

2019

Cabot Financial (Ireland) Limited



Small & Medium Enterprises

INFORMATION BOOKLET

Information Booklet
SMALL & MEDIUM ENTERPRISES

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Introduction

Cabot Financial (Ireland) Ltd (“Cabot”) endeavours at all times to be clear and transparent in all our customer engagements and to comply with our obligations under the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-sized Enterprises) Regulations 2015 as amended in 2016 and 2018 (“SME Regulations”).

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

‘Micro, small and medium enterprises’ and ‘SMEs’ are “enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million”.

‘Small Enterprise’ are “enterprises which employ fewer than 50 persons and which have an annual turnover not exceeding EUR 10 million, and/or an annual balance sheet total not exceeding EUR 10 million”.

‘Micro enterprises’ are “enterprises which employ fewer than 10 persons and which have an annual turnover not exceeding EUR 2 million, and/or an annual balance sheet total not exceeding EUR 2 million”.

The SME Regulations also apply to Hire Purchase agreements.

“credit” means a deferred payment, cash loan or other similar financial accommodation, including hire purchase, invoice discounting and the letting of goods;

Background to SME regulations

This booklet aims to provide you with an understanding of the key SME Regulations and explain the framework within which we can assist you if you are facing financial difficulty.

The SME Regulations came into effect on 1st July 2016. They set out the standards you should expect from your credit institution, covering key aspects of the relationship from credit applications and communications, to dealing with financial difficulties when problems occur. If you would like a copy of the SME Regulations, the document is available to download from the Central Bank website at www.centralbank.ie

What are the objectives of the SME Regulations for customers in financial difficulties?

The broad objectives of the SME Regulations are:

- To promote fairness and transparency in the treatment of SMEs by regulated entities, and
- To ensure that when dealing with financial difficulties cases, the aim of a regulated entity will be to assist borrowers to meet their obligations, or to otherwise deal with them in an orderly and appropriate manner.

The SME Regulations apply where the credit institution is:

- a) Providing or offering to provide an alternative arrangement, or
- b) Engaging in credit servicing activities.

The SME Regulations do not apply:

- a) Where the borrower is a regulated financial service provider authorised to provide credit,
- b) To multi-lender credit (i.e. syndicated transactions),
- c) To credit offered or granted to special purpose vehicles,
- d) To credit provided through a business credit card except under particular sections identified in the SME Regulations.

Please note that the provisions of the SME Regulations are without prejudice to Cabot's

- a) Legal and regulatory obligations, and
- b) Legal rights to enforce any agreement including, but not limited to, any security taken in connection with a credit facility agreement.

SMEs in Financial Difficulty

This information booklet outlines our procedures when dealing with customers in “financial difficulties” and gives information on the support which will be provided by Cabot to customers in this situation. We recognise that individual “financial difficulties” cases are different, and will be dealt with on a case by case basis. This will enable us to adopt a flexible approach to dealing with each customer’s situation

Under the SME Regulations a borrower must be classified as in ‘financial difficulties’ where:

- a) the borrower is in arrears under the credit facility agreement or alternative arrangement for three consecutive months;
- b) in the case of an overdraft credit facility, where the approved limit on the facility is exceeded by the borrower and remains exceeded for 90 consecutive days;
- c) the regulated entity has determined that the borrower’s circumstances are such that the ‘financial difficulties’ provisions of the SME Regulations should be applied to the borrower’.

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

Our approach to dealing with SMEs in or facing financial difficulties

If you get into ‘financial difficulties’ we will work with you to develop a more appropriate solution. A summary of the main steps that you may consider taking, when in or facing ‘financial difficulties’ are outlined below:

- Step 1** Contact us as early as possible regarding ‘financial difficulties’ which you are encountering or facing, particularly where such difficulties may impact on your ability to meet your financial commitments to Cabot.
- Step 2** Promptly engage and fully co-operate with Cabot to agree an approach to rectify the ‘financial difficulties’ situation.
- Step 3** Provide relevant and reliable business information as requested by Cabot and within the timeframes specified in order to support our assessment of your situation.
- Step 4** Complete any necessary documentation within the timeframes requested, as part of the assessment.
- Step 5** Review your progress with us regularly and advise us if your circumstances change.

It is very important that if you are in, or are facing ‘financial difficulties’ that you fully engage and cooperate with Cabot.

This includes reverting to Cabot and satisfying information requests within stipulated timeframes so that a comprehensive and timely assessment of your financial situation can be conducted.

It is always a good idea to consult with your financial advisor/accountant and/or legal advisor to seek assistance and/or review any proposal in advance of discussions with us. You may of course bring your financial advisor and/or legal advisor to the meeting if you wish or appoint them to act on your behalf in your dealings with Cabot.

Communication with Cabot

We recommend that customers who are in or facing 'financial difficulties' contact Cabot as soon as possible so that a potential solution can be discussed and agreed. The SME Regulations set out clear guidance for customers who are either in or facing 'financial difficulties' and our recommended approach is as follows:

Borrowers facing "financial difficulties":

We recommend that customers who have concerns about their future ability to repay credit products or meet their financial commitments to Cabot, to contact us as soon as possible to discuss the situation. When you contact us with your concerns, you will be offered an immediate review to discuss your situation.

Borrowers in "financial difficulties":

When 'financial difficulties' first arise on your account, we will contact you in writing to advise of the status of your account; the applicability of the SME Regulations; and, the availability of this information booklet. We will also offer you the option of an immediate review to discuss your situation and will provide you with details of a designated contact point.

Business information required

Prior to or as a result of your review, certain information is likely to be requested from you for Cabot to complete an assessment of your financial situation.

The type of information required will vary by individual but is likely to include the following:

- Completed Income & Expenditure Report (may be completed verbally, or in writing)
- 3 months current account bank statements
- Up-to-date evidence of income (within 3 months)
- Up-to-date evidence of significant expenditure (within 3 months). Significant is deemed as exceeding ISI guidelines, a copy of which is available at www.isi.gov.ie.

Assessment

Following receipt of the all the requested information, Cabot will complete an assessment of your situation for the purposes of considering whether an Alternative Arrangement would assist in resolving your financial difficulties.

Some of the more common Alternative Arrangements may include one or more of the elements below:

- Reduced settlement figure
- Reduction of contractual repayment in accordance with current circumstances
- Fixed Repayment – an agreed reduced set repayment for a period which will incorporate some capital element.

- Interest Only– you will pay interest on the loan for the agreed period and not capital.
- Voluntary Surrender of Asset
- Capitalisation of outstanding balance

In order to determine the suitability of any Alternative Arrangement, the assessment will typically include the following factors, among other relevant factors pertinent to your case:

- The full circumstances of the borrower in ‘financial difficulties’
- Ability to meet the proposed loan repayments in the context of a borrower’s total overall financial commitments
- The related business environment
- The level of security that may be offered/available
- The level of co-operation by borrowers to enable Cabot to carry out a comprehensive assessment for an Alternative Repayment Arrangement and work towards a resolution of the ‘financial difficulties’.

Any arrangement will be based on current financial circumstances identified by completion of a comprehensive assessment or financial statement.

Non-cooperation

As mentioned previously, it is critical that borrowers in, or facing ‘financial difficulties’ fully engage and co-operate with Cabot and provide the necessary information requested by us to enable a comprehensive and timely assessment of their financial situation.

Under the SME Regulations a borrower may be classified as ‘not co-operating’ where:

- a) the borrower has failed to make a full and truthful disclosure to the regulated entity of the information required by the regulated entity to assess the borrower’s financial situation, within the timeframe specified by the regulated entity,
- b) the warning letter, required in accordance with Regulation 20(8), (notice of non-co-operation) has been issued to the borrower, and
- c) the borrower has not carried out the action or actions within the timeframes specified in the letter referred to in subparagraph (b) above.

Where Cabot considers a borrower to be ‘not cooperating’, we will write to the borrower and any Guarantor, advising that the borrower will be classified as ‘not co-operating’ if the borrower does not perform specific actions within a designated timeframe as detailed in the letter.

The implications for borrowers of ‘not co-operating’ are that Cabot will be unable to put in place an alternative arrangement and will have no option other than to commence the process of seeking repayment of all sums outstanding which may lead to Cabot ultimately having to enforce any security held. Where security is realised, the borrower will remain liable for any outstanding debt.

Appeals

Our Appeals process enables you to appeal against a decision in the following circumstances:

- You have submitted a formal request for an Alternative Arrangement, which was declined within the previous 21 working days.
- Your appeal relates to an Alternative Arrangement which was approved with special terms or conditions that you feel are unacceptable.
- Your appeal relates to financial difficulties and you have been classified as 'not co-operating' by Cabot.

To appeal a Cabot decision, the appeal must be submitted to the Cabot Appeals Committee in writing within 21 working days from the date of notification of the decision. Cabot will acknowledge receipt of your appeal within 5 working days.

The appeal will be reviewed by two independent reviewers who will consider the appeal in full.

Cabot will issue you with a written decision on the outcome of the appeal within a maximum of 15 working days of receipt of the appeal (unless otherwise advised).

Complaints

Our commitment is to provide you with the best service at all times. However, we understand that sometimes we may fall short of the standard you expect, or you may be unhappy with a decision we have made. We will strive to resolve your complaint quickly and fairly and we encourage you to contact us as early as possible either in writing or by calling us.

We 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 our 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 we cannot resolve the complaint within 40 days, we will write and explain the reason for the delay and indicate when we might expect to have a resolution.

This procedure does not apply where the complaint is resolved to the borrower's satisfaction within 5 working days.

If you are not happy with our response, you may take your case to the Financial Services and Pensions Ombudsman who will act as an independent arbitrator and provides the service free of charge (www.FSPO.ie).

Impact of arrears on other credit products and overall credit rating

Data relating to payments and arrears on your account will be shared on the Central Banks Central Credit Register.

Credit reports are available from the Central Credit Register and may be accessed by you, and must be available of by all potential credit providers, where you make an application for credit to that provider which exceeds the minimum credit value set by the regulations; currently €2000.

Should you enter into a restructure arrangement arising out of financial difficulties, Cabot will report the restructure to the Central Credit Register.

A default on one credit product that you hold with us, could lead to a default with other products that you hold with us. A default on one credit product that you hold with an institution which we service credit for, could lead to a default with other products that you hold with the same entity.

If you do not keep up repayments on loans, the missed repayments will be reported to the Central Credit Register and will appear on your credit report. This may affect your future ability to borrow.

Further information is available at www.centralcreditregister.ie.

Central Bank of Ireland

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