Gift Trust

Investor Guide

For use in connection with the HSBC Onshore Investment Bond

HSBC

Contents

The purpose of this Investor Guide is to explain how a Gift Trust can be used with the HSBC Onshore Investment Bond (the Bond) to help you reduce your potential liability to inheritance tax.

It is designed for investors working with their adviser who will guide them on the merits and suitability of this trust arrangement. HSBC Life (UK) Limited does not give advice on trusts and investors are responsible for obtaining their own tax and legal advice before proceeding.

You should also read the following documents:

- HSBC Onshore Investment Bond – Key Features
- HSBC Onshore Investment Bond – product brochure

Important note
The information contained in this Investor Guide is based on our understanding and interpretation of current UK tax law and HM Revenue & Customs practice as at March 2019. Whilst every care has been taken to ensure accuracy, HSBC Life (UK) Limited cannot accept any responsibility for any action taken or refrained from being taken as a result of the information contained in this Investor Guide. UK tax law and practice are subject to change. The value of any tax advantages will depend on individual circumstances.

Why you should consider a Gift Trust

Increasing numbers of people are finding that their estates may be subject to inheritance tax. Everyone is allowed to leave an amount up to £325,000 (current 'nil rate band' fixed until the end of the 2020/21 tax year) to their beneficiaries, without incurring any inheritance tax. Above this limit, inheritance tax is normally charged at 40%. For an estate of £600,000, for example, the tax liability could be as much as £110,000 – 18% of the gross estate.

Consider Marjorie, with an estate of £1,000,000. She is a 75 year old widow who has made no previous gifts for inheritance tax purposes and, since her late husband's entire nil rate band was used on his death, there is none left to transfer to her. If there was no inheritance tax to pay her two children, Veronica and Lucy, would each inherit £500,000, as shown below:

Marjorie's current estate
£1,000,000

Veronica inherits £500,000	Lucy inherits £500,000

But, inheritance tax is payable and so Veronica and Lucy will each lose £135,000 to HMRC.

Marjorie's current estate
£1,000,000

Nil rate band
£325,000

Inheritance tax payable
£675,000 @ 40%

Veronica inherits £365,000	HMRC receives £270,000	Lucy inherits £365,000

There are some significant reliefs and exemptions available most notably for gifts/bequests to a spouse or civil partner. In addition a new residence nil-rate band applies since April 2017 (please refer to page 13 for more details). However, without careful planning your beneficiaries may still receive less than they otherwise might if the estate you leave them is reduced by a liability to inheritance tax.

Some people may have a lump sum to invest but be unable or unwilling to give up complete access to their capital. A Discounted Gift Trust would enable them to achieve an immediate reduction in their estate for inheritance tax purposes, whilst retaining access to a regular stream of capital payments to provide them with an income during their lifetime. For more information on discounted gift trusts, please refer to the Discounted Gift Trust Investor Guide.

Others may be unable to give away any assets but would be prepared to create a trust with a loan which trustees can then invest. Although a Loan Trust will not provide any immediate saving in inheritance tax, it will at least ensure that any growth on the investment made by the trustees will be outside the settlor's estate for inheritance tax purposes. For more information on Loan Trusts, please refer to the Loan Trust Investor Guide.

However, if you are able to consider giving away a substantial sum, a Gift Trust will have the effect of reducing your potential tax liability.

Your adviser will advise you of the suitability of a Gift Trust but, generally, an investor for whom this trust arrangement would be appropriate will:

- have a net estate exceeding £325,000;
- wish and be able to give assets away;
- have surplus capital to which they need no access in the future; and
- be at least 18 years of age.

Benefits at a glance

What the trust offers
The Gift Trust is a lump sum investment, held under trust, which enables you to:

- give away a lump sum;
- achieve a reduction in the value of your estate for inheritance tax purposes provided you survive for seven years from the date you make the gift;
- prevent any growth on the lump sum creating a potential liability to inheritance tax; and
- select trustees who will administer the trust and distribute any remaining trust fund to your beneficiaries either during your life or after your death.

What the HSBC Onshore Investment Bond offers

- **Direct investment into the fund** – the Bond invests directly into collective investments such as open-ended investment companies (OEICS) and unit trusts, not 'mirror funds'.
- **Flexibility** – your bond can be split into a maximum of 1,200 segments to allow tax planning flexibility.
- **Transparent charging structure** – all transactions are undertaken through a cash account showing charges for investment, administration and advice.
- **Individual tax calculations** – we calculate the tax liability individually for each bond, according to funds held.
- **Comprehensive online facilities** for your adviser to set up and administer your bond.
- **Simplified administration** – all transactions are undertaken though a cash account making it easy for your trustees to monitor and administer your bond.
- **Value for money** – by linking to the actual funds offered by fund managers (rather than replicating those funds ourselves), we are able to offer a competitively priced proposition with minimal administration costs.
- **Multi-life/multi-owner financial planning** – the ability to have combinations of up to 10 lives insured and 10 policy owners, gives flexibility that will be particularly attractive to trustees.
- **Minimum age** three months for a life insured and 18 years for an applicant.

The value of investments can fall as well as rise and you may not get back what you invested. For some investments this can also happen as a result of exchange rate fluctuations as shares and funds may have an exposure to overseas markets. HSBC Life (UK) Limited cannot be held responsible for the investment performance of your bond.

The value of any tax benefits described depends on your individual circumstances. Tax rules and rates may change in the future. HSBC Life (UK) Limited cannot be held responsible for any future changes in legislation.

For more details, please refer to the HSBC Onshore Investment Bond product brochure and Key Features which can be obtained from your Financial Adviser or from our website **www.life.hsbc.co.uk/oib**

How the Gift Trust works

Although there are two ways of creating the Gift Trust (please see 'Creating your Gift Trust' on page 9) the arrangement simply requires you to make a gift to your trustees to be held on the terms of a trust of your choosing.

Depending upon your requirements, you can choose between an absolute and a discretionary trust. For more details about the differences between these two types of trust please refer to page 6.

Paying the benefits
The trust will be administered by your chosen trustees who are responsible for administering the trust and distributing the trust fund to your beneficiaries either during your lifetime or after your death. As the creator of the trust, you will automatically be a trustee, but it is essential that you appoint at least one other trustee who can deal with the trust in the event of your death.

Please refer to page 11 for more details about the role and responsibilities of the trustees.

Joint arrangements
It is possible for the Gift Trust to be set up on a joint basis with your spouse or civil partner. If each of you intends to create your own trust arrangement, your adviser will probably recommend that you exclude each other from your respective trusts. This can be accomplished by signing the appropriate box on the HSBC draft trust deed. Please refer to your adviser for guidance on this.

Your choice of trusts

A Gift Trust can be set up either as an absolute trust or a discretionary trust. When deciding which type of trust, you will need to consider:

- how much flexibility you wish to have in changing the beneficiaries at a later date;
- how much control you wish your trustees to have over the trust fund and how your chosen beneficiaries may benefit from it; and
- how the trust will be treated for inheritance tax purposes.

Your adviser will provide guidance on which trust will be most suitable for your circumstances, but the key differences are as follows:

Absolute trust
This trust can be used if you know exactly who should benefit from the trust fund after your death. When creating the trust, you must specify both the beneficiary(ies) and, if more than one, the share of the trust fund to which they are each entitled. You cannot change your mind at a later date.

An advantage of an absolute trust is that your gift will be treated as a potentially exempt transfer for inheritance tax purposes. This means that there will be no immediate inheritance tax charge and, provided that you survive for at least seven years after making the gift, the whole of your trust fund will be free from inheritance tax on your death. For further details please refer to the 'What about tax?' section on page 14.

A drawback is that you cannot change the beneficiaries once the trust is established. If a beneficiary dies their share of the trust fund will pass to their heirs and you will have no control over who then benefits.

There is also the risk that if you die within seven years of creating the trust and a beneficiary has predeceased you, the trust property will form part of both your estate and the beneficiary's estate for inheritance tax purposes.

Also, a beneficiary's share of the trust fund could be at risk if he or she is involved in marital breakup or a dispute with creditors. The trust fund could potentially be taken into account for any means-tested benefits to which a beneficiary might otherwise be entitled.

Discretionary trust
This trust may be chosen if you want to retain some flexibility over who will benefit.

No beneficiary will have a fixed right to anything; instead it will be up to your trustees to decide who will benefit, in what proportion and when the trust fund is to be distributed. The trust deed sets out the classes of beneficiaries who can benefit and you can add named individuals to this list. It is normal to provide your trustees with a letter outlining your wishes about who should benefit but, although they can take your wishes into account, they are not bound to act in accordance with them.

As a result of the flexibility offered by a discretionary Gift Trust, your gift will be classed as a chargeable transfer with the following inheritance tax implications:

- There will be an immediate tax charge of (currently) 20% on any amount of the gift which, when added to any other chargeable transfers you have made in the past seven years, exceeds the nil rate band;
- There could be a further charge if you die within seven years of setting up the trust; and
- Inheritance tax will potentially be payable on every tenth anniversary of the trust and when any distributions are made.

For further details please refer to the 'What about tax?' section on page 14.

The Gift Trust in action

How might the Gift Trust help Marjorie?
As previously mentioned, Marjorie is a 75 year old widow with an estate worth £1,000,000. She has made no previous gifts for inheritance tax and, since her late husband's entire nil rate band was used on his death, there is none left to transfer to her.

Marjorie's house is worth £650,000 and she has £200,000 sitting on deposit earning very little interest. The rest of her estate is made up of national savings certificates and premium bonds.

She is prepared to consider mitigating her inheritance tax liability. On the advice of her adviser, she decides to transfer £200,000 into a Gift Trust, with her two children being her principal beneficiaries.

Whichever type of Gift Trust Marjorie chooses, all the investment growth on the Bond will be outside her estate for inheritance tax purposes.

If she chooses an absolute trust, the initial value of the gift will be a potentially exempt transfer (PET) and will fall outside her estate provided she survives for seven years from the date of creating the trust.

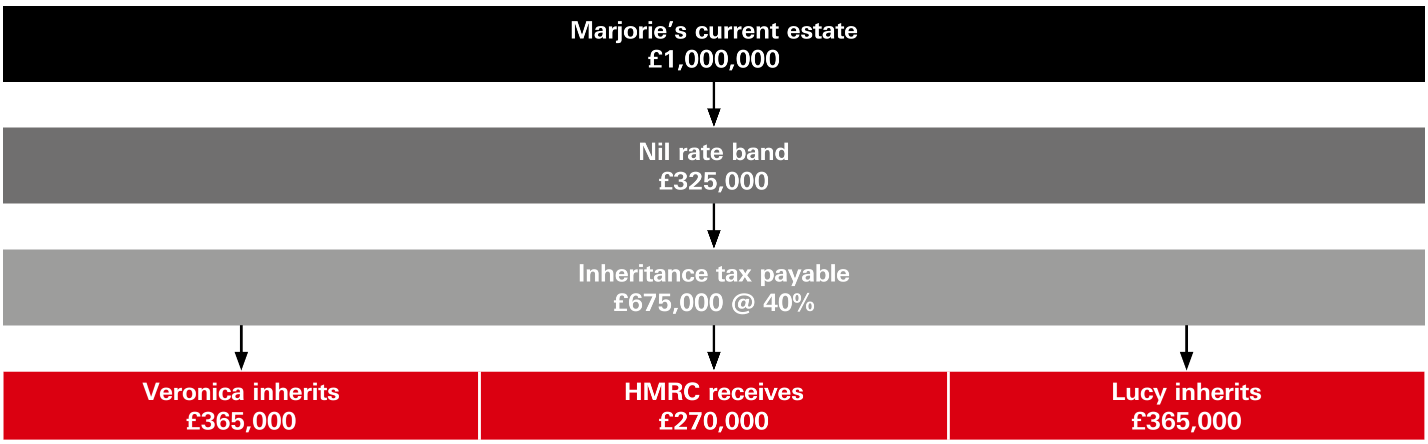
If she chooses a discretionary trust, even though there is a chargeable lifetime transfer there will be no immediate inheritance tax charge as her gift is below the nil rate band. As with an absolute trust, the initial value of the gift will fall outside her estate provided she survives for seven years from the date of creating the trust.

While a discretionary trust will be assessed for periodic charges at each tenth anniversary and for exit charges when payment is made to her beneficiaries, it is unlikely that the trust will attract any inheritance tax charge if its value remains below the nil rate band available at the time of each assessment.

Clearly, whichever trust Marjorie chooses, during the seven years following the creation of the trust, the nil rate band available to the rest of her estate will be reduced by the value of the gift.

Marjorie chooses a discretionary trust because she wants to retain some flexibility over who will benefit.

Marjorie creates her Gift Trust by giving her trustees £200,000 which is then invested in the HSBC Onshore Investment Bond.



After seven years, the gift of £200,000 will have fallen outside of Marjorie's estate completely. For simplicity, the figures have not been changed.

Majorie's reduced estate 2021
£800,000

Nil rate band
£325,000

Inheritance tax payable
£475,000 @ 40%

Veronica inherits	HMRC receives	Lucy inherits
£305,000	£190,000	£305,000
A reduction of £60,000	A reduction of £80,000	A reduction of £60,000

Veronica and Lucy will also (potentially) benefit from the £200,000 held in the Gift Trust. This means that their overall position has (potentially) improved by £40,000 each, before taking into account any investment growth achieved.

In addition, Veronica and Lucy should be able to benefit from the new residence nil rate band (currently £100,000 increasing to £175,000 by April 2020) which applies to individuals who pass on their main residence to direct descendants. This would have the effect of reducing the tax charge to £120,000 and increasing Veronica and Lucy's inheritance to £340,000 each.

Please note that this example is provided for illustration only and should not be used as a guide for any particular course of action. The tax implications will vary according to individual circumstances and you will need to consider your personal tax situation in detail with your adviser before proceeding.

Creating your Gift Trust

Your adviser will explain how to complete the trust documentation as well as the application process.

The value of the gift you are making will fall outside your estate provided you survive for seven years from creating the trust. For further information on this, please refer to the 'What about tax' section page 14.

Depending upon your requirements, you can choose between an absolute and a discretionary trust. For more details about the differences between these two types of trust please refer to the 'Your choice of trusts' section on page 6 and 'About your beneficiaries' section on page 12.

Whichever version you choose, any growth on the Bond will be held for the benefit of your beneficiaries outside your estate, thereby reducing your potential inheritance tax liability.

As the sole creator of the trust you must appoint at least one additional trustee to act with you in administering the trust for the benefit of your chosen beneficiaries.

If both you and your spouse (or civil partner) are creating a joint arrangement, there is no actual requirement to appoint an additional trustee at outset. However, it will be necessary for you to appoint an additional trustee at some point, in order to ensure that there are at least two trustees remaining in the event of your death or the death of your spouse (or civil partner). Appointing an additional trustee at outset is generally considered prudent.

Investing the trust fund

A Gift Trust is a long term arrangement, so it is essential that the widest investment choice is available. With the HSBC Onshore Investment Bond you and your co-trustees can access the expertise of investment managers across a range of fund management groups. Your adviser will be able to give you and your co-trustees details of the current fund range.

Building the investment portfolio
Initially the investment will be allocated to the cash account in the Bond pending purchase of fund holdings. This cash account, apportioned equally across the policies in the Bond, forms part of the investment portfolio and is used to debit the cost of fund purchases and credit the proceeds from fund sales.

Once the investment is allocated to the Bond you can then build a portfolio from a choice of collective investments such as Open Ended Collective Investments (OEICs) and unit trusts. Other than the minimum investment levels which apply to each asset held in the portfolio, there are no restrictions on how the investment can be spread.

The cash account can also be used to hold monies awaiting investment or as a cash shelter in times of market volatility.

Trading free from capital gains tax
Subject to the minimum investment levels, you and your co-trustees also have complete flexibility to move monies between funds and, because the investment is held within the Bond, it is possible to trade between funds without incurring any personal charge to capital gains tax.

About your trustees

Choosing your trustees
As previously mentioned, as the creator of the trust, you will automatically be a trustee but you will need to appoint at least one other trustee to act with you. Joint creators will also need to appoint at least one additional trustee to act with them.

A trustee must be someone you can rely on to act in accordance with your wishes, so you should make your choice with care.

You can appoint anyone to be a trustee provided they are over the age of 18 years and have full mental capacity. There must be at least two trustees to administer the trust. If you wish you can appoint a beneficiary under the trust as trustee.

You may prefer to appoint a professional trustee, such as your solicitor but please bear in mind professional trustees are permitted to charge for their services. If the only asset within the trust is the Bond and if a withdrawal is made from the Bond to pay the fees of a professional trustee, this will have an impact on the annual allowance available for chargeable event purposes. Please refer to the ‘What about tax? section on pages 14 and 15.

During your lifetime, you will be able to appoint new or additional trustees. In the event of your death or incapacity, this power will pass to the remaining trustees. You will also have the power to remove a trustee provided at least one trustee (other than yourself) remains after the dismissal.

Trustees’ roles, responsibilities and accounting
The role of the trustees is to manage the trust assets in accordance with the terms of the trust deed.

Whilst the only asset held in your trust is the HSBC Onshore Investment Bond, your trustees will have little to do to administer the trust fund. In particular, they will not need to complete trustee tax returns.

About your beneficiaries

Choosing your beneficiaries
The choice of who should benefit from your trust during your life or in the event of your death rests with you and your trustees. Anyone, other than a creator of the trust, can be a beneficiary.

Whether or not the beneficiaries are fixed at the outset and how a beneficiary will be treated for tax and other purposes, will depend on whether you have created an absolute or discretionary trust.

Absolute beneficiaries
Under an absolute trust, you will name those you wish to benefit and the shares they should take. Once you have made this choice, you cannot change your mind.

Where there are minor beneficiaries, the trustees will usually have to retain the trust fund until each beneficiary reaches age 18 (16 in Scotland).

Discretionary beneficiaries
Under a Discretionary trust, the beneficiaries are described as a class of individuals such as your children, grandchildren, nieces, nephews, your spouse or surviving spouse (unless you created the trust as joint creators or deliberately excluded your spouse) and the spouse or surviving spouse of any of your beneficiaries. A full description of your discretionary beneficiaries will be found in Clause 2.2 of your trust.

A discretionary beneficiary does not have an automatic right to receive anything under the trust – they only have the right to be considered by the trustees. The trustees can exclude a beneficiary and you can add to the class of beneficiaries during your lifetime.

You may wish to write a letter to your trustees explaining how you would like your trust fund to be distributed. Although your trustees will usually take your wishes into account, they cannot be bound by them and, ultimately, the decision about who receives what and when will rest with them.

What happens if someone dies?

If someone associated with the trust dies, the trustees should notify us as soon as possible. We need to know if:

- a trustee dies; or
- a life insured dies.

What happens if a trustee dies?
If a trustee dies, the remaining trustees must advise us of this and provide evidence in the form of a copy of the Death Certificate.

If, following the death of a trustee, only one trustee remains, the settlor or the surviving trustee should appoint a new trustee to act with them. We can provide a suitable deed for this purpose.

What happens if a life insured dies?
If one of the lives insured dies but is survived by other lives insured, there will be no effect on the trust and the Bond will continue.

If the last surviving life insured dies, the trustees must claim the proceeds. Whether they distribute these or retain and reinvest them will depend on whether the trust is absolute or discretionary and the circumstances of the beneficiaries.

In these circumstances, your trustees may need to open a trustee bank account. Your adviser will be able to give you (and your co-trustees) information about how HSBC can assist with this.

What happens if a beneficiary dies?
If a beneficiary of an absolute trust dies, the value of the trust fund will be included in the beneficiary's estate for inheritance tax purposes.

If a beneficiary of a discretionary trust dies, there will be no inheritance tax implications insofar as your Gift Trust is concerned.

What about tax?

Inheritance tax
There are a number of occasions when a liability to inheritance tax may arise and these are summarised in the following table:

Event	Type of Gift Trust	
	Absolute	**Discretionary**
When the trust is created	Potentially exempt transfer (PET)	Chargeable lifetime transfer (CLT) but may be covered by nil rate band (NRB).
Who pays the tax?	n/a	The tax will usually be paid by your trustees out of the trust fund. If you pay the tax, the gift must be grossed up.
If you die within seven years	May be covered by NRB	If the CLT is not covered by the NRB and tax at the lifetime rate is paid, a further tax liability is possible but taper relief may assist. If any PET which you made before the CLT becomes chargeable, this may create a further tax liability.
Who pays the tax?	The beneficiary	The trustees.
On the first (and subsequent) tenth anniversary(ies)	n/a	There will be a possible periodic charge, at a maximum of 6% of the value of the trust fund in excess of the available trust NRB. However, it will be nil where there were no chargeable transfers in the seven years prior to the creation of the trust and the value of the trust is less than the NRB at this time.
Who pays the tax?	n/a	The trustees.
Payment to a beneficiary	n/a	An exit charge may be possible. Exit charges may apply each time money is paid out of the trust to your beneficiaries. An exit charge is usually based on the previous periodic tax charge.
Who pays the tax?	n/a	The trustees.

Residence nil rate band
A new nil rate band is being phased in over the four tax years from April 2017 for individuals who pass their main residence onto their direct descendants. It is currently worth £125,000 rising to £175,000 by April 2020, though limitations and exclusions apply. Please refer to your adviser for guidance.

Income tax
The HSBC Gift Trust has been designed for use with the HSBC Onshore Investment Bond. As a series of life insurance policies, gains arising under the Bond are taxable to income tax under the chargeable event regime. Under that regime, a liability to income tax can only arise if a chargeable event occurs, there is a chargeable event gain and there is a chargeable person to whom the gain can be attributed.

A chargeable event will occur on the death of the last life insured under the policy, assignment or part assignment of the policy for money or money's worth, maturity of the policy, surrender in full of the policy, or when certain part surrenders are made under the policy. Your adviser will be able to explain how any liability is arrived at.

The following table illustrates the tax implication for the three most common events:

Income tax implication	Event		
	Withdrawals within 5% allowance	**Withdrawals greater than 5% allowance**	**Full surrender**
Is there a chargeable event?	No	Yes	Yes
Is there a chargeable event gain?	No	Yes, on excess above 5%	Yes, on any gain realised

Who is liable for the tax?
With an absolute trust, any gain is assessed on the beneficiary, regardless of age. The only exception is where the beneficiary is the minor (unmarried) child of the person who created the trust, in which case any gain in excess of £100 will be assessed on the parent.

With discretionary trusts, the person who is liable for the tax will depend upon the circumstances at the time, as illustrated in the following table:

Discretionary Gift Trust

Who is liable for the tax?	The creator of the trust, if alive and UK resident, failing whom.
	UK resident trustees, failing whom.
	a UK resident beneficiary when receiving a benefit from the trust.

The rate of tax payable
The rate of tax payable will depend on whom the liability falls. As the person who created the trust you will be taxed at your highest marginal rate. You will receive a credit for basic rate tax in consideration of the tax paid by HSBC Life on the underlying investments within the Bond.

Where UK resident trustees are liable, the rate of tax is 45% for 2018/19, and they also receive a credit for basic rate tax of 20%.

Where a beneficiary is liable, the tax paid will depend on their personal income tax position and, as above, a credit for basic rate tax will be available.

If your trustees wish to arrange to take regular payments from the Bond in order to make payments to a beneficiary, they can do so without causing any immediate income tax charge, provided these do not exceed 5% (in any policy year) of the total investment made.

Any part of this allowance which is unused can be carried forward; so your trustees can potentially defer any income tax liability for which you, they or your beneficiaries may be liable, until 100% of your investment has been withdrawn, or the bond comes to an end.

Any amount over the 5% yearly allowance may be subject to income tax. If you are liable for this it could reduce any age-related income tax allowances you receive. Personal allowances on income exceeding £100,000 may also be affected.

Because we pay corporation tax on any income and capital gains realised on the underlying investments in the Bond, basic rate income tax is treated as already paid on this investment. We calculate the underlying tax charge daily and collect a monthly tax deduction from the Bond to account for this. As a result, tax administration is simplified for the trustees and any liability you face will be restricted to higher or additional rate income tax.

The Bond will be issued as a series of separate but identical policies, each of which is treated independently of the others. This gives your trustees considerable flexibility to undertake strategies which can minimise any tax liability arising from any gains made.

For more details on the tax treatment please refer to the HSBC Onshore Investment Bond product brochure.

Capital gains tax
Capital gains tax does not generally apply to investment bonds and there should be no charge to the trustees provided they are the original owners of the bond. No liability to capital gains tax will arise when fund switches are made within the Bond.

Pre-owned assets tax
Pre-owned asset tax (POAT) rules are aimed at discouraging certain inheritance tax planning arrangements by imposing an income tax charge. Pre-owned assets tax does not apply to a Gift Trust.

Gifts with reservation of benefit
A gift with reservation can occur where you continue to enjoy a benefit from an asset. These rules do not apply to a Gift Trust because the gift into trust is outright and you have reserved nothing for yourself.

Accessibility

To find out more about our accessible services please visit **hsbc.co.uk/accessibility** or ask at any of our branches.

If you'd like this in another format such as large print, Braille or audio, please contact us.
A textphone service is available for customers with hearing and/or speech impairments. If you use your own textphone you can call us on **03457 125 563** (**+44 207 088 2077** from outside the UK).

BSL Video Relay Service is also available (Monday-Friday 8am-6pm, excluding Bank and Public Holidays) at **hsbc.co.uk/accessibility**.

hsbc.co.uk