John Trethowan from the Credit Review Office provides some information for borrowers whose loan has been sold on to another lender. Also, if you are being asked to repay the loan, what could have happened so far; and some actions to consider:

Over the number of years, some SMEs, farms and agribusinesses have had their loans 'sold on' by their original loan provider, to various Investment Funds and Hedge Funds (New Loan Owners). Over the course of the next few years, these Funds will be seeking repayment proposals for all lending that is out of contract with their original lender through missed payments/ interest only periods etc. In the absence of an acceptable repayment plan being agreed there is a risk that SMEs could receive demands for full repayment of these loans. While the Funds will have bought the loans at a discount to the outstanding loan value, the new loan owners will still look to recover up to 100% of the full outstanding balance depending on ability to repay, and the net worth of the borrower. In the case of loans that have been sold to third parties, many were either in some form of distress, and/or heavily exposed to the property market. It may be challenging for some of these businesses and farms to find refinance funding from one of our few remaining banks who actively lend to SMEs.

The approach being taken by the New Loan Owners generally involves the following three options:

(a) *Discounted Buy Out* – Under this option the borrower can put forward a proposal to buy the loan at a discount to its outstanding value. However, any offer would be expected to be at least in line with the market value of the security held in respect of the loan.

(b) *Settlement & Sale* – a voluntary sale of the assets plus a cash settlement towards any shortfall on the settlement figure. This settlement would be required, to be agreed in advance.

(c) *Enforcement* – In the event of no agreement being possible under options (a) & (b) the new loan owner may appoint a receiver to realise the security they hold, and pursue the borrowers for any shortfall to the value of the loans outstanding.

- The Consumer Protection (Regulation of Credit Servicing Firms) Bill 2015 was enacted in the summer. This Bill extends the protections of the Central Bank's SME lending code, not directly on the activities of the new owners of the loan, but to their agents in Ireland which they have appointed to interact with borrowers on their behalf. You can find this code at https://www.centralbank.ie/regulation/processes/consumer-protection-code/Documents/Code%20of%20Conduct%20for%20Business%20Lending%20to%20Small%20and%20Medium%20Enterprises.pdf
- At this stage, good advice is essential. Bad advice at this critical stage may result in terminal results for your business. If your Accountant is sufficiently well informed, they should be the initial port of call.
  Alternatively, you may wish to engage a specialist regulated debt management services (DMS) firm to independently review your financial circumstances and/or engage with the bank on your behalf. DMS firms are regulated by the Central Bank of Ireland to provide Debt Management Services to Consumers. These can be found at http://registers.centralbank.ie/DownloadsPage.aspx

What you should be doing now:

At some point in time you will need to talk to another Bank to provide finance to meet the settlement figure demanded by the new Loan owner, if you wish to continue trading.

- If you have not already done so, you should make some effort to value your security which is held by the new loan owner – this will provide an indication as to a reasonable settlement amount for any deal.
- It is likely that you will have your day to day business banking with one of the remaining banks which are still active in the SME market. If this account is operated well it will help you to secure the finance you will need; if the account is poorly operated with payments dishonoured, this will make it more difficult.
- In any case, you should be talking with your daily 'transactional bank' to establish a good relationship, and letting them know that you will may need refinancing in the foreseeable future. Listen to the banker – are they positive or negative about this?
- If they are negative – try to address the issues they raise. You may need to shop around for a more accommodating bank. It is likely that the Bank will not finance any assets by 100%, or by multiples of your profits.
- You may need to get part of the settlement money from a non-bank source – an investor in your business. If practicable you should also be talking with Friends and Family about the upcoming need for refinancing.
- As with any bank loan application, you will need up to date financial accounts – there is no point in seeking credit with financial accounts which are over a year old. The bank will want to see 3 years accounts, and if past trading has been difficult you will need to be able to explain the past performance.
  You should also have a credible business plan for the next three to five years, together with cash-flow projections. Templates to produce these are available on the Banking and Payments Federation website http://www.bpfi.ie/customer-assist/business-customers/bpfi-business-information-guides-and-notes/
- You will need your up-to-date tax clearance certificates, or the payment record for any arrangements for arrears with the Revenue Commissioners.
- It will also help if you have aged listings for your debtors and creditors, to help the bank understand your business working capital needs.
- The bank will likely check your business and personal credit history with the Irish Credit Bureau – do you know what these credit records look like – if not find out. It is better to explain in advance the causes for any defaults, including missed payments, interest only periods or other forbearance, and why these will not re-occur. You can apply on-line at www.icb.ie for your credit report
- You will need security for the lending, this will likely be at least fixed charge over the assets being financed, and possibly floating charges on the business. If the assets are in the Directors names on a limited company, be prepared to give a guarantee, backed by a charge on the assets to secure the loan.

Some help which is available:

- Your local enterprise office should provide a 'one stop shop' for SMEs in terms of advice and mentoring – it may be that a suitably qualified business mentor will provide the necessary assistance to ensure you are best positioned to manage your new loan relationship. A link to your local office is here https://www.localenterprise.ie/
- If your business is viable or potentially viable, and has been refused credit, the Credit Review Office can help with loan appeals up to €3M. www.creditreview.ie
  The Credit Review Office help line may also be a useful service 1850211789
- If your business has less than 10 employees, some of the refinancing up to €25K, may be available from Microfinance Ireland. www.microfinanceireland.ie
- If lack of security is the issue, the State Credit Guarantee Scheme may help solve this problem.
- If you are a member of a trade body such as CHAMBERS/ISME/SFA, let them know how you are getting on. They can lobby on the collective experience of their members.