

Bank of England

Gary
via email to:
request-895986-
b686db67@whatdotheyknow.com

Information Access Team
Communications Directorate
T 020 3461 4878
F 020 3461 5460
enquiries@bankofengland.co.uk

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**Please quote ref. CAS-50756-Q2B8Z1
on all correspondence**

Dear Gary

Thank you for your email dated 9 September in which you ask the Bank of England (the 'Bank') for access to the following information under the Freedom of Information Act 2000 ('Fol Act'):

'1. Is it true that a BGC once endorsed is a valid negotiable instrument and therefore valid payment method to discharge an alleged debt?'

We have interpreted 'BGC' to mean Bank Giro Credits. PayUK is the recognised operator and standards body for the UK's retail interbank payment systems, including Bank Giro Credits. For more information please visit <https://www.wearepay.uk/what-we-do/payment-systems/image-clearing-system/>.

You can also find information relating to negotiable instruments legislation on the Government's website at <https://www.legislation.gov.uk/ukpga/1974/39/part/VIII/crossheading/negotiable-instruments>

- '2. When an 'agreement' is accepted by a borrower and it is accepted by a bank, does that create a trust?*
- 3. If a trust has been created by an autograph/agreement to contract, what are the roles (fiduciary duties) of the 'the bank' and the borrower within this trust? i.e. Trustee/Settlor/Beneficiary*
- 4. In transactions, is it not the case that the bank is acting in the capacity of a "Trustee"?*
- 5. Does the bank hold legal title? If not, who does?*
- 6. Who holds "Equitable" title?*
- 7. Is an agreement when signed or agreed to by a borrower, a financial instrument?*
- 8. Can a financial instrument be securitized?'*

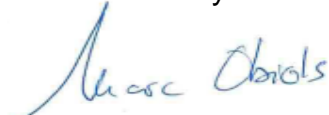
The Bank is not in a position to respond to your queries above as the Bank does not provide legal advice or information of the nature you have requested. However, you can find information regarding trusts on The Law Society's website at <https://www.lawsociety.org.uk/public/for-public-visitors/common-legal-issues/trusts>, and information on financial instruments on the Thomson Reuters Practical Law website at [https://uk.practicallaw.thomsonreuters.com/4-200-9252?transitionType=Default&contextData=\(sc.Default\)](https://uk.practicallaw.thomsonreuters.com/4-200-9252?transitionType=Default&contextData=(sc.Default)). Alternatively, you may seek your own legal advice on these matters.

'9. What creates the "source" of the funds the bank claims it lends?

10. When the bank accepts a contract/agreement, does the bank monetise this instrument, creating a credit on account which it then uses to fund the credit/loan to the applicant?'

For questions 9 and 10, you may find the article 'Money creation in the modern economy' useful. This was published in the Bank's Quarterly Bulletin in 2014 and is available to view at <https://www.bankofengland.co.uk/-/media/boe/files/quarterly-bulletin/2014/money-creation-in-the-modern-economy.pdf?la=en&hash=9A8788FD44A62D8BB927123544205CE476E01654>

Yours sincerely



Marc Obiols

Information Access Team

Your right to complain under the FoI Act

If you are unhappy with the Bank's response, you may ask for that decision to be reviewed internally. Please note that this will be subject to the Bank having received your submission within two months of the date of this response. In order to submit an internal review, please set out the grounds for your appeal and send it to the Information Access Team (TS-Mz), Communications Directorate, Bank of England, Threadneedle Street, London, EC2R 8AH or by email to enquiries@bankofengland.co.uk for the attention of the Information Access Team.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Privacy notice

When you contact us, the Bank collects information about you. This includes your name, contact details and anything you choose to disclose in your correspondence.

We collect your personal data to assess your request and prepare our response to you. Our basis to process this data is that it is necessary for us to satisfy a legal obligation.

We will keep your personal data for 10 years. You can request that we no longer use your personal data, by contacting us via the website link below.

You have a number of rights under data protection laws, for example you have the right to ask us for a copy of the personal data the Bank holds about you. This is known as a 'Subject Access Request'. You can ask us to change how we process or deal with your personal data, and you may also have the right in some circumstances to have your personal data amended or deleted. To find out more about those rights, to make a complaint, or to contact our Data Protection Officer, please see our website at www.bankofengland.co.uk/privacy