



## Phase 2 Lender Guide

# Coronavirus Small and Medium Enterprises (SME) Guarantee Scheme – Phase 2

|                                    |   |
|------------------------------------|---|
| <b>Closing date and time:</b>      | 5.00pm Australian Eastern Standard Time on 30 September 2027  |
| <b>Commonwealth policy entity:</b> | Department of the Treasury  |
| <b>Administering entity:</b>       | Department of Industry, Science, Energy and Resources   |
| <b>Enquiries:</b>                  | If you have any questions, contact us on 13 28 46 or <a href="mailto:SMEguarantee@industry.gov.au">SMEguarantee@industry.gov.au</a> |
| <b>Date guide released:</b>        | 11 May 2021   |

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# 1. Coronavirus SME Guarantee Scheme – Phase 2 processes

**The Coronavirus SME Guarantee Scheme (the Scheme) supports the flow of credit to eligible SMEs that have been impacted by the economic effects of the Coronavirus pandemic.**

The Scheme was a measure in the [second stage](#) of the Commonwealth Government's economic plan to cushion the economic impact of the coronavirus and help build a bridge to recovery. The second phase of the Scheme (Phase 2) continues to provide support for businesses in recovery and for those facing the ongoing impact of the pandemic.



## **Phase 2 of the Scheme opens**

Phase 2 opened on 1 October 2020. The Department of the Treasury published a [web page](#) with information for lenders interested in participating.



## **Lenders submit an Expression of Interest**

The Department of the Treasury considered and approved expression of interests from lenders seeking to participate in the Scheme.



## **Participating Lenders (you) entered into a Participating Lender Agreement**

You entered into an agreement by signing a Participating Lender Agreement, agreeing to the [Phase 2 Scheme Rules](#) and the [Phase 2 Deed of Guarantee](#).



## **You approve loans to eligible borrowers**

You approve loans to eligible borrowers under the Phase 2 Scheme Rules and provide the details of each Scheme-backed loan to the Australian Prudential Regulation Authority.



## **A Scheme-backed loan is impaired**

A claim trigger occurs on a Scheme-backed loan (when an impairment event occurs as defined in the Phase 2 Scheme Rules).

This Phase 2 Lender Guide explains how participating lenders complete and submit a claim in respect of an impaired Scheme-backed loan.



## **You complete and submit a claim (an application) for an impaired Scheme-backed loan**

We will email you information on how to access our online portal.

You submit a claim for an impaired Scheme-backed loan(s) through our online portal.

You must submit a separate application for each impaired Scheme-backed loan.

Each claim for an impaired Scheme-backed loan must comply with the Phase 2 Scheme Rules and include the information, declarations and material specified in this Phase 2 Lender Guide.

You have until 30 September 2027 to make a claim.



## **We assess your application**

We assess each claim against the eligibility criteria outlined in this Phase 2 Lender Guide and existing Phase 2 Scheme Rules. We confirm it is a Scheme-backed loan and will ask you for more information if your application is incomplete.



### **We approve your application**

We seek approval from the Treasury Delegate for your application/s and then pay you for each approved application against an impaired Scheme-backed loan.



### **Compliance**

We will review a sample of your claims and evidence in detail and may ask you for more information on impaired Scheme-backed loans. We will also assess lender application patterns as a whole and may conduct other compliance activities throughout the life of the Scheme.



### **Final account**

You submit a final account by 31 March 2028.



### **Independent Reconciliation**

The Commonwealth will arrange for an independent firm to carry out a reconciliation against each participating lender's records.



### **Final settlements**

Following the outcome of the independent reconciliation, we may adjust payments and/or seek repayments from participating lenders.

Note, you may also be required to submit a second final account to the Commonwealth by 31 March 2029. The Commonwealth will advise you if a second final account is required after reviewing the accounts you lodge in 2027-28. If a second final account is required, the process would follow the same steps as outlined above.

## 2. About the Coronavirus SME Guarantee Scheme

The Coronavirus SME Guarantee Scheme (the Scheme) supports the flow of credit to eligible SMEs that have been impacted by the economic effects of the coronavirus pandemic. The Scheme has been extended and enhanced under Phase 2 to enable continued support for SMEs facing the ongoing impacts of the Coronavirus.

Across the economy, many viable SMEs are facing the ongoing impact of the Coronavirus. The Scheme is supporting up to \$40 billion of lending to SMEs to assist these businesses get access to vital additional funding to help them get through the impact of the Coronavirus, recovery and invest for the future.

Under the Scheme, the Australian Government (the Government) has provided a guarantee of up to 50 per cent to approved lenders for new eligible loans. The Scheme aims to enhance lenders' willingness and ability to provide cheaper credit to SMEs.

The intended outcome for SMEs is that they are able to access vital additional funding to get through the impact of Coronavirus, recover and invest for the future.

The Department of Industry, Science, Energy and Resources (the department/we) is responsible for administering claims under the Scheme on behalf of the Department of the Treasury (Treasury).

We administer Phase 2 of the Scheme according to the Legislative framework, the [Phase 2 Deed of Guarantee](#), the [Phase 2 Scheme Rules](#) and this Phase 2 Lender Guide. We may update this Lender Guide from time to time in consultation with Treasury.

This Phase 2 Lender Guide sets out:

- the eligibility criteria
- the application process
- how we assess applications
- compliance and reconciliation activities
- responsibilities and expectations in relation to the Scheme.

Key terms used in this Phase 2 Lender Guide are defined in the glossary at section 11.

## 3. Guarantee amount and guarantee period

The Government has provided participating lenders with loan guarantees under the Scheme. Each participating lender has an assigned allocation of the \$40 billion Scheme.

You are able to provide loans under Phase 2 of the Scheme to eligible borrowers from 1 October 2020 to 30 June 2021 up to your maximum allocation under Phase 2 of the Scheme. You are able to apply for payment of the guaranteed amount for impaired loans until 30 September 2027.

### 3.1. Guarantee available

The maximum loan amount is \$1,000,000 per SME (excluding fees). The Government guarantee of up to 50 per cent of the impaired loan applies to both principal and interest (or amounts in the nature of interest), and fees in accordance with the Phase 2 Deed of Guarantee.

## 4. Eligibility

### 4.1. Who can apply under the scheme?

You are eligible to apply under Phase 2 of the Scheme if you are:

- a Participating Lender that has entered into a (Phase 2) Participating Lender Agreement with the Commonwealth, or that has been assigned Scheme-backed loans through a Permitted Transfer under the Scheme, or
- a Representative appointed by the Participating Lender to act on its behalf (with the claim to be submitted in the name of the Participating Lender).

## 4.2. What is an eligible application?

Your application is eligible if it:

- is made in respect of a Phase 2 Scheme-backed loan provided to an eligible borrower
- is made in respect of an eligible Scheme-backed loan where an impairment event has been triggered, as defined in the Scheme Rules, and you have not previously made a claim for the loan
  - as outlined in the Phase 2 Scheme Rules, lenders are expected to follow and apply their usual policies in recognising an impairment
- correctly calculates the amount outstanding on the loan
- meets the requirements of the Phase 2 Scheme Rules
- attaches the necessary documents as set out in this Phase 2 Lender Guide.

If you make a claim for an impaired loan, but subsequently recover the loan, we will settle any overpayments through the reconciliation process (section 8).

## 5. How to apply

Before you apply (make a claim), you should read this Phase 2 Lender Guide and the Phase 2 Scheme Rules to make sure you include all the information we need to assess your claim. You can submit applications until the Phase 2 Scheme closing date.

If you intend to have a Representative, as defined by the Phase 2 Scheme Rules, submitting or making a claim on your behalf, you should advise us, and the Treasury of this relationship. We will keep a record of this arrangement. A failure to advise us of these arrangements could delay the processing of your applications.

### 5.1. The application form and related declarations

We will email you information on how to access our secure online portal where you can submit your claim. You gather the required documentation as outlined in section 5.2 of this Phase 2 Lender Guide and submit a claim online. You will also be required to provide a number of declarations in relation to your claim.

These declarations will cover a range of issues such as, but not limited to:

- your assessment of the borrower's eligibility under the Scheme (e.g. the borrower had met the definition of an SME as outlined in the Scheme and Legislative Rules)
- the eligibility of the product you offered under Phase 2 of the Scheme
- the correct calculation of your losses (and subsequent guaranteed liability) which you are claiming
- where applicable, recoveries have been appropriately accounted for in the calculation of the guaranteed liability

For secured loans or unsecured loans with a personal/director's guarantee, you will be asked whether you have called upon security taken or the guarantee (or intend to do so), what you may

have already recovered, and if possible an estimation of the likely amount to be recovered and the timeframes associated with the process.

You are responsible for making sure your application is complete and accurate. Giving false or misleading information is a serious offence under the *Criminal Code Act 1995* (Cth). If we determine that you have provided false or misleading information we may not progress your application. If you find an error in your application after submitting it, you should call us immediately on 13 28 46. If we find an error or information that is missing, we may ask you for clarification or additional information. This may occur at the time of your application, or at a later stage such as when we may undertake compliance checks or audits.

If you need further guidance around the application process, or if you are unable to submit an application online, [contact us](#) at [business.gov.au](http://business.gov.au) or by calling 13 28 46.

## 5.2. Attachments to the application

You must provide the following documents with your application:

- copy of the signed loan agreement with the SME
- copy of document(s) relating to security taken (where applicable)
- copy of the SME declaration that it has not borrowed more than \$1,000,000 in Phase 2 Scheme-backed loans (excluding any Phase 1 Scheme-backed loans)
- evidence the loan is impaired
- evidence of the loss amount on the loan (at date of claim trigger)
- any other information reasonably requested.

Evidence can include:

| Evidence Category   | Examples of acceptable documents  |
|---|---|
| <p>The loan is impaired</p> <p>As per the Phase 2 Scheme Rules, you should apply your usual policies as consistently applied in recognising an impairment</p> | <ul style="list-style-type: none"> <li>• Final statements, final account statement or balances identifying the loss amount and recognition that the loan is impaired (or being closed off because it is impaired etc)</li> <li>• Correspondence or 'final demand' or 'default' notices sent to the SME regarding the final outstanding loss amount and advising the loan is impaired (or considered to be impaired based on your usual lender policies for assessing impairment)</li> <li>• An Australian Financial Complaints Authority decision reflecting any write down or forgiveness of the amount of the Scheme-backed loan, indicating the loan is impaired. You must seek consent from the borrower prior to providing this document. If consent cannot be attained, you instead must provide a declaration attesting to the determination amount (which also satisfies indication that the loan is considered impaired, consistent with the Phase 2 Scheme Rules).</li> <li>• Extract of your financial statements/accounts recognising the loss amount in expense statements or bad debts list etc.</li> </ul> |
| <p>The loss amount on the loan</p>  | <p>Same as above, with information identifying the loss amount you have incurred (at date of claim trigger).</p>  |

| Evidence Category                        | Examples of acceptable documents   |
|--|--|
| Documents relating to any security taken | <ul style="list-style-type: none"> <li>• Loan schedules with details on the secured asset(s) and security arrangement(s)</li> <li>• Security agreements with details on the secured asset(s) and security arrangement(s)</li> <li>• Other agreements or formal documentation with details on the secured asset(s) and security arrangement(s)</li> </ul> |

You must attach supporting documentation with your application in line with the instructions provided within the form. You should only attach requested documents. We will not consider information in attachments that we do not request.

## 6. How we assess

We will check the details you provide, including the SME borrower details, SME loan details and loan amounts against the Australian Prudential Regulation Authority (APRA) report entry. Where required, we will liaise with APRA and the Department of Treasury to check your application response. We will only pay you for a complete, valid and approved application.

If your application is missing information or attachments, or if we identify an error, we will ask you for more information and will ask you to correct or clarify the errors.

We will assess eligibility and, subject to approval of the Program Delegate, will pay you by direct credit into your nominated bank account within 30 business days of receiving your valid claim.

### 6.1. Who will approve applications?

The Program Delegate, who is a Senior Responsible Officer in the Department of the Treasury, decides which applications to approve taking into account advice from the Department of Industry, Science, Energy and Resources.

The Program Delegate's decision is final in all matters, including:

- the application (claim) approval
- if a claim is disputed under Rule 10.4 of the Scheme
- the application (claim) guarantee amount to be awarded.

### 6.2. How we pay you

We pay you by direct credit into your nominated bank account within 30 business days from receipt of a complete and valid application (claim).

## 7. Compliance activities

We will undertake reviews and sample audits of applications (claims) to check compliance against the Phase 2 Scheme Rules throughout the life of the Scheme.

We will assess your applications (claims) by reviewing your responses, attestations, SME declaration and other evidence as part of your application. We may liaise with APRA and the Department of the Treasury to check details in your application. If your application is incomplete or incorrect, we will ask you for more information, evidence or clarification. You are obliged to provide it to us in the manner and timeframe requested. If you cannot clarify or provide the information requested in the timeframe requested to the satisfaction of the Commonwealth, we may consider your application is invalid or incomplete and the Program Delegate may reject your application.



The Phase 2 Scheme Rules also permit the Commonwealth to request an audit following reasonable consultation with you. Audit requirements are set out in Rule 6 of the Phase 2 Scheme Rules, and must test a reasonable statistical sample of the Scheme-backed loans. We will assist the auditors by giving them access to claims and evidence you have previously submitted to us.

## 8. Reconciliation

At the end of the Scheme, you must submit a final account by 31 March 2028. (Note that you may also be required to submit a second final account to the Commonwealth no later than 31 March 2029. The Commonwealth will advise you if a second final account is required after reviewing the accounts you lodge in 2027-28.)

The Commonwealth will arrange for an independent firm to carry out a reconciliation on applications (claims). The reconciliation would also take into account, and net out any recoveries you may have made on the loan following an approved claim. If the reconciliation identifies any errors, or that we have under or overpaid you, we will adjust your payments at the end of the Scheme. For example, under or overpayments may occur where you submit an application (claim) for an impaired loan, which subsequently recovers, or you make recoveries under the loan. We may request supporting documentation for items such as recoveries and your financial accounts closer to the reconciliation process. We will manage any payment adjustments as per the Phase 2 Scheme Rules.

We will provide further information on the reconciliation process, including its timing, as part of the Scheme administration.

## 9. Conflicts of interest

Any conflicts of interest could affect the performance of the Scheme. There may be a conflict of interest, or perceived conflict of interest, if our staff, the staff of the Department of Treasury, any member of APRA or advisor and/or you or any of your personnel:

- has a professional, commercial or personal relationship with a party who is able to influence the approval process, such as an Australian Government officer
- as part of your application, we will ask you to declare any perceived or existing conflicts of interests or confirm that, to the best of your knowledge, there is no conflict of interest.

If you later identify an actual, apparent, or perceived conflict of interest, you must inform us in writing immediately.

Conflicts of interest for Australian Government staff are handled as set out in the Australian [Public Service Code of Conduct \(Section 13\(7\)\)](#)<sup>1</sup> of the *Public Service Act 1999* (Cth). Other officials including the decision maker must also declare any conflicts of interest.

We publish our [conflict of interest policy](#)<sup>2</sup> on the department's website.

## 10. How we use your information

Unless the information you provide to us is:

- confidential information as per 10.1.1, or

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<sup>1</sup> <https://www.legislation.gov.au/Details/C2019C00057>

<sup>2</sup> [https://www.industry.gov.au/sites/default/files/July%202018/document/pdf/conflict-of-interest-and-insider-trading-policy.pdf?acsf\\_files\\_redirect](https://www.industry.gov.au/sites/default/files/July%202018/document/pdf/conflict-of-interest-and-insider-trading-policy.pdf?acsf_files_redirect)

- personal information as per 10.1.3.

We may share the information with other government agencies for a relevant Commonwealth purpose such as:

- to improve the effective administration, monitoring and evaluation of Australian Government programs
- for research.

#### 10.1.1. How we handle your confidential information

We will treat the information you give us as confidential if it meets any of the following conditions:

- you clearly identify the information as confidential and explain why we should treat it as confidential
- the information is commercially sensitive
- disclosing the information would cause unreasonable harm to you or someone else
- you provide the information with an understanding that it will stay confidential.

#### 10.1.2. When we may disclose confidential information

We may disclose confidential information:

- to our Commonwealth employees and contractors, to help us manage the Scheme effectively
- to the Auditor-General, Ombudsman or Privacy Commissioner
- to the responsible Minister or Assistant Minister
- to a House or a Committee of the Australian Parliament.

We may also disclose confidential information if:

- we are required or authorised by law to disclose it
- you agree to the information being disclosed, or
- someone other than us has made the confidential information public.

#### 10.1.3. How we use your personal information

We will treat your personal information according to the Australian Privacy Principles (APPs) and the *Privacy Act 1988* (Cth). This includes letting you know:

- what personal information we collect
- why we collect your personal information
- to whom we give your personal information.

We may give the personal information we collect from you to our employees and contractors, and other Commonwealth employees and contractors, so we can manage the Scheme

You may read our [Privacy Policy](#)<sup>3</sup> on the department's website for more information on:

- what is personal information
- how we collect, use, disclose and store your personal information
- how you can access and correct your personal information.

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<sup>3</sup> <https://www.industry.gov.au/data-and-publications/privacy-policy>

#### 10.1.4. Freedom of information

All documents in the possession of the Australian Government, including those about the Scheme, are subject to the *Freedom of Information Act 1982* (Cth) (FOI Act).

The purpose of the FOI Act is to give members of the public rights of access to information held by the Australian Government and its entities. Under the FOI Act, members of the public can seek access to documents held by the Australian Government. This right of access is limited only by the exceptions and exemptions necessary to protect essential public interests and private and business affairs of persons in respect of whom the information relates.

If someone requests a document under the FOI Act, we will release it (though we may need to consult with you and/or other parties first) unless it meets one of the exemptions set out in the FOI Act.

## 11. Enquiries and feedback

For further information or clarification, you can contact us on 13 28 46 or by [web chat](#) or through our [online enquiry form](#) on business.gov.au.

Our [Customer Service Charter](#) is available at business.gov.au. We use customer satisfaction surveys to improve our business operations and service.

If you have a complaint, call us on 13 28 46. We will refer your complaint to the appropriate manager.

If you are not satisfied with the way we handle your complaint, you can contact:

Chief Financial Officer  
Corporate and Digital Division  
Department of Industry, Science, Energy and Resources  
GPO Box 2013  
CANBERRA ACT 2601

You can also contact the [Commonwealth Ombudsman](#)<sup>4</sup> with your complaint (call 1300 362 072). There is no fee for making a complaint, and the Ombudsman may conduct an independent investigation.

## 12. Definition of key terms

| Term             | Definition  |
|------------------|---|
| AFCA             | Australian Financial Complaints Authority                                       |
| APRA             | Australian Prudential Regulation Authority                                      |
| Application form | The online form to make a claim under the Phase 2 Scheme                        |
| Claim            | The request to be considered for a claim under the Scheme                       |
| Eligible loan    | An eligible loan has the meaning given in Rule 3.2 of the Phase 2 Scheme Rules. |

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<sup>4</sup> <http://www.ombudsman.gov.au/>

| Term                 | Definition   |
|----------------------|--|
| Impaired             | <p>A loan is considered to be impaired once an Impairment Event as defined by the Phase 2 Scheme Rules has occurred.</p> <p>An Impairment Event means either:</p> <p>(a) a Participating Lender:</p> <ul style="list-style-type: none"> <li>(i) recognising an impairment to a Scheme-Backed Loan; or</li> <li>(ii) writing-off of a Scheme-Backed Loan, in accordance with Lender Policies as consistently applied in relation to loans and other forms of credit to SMEs of the Participating Lender (to the extent applicable to the relevant secured or unsecured Scheme-Backed Loan); or</li> </ul> <p>(b) any write down or forgiveness of the amount of any Scheme-Backed Loan in accordance with a decision of AFCA.</p> |
| Legislative Rules    | <p>Means the <i>Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Rules 2020 (Cth)</i>.</p>   |
| Loan guarantee       | <p>A guarantee from the Commonwealth of up to 50 per cent of eligible loans issued by Participating Lenders to SMEs.</p>   |
| Participating Lender | <p>Each person who:</p> <p>(a) is either:</p> <ul style="list-style-type: none"> <li>(i) an authorised deposit taking institution (ADI) or Non-ADI Lender carrying on business in Australia who is either appropriately licensed under all Relevant Laws to engage in the credit activity of providing funding for business purposes to SME borrowers in Australia or who is exempt under such Relevant Laws from such licensing requirements; or</li> <li>(ii) in the case of a Non-ADI Lender, approved under a Participating Lender Agreement 2.0 by the Commonwealth as an eligible lender having regard to the Non-ADI Lender Criteria; and</li> </ul> <p>(b) has entered into a Participating Lender Agreement 2.0.</p>    |

| Term                 | Definition   |
|----------------------|--|
| Personal information | <p>Has the same meaning as in the <i>Privacy Act 1988</i> (Cth) which is:</p> <p>Information or an opinion about an identified individual, or an individual who is reasonably identifiable:</p> <ol style="list-style-type: none"> <li>a. whether the information or opinion is true or not; and</li> <li>b. whether the information or opinion is recorded in a material form or not.</li> </ol>  |
| Program Delegate     | A Senior Responsible Officer with the Department of the Treasury with responsibility for the Scheme.   |
| Scheme               | The Coronavirus SME Guarantee Scheme   |
| Scheme Rules         | The Australian Government SME Guarantee Scheme – Phase 2 Scheme Rules dated 28 September 2020, as amended from time to time.   |
| SME                  | <p>A SME is an entity that meets both of the following criteria:</p> <p>(a) the entity carries on a business or is a non-profit body during the “current year” (as defined in section 5 of the Cth Rules); and</p> <p>(b) one or both of the following applies:</p> <p>(i) the entity’s “annual turnover” (as defined in section 5 of the Cth Rules) in the 2019-20 income year was less than \$50 million;</p> <p>(ii) the entity’s “annual turnover” (as defined in section 5 of the Cth Rules) in the 2020-21 income year is likely to be less than \$50 million.</p> |