

INFORMATION BOOKLET FOR SMALL AND MEDIUM ENTERPRISES (SMEs) IN FINANCIAL DIFFICULTY



Killarney
Credit Union
LIMITED

KILLARNEY | KENMARE | CAHERSIVEEN

Introduction

Small businesses are key contributors to the Irish economy and are vital for its growth. At Killarney Credit Union Limited we are committed to supporting small and medium-sized enterprises (“SMEs”) as they establish, launch and mature. Killarney Credit Union Limited endeavours at all times to be both clear and transparent in all our member engagements and to comply in full with our legal and regulatory obligations under the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-sized Enterprises) Regulations 2015 (the “SME Regulations”).

The SME Regulations set out the standards you should expect from the Credit Union and address key aspects of the relationship between the Credit Union and SMEs from credit applications and communications, to dealing with financial difficulties should any problems arise. The SME Regulations apply to all SME lending by regulated entities within the State excluding:

- multi-lender credit;
- credit offered to or granted by special purpose vehicles;
- or credit provided to a regulated financial services provider which is itself authorised to provide credit.

A copy of the SME Regulations are available to download from the Central Bank website at www.centralbank.ie

What are the SME Regulations?

In December 2015, the Central Bank of Ireland published Regulations for Business Lending to Small and Medium Enterprises called the SME Regulations. The SME Regulations set out new requirements for lenders when dealing with SMEs who are facing or in financial difficulty and apply to Credit Unions since 1st January 2017.

The purposes/objectives of the SME Regulations can be summarised as follows:

- To enable access to credit for viable and productive business propositions;
- To promote fairness and transparency in the treatment of SMEs;
- To ensure that when dealing with financial difficulties cases, the objective of a regulated entity will be to assist members to meet their obligations, or otherwise deal with the situation in both an orderly and appropriate manner.

The provisions of the SME Regulations and this information booklet are without prejudice to the Credit Union's legal and regulatory obligations and legal rights to enforce any agreement including, but not limited to, any security taken in connection with a credit facility agreement.

Who and what do the SME Regulations apply to?

The SME Regulations apply to “micro, small and medium-sized enterprises” and the SME Regulations define these enterprises as follows:

- A micro and small enterprise is an enterprise which employs fewer than 50 persons and which has an annual turnover and/or an annual balance sheet total which does not exceed €10 million.
- A medium-sized enterprise is an enterprise which employs fewer than 250 persons and which has an annual turnover not exceeding €50 million and/or an annual balance sheet total not exceeding €43 million and which is not a micro and/or small enterprise.

Financial Difficulties

This Credit Union Information Booklet outlines the Credit Union’s procedures when dealing with SMEs in ‘financial difficulties’ and gives information on the support which will be provided by the Credit Union to SMEs in this situation. The Credit Union recognises that individual SMEs may differ by size and indeed sector and therefore each SME in financial difficulties will be dealt with on a case-by-case basis.

When am I classed as being in financial difficulties and/or arrears?

The SME Regulations defines “financial difficulties” as:

- When your credit facility agreement/alternative arrangement has been in arrears for 3 consecutive months;
- In the case of an overdraft where the approved limit on the overdraft is exceeded by the borrower and remains exceeded for 90 consecutive days;
- Where the Credit Union has determined that the member’s circumstances are such that the ‘financial difficulties’ provisions of the SME Regulations should be applied to the member.

For the purposes of the SME Regulations, arrears arise where a member has not made a full repayment or only makes a partial repayment on a credit facility, as per the terms of the credit facility agreement or alternative arrangement, by the scheduled date or in the case of an overdraft facility, where the borrower has exceeded an overdraft limit for 30 consecutive days.

Communication with the Credit Union

The Credit Union recommends that SMEs who are in or facing financial difficulties contact the Credit Union as soon as possible so that a possible solution can be discussed and approved. The SME Regulations set out clear guidance for SMEs who are either in or facing financial difficulties and the Credit Union recommends the following:

Members facing 'financial difficulties'

The Credit Union recommends that SMEs who have concerns about their future ability to repay or discharge their financial commitments to the Credit Union, contact 064 66 23720 or email info@killarneycu.ie as soon as possible to discuss the situation. Upon making contact with the Credit Union, you will be offered an immediate review meeting to discuss your situation.

Members in 'financial difficulties'

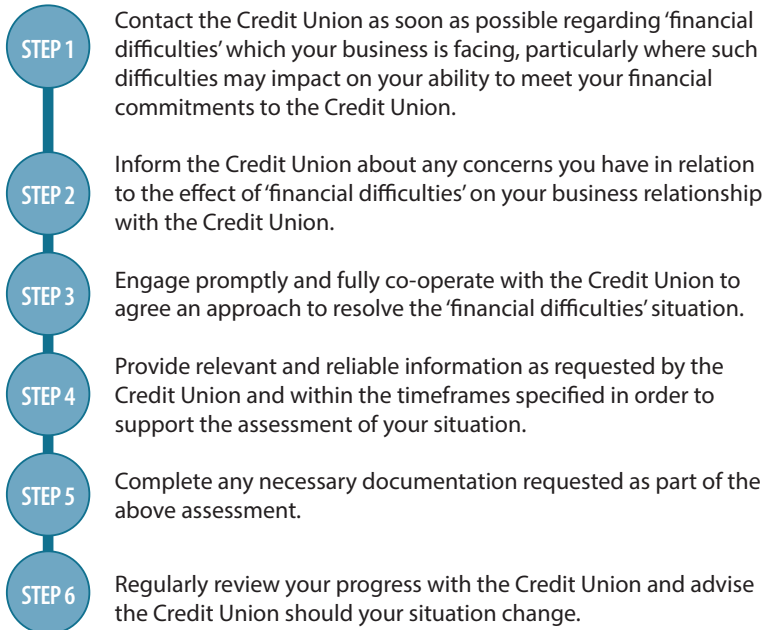
When financial difficulties first arise on your account, the Credit Union will contact you within 10 working days in writing to advise of the status of your account; the applicability of the SME Regulations; and the availability of this Information Booklet. The Credit Union will also offer you the option of an immediate review meeting to discuss your situation and any options available to you and will provide you with details of a designated contact point within the Credit Union. In order to properly assess each case on its own merits, it is vital that you furnish all information requested by the Credit Union immediately so that the Credit Union can assist you in meeting your obligations within a realistic time frame.

If you do not meet the repayments on your credit agreement, your account will go into arrears. This may affect your credit rating, which may limit your ability to access credit in the future.

The Credit Union will inform any guarantor, in a durable medium, of the status of the members account within 10 working days of the member entering financial difficulties. Without prejudice to any other timeframes prescribed by the SME Regulations, the credit union will respond to all written communications from a member regarding financial difficulties or arrears within 10 working days of the date of receipt of those communications.

Credit Union approach to dealing with SMEs in or facing financial difficulties

If your business gets into financial difficulties the Credit Union will assist in developing an appropriate solution. A summary of the key steps that an SME may consider taking, when in or facing financial difficulties, is outlined in the table below:



Non Co-operation

It is very important that if you are in, or are facing financial difficulties that you fully engage and cooperate with the Credit Union. This cooperation includes satisfying information requests within any stipulated timeframes so that a complete and timely assessment of your financial situation can be conducted by the Credit Union. The Credit Union recommends to consult with your financial advisor/accountant and/or legal advisor to seek assistance and/or review any proposal in advance of meeting with the Credit Union. You may bring your financial advisor/accountant and/or legal advisor to the meeting if you so wish.

Under the SME Regulations a member may be classified as 'not co-operating' where

- the member has failed to make a full and truthful disclosure to the regulated

entity of the information required by the regulated entity to assess the member's financial situation, within the timeframe specified by the regulated entity;

- the warning letter, required in accordance with Regulation 20(8), has been issued to the member; and
- the member has not carried out the action or actions within the timeframes specified in the letter referred to in subparagraph (b) above.

Where the Credit Union considers a member to be 'not cooperating', the Credit Union will write to the member and any Guarantor, advising that the member will be classified as 'not co-operating' if the member does not perform specific actions within a designated timeframe as detailed in the correspondence. The implications for members of 'not co-operating' are that:

- the Credit Union will be unable to put in place an alternative arrangement; and
- the Credit Union will have no option other than to commence the process of seeking repayment of all sums outstanding which may lead to the Credit Union eventually enforcing any security held.

Where security is realised, the member will remain liable for any outstanding debt.

Business Information and Case Assessment

Business Information

Prior to or as a result of your review meeting with the Credit Union, certain information is likely to be requested from you so that the Credit Union can complete an assessment of the financial situation of your business. As stated previously, each case will be assessed on its own merits. The type of information requested will differ but is likely to include some or all of the following:

- Up-to-date financials to include annual audited (or draft) and quarterly management accounts;
- Cash flow projections for the next 12 months;
- Up-to-date business plan to include details of your trading performance in the last 12 months plus outlook for the next 12 months;
- Up-to-date aged list of debtors and creditors;
- Estimate or independent report on property valuation (if applicable);
- 6 months current account bank statements for the business;
- Up-to-date Statement of Affairs for all named members, material shareholders or guarantors as required;
- Confirmation that the tax affairs of the business and named members and/or material shareholders are up-to-date and in order; and
- Any other information the Credit Union feels is pertinent to review as part of your assessment.

Please note this list is not exhaustive and the Credit Union may require independent verification of any information you provide. Based on this information the Credit Union will assess whether an alternative repayment arrangement is a feasible option and endeavour to work with you in order to develop a solution for your business.

Note: Data relating to your case may be shared with a relevant credit reference agency or credit register, where permitted by contract or required by law.

Note: You may employ third party advisers who may accompany you during discussions with the Credit Union whether these discussions are face-to-face or not.

Case Assessment

Following receipt of the requested information, the Credit Union will conduct an assessment of your situation for the purposes of considering whether an alternative arrangement would assist in resolving your financial difficulties.

Alternative Arrangement

Interest only payments

An agreement for a specific period to pay interest only on the loan. This is considered suitable for members whose change in circumstances are short term in nature and will be in a position to resume normal payments after that time period.

Advantages

Payments will be reduced to a level that suits the SME members current level of income for an agreed period

Disadvantages

The current balance on the loan will not reduce during the period of interest only payments. SME members will pay a higher level of interest than if the loan was being reduced.

When full payments are resumed, the monthly payment amount will be increased to a level that will see the loan cleared over the remaining term of the loan.

Moratorium

No repayments will be made for an agreed short term period

Advantages

The monthly payments will be suspended so that the member can concentrate solely on the issue that has caused the financial hardship.

Disadvantages

The current balance on the loan together with any accrued interest will be outstanding at the end of the period.

A higher level of repayment will be required to clear the balance of the loan over the term remaining on resumption of payments.

The SME member will pay a higher level of interest over the term of the loan.

Reduced Payments

This is a short-term arrangement during which the member will make reduced monthly payments that will pay interest and some element of capital. This is suitable for members who have experienced a temporary loss of income, or who have encountered an unforeseen level of expenditure, and after a period of time their circumstances are expected to return to normal.

Advantages

Payments will be reduced to a level that suits the SME members current level of income for an agreed period.

Disadvantages

The current balance on the loan will reduce at a slower rate than normal during this period. As such the SME member will pay a higher level of interest than if the loan was being reduced.

When payments resume, the monthly payment amount will be increased to a level that will see the loan cleared over the remaining term of the loan.

Arrears Capitalisation

Arrears together with any unpaid interest that exist on the loan will be added to the current balance outstanding and repaid over the remaining term of the credit agreement. This is a long term solution that may be suitable when a members circumstances have reverted to normal.

Advantages

The SME member won't be required to clear arrears in a lump sum payment. The arrears clock will effectively be reset to zero.

Disadvantages

The balance on the loan will be higher than was originally calculated at drawdown date and will remain so for the remainder of the term. As such the SME member will pay a higher level of interest than if the loan was repaid as agreed.

The monthly payment amount will be increased to a level that will see the loan cleared over the remaining term of the loan.

Term Extension

The term of the loan will be extended. This is also known as a reschedule of the agreement. This is a long term solution which is offered when there is some level of certainty that the SME members' circumstance have stabilised

Advantages

Monthly payments will be reduced to an affordable level. The term of the loan will be extended to a period that will allow the remaining balance be cleared over a new term with interest.

Disadvantages

The loan will take longer to repay.

The SME Member will pay a higher level of interest on the loan as the period of credit has been extended.

Alternative Arrangement Appeals Process

If the SME member is unhappy with the outcome of the process, they may appeal the decision to the appeals committee of Killarney Credit Union within 30 days.

The appeal should be in writing and addressed to the CEO of the Credit Union for the attention of the Appeals Committee. We will consider the appeal and will respond with the outcome of the appeal within 15 working days.

The appeal should clearly explain any concerns that the SME member had with the process, and if applicable, any specific information they feel was overlooked in arriving at the decision.

If the appeal is unsuccessful the SME Member may, subject to eligibility, refer the decision to the Credit Review office. The Credit Review office provides an independent appeals process for SME's. For more information visit www.creditreview.ie or call 1850 211 789

Complaints

The Credit Union is committed to providing the best service to its members at all times. However, in the event the Credit Union falls short of your expected standards or you are unhappy with a decision the Credit Union has made, the Credit Union will endeavour to resolve your complaint quickly and fairly. To this end the Credit Union encourages you to contact the Credit Union as early as possible in writing to Complaints Officer, Killarney Credit Union, Beech Road, Killarney, Co. Kerry.

The Credit Union will acknowledge your complaint in writing within 5 working days and advise you of the name of the person dealing with your complaint. It is the Credit Union's intention, where possible, to investigate and resolve the complaint within 40 working days and you will receive regular updates on progress every 20 working days. If the Credit Union cannot resolve the complaint within 40 days it will write and explain the reason for the delay and indicate when it might expect to have a resolution. This procedure does not apply where the complaint is resolved to the member's satisfaction within 5 working days.

If an agreement cannot be reached, the Credit Union will set out its position in its 'final response letter'. If, at this point you remain unsatisfied, you may have the right to appeal in writing to:

The Financial Services Ombudsman
3rd Floor, Lincoln House, Lincoln Place, Dublin 2
Telephone: 1890 88 20 90
Email: enquiries@financialombudsman.ie
Web: www.financialombudsman.ie

Fees and Charges

The Credit Union may be entitled to impose additional fees or charges on members in financial difficulties in accordance with the terms and conditions of the credit agreement.

Impact of arrears on other credit products and overall credit rating

It is important to note that if arrears do arise on your credit union account, your credit rating may be adversely affected. This may also have an impact on your ability to avail of additional credit products in the future.

Useful Contact Details

If you are an SME in, or are facing financial difficulties please contact 064 66 23720 or email smesupport@killarneycu.ie as soon as possible. Further details are available on our website at www.killarneycu.ie A copy of the SME Regulations for Business Lending to Small and Medium Enterprises is available from the Central Bank of Ireland at www.centralbank.ie

Other helpful information

Some steps SMEs can take to manage financial difficulties:

1. Don't ignore the problem.
2. Act quickly to address any potential issues.
3. Keep all joint parties and guarantors informed.
4. Talk to your accountant/financial/legal advisor.
5. Contact the Credit Union if you are facing financial difficulties.
6. Engage fully with the Credit Union.
7. Seek independent financial and/or legal advice when considering any alternative arrangement that the Credit Union may offer you.

Independent Financial Advisory Services



Citizens Information Board

The Citizens information gives information and advice on the broad range of public services available to Irish citizens from the state. These cover rights under being made redundant, social welfare entitlements and other rights as a consumer. They can be contacted on 0761 07 4000 or visit www.citizensinformation.ie



Mabs – Money Advice and Budgeting Service

Mab's is the state's money advice service. They provide free advice and assistance to people experiencing financial difficulties. They can also provide information on the recent Insolvency legislation and can assist members in preparing Prescribed Financial Statements. The can be contacted at 076 107 2000 or visit www.mabs.ie



Department of Social Protection

Any member who has experienced a change to their personal or financial circumstances should make an appointment to meet with a representative at their local Intro office. To find out where the closest office to you is call 1890 66 22 44 or visit www.welfare.ie



Free Legal Advice Centre (FLAC)

FLAC provides basic free legal services in the areas of social welfare, credit and debt and public interest law. It is important when considering an Alternative Payment Arrangement, or other alternative solution that members seek independent Legal advice as well as financial advice. FLAC can be contacted on 1890 350250 or visit www.flac.ie

Competition & Consumer Protection Commission



CCPC is a statutory body which is charged with protecting the interests of consumers. The NCA is a source of useful information that helps consumers understand their rights when purchasing goods and services and may assist members in managing their money and making more informed consumer decisions. They can be contacted on 1890 432 432 or visit www.ccpc.ie

Insolvency Service of Ireland – (ISI)



The ISI is a state body that is charged with the responsibility for all matters concerning the Personal Insolvency Legislation 2012. They are charged with informing members of their rights and informing them of the legal remedies available to members who find themselves in financial difficulty. A register of approved Personal Insolvency Practitioners is also available on their website. They can be contacted on 076 106 4200 or by visiting www.isi.gov.ie

Financial Services Ombudsman



The Financial Services Ombudsman is an independent body which deal with complaints from consumers about their dealings with regulated financial service providers such as Killarney Credit Union Limited. It is a free service and they can be contacted by visiting www.financialombudsman.ie or on 1890 88 20 90 or 01 662 0899.

Office of the Revenue Commissioners



It may be helpful for members who have experienced a change in their circumstances to contact the revenue commissioners to ensure that they have maximised their entitlement to tax credits. To find relevant numbers visit www.revenue.ie

WARNING: IF YOU DO NOT MEET THE REPAYMENTS ON YOUR CREDIT AGREEMENT, YOUR ACCOUNT WILL GO INTO ARREARS. THIS MAY AFFECT YOUR CREDIT RATING, WHICH MAY LIMIT YOUR ABILITY TO ACCESS CREDIT IN THE FUTURE.

If you have an interest only loan

WARNING: THE ENTIRE AMOUNT THAT YOU HAVE BORROWED WILL STILL BE OUTSTANDING AT THE END OF THE INTEREST-ONLY PERIOD.

If you avail of any AA that results in a term extension

WARNING: THIS LOAN MAY TAKE LONGER TO PAY OFF THAN YOUR PREVIOUS LOANS. THIS MEANS YOU PAY MORE THAN IF YOU PAID OVER A SHORTER TERM.

Your Loan with Killarney Credit Union is a variable rate

WARNING: THE PAYMENT RATES ON THIS LOAN MAY BE ADJUSTED BY THE CREDIT UNION FROM TIME TO TIME.

If the AA consists of debt consolidation of 2 or more debts

WARNING: THIS NEW CREDIT FACILITY MAY TAKE LONGER TO REPAY THAN YOUR PREVIOUS CREDIT FACILITIES. YOU MAY PAY MORE THAN IF YOU PAID OVER A SHORTER PERIOD.

If you are a Guarantor for an SME Loan

WARNING: AS A GUARANTOR OF ANY CREDIT, YOU WILL HAVE TO REPAY THE DEBT AMOUNT(S), ANY INTEREST AND ALL ASSOCIATED CHARGES IF THE BORROWER(S) DO(ES) NOT.

If you provide a personal guarantee

WARNING: AS A GUARANTOR OF THIS CREDIT, YOUR PERSONAL ASSETS INCLUDING YOUR HOME, MAY BE AT RISK IF THE BORROWER DOES NOT KEEP UP REPAYMENTS ON THIS CREDIT FACILITY AGREEMENT.

The key objective of this process is to assist members to resolve their financial difficulties.

Killarney Credit Union Limited is regulated by the Central Bank of Ireland



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