



*Rabobank*

# **Information for Borrowers in Financial Difficulties**

A Guide for SME Borrowers under the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015 (“SME Regulations”)

TABLE OF CONTENTS

1. Introduction .....	3
2. How does it work? .....	4
Step 1 – Communication.....	4
Step 2 - Financial Information.....	5
Step 3 - Assessment .....	6
Step 4 - Resolution .....	7
3. What does “not co-operating” mean?.....	8
What are the implications of not co-operating? .....	8
4. Appeals.....	8
5. Complaints .....	9
6. Other Important Information for Customers.....	9
Loan Repayments.....	9

## 1. Introduction

The *Code of Conduct for Business Lending to Small & Medium Enterprises* (“the Code”) was first established by the Central Bank of Ireland in February 2009, to set out the processes which financial institutions were required to adopt, to facilitate access to credit for business.

A revised version of the Code came into force on 1st January 2012 and included requirements for financial institutions when dealing with small and medium enterprises (SMEs) in, or facing financial difficulties.

The revisions placed an onus on financial institutions to assist Borrowers meet their obligations, where possible, or to otherwise help Borrowers deal with the situation in an orderly and appropriate manner.

The Central Bank has further strengthened the Code through the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium Enterprises) Regulations 2015 (“the SME regulations”) which became effective on 1st July 2016.

These enhancements are designed to provide greater protections and improved transparency for Borrowers in relation to the (i) application process for provision of credit (ii) the process for helping Borrowers in financial distress and (iii) the appeals process for Borrowers who are dissatisfied with decisions made.

It also provides greater protections for Guarantors of loans covered by the Code. These revised protections apply to micro and small enterprises, however, the protections of the existing SME Code will continue to apply for the benefit of medium-sized enterprises.

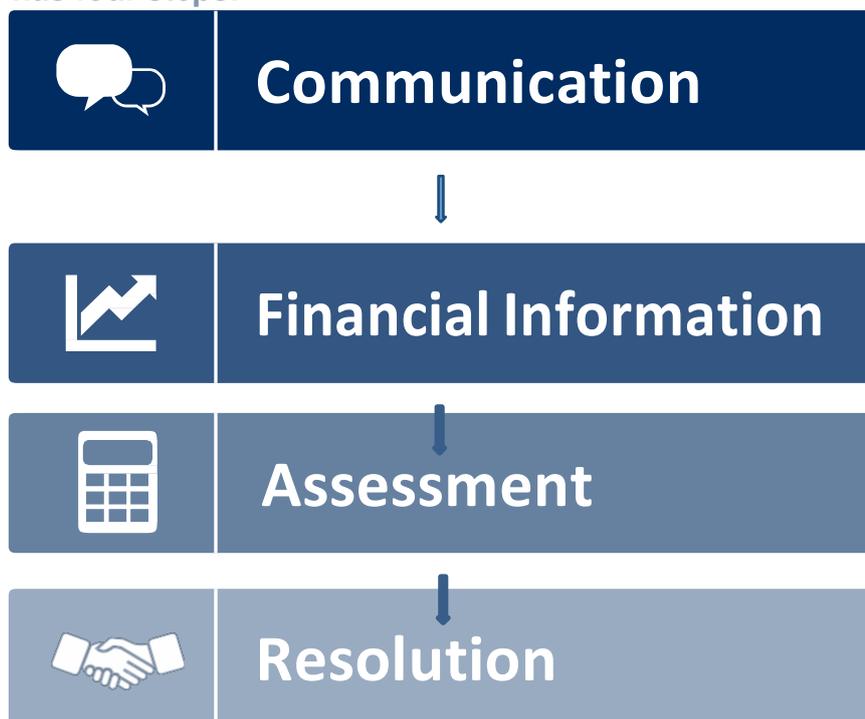
A copy of the full Regulation and other information can be found by clicking the “public information” link in the Consumer Protection section of the Central Bank of Ireland website at [www.centralbank.ie](http://www.centralbank.ie).

This booklet is a guide to help you understand the process that Coöperatieve Rabobank U.A. (“Rabobank”) and our designated representative Link ASI Limited (“Link Asset Services”) will use to help Borrowers deal with existing or impending financial difficulties.

Please be aware that Rabobank has transferred the management of its loan book to Link Asset Services and accordingly Link Asset Services personnel will be responsible for the majority of customer interactions. Asset Services will apply the process outlined in this brochure in the same way that Rabobank would and accordingly both entities are referred to when using the terms “we”, “our” or “us”.

## 2. How does it work?

The process has four steps:



### STEP 1 – COMMUNICATION

You don't have to be in arrears to contact us. We welcome the opportunity to meet with you to complete an annual review of your business if you so require.

We also urge you if your business is already in arrears, or you are worried that it may soon be, to contact your designated Link Asset Services Case Manager ("Case Manager").

Where you enter financial difficulties and do not already have a Case Manager, we will assign one and advise you of their contact details.

**You can contact our main desk or email us at the details below:**

Call: 1850 708 888 (or +353 1 961 2700 if calling from outside of Ireland)

(Monday -Friday 9am to 5pm, excluding bank holidays)

You can write to us at:

Link Asset Services, Block C, Maynooth Business Campus, Maynooth, Co Kildare, W23 F854

Email: [rafoenquiries@linkgroup.ie](mailto:rafoenquiries@linkgroup.ie)

Contact details, and a copy of this booklet, are also available on our website at [www.acclm.ie](http://www.acclm.ie).

We are fully committed to working with you to find a mutually acceptable, sustainable solution to your financial difficulties. It is therefore essential that you work with us to find the solution which best suits your own individual circumstances.

It is only with the benefit of a prompt and comprehensive review of your particular situation we may be able to offer you an alternative repayment arrangement to ease your financial difficulties. It is in your best interest that you fully engage and co-operate with us by:

- i. providing all relevant information to facilitate this review as and when requested,
- ii. proposing reasonable and realistic repayment solutions to us for consideration.

It is very important that you are aware of the impact of failing to engage with us in this process, which may result in you being considered as “not co-operating”. Please refer to page 8 of the booklet for more information on this topic.

## **STEP 2 - FINANCIAL INFORMATION**

Once you have contacted us we will strongly advise you to meet with us to discuss your individual circumstances.

The type of information we will require will depend on your individual circumstances and the nature and complexity of your business (e.g. whether you are an individual, partnership, or an unincorporated / incorporated body).

Below are listed of the types of information, which we may request to assist in assessing your individual case:

- ✓ Copies of recent financial accounts;
- ✓ Copies of recent management accounts;
- ✓ Copies of the last three years personal/partnership or corporation tax return forms, as filed with the Revenue Commissioners;
- ✓ Details of outstanding tax returns and unpaid taxes;
- ✓ Details of any capital gains or losses realised in the current tax year or expected to be realised in the future;
- ✓ Business plan with a proposal for dealing with financial obligations outstanding;
- ✓ Details relating to any property held as security;
- ✓ Up to date aged debtor and/or creditor listings;
- ✓ Up to date certified statement of affairs including details of all income;
- ✓ Up to date independent valuation of any security held by Rabobank;
- ✓ Bank loan, current account or credit card statements;
- ✓ Details of repayment agreements with other credit providers;
- ✓ Details of any Revenue arrangements.

The above is not an exhaustive list and depending on the type of business you are in other information may be required. Please note that any documentation provided should be up to date, comprehensive, and provide an in-depth insight into your business, the environment in which your business operates and the reason for the financial difficulty.

If you are unsure on what information to provide, we recommend that you seek independent advice from a financial adviser or accountant. With your consent, they are also welcome to attend any meetings with your Case Manager or alternatively liaise directly with us on your behalf throughout the review process.

### STEP 3 - ASSESSMENT

Your Case Manager will examine the information provided by you to assess your individual situation and determine whether any alternative repayment options are appropriate for your business.

The assessment stage will consider all of the financial information obtained in Step 2, and will also look at your sustainable current and future repayment capacity and several other factors such as the:

- long term viability of your business,
- total indebtedness of all relevant parties (including relevant personal debts and business debt related to property and other investments),
- previous repayment history, and
- ability to amend the term of your debt.

Again, please note that one of the most important factors when considering any potential amendment to your existing repayment schedule is whether you have been “co-operating” with us in addressing your financial difficulties.

We aim to advise you in writing of the outcome of our assessment within 15 working days of receiving all the required information. If we are unable to form a decision within 15 working days, we will then advise you in writing of the expected date of decision and explain the reasons for the delay in our decision.

In order for us to help you develop a long-term solution for your business it is important throughout the assessment process that you:

- Keep us informed of any developments that will impact your business or your financial situation;
- Always make honest and full disclosures;
- Consider any third party recommendations.

## STEP 4 - RESOLUTION

Having completed our assessment, we will then determine whether a particular alternative repayment option would be appropriate for you subject to you meeting our required assessment criteria as outlined in Step 3. The types of alternative repayment options available include:

- Interest only or interest + part capital for a specified period;
- Capitalising the arrears and interest;
- Term extension;
- 'Parking' a portion of debt with the Borrower servicing the residual balance;
- Disposal of assets held as security and application of proceeds (with Borrower consent & co-operation) towards debt elimination or reduction to a serviceable level;
- Full and final settlement with the Borrower(s);
- Combinations of all of the above.

The option selected will depend on:

- (i) the individual circumstances of the Borrower,
- (ii) the sustainable repayment capacity of the Borrower, and
- (iii) whether it will fully resolve the difficulties and not simply prolong an untenable situation.

It is important that you are fully aware of the implications of any new repayment arrangement before you commit to it, and you may wish to seek independent legal/financial advice in this regard. It is also important that you adhere to the terms of the agreed arrangement and advise us immediately of any change to your financial situation.

Failure to do so may lead to unnecessary and potentially serious difficulties and could have a negative impact on your facility or any other facility you may hold with us.

Where we decline a request for an alternative repayment arrangement, we will advise you of the reason for the decline and where possible we will continue to make every effort to work with you to put a long-term solution in place for your business.

### 3. What does “not co-operating” mean?

The revised Regulation introduced the concept of "not co-operating". It is important that you understand that you can be considered as "not co-operating" if:

- a) You fail to make a full and truthful disclosure to us, or any agent acting on our behalf, of the information required to assess your financial situation within the specified timeframe;
- b) A warning letter required in accordance with the Regulation has been issued to you; and
- c) You have not carried out the action or actions within the timeframe specified within that warning letter.

#### WHAT ARE THE IMPLICATIONS OF NOT CO-OPERATING?

If you are classified as not co-operating, this will have implications for you. We may:

- Refuse to consider an alternative repayment arrangement;
- Appoint a receiver over the secured assets;
- Commence legal proceedings for the repayment of the debt and for possession of any security held by us relating to the debt.

Please note that where security is repossessed or realised, you will remain liable to us for the entirety of the balance due on your loan until we have received sufficient proceeds to repay your loan in full. This includes:

- Any accrued interest, charges, costs and fees which have not been repaid to us from the proceeds of the sale of the security in question; and
- All/any legal, insolvency, auctioneering or other costs and charges incurred with the realisation of the security.

### 4. Appeals

Under the SME Regulations, you are entitled to make an appeal to us in relation to the following decisions made in relation to the review of your credit facility:

- a) A special term or condition which is required by us in order to provide an alternative repayment arrangement;
- b) The refusal to offer an alternative repayment arrangement to you;
- c) The decision to classify you as not co-operating.

You will have a period of 20 working days from the date you were first notified of our decision in which to submit an appeal. The appeal should preferably be in writing, for reasons of full clarity and should be addressed to the Rabobank Appeals Board, c/o Customer Relations Team, Link Asset Services, Block C, Maynooth Business Campus, Maynooth, Co Kildare, W23 F854.

We will acknowledge your appeal, in writing, within five working days of receipt. We will also provide you with the name and contact number of a designated point of contact for your appeal until the required independent Appeals Panel adjudicates on your case.

The Appeals Panel will aim to deliberate on your appeal within 15 working days of date of receipt. If a decision cannot be reached within this timeframe, we will advise you in writing of the anticipated date of decision along with reasons for the delay incurred.

We will write to you within five working days of the completion of your appeal to notify you of the decision of the Appeals Panel and explain the reasons for their decision.

## **5. Complaints**

You have the right to make a complaint under the SME Regulations. All complaints should be sent to Customer Complaints, c/o Customer Relations Team, Link Asset Services, Block C, Maynooth Business Campus, Maynooth, Co Kildare, W23 F854.

Where a complaint is received, we will acknowledge it in writing within five working days of receipt and provide you with the name of a designated point of contact for your individual complaint.

We will provide you with a regular update, in writing, every 20 working days, starting from the date the complaint was made. We will also endeavour to resolve your complaint within 40 working days of receipt.

If we cannot adhere to this timeframe, we will advise you in writing of the anticipated timeframe within which we expect to resolve your complaint. At this point, we will also provide the contact details of the Financial Services Ombudsman.

Within five working days of the resolution of your complaint, we will advise you in writing of the outcome of our investigation into your complaint and any other relevant information.

## **6. Other Important Information for Customers**

### **LOAN REPAYMENTS**

Financial difficulties that remain unaddressed may affect your credit rating and your ability to obtain credit in the future.

Rabobank may where permitted or required by law, file a report about the performance of your account with a credit reference agency or central credit register.

This may affect your credit rating, which may limit your access to credit from other retail or financial institutions.

Where a direct debit is set up to collect the loan repayments, please ensure that there are sufficient funds in your account to avoid any potential unpaid fees that may be charged by other financial institutions.

If you require any further information in this regard, you can:

- Phone us on LoCall\* 1850 708888 (or +353 1 961 2700 if calling from outside of Ireland) where we are available from Monday to Friday 9am to 5pm, excluding Bank Holidays.
- Alternatively, you can write to us at Link Asset Services, Block C, Maynooth Business Campus, Maynooth, Co Kildare, W23 F854

**Where you anticipate any difficulties with making your loan repayments, please contact us to discuss the matter.**



**Rabobank**

## **LoCall 1850 708 888**

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1218