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 (less recovery costs) 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. The cash settlement will reflect the ability of the farm to generate surplus cash for debt repayment.

(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.

It is extremely important to note that the borrower/farmer is legally liable for 100% of the outstanding loan balance. The price that the New Loan Owners paid for a bundle of loans, is irrelevant – the new loan owner is seeking to maximise its return for its investors.

The minimum amount of money the loan's new owner is likely to accept in settlement is the value of the loan security less recovery costs – the most it can recover is 100% of what you owe, plus interest as per the loan agreement. Where a settlement figure is negotiated between these floor and ceiling values, this will likely depend on how much debt the business/farm can sustain to make up the difference between the security value and the settlement price.

Ability to refinance your loan will depend on the amount of cash that can be generated by the farm to service a loan, and the security that can be offered to the new refinancing bank.

While banks have moved to cash flow lending (meaning they are seeking evidence that the loan repayments can be covered into the future), security is still a key factor in decision to provide credit as it reduces risk for the bank.

Many of the cases that the Credit Review Office deals with are businesses whose security has dropped in value by typically 50%, or even more in some cases. This is not necessarily the case with farming – farm land remains a strong form of security for many loans. However, lending to farmers has not always been solely for the purpose of investing in the farm itself – many farmers pursued a strategy (previously recommended by many advisors and experts) of developing off-farm income to counteract the cyclical nature of farm incomes. Where that off-farm investment involved property, or buy-to-lets, values of the underlying property may have dropped substantially. In terms of cash flow, servicing the loans for off-farm investments may actually be draining cash from viable farms.

What you should be doing now:
At some point in time you will need to be talking with another Bank to provide finance to meet the settlement figure demanded by the New Loan Owner, if you wish to continue farming.

- If you have not already done so, you should make some effort to have your security which is held by the new loan owner valued– this will provide an indication as to the 'floor' or lowest settlement amount for any deal. It is important to consider issues that may impact on security value such as rights of way, access, planning, leases and who bounds the land (family etc).
- It is likely that you will have your day to day or 'transactional' farm 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 unlikely that Bank's will finance any assets by 100%.
- If all your banking is with one institution, and your loan is being sold, it may also involve calling in any overdraft and short-term working capital facilities. In this case you will need to find a new transactional bank. Previous account operation will be considered when you apply for rebanking. Security may also be required for the transactional banking.
- You may need to get part of the settlement money from a non-bank source. 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. Projections must be realistic and show an ability to repay debt even in difficult times like those being experienced now. There is no point on basing assumptions on a return to a

base milk price of 30c a litre this year for example.
Teagasc offer financial advisory services to members and can help you to put together your plan.

- 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 farms 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, typically this will be a folio of land. Ideally, the security will not include the farmhouse if it is the family home – repossession of family homes in Ireland is a highly emotive issue.
  You may have some land away from the main farm or perhaps an outside farm which is not held as security by the New Loan Owner. You need to consider your options in relation to this asset, and it may be necessary to sell this land in order to generate funds to "save" the main farm. You should also identify any sites you have which may be suitable for housing.
- Many of the term loans being sold were at very favourable interest rates. Refinancing interest rates will reflect current levels and will typically be higher.
- Timing is very important – do not underestimate how long it will take to get refinanced – typically it can take 6 months to get the loan refinanced and banking facilities and security in place with the new Bank.
- Finally, it is important to maintain good communication with the New Loan Owner during the refinancing process. Keeping the loan owner fully briefed tends to result in more positive outcomes.

Some help which is available:

- If your farm 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 you are a member of IFA, let them know how you are getting on. They can lobby on the collective experience of their members.
- For Agri related businesses, if your business has less than 10 employees, some of the refinancing up to €15K, may be available from Microfinance Ireland. www.microfinanceireland.ie Note: Microfinance Ireland loans are not available to Farms.

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

Finally, the Consumer Protection (Regulation of Credit Servicing Firms) Bill 2015 was enacted in the summer. This Bill restores the protections of the Central Bank's SME lending code, which applied before the loan was sold, to farmers and regulates how the new owners of the loan or their agents (if appointed) interact with borrowers. 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