

# Becoming a Guarantor



*Talk to the world's leading food and agribusiness bank*

Rabobank has adopted the Banking Code of Practice. This is an industry code of conduct that outlines how Rabobank should conduct itself in its dealings with individual or small business customers. The Banking Code of Practice contains specific information relating to guarantees from individual guarantors to individual or small business customers.

## What is a Guarantee

- A guarantee is a legal agreement between the bank and the guarantor.
- If a Borrower is unable to borrow funds on their own, they may consider using a guarantee.
- As a general rule, a guarantee is a promise that you (guarantor) will become financially liable if the borrower defaults on the loan or can't make the loan repayments.
- There are also situations where guarantors may assist the borrower with ongoing servicing or payment of the loan itself.
- A guarantee must be given freely and without threat or coercion.
- An example of a guarantee may be as follows:
  - James and John (father and son) want to borrow \$800,000 in their company JJ Investments Pty Ltd (which is a small business) to purchase their neighbour's land.
  - In order to ensure the loan is secured the Bank requires additional security.
  - After speaking to their Account Manager, John who is a company director decides to act as guarantor and provide additional security in the form of a farming property held in his own name. The loan is now adequately secured as a result of John providing additional security.
  - The guarantee provided is limited to the dollar value of John's private farm.
  - John understands the risk if JJ investments Pty Ltd defaults on its loan and the Bank is unable to recover all amounts from the borrower company's security, then John's private farm may need to be sold to cover the loan or any shortfalls.
  - John follows the advice provided to him by the Account Manager and takes three calendar days to review the guarantee and other important documents.
  - After careful consideration, John decides to proceed with the guarantee allowing James and John to purchase their neighbour's land in the company name.

## About this flyer

This flyer provides information relating to guarantees and guarantors covered under the Banking Code of Practice.

This includes:

- Information relating to the role, responsibilities and risks of being/becoming a guarantor, and
- Details of possible protections that are available.

This flyer provides a general overview only as individual circumstances may differ.

The information in this flyer should not be taken as personal advice. Rabobank recommends all potential guarantors seek independent legal and financial advice before signing any documentation.

## What is a Guarantor

- A person who guarantees a loan is known as a guarantor.
- The guarantor will generally be requested to provide security to support the guarantee.
- The security provided may be a farm or other commercial property or business assets.
- Being a guarantor means accepting liability for the debt should the borrower default on the loan.

## What are the risks of being a Guarantor

- By providing a guarantee, the guarantor is agreeing to be responsible to pay back part of or all of the debt if the borrower defaults on the loan and is unable to pay their debt.
- There are risks you will need to carefully consider, including:
  - Before you agree to become a guarantor, it is important to consider your own financial situation.
  - You must understand the loan contract that you are being asked to acknowledge.
  - In the worst case scenario where the borrower is unable to meet their obligations and the bank is unable to recover fully from the borrower's security, the bank has the right to sell your assets which you have provided as security to meet that obligation.
  - If you are applying for a loan, you will have to disclose that you are a guarantor on other loans. This may have an impact on your ability to borrow funds in the future.
- A guarantee will generally remain in place until the borrower's debt has been repaid unless there is a request to restructure the arrangement, such as where the borrower alone can provide sufficient security to cover any remaining debt obligation.

## Rabobank's obligations in relation to a Guarantor

- The Banking Code of Practice (also known as the Code or BCOP) provides protections for guarantors who provide a guarantee to cover the debt of an individual or small business borrower.
- The BCOP requires Rabobank to supply guarantors with the following information prior to entering into the guarantee:
  - The loan contract (including a list of any related security contracts) and credit related insurance contracts (if any).
  - Financial accounts or statements of financial position that the borrower has submitted to Rabobank in the previous 2 years for the purposes of the guaranteed loan.

- For the latest statement of account relating to the loan for a period in which a notice of demand was made by us within the last two years (if any) and
- Credit reports from a credit reporting body (if any).
  - Other information about the guaranteed loan that a guarantor may reasonably request.

*Note: This information will not be provided if you are a sole director guarantor or a trustee guarantor. Also if you are a director guarantor you may elect to not receive some or all of this information.*

## What protections do I have as a Guarantor?

- The BCOP sets out obligations for banks to adhere to, which includes:
  - Limiting the amount of money owed to a bank under the guarantee to a specific amount or to the value of specific property provided as security for the guarantee.
  - Notice periods and information that must be provided to guarantors following certain events, such as if a borrower falls into financial difficulty.
  - The circumstances in which a guarantor can withdraw or end the guarantee.
  - The bank will not enforce against the guarantor's security unless it has first enforced against the borrower's security (subject to certain exceptions as permitted by BCOP).
- In the event that the borrower's financial situation deteriorates, we will provide the following information to you:
  - A copy of any formal demand or default notice issued to the borrower;
  - A written notice if the borrower has advised us that they are experiencing financial difficulty, and which has resulted in a change to their loan; and
  - A written notice if the borrower is in continuing default for more than two months after the issuance of the default notice.

## We're here to help

If you have any questions or would like more information, please contact your local Rabobank branch on:

- Phone: **1300 30 30 33**
- Website: **[www.rabobank.com.au](http://www.rabobank.com.au)**
- A copy of the Banking Code of Practice can be found: **[www.rabobank.com.au/banking-practices/](http://www.rabobank.com.au/banking-practices/)**