



Australian Government

Australian Government SME Guarantee Scheme

Amending Deed (Scheme Guarantee)

Dated 29 January 2021 with an Amending Deed Effective Date of 1 March 2021

The Commonwealth of Australia

Details

Date

This Amending Deed (Scheme Guarantee) ("Deed") is dated 29 January 2021.

Parties

This Deed is made by:

1. **THE COMMONWEALTH OF AUSTRALIA** (the **Guarantor**)
IN FAVOUR OF
2. **THE BENEFICIARIES** being Participating Lenders to whom the Guaranteed Liabilities are from time to time owed (the **Beneficiaries**).

Context

This Deed is made in the following context:

- A. The Guarantor established an SME Guarantee Scheme (**Scheme**), an Australian Government initiative, in accordance with the terms of the Act.
- B. Under the Scheme, the Guarantor has provided a guarantee to the Beneficiaries from the Effective Date, as set out in the Deed of Guarantee to support SME lending by Participating Lenders in accordance with the Scheme Rules.
- C. On the Amending Deed Effective Date, the Guarantor proposes to make amendments to Rules 1.3 ("Definitions"), 8 ("Repayment of Scheme-Backed Loans") and 10 ("Claims Procedures") of the Scheme Rules to accommodate Beneficiaries' accounting standards regarding provisioning for expected losses and recoveries on a loan, to allow Beneficiaries to make administrative changes to loans, and to more closely align aspects of the Scheme with the SME Guarantee Scheme 2.0. These amendments are to be reflected in the Further Amended Scheme Rules.
- D. The amendment to the Deed of Guarantee in this Deed confirms that the Guarantee applies to Scheme-Backed Loans made in accordance with the Further Amended Scheme Rules.

General Terms

1 Interpretation

Unless the contrary intention appears, in this Deed terms have the meaning given to them in the Deed of Guarantee (including by way of incorporation), and otherwise the following meanings:

Amending Deed Effective Date means 1 March 2021.

Further Amended Scheme Rules means the Scheme Rules in respect of the SME Guarantee Scheme as amended by the Guarantor on or immediately prior to the Amending Deed Effective Date.

Deed of Guarantee means the Deed of Guarantee dated 8 April 2020 in respect of the SME Guarantee Scheme made by the Guarantor in favour of the Beneficiaries.

Effective Date means 8 April 2020.

2 Amendment

On and from the Effective Date, the definition of "Guaranteed Liability" in clause 1.1.1 of the Deed of Guarantee is amended as follows (where changes appear in underlined text (to show new text) and strike-out text (to show deleted text)):

Guaranteed Liability Means, in respect of a Scheme-Backed Loan, the amount calculated using the following formula:

Guaranteed Percentage x (A – B)

where:

A is the Outstanding Principal Amount of the Scheme-Backed Loan, on the date of a Claim Trigger in respect of that Scheme-Backed Loan for an Eligible Borrower, provided for this purpose (i) the Outstanding Principal Amount is limited to a maximum amount of \$250,000 plus any capitalised or accrued interest and any fees (including without limitation, break costs but excluding capitalised enforcement costs) up to the date of the relevant Claim Trigger; and (ii) it shall not include any interest or fees that are capitalised or accrued after 31 December 2023; and

B is the remaining book value in the accounts (excluding the guarantee under this Deed) of the Participating Lender of the Scheme-Backed Loan after the Claim Trigger in respect of that Scheme Backed-Loan.

3 Confirmation

3.1 Confirmation

The Guarantor confirms that, except as provided for in paragraph C ("Context") and clause 2 ("Amendment") of this Deed, no other amendments are to be made to the Scheme Documents.

3.2 Scheme Document

This Deed is a Scheme Document for the purposes of the Further Amended Scheme Rules.

4 Governing law

The law in force in New South Wales governs this document. Each party submits to the non-exclusive jurisdiction of the courts of that place.

EXECUTED as a Deed Poll

Signing page

**Signed, sealed and delivered for and on
behalf of the COMMONWEALTH OF
AUSTRALIA by:**



Signature of authorised signatory



Print name

In the presence of:



Signature of witness



Name of witness