

Information Booklet for Small and Medium Enterprises (SMEs) in Financial Difficulty

Introduction

Small businesses are key contributors to the Irish economy and are vital for its growth. At Thomastown Credit Union Limited we are committed to supporting small and medium-sized enterprises (“SMEs”) as they establish, launch and mature. Thomastown 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 is available to download from the Central Bank website at [www.centralbank.ie](http://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 1<sup>st</sup> 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 borrowers 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 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 an annual balance sheet total not exceeding €43 million and which is not a micro and small enterprise.

Credit Assessment

If the Credit Union does not make a decision on your credit application within 15 working days, we must tell you the reasons why.

We will acknowledge your application within 5 days. The Credit Union must tell you the expected timeframe within which a decision on your application for credit will be made. If we cannot make a decision within 15 working days because it needs you to provide more information, we must tell you what information we need and when you need to provide this information. You are entitled to a meeting to discuss your loan application.

Information Provided

If your credit application is successful, the Credit Union must give you information about the loan that it is offering you, including the terms and conditions that apply. It is important that you read this information before you make a decision to take the loan offered to you. If you do not understand this information, you should ask the Credit Union to explain it and consider getting independent advice. This will be valid for 1 month.

A copy of the agreement can be provided without charge.

**You have the right to withdraw from the agreement within 14 days.**

You have the right to repay the loan early with no penalties applied.

We will provide you with a point of contact if your loan goes into arrears.

**Warning:** Refused application for credit may have a negative impact on your credit rating

Refusal of Credit

If your loan is refused we must explain to you:

- ☐Why your loan was refused.
- ☐Which part of the application it relates to.
- ☐Must be specific to your application and not be generic.

Please make any appeals within 20 days of the loan decision being made. We will acknowledge you appeal within 5 days, your contact point, inform you if it is going to take longer than 15 days to respond and why. Refer to our Complaints Policy for all complaints. Loans refusals are heard by a panel comprising of a majority of Directors and at least one member of the Credit Committee. As far as is possible loan appeals are reviewed and considered by different officers to those involved in the original loans refusal. Please refer to [www.supportingsmes.ie](http://www.supportingsmes.ie) for guidance in this area. You have the right to refer the matter to the [www.financialombudsman.ie](http://www.financialombudsman.ie) after exhausting our Complaints Policy and Procedures.

See Complaints Section of this document also.

Post Contractual Information

You are entitled to the following information:

- Annual statement
- Changes to interest rate
- Changes to term
- Involvement of debt collectors

Annual Review

The Credit Union must, on an annual basis, offer you the option of a meeting which must include a review of

- ☐Your loan(s)
- ☐The security held by the Credit Union in respect of those loans and
- ☐Any alternative arrangements that have been put in place between you and the Credit Union to discharge your debts.

You are also entitled to ask the Credit Union to carry out a credit review at any time, including when you are experiencing difficulties or anticipating difficulties.

We will write to you to request any information needed prior to the review. We undertake to conduct reviews promptly and follow up any agreed changes in writing. Reviews do not have to be face to face and can be conducted over the phone, electronically, on line etc.

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 (Thomastown Credit Union Limited does not provide overdrafts);
- ☐ Where the Credit Union 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 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.

**A key objective of this policy is to assist borrowers to resolve financial difficulties.**

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:

Borrowers 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 Thomastown Credit Union Limited 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.

Borrowers in 'financial difficulties':

When financial difficulties first arise on your account, the Credit Union will contact you<sup>1</sup> 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.

1 Credit union will inform any guarantor, in a durable medium, of the status of the borrower's account within 10 working days of the borrower 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 borrower regarding financial difficulties or arrears within 10 working days of the date of receipt of those communications.

**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.**

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:

Step 1	Contact the Credit Union as soon as possible regarding 'financial difficulties' which your business is facing, particularly where such difficulties may impact on your ability to meet your financial commitments to the Credit Union.
Step 2	Inform the Credit Union about any concerns you have in relation to the effect of 'financial difficulties' on your business relationship with the Credit Union.
Step 3	Engage promptly and fully co-operate with the Credit Union to agree an approach to resolve the 'financial difficulties' situation.
Step 4	Provide relevant and reliable information as requested by the Credit Union and within the timeframes specified in order to support the assessment of your situation.
Step 5	Complete any necessary documentation requested as part of the above assessment.
Step 6	Regularly review your progress with the Credit Union and advise the Credit Union should your situation change.

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 borrower may be classified as 'not co-operating' where

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

Where the Credit Union considers a borrower to be 'not cooperating', the Credit Union 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 correspondence. The implications for borrowers 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 borrower 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 borrowers, material shareholders or guarantors as required;
- Confirmation that the tax affairs of the business and named borrowers 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.

Some of the more common alternative arrangements *may* include one or more of the elements below:-

- Interest Only** – you will pay interest on the loan for the agreed period and not capital.
- Fixed Repayment** – an agreed reduced set repayment for a period which will incorporate some capital element.
- Term Extension** – increases the length of the loan thereby reducing your repayments.

In order to determine the suitability of any alternative arrangement, the Credit Union assessment will typically consider the following factors, along with other relevant factors pertinent to the particular case:

- The full circumstances of the borrower in 'financial difficulties' including loan repayments, credit history etc.;
- Ability to meet the proposed loan repayments in the context of a borrower's total overall business commitments;
- The related business environment;
  - The level of security that may be offered/available; and
- The level of co-operation by borrowers to enable the Credit Union to carry out a complete assessment on the feasibility of an alternative arrangement.

Once the Credit Union reaches a decision on any proposed alternative arrangement, it will respond to you within 15 working days from receipt of all information requested and outline the terms of the arrangement. You will then have 20 working days to decide whether to accept or decline an alternative arrangement offered by the Credit Union. The Credit Union may decide that an alternative arrangement is not possible. If this is the case it will inform you in writing within 15 working days along with the reasons for the decision.

### Alternative Arrangement Appeals Process

To appeal a Credit Union alternative arrangement decision, complete the relevant form which is available ([www.thomastowncreditunion.ie](http://www.thomastowncreditunion.ie)). The appeal must be submitted to the Credit Union in writing within 30 working days from the date of notification of the decision. The Credit Union will acknowledge receipt of your appeal within 5 working days and provide you with a designated point of contact in relation to the appeal. The appeal will be reviewed by two independent reviewers who will consider the appeal in full. The Credit Union 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

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 either in writing or by calling to Thomastown Credit Union, Market Street, Thomastown.

If the Credit Union declines your application for credit, you are entitled to get the reason(s) in writing from us. The reasons given to you must be (i) clear and easy to understand and (ii) relevant to your application.

You can appeal decisions in the following areas:

- a refused credit application,
- the withdrawal or reduction of a credit facility agreement,
- a refusal to offer an alternative arrangement,
- special terms and conditions imposed on an offer of credit or an alternative arrangement, or
- a classification of 'not co-operating'

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 borrower'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 2090  
**Email:** [enquiries@financialombudsman.ie](mailto:enquiries@financialombudsman.ie)  
**Web:** [www.financialombudsman.ie](http://www.financialombudsman.ie)

## Security

Security is sought to give the Credit Union assurance on the risk of the loan. If repayments are not met this may result in the security being called in and the loss of assets to the business, loss of personal shares transferred against the loan, loss of other personal assets or requiring guarantors to meet the repayments.

We must explain why security is necessary, with your particular application, and the consequences of providing security.

## Guarantors

As a guarantor of SME credit, you must be kept informed by the Credit Union when you are guaranteeing the debt and during the term of the loan.

Where the Credit Union asks you to provide a guarantee to support the application for credit, the Credit

Union must give you a clear explanation of:

- why the guarantee is required,
- the potential consequences for you of giving the guarantee,
- your obligations as guarantor, and
- specified warning statements to highlight the potential implications of providing the guarantee.

**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. Before you sign this guarantee you should get independent legal advice.

**Warning:** for personal guarantors: 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.

During the term of the loan, the Credit Union must inform you, as a guarantor, when:

- the terms and conditions of the credit facility agreement have been amended,
- the borrower enters financial difficulties,
- the borrower is at risk of being classified as 'not co-operating',
- the borrower has been classified as 'not co-operating',
- the credit has been repaid,
- security has been realised \*, or
- if the Credit Union requires an independent review.

\* When security has been realised, the Credit Union must also inform you of the amount received for the security, costs for the realisation of the security, and details of any remaining debt. If there is a surplus, the Credit Union must inform you of how the surplus is to be repaid to the borrower or guarantor(s).

The Credit Union must communicate with guarantors within 10 days of arrears starting.

## Fees and Charges

The Credit Union may be entitled to impose additional fees or charges on borrowers 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 [laura@thomastowncreditunion.ie](mailto:laura@thomastowncreditunion.ie) as soon as possible. Further details are available on our website at [www.thomastowncreditunion.ie](http://www.thomastowncreditunion.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](http://www.centralbank.ie)

## Government Support Schemes

Useful Government agencies which may assist you in your existing business, business start-up, funding or business plan are as follows:

[www.fundsme.ie](http://www.fundsme.ie) , [www.smallbusinessfinance.ie](http://www.smallbusinessfinance.ie), [www.localenterprise.ie](http://www.localenterprise.ie) , Leader at [www.enviro.ie](http://www.enviro.ie), [www.isme.ie](http://www.isme.ie), [www.citizensinformation.ie](http://www.citizensinformation.ie), [www.smallbusinessfinance.ie](http://www.smallbusinessfinance.ie), [www.supportingsmes.ie](http://www.supportingsmes.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.*