercial and EFG Debts.  The proportion of the recovered funds attributable to reducing the outstanding EFG exposure is therefore determined by the formula:    **(A/(A+B)) x C**  Where:  A = outstanding EFG exposure at time recoveries are received  B = outstanding subsequent Lender Commercial Debt  C = total recovered funds available    After this apportionment has been made a Guarantee Claim should then be made for 75% of the remaining EFG exposure.  **RECOVERIES MADE AFTER GUARANTEE CLAIM**  **1 – From Linked Collateral**  Apply proceeds from Linked Collateral to EFG Debt except if there is also Commercial Debt issued simultaneously, in which case apply proceeds to linked Commercial Debt first with any surplus funds thereafter applied to EFG Debt. 75% of proceeds attributable to EFG Debt are to be refunded to BIS.  **2 – All other security realisation and recovery proceeds**  Lender Commercial Debt issued prior to or simultaneous with EFG Debt ranks ahead of EFG for receipt of recovery proceeds.  Lender Commercial Debt issued after EFG Debt ranks on an equal basis.  Recoveries are apportioned pro-rata between the outstanding balances of the subsequent Commercial and EFG Debts.  The proportion of the recovery to be refunded to BIS is therefore determined by the formula:    **(A/(A+B)) x C x 75%**  Where:  A = outstanding EFG exposure on which the Guarantee Claim was based  B = outstanding Lender Commercial Debt at time recovery was made  C = recovery funds available  After this calculation has been performed the refund due to BIS should be paid through the established quarterly Demand Invoice and Recoveries Statement process |
| *Web Portal entry*  *The Web Portal will calculate any refund due to BIS based upon data input by Lender*  *(NB: This guidance intended specifically for staff familiar with the use of the Web Portal)* | Enter component variables (i.e. B and C above, also interest and break costs) of calculation separately as instructed. Web Portal automatically applies the applicable Guarantee Percentage and calculates refund value | Enter component variables (i.e. B and C above, also interest) of calculation separately as instructed. Web Portal automatically applies the applicable Guarantee Percentage and calculates refund value | Enter component variables of calculation separately as instructed.   * Outstanding non-EFG Debt; * Post-settlement realisations excluding Linked Collateral; and, * Linked Collateral.   Portal automatically applies the applicable Guarantee Percentage and calculates refund value |

7.7 The Claim Limit

7.7.1 Claim Limit for Loans Offered up to 31 March 2011

The Lender can claim up to 75% of the outstanding principal amount of any individual EFG facility, subject to a “cap” on total claims arising from a Lender’s portfolio of 13% of 75%, i.e. 9.75%. The “portfolio” in this instance refers to all loans Offered within the specific EFG period. Period 1 runs from 14 January 2009 to 31 March 2010, and Period 2 from 1 April 2010 to 31 March 2011.

This overall cap arose from a need to comply with European State Aid rules, which require all Government guarantee schemes in the European Community to limit their worst case loss scenario to a net default rate of 13%.

**Definitions and Explanations**

* Annual Drawn Lending: The total value of lending undertaken within a defined period in connection with which the Lender may call upon the EFG.
* Guaranteed Percentage: The proportion of the principal amount of any guaranteed EFG facility which is protected by the EFG. Currently 75%.
* Gross Default Limit: The maximum default rate covered by EFG against any annual portfolio of drawn lending. Currently 13%.
* Annual Claim Limit: The total value of claims to BIS which may be made arising from defaults of EFG facilities made within the corresponding Annual Drawn Lending. The Annual Claim Limit is, therefore, linked to the year of lending and not to the year in which the claim arises.
* In numerical terms, the Annual Claim Limit is capped at:

*Guaranteed Percentage (75%) x Annual Drawn Lending x Gross Default Limit (13%)*

*or*

*9.75% of the Annual Drawn Lending*

**The Effective Guarantee Rate of EFG after Applying the Annual Claim Limit**

The following table demonstrates the effective guarantee rate of the EFG when the value of claims is restricted as a result of the Claim Limit.

Where a Lender’s EFG portfolio has a net bad debt rate (after recoveries) of 13% or less, the EFG will cover 75% of the loss. Thereafter the effective rate falls, to 48.75% where the net bad debt rate is 20%, to a minimum of 9.75% should there be a 100% net bad debt rate. The table uses as an example portfolio of EFG lending of £1m.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |  |
|  | EFG Guarantee Rate | 75% |  |  |  |  |  |  |
|  | Portfolio Claim Limit | 9.75% |  |  |  |  |  |  |
|  | EFG Portfolio Lending | 1,000,000 |  |  |  |  |  |  |
|  | Value of 9.75% | 97,500 |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |
|  | Bad Debt Rate on EFG Portfolio (net of recoveries) | 5.0% | 10.0% | 13.0% | 20.0% | 50.0% | 100% |  |
|  | Value of Net Bad Debts | 50,000 | 100,000 | 130,000 | 200,000 | 500,000 | 1,000,000 |  |
|  | Max Value of EFG Claims at 75% | 37,500 | 75,000 | 97,500 | 150,000 | 375,000 | 750,000 |  |
|  | Max Claimable Amount (capped at £97.5k) | 37,500 | 75,000 | 97,500 | 97,500 | 97,500 | 97,500 |  |
|  | **Effective EFG Guarantee Rate** | **75.0%** | **75.0%** | **75.0%** | **48.75%** | **19.5%** | **9.75%** |  |
|  |  |  |  |  |  |  |  |  |

**Worked Example**

* For the year to 31 March 2011, the Anytown Bank was allocated an Annual Lending Limit (see section 8.1) of £20m giving a corresponding Annual Claim Limit of £1.95m (£20m x 9.75%).
* By the end of the period, the Anytown Bank has made eligible loans of £18m. The Claim Limit is, therefore, capped at £1.755m (£18m x 9.75%).
* The Anytown Bank subsequently experiences defaults arising from those loans and makes claims as itemised in the table below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Year to 31 March | Defaults net of recoveries (£k) | 75% of exposure (£k) | Amount claimed (£k) | Balance of Claim Limit (£k) |
| 2011 | 0 | 0 | 0 | 1755 |
| 2012 | 1200 | 900 | 900 | 855 |
| 2013 | 600 | 450 | 450 | 405 |
| 2014 | 400 | 300 | 300 | 105 |
| 2015 | 300 | 225 | (\*)105 | 0 |
| 2016 | 100 | 75 | (“)0 | 0 |

(\*) Although 75% of the Anytown Bank’s exposure in 2015 is £225k there is only £105k of the Annual Claim Limit remaining and so the amount which may be claimed is capped at £105k, with Anytown Bank bearing the remaining £120k loss.

(“) Although 75% of the 2016 exposure is £75k there is no Annual Claim Limit remaining and so the Anytown Bank must bear the full exposure.

In total, of £2.6m of net bad debts, the Lender was able to claim £1.755m under the guarantee, translating into an effective guarantee rate of 67.5%.

7.7.2 Claim Limit from 1 April 2011 to 31 March 2012

A two-tier Claim Limit is applicable to all new lending from 1 April 2011 to 31 March 2012 (Period 3). A higher claim limit (20% gross / 15% net) was introduced for the first £1m of each Lender’s lending with a lower limit (12.3% gross / 9.225% net) applying subsequently, maintaining the existing 13% gross / 9.75% net at the level of the programme overall.

The following table shows the effective guarantee rates for a Lender with £1m of lending in an allocation period, where the Claim Limit is 15%.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |  |
|  | EFG Guarantee Rate | 75% |  |  |  |  |  |  |
|  | Portfolio Claim Limit (up to £1m of lending) | 15.00% |  |  |  |  |  |  |
|  | EFG Portfolio Lending | 1,000,000 |  |  |  |  |  |  |
|  | Value of 15% | 150,000 |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |
|  | Bad Debt Rate on EFG Portfolio (net of recoveries) | 5% | 10% | 15% | 20% | 50% | 100% |  |
|  | Value of Net Bad Debts | 50,000 | 100,000 | 150,000 | 200,000 | 500,000 | 1,000,000 |  |
|  | Max Value of EFG Claims at 75% | 37,500 | 75,000 | 112,500 | 150,000 | 375,000 | 750,000 |  |
|  | Max Claimable Amount (capped at £150k) | 37,500 | 75,000 | 112,500 | 150,000 | 150,000 | 150,000 |  |
|  |  | **75.00%** | **75.00%** | **75.00%** | **75.00%** | **30.00%** | **15.00%** |  |
| **Effective EFG Guarantee Rate** |
|  |  |  |  |  |  |  |  |  |

The following table shows the effective guarantee rates for a Lender with £10m of lending in an allocation period. For a £10m Lender the Claim Limit has increased marginally to 9.80%. As shown, an effective Claim Limit of almost 50% will operate at a 20% default level.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |  |
|  | EFG Guarantee Rate | 75% |  |  |  |  |  |  |
|  | Portfolio Claim Limit on first £1m of lending | 15.000% |  |  |  |  |  |  |
|  | Portfolio Claim Limit after £1 million | 9.225% |  |  |  |  |  |  |
|  | EFG Portfolio Lending | 10,000,000 |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |
|  | Portfolio Claim Limit on first £1m of lending | 150,000 |  |  |  |  |  |  |
|  | Portfolio Claim Limit for remaining £9m | 830,250 |  |  |  |  |  |  |
|  | Aggregate Claim Limit | **980,250** |  |  |  |  |  |  |
|  | Effective Overall Claim Limit | 9.80% |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |
|  | Bad Debt Rate on EFG Portfolio (net of recoveries) | 5.00% | 10.00% | 13.00% | 20.00% | 50.00% | 100% |  |
|  | Value of Net Bad Debts | 500,000 | 1,000,000 | 1,300,000 | 2,000,000 | 5,000,000 | 10,000,000 |  |
|  | Max Value of EFG Claims at 75% | 375,000 | 750,000 | 975,000 | 1,500,000 | 3,750,000 | 7,500,000 |  |
|  | Max Claimable Amount (capped at £97.5k) | 375,000 | 750,000 | 975,000 | 980,250 | 980,250 | 980,250 |  |
|  |  | **75.00%** | **75.00%** | **75.00%** | **49.01%** | **19.61%** | **9.80%** |  |
| **Effective EFG Guarantee Rate** |
|  |  |  |  |  |  |  |  |  |

7.7.3 Claim Limit from 1 April 2012 to 31 March 2013

In the Budget on 21 March 2012, Government announced a temporary change to the Claim Limit for all new lending from 1 April 2012 to 31 March 2013 (Period 4) only, with the higher claim limit (20% gross / 15% net) extended to apply to all lending, not just the first £1m.

8 General Information for Lenders

8.1 Annual Lending Limits

Each Lender is allocated an “Annual Lending Limit”, which is the maximum level of drawn facilities the Lender can make by the time the scheme fully closes.

**Increasing the Annual Lending Limit**

In the event that a Lender exceeds its Annual Lending Limit, any further facilities processed via the Web Portal are not automatically covered by the EFG. There is, however, some flexibility in the scheme. The Lender may be able to lend more money than originally agreed for a specific period by applying for an increase in allocation as follows:

* The Lender formally asks CfEL for permission to provide more EFG facilities by making a Specific Lending Limit Proposal, saying exactly how much more the Lender would like to lend. The application must be submitted in hard copy, addressed to Judith Ozcan, MD Debt of CfEL;
* The Specific Lending Limit Proposal should set out in detail why the Lender wants to provide more facilities and include a brief business plan explaining the specific purposes for which the extra lending will be utilised; and,
* The Lender can provide more lending for a number of reasons, including:
* enabling the Lender to help more businesses;
* targeting particular types of business;
* targeting particular regions in the UK; or,
* targeting high growth businesses.

CfEL may ask the Lender for more information. CfEL will then write to the Lender to say whether or not the Lender can provide more lending under the scheme, and under what conditions. This ability to provide more lending under EFG is known as the Specific Lending Limit.

8.2 Transferring Rights and Change of Ownership

**Transferring Rights under the EFG Legal Agreement to another Party**

Any proposed transfer can only occur with the prior written consent of the Secretary of State. Lenders should contact CfEL at the earliest opportunity if this situation were to arise.

**Transferring Rights under the EFG Legal Agreement to another Group Company**

Any proposed transfer can only occur with the prior written consent of CfEL. Lenders should contact CfEL at the earliest opportunity if this situation were to arise.

**Change of Ownership within the Lender Organisation**

A change in shareholding in a Lender does not change its legal personality and, therefore, there is no impact on the EFG Legal Agreement.

8.3 Leaving the EFG Programme

Either the Lender or BIS can give 6 months written notice to end the EFG Legal Agreement and neither party needs to provide any reason for doing so. Once the EFG Legal Agreement has come to an end, the Lender is no longer entitled to provide new EFG facilities. Existing guarantees and the ability to claim under the guarantee scheme for existing EFG facilities provided up to the date of termination would remain in place.

8.4 The Lender Audit Programme

**8.4.1 Introduction**

Audits are a key feature of the EFG scheme and the Government can carry out an audit of the Lender’s activities in relation to the scheme at any time. This is to ensure the Lender is running the scheme properly. The audit must be carried out during the Lender’s usual working hours and CfEL must give at least five working days’ notice.

The Lender shall provide all reasonable assistance to CfEL (or its External Auditor) in carrying out the audit, including provision of all relevant documentation in relation to individual facilities and the investigation of enquiries raised by CfEL (or its External Auditor) during the audit process.

A senior representative of the Lender must be available to discuss the audit findings prior to the publication of the Audit Report. The Lender and its employees must do all they can to cooperate with the people carrying out the audit. This includes providing information and documents as requested.

A high volume Lender (under the EFG scheme) can be expected to be subject to an audit twice a year, a lower volume Lender no more than once a year.

**8.4.2 Audit Objectives and Risks to be Identified**

Audits focus on the following objectives and risks:

|  |  |
| --- | --- |
| **Objectives** | **Risks** |
| EFG Eligibility: Completeness, Accuracy and Integrity of Portal Data and Compliance with the Legal Agreement: | Loans are provided to businesses that are ineligible for the EFG scheme.  The Offer has not been made in accordance with the Legal Agreement or the Web Portal data is inaccurate. |
| EFG and SFLG Demands and Recoveries: Completeness, Accuracy and Integrity of Portal Data and Compliance with the Legal Agreement: | Defaults are not identified and acted upon in a timely manner.  Data on the Web Portal regarding Demands is inaccurate.  Demands made on the Secretary of State are inaccurate or invalid under the terms of the Legal Agreement. |
| Application of the Lender’s Normal Commercial Lending Process: | The Lender has not complied with their usual commercial lending process when processing EFG applications, in terms of viability assessment and security availability assessment, on-going monitoring and control. |
| Lender’s Control and Governance, including Training and Dissemination of Information and Guidance to Staff: | Lack of control over EFG and SFLG processes leading to non-compliance with the Legal Agreement, and inconsistent approaches taken by staff.  Staff are not aware of their responsibilities or how to carry out their duties effectively.  Poor segregation of duties and lack of control over Web Portal access rights leads to inaccurate input of data.  Poor decision making results from poor quality information available to management. |

8.4.3 Audit Grades

Each Lender receives an overall assurance level, as well as a separate grade for each of the (up to) four key objective areas. New terminology to grade the assurance levels in audit reports were introduced in 2011:

|  |  |
| --- | --- |
| **Overall Opinion** | **Definition** |
| Speedo red | **Red**  Taking account of the issues identified, CfEL cannot take assurance that the controls upon which the Lender relies to manage the EFG and SFLG scheme are suitably designed, consistently applied or effective. Action needs to be taken to ensure that risks are managed. |
| Speedo amber below | **Amber / Red**  Taking account of the issues identified, whilst CfEL can take some assurance that the controls upon which the Lender relies to manage the EFG and SFLG scheme are suitably designed, consistently applied and effective, action needs to be taken to ensure that risks are managed. |
| speedo Amber above | **Amber / Green**  Taking account of the issues identified, CfEL can take reasonable assurance that the controls upon which the Lender relies to manage the EFG and SFLG scheme are suitably designed, consistently applied and effective. However, issues have been identified that, if not addressed, increase the likelihood of risks materialising. |
| Speedo Green | **Green**  Taking account of the issues identified, CfEL can take reasonable assurance that the controls upon which the Lender relies to manage the EFG and SFLG scheme are suitably designed, consistently applied and effective. |

Recommendations in the audit reports are now categorised as follows:

**High** – action is imperative to ensure that the objectives for the area under review are met.

**Medium** – requires action to avoid exposure to significant risks in achieving the objectives for the area under review.

**Low** – action advised to enhance control or improve operational efficiency.

A fourth category of recommendation has also now been introduced. The **Suggestion** categorisation allows the External Auditor to include any value for money enhancements identified during the course of testing and any Lender feedback received regarding the EFG and SFLG scheme operation as a whole.

**8.4.4 Evidence Required to Provide Green Assurance**

A “Green” assurance grade is only possible if the Lender can demonstrate to the External Auditor that the objectives are being met. Lenders are, therefore, encouraged to be especially careful to ensure that loan files are complete with all appropriate supporting evidence.

**Eligibility**

* The Lender needs to be able to provide evidence that according to normal commercial lending criteria the proposition is viable, but that absence or inadequacy of security makes the proposal unsupportable.
* Where any decisions are borderline, additional evidence should be provided to give a persuasive and robust argument that the loan is valid for EFG and that all eligibility criteria (for EFG) have been satisfied. An example may be where the Lender is proposing an EFG to a loss making enterprise.
* We would also expect evidence to be available to reflect the choice of EFG type, especially where Type-D EFG is concerned.

**Monitoring**

* The External Auditor is likely to seek evidence that monitoring of an EFG is being undertaken in-line with the loan agreement.
* All Conditions Precedent were satisfied prior to drawdown, all security was correctly perfected and that on-going monitoring was as specified.

**Demands and Recoveries**

* The Lender should seek to provide full details of the circumstances of a Claim and clear evidence as to the calculation of a Claim. Where relevant, evidence should be provided detailing attempts to make Recoveries.

**Documentation**

* It is imperative that documentation proving eligibility and Demands is available at audit.
* Where cases are borderline the Lender should make efforts to provide additional documentation to justify the use of EFG. In some circumstances, additional documentation will need to be provided when Demand on the Borrower occurs shortly following drawdown (see Enhanced Audit, below).
* Where Type-D EFG is used, it is requested that Lenders ensure that file notes provide detailed notes explaining the rationale behind the use of EFG.
* Lenders are encouraged not simply to respond to the External Auditor’s documentary requests, but to pro-actively volunteer any documentation that may be relevant to the case.

8.5 Enhanced Audit

8.5.1 Introduction

The general audit described above examines both general lender practices and a sample of facilities for both eligibility, and Demands and Recoveries. The Enhanced Audit looks closely at EFG cases where the time between draw down and Lender Demand is less than six months. The purpose of this Enhanced Audit is to ensure that any Guarantee Claim to BIS is fully justified; therefore, the External Auditor examines all stages of the loan process from eligibility checking to Demands and Recoveries, and any subsequent Guarantee Claim.

The Enhanced Audit is led by the External Auditor, with some cases also reviewed by CfEL.

8.5.2 Documentation to be Provided by the Lender

Shortly following the quarter end, the External Auditor will advise the Lender of any EFG cases which have been selected for Enhanced Audit. The Lender will be asked to provide a pack of information on the Borrower, addressing the following areas:

|  |  |
| --- | --- |
| **Viability** | Explain why the proposition was deemed viable, according to normal commercial lending criteria at the time of draw down. Comment on how actual results post draw down differed from forecast results. |
| **Security** | Summarise the security available at the time of draw down and, where appropriate, provide commentary with regards to the inadequacy of such security (with regards to normal commercial lending criteria). Make reference to any specific documentation / correspondence as appropriate. |
| **Eligibility** | Summarise how the proposition met EFG criteria in terms of business size, facility purpose and business location. |
| **Terms of Sanction and Conditions Precedent** | What were the Terms of Sanction and Conditions Precedent and were these satisfied? Provide further commentary where appropriate (especially if a Conditions Precedent was not met). Make references to documentation where appropriate. |

The Lender will be requested to provide the following supporting documentation:

* EFG Credit Application (and any subsequent papers)
* Terms of Sanction and Conditions Precedent
* Statutory accounts
* Management accounts up to and post draw down
* Forecasts
* Summary of security
* Facility Letter
* IBR report (if issued within 6 months of EFG sanction), plus evidence that any points raised have been addressed by the Lender
* A copy of the Lender’s own internal report on the reason for business failure
* Liquidator / Administration Report
* The Lender’s diary system notes
* Any other information the Lender considers necessary to support the points made in the lending summary above

To assist document sharing between the staff at the Lender, the External Auditor and CfEL, **all supporting documentation must be provided in electronic format** such as a pdf file. Each document should be provided in a separate named file.

The Enhanced Audit is likely to be delayed until the relevant documentation has been provided, which may impact upon the timing of any settlement of any Claims on the Guarantee.

8.5.3 The Enhanced Audit Appraisal

The Enhanced Audit specifically examines the eligibility of the facility to benefit from EFG backing at the time of draw down. The Enhanced Audit, therefore, focuses on the technical eligibility and also whether the Lender has applied its normal commercial lending practice in making the lending decision, and in allowing draw down at the specific point in time.

Recent examples of facilities which have not passed these criteria include facilities where:

* **Recoveries** – The Lender failed to provide sufficient evidence that its normal recoveries procedures were followed or adhered to EFG rules in respect of the priority for distribution of recovery proceeds;
* **Security** – The Lender failed to provide sufficient evidence that prior to the provision of the EFG facility the availability of business or personal assets were fully investigated or normal policies or EFG rules relating to the charging or discounting of any available assets were followed;
* **Viability** – The Lender failed to provide sufficient evidence that its normal policies regarding viability were followed;
* **Conditions Precedent** – The Lender failed to provide sufficient evidence that all Conditions Precedent were satisfied prior to draw down; and,
* **Ineligible Borrower** – The Lender used EFG in support of an ineligible Borrower (i.e. the core of the Borrower’s activity was located overseas).

8.5.4 First and Second Reviews

CfEL will notify Lenders in writing where Claims on the Guarantee have been approved or otherwise. Where the appraisal concludes that there is insufficient evidence to prove eligibility, reasons will be provided and the Lender will be given the opportunity to address the issues raised in a second review.

It is intended that first and second reviews will be completed within the quarter following the quarter in which the Claim is made on the Guarantee. Any Claims that are approved are to be re-submitted on the next Demand Invoice. Note that where payment is declined, any such amount is not deducted from the Lender’s Claim Limit (i.e. another subsequent Claim can “take the place” of any Claim which is deemed ineligible.)

8.6 Annual Reports

If a Lender provides more than 100 facilities during each EFG period, it may be required to provide CfEL with an Annual Report providing information on how the Lender has operated the scheme.

8.7 Non-Compliance with EFG Scheme Rules

If CfEL believes that a Lender is breaking one or more of the rules of the scheme, a meeting may be set up to agree what can be done to remedy the situation.

If the Lender continues to break the rule or is in serious breach of the rules, CfEL may tell the Lender what it must do to be able to remain in the scheme. The ultimate sanction would be termination of the Lender's participation in the scheme. CfEL can do this with immediate notice in writing.

8.8 External Service Level Agreement

BIS will enter into agreements, known as Service Level Agreements, with other organisations in order to properly implement and operate the scheme – for example: the host of the EFG Web Portal, in relation to confidentiality and its availability, reliability and maintenance; the independent Premium Collection Agent, in relation to the collection of the Scheme Guarantee Premium; the External Auditor, in relation to the general and Enhanced Audits.

8.9 Data Protection Act

BIS and the Lender agree that they will follow the requirements of the Data Protection Act 1998.

The Lender and BIS must take every step to ensure that only necessary information about Applicants and their businesses is kept and recorded, and that this information is held on a secure system.

Both the Lender and BIS have agreed appropriate remedies in the event of any incident occurring where loss has been suffered because personal information has been lost or misused in contravention of the Data Protection Act.

8.10 EFG Web Portal Rights

BIS own the intellectual property associated with the Web Portal functionality. BIS uses the information within the Web Portal to manage the programme effectively.

8.11 Marketing and Promotion

If the Lender decides to market the EFG scheme on the Lender’s own website, the Lender undertakes to ensure that all details regarding EFG are at all times as up-to-date and accurate as possible.

1. Appendices

9.1 Sample Data Protection and Disclosure Declaration Letter

“I give my permission to the Lender and the Government to:

* make any enquiries about my EFG application
* take up references about me and my business
* give information to each other about me and my business
* give information to any official involved in running or monitoring the EFG.”

Signature Section

Signed   \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signed   \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Print name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position   \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Position   \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed in accordance with the requirements of the Lender's normal commercial lending practice. Otherwise, for a limited company two signatories are required, being two Directors or one Director and the Company Secretary. For a partnership, all partners must sign.

9.2 Sample State Aid Letter

EFG STATE AID LETTER TO BE SENT TO BORROWER ON LENDER'S LETTERHEAD AS PART OF THE FACILITY DOCUMENTATION

Name

Address

Date

ENTERPRISE FINANCE GUARANTEE – NOTIFICATION OF STATE AID

Applicant: XXXX Ltd

Lender: Little Tinkers

Facility Reference Number: W5A39KG+01

Facility amount: £ 123,456.00

Facility Term: 120 months

Anticipated Date of Initial Drawdown:

Dear

I am writing to provide you with the value of the State Aid applicable to the facility you have been offered through the Enterprise Finance Guarantee (EFG) scheme should you accept it.

The assistance provided through EFG, like many Government-backed business support activities, is regarded as a State Aid and is governed according to the European Commission's "*de minimis*" State Aid rules. Under these rules the maximum State Aid any business or individual may receive over any rolling three-year period is €200,000.

This letter is sent in accordance with the “European Commission Notice on State Aid in the Form of Guarantees” (OJ C155), 20 June 2008. I can confirm that the value of the *de minimis* State Aid arising from this EFG loan is €14,773.57.

It is your responsibility to retain records of any State Aid arising from assistance received for a minimum of three years from the date of receipt and to ensure that you do not exceed the rolling three-year limit. If you make any other application for aid during the next three years you will be required to inform the provider of that State Aid about the State Aid you have already received.

Please note that this letter is issued solely to advise you of the value of State Aid arising from your facility and is not a notice of further funding.

Yours sincerely,

9.3 Sample Premium Payment Schedule

Premium Schedule for W5A39KG+01

State: Complete

Amount: £123,456.00

Last Modified: 26/05/2009 11:15

Business Name: XXXX Ltd

User: Administrator

Lender: Little Tinkers

This Schedule itemises the cost of the Premiums that you (the Borrower) will be paying to the Government each quarter for the duration of this loan. The first direct debit payment is due shortly after the loan is drawn down. Future payments are collected quarterly, with collection being made on or around the 14th of the month.

Amount of Initial Premium Payment: £617.28

You must include a completed Direct Debit Mandate when you accept the loan you have been offered.

Month of Second Direct Debit Premium Collection:

Subsequent Direct Debit Premiums to be Collected: £12,962.88

Total Premium Payable over the Life of the Loan: £13,580.16

Premium No. Premium Amount Premium No. Premium Amount

1 £333.66 21 £332.54

2 £617.28 22 £316.98

3 £617.28 23 £300.30

4 £617.28 24 £283.62

5 £600.60 25 £266.93

6 £583.91 26 £250.25

7 £567.23 27 £233.57

8 £550.55 28 £216.88

9 £533.86 29 £200.20

10 £517.18 30 £183.52

11 £500.50 31 £166.83

12 £483.81 32 £150.15

13 £467.13 33 £133.47

14 £450.45 34 £116.78

15 £433.76 35 £100.10

16 £417.08 36 £83.42

17 £400.40 37 £66.73

18 £383.71 38 £50.05

19 £367.03 39 £33.37

20 £350.35 40 £16.68

Schedule based on the following information:

What is the expected year of the initial draw? (yyyy) 2009

What is the date of the Premium Collection point from which this schedule applies? (dd/mm/yyyy)

What is the amount of the initial draw? £ 123,456.00

What is the loan term in months remaining at this Premium Collection point? 120

What is the length of the initial capital repayment holiday? (Months): 9

What is the amount of the additional draw? (Second tranche): £

What is the number of months (from this Premium Collection point) to second tranche drawdown?

What is the amount of the additional draw? (Third tranche) £

What is the number of months (from this Premium Collection point) to third tranche drawdown?

What is the amount of the additional draw? (Fourth tranche) £

What is the number of months (from this Premium Collection point) to fourth tranche drawdown?

9.4 Sample Information Declaration

**To be completed by the Lender**

What is the name of the Lender organisation? Little Tinkers

System generated identification reference: W5A39KG+01

What is the business name of the Applicant? XXXX Ltd

What is the trading name of the Applicant if the Applicant

trades under another business name? N/A

What is the legal form of the Applicant? Limited Company

Company registration number: XXXXX

What is the current annual turnover of the Applicant? £12,233,445.00

What is the Applicant's Commencement of Trading Date? 17-09-1961

What is the post code of the Applicant's main business

address?

If the town and non-validated postcode are entered this

is the postcode of the Lender’s branch: S2 4LA

What is the value of the facility being applied for? £123,456.00

Over what term does the Applicant want to repay the facility? 10 years

What will be the repayment frequency of the Applicant's

facility? Monthly

On what date is the facility expected to be repaid? 31-05-2019

What Standard Industrial Classification (SIC) code best

describes the business activity the facility will be used for? DJ28.52.003

SIC code activity description: General engineering / General mechanical engineering

Please select the category which most accurately

describes the type of lending being guaranteed: Type-A – New Term Loan with no security

What is the purpose that the facility will be used for? Research & Development

Interest type: Variable

Is the outstanding amount of the Applicant's EFG borrowing

(including this application) £1m or less? Yes

Is the intensity of Notified Aid calculated for this project

less than 40% for non-Objective 1 loans or less than 60%

for Objective 1 loans? N / A

Amount of *de minimis* State Aid applicable to this facility

(in Euros): €14,773.57

Is the total value of the Applicant's *de minimis* State

Aid for the last three years (including that arising from this

application) less than €200,000, or the relevant lower

threshold where advised for eligible agriculture, fisheries

and transport businesses? Yes

Before proceeding, have you received the Data Protection

and Disclosure Declaration signed by the Applicant? Yes

**To be completed by the Borrower**

I confirm to the Lender and Government that:

• all the answers I have given here are true and accurate

• I have not left any information out

• information in all other documents I may have given you is true and accurate

• I understand that, even though the Government is providing a guarantee to the Lender in

connection with my facility, I remain responsible to the Lender, for the facility and, in the event

that I default on the terms of the facility (for example, by failing to make the specified

repayments), the Lender is entitled to seek to recover the full amount outstanding from me

IMPORTANT: The information contained in this document is the formal record upon which

decisions have been made. If any of the information contained in this declaration is incorrect

the facility must be cancelled and a new application submitted. This document cannot be altered.

Signed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signatories to be the same as those persons who are required to sign the Lender's Scheme

Facility Letter.

9.5 Notes on Industrial Sector Restrictions

The Enterprise Finance Guarantee (EFG) is subject to sector restrictions arising from the EU *de minimis* State Aid rules, the Industrial Development Act 1982 (which provides the statutory basis for EFG) and also other national policy decisions.

Since the start of the EFG in January 2009, and in light of changes to the *de minimis* rules, certain sector restrictions have been lifted to ensure that EFG is available to as many viable businesses as possible. These are listed below along with those sectors where partial or full restrictions remain.

**Overview of restrictions lifted**

* Authors, music composers and certain other own-account artists
* Automotive
* Betting and gambling
* Commission agents
* Medical and health services (private & independent sector)
* Owning and dealing in real estate
* Postal and courier services (except the Post Office)
* Professional sports players and sporting organisations
* Shipbuilders
* Synthetic fibres
* Steel
* Ticket agents
* Tied public houses
* Veterinary services
* In addition, there is no specific restriction preventing EFG lending to charities.

**Overview of remaining restrictions and the operation of the *de minimis* limit**

The following restrictions, described in more detail below, arise from the EU *de minimis* regulations:

* Aid for Export
* Using EFG funding abroad
* Preferential use of domestic over imported goods
* Agriculture (including horticulture)
* Coal
* Fisheries
* Forestry
* Transport

For eligible cases, as the EFG guarantee has made the difference between failure and success in accessing finance, there is deemed to have been assistance from the Government to the business, generally referred to as “State Aid”. Like most forms of SME assistance, EFG operates under the *de minimis* rules which specify that the maximum assistance which may be provided to any SME in any rolling three-year period is €200,000 in grant aid or €1.5 million worth of guaranteed lending, although lower thresholds apply in certain sectors.

To enable the *de minimis* State Aid received via each EFG loan to be easily aggregated on a ‘like-for-like’ basis with the value of any other such assistance an SME may have received, a ‘grant equivalent’ figure is calculated for the benefit arising from each guaranteed loan. The grant equivalent figure is calculated individually taking into account the loan value, loan term, repayments profile and a risk factor informed by the overall performance of the EFG-backed facilities, although in most cases the grant equivalent will not exceed 20% of the value of the loan.

In some cases, especially where the Borrower has had previous *de minimis* State Aid from other sources within the preceding three years, the value of the guaranteed lending permissible from a State Aid perspective may be less than either the EFG maximum of £1m or the Borrower’s desired amount. Similarly, receiving an EFG-backed loan will limit the value of other *de minimis* State Aid that the Borrower may receive over the next three years. In the event that a business knowingly makes a false declaration of previous *de minimis* State Aid the guarantee could be withdrawn from the Lender, which, in turn, could lead to the Lender seeking immediate repayment from the Borrower.

The Industrial Development Act 1982 precludes the use of EFG to assist or acquire banks and insurance companies.

The remaining restrictions exist for national policy reasons, primarily where the Government is already the main provider of, or source of funding for, these activities, where the activity adds little or no value to the business, or where activities of a similar type are also restricted.

**Aid for Export, using EFG funding abroad, and the preferential use of domestic over imported goods**

* Aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to export activity is ineligible for EFG.
* Aid that is contingent upon the use of domestic over imported goods is also ineligible for EFG.
* However, this restriction relates primarily to the purpose for which the loan is sought rather than the activities of the business, therefore, companies that happen to export as part of their business may be eligible for EFG.

**Agriculture (including horticulture)**

1) Activities related to primary agricultural production are eligible for EFG but with a maximum ‘grant equivalent’ value of €7,500, assessed individually but generally equating to a maximum loan value of £50,000.

Exception:

* When the amount of aid is fixed on the basis of the price or quantity of products put on the market.

2) Loans for the processing and marketing of agricultural products (beyond simply preparation for sale and packaging) are eligible for EFG.

Exceptions:

* When the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned.
* When the aid is conditional on being partly or entirely passed on to primary producers.

**Banking, finance and associated services**

* Any activity that involves a decision on and / or granting of finance to clients, such as banks, deposit takers and building societies; companies involved in granting loans, mortgages, hire purchase or credit services; mortgage brokers that are attached to banks; venture capitalists; seed corn finance companies and stockbrokers is not eligible for EFG.
* Accountants, auditors, management service companies such as bookkeeping firms, tax advisers, management consultants, business advisers and companies that provide services to small firms on financial matters without actually supplying funds, including financial advisors and mortgage brokers, who are independent of banks and insurance companies, are eligible for EFG.

**Business, employer & professional, religious and political membership organisations and trade unions**

* Activities of business, employer and professional, religious and political membership organisations and trade unions are not eligible for EFG.

**Coal**

* This sector is specifically excluded from the *de minimis* rules and is, therefore, ineligible for EFG.

**Education**

* Formal education is excluded.
* Businesses offering courses that lead to vocational qualifications and skills (i.e. those skills and qualifications directly usable in a job) are eligible, as are nursery schools, day schools and playgroups for young children and sports coaching.

**Extraterritorial organisations and bodies**

* Activities of extraterritorial organisations and bodies are not eligible for EFG.

**Fisheries**

* Activities related to the production, processing and marketing of fisheries products are eligible for EFG but with a maximum ‘grant equivalent’ value of €30,000, assessed individually but generally equating to a maximum loan value of around £200,000.

Exceptions – when the aid:

* Amount is fixed on the basis of price or quantity of products put on the market.
* Increases fishing capacity, expressed in terms of tonnage or power, unless it concerns aid for modernisation and improving safety standards.
* Is for the purchase or construction of fishing vessels.

**Forestry**

* Forestry, as defined by EU guidelines, is the production of standing timber as well as the extraction and gathering of wild growing forest materials including products which undergo little processing, such as wood for fuel and industrial use.
* Activities aimed at directly contributing to maintaining and restoring the ecological, protective and recreational function of forests, biodiversity and healthy forest ecosystems may now be eligible for EFG subject to the relevant EU guidelines.

**Insurance and associated services**

* Insurance companies and any companies attached to insurance companies are not eligible for EFG.
* Insurance agents and brokers that do not provide insurance themselves and that are independent of insurance companies are eligible for EFG.

**The Post Office (Royal Mail)**

* The Post Office Ltd is a wholly owned subsidiary of the Royal Mail, which is publicly owned, and, therefore, is not eligible for EFG. Those branches which are directly managed by Post Office Ltd are not eligible for EFG.
* However, those branches which are managed on an agency or franchise basis may be eligible for an EFG backed loan, subject to satisfying an approved EFG Lender’s commercial criteria as with any other EFG loan.

**Public administration, national defence and compulsory social security**

* Publicly (state) owned bodies and companies are largely ineligible, mainly due to the turnover limit associated with the UK SME Test.
* The defence sector is eligible, except where state owned.
* Compulsory social security relates to social security activities.

**Transport**

* Rail, water and air transport are eligible for EFG.
* Road transport sector is eligible, but with restrictions:
  + The road freight and passenger sector is eligible but with a maximum ‘grant equivalent’ threshold of €100,000, assessed individually but generally equating to a maximum loan value of around £650,000. Note that there is also a full prohibition on haulage firms using any EFG funds to purchase new haulage vehicles (however, it is permissible for a non-haulage firm to use EFG to purchase a haulage vehicle, as haulage is not its primary business activity).
  + The acquisition of road freight transport vehicles by businesses undertaking road freight transport for hire or reward is excluded.