

# MITCHELSTOWN CREDIT UNION LTD (MCU)

## INFORMATION BOOKLET FOR SMALL AND MEDIUM ENTERPRISES (i.e. SME BORROWERS) WHO ARE IN FINANCIAL DIFFICULTIES – version 3 (May 2020)

**Note:** In this information booklet – “you” or “your” or “their” or “them” refers to the SME borrower and “we” or “our” or “us” or “credit union” refers to MCU.

Note: In this information booklet – any reference to the issuing by the credit union of a letter to the SME borrower can also refer to an email instead, provided this means of communication is agreed in advance by both the SME borrower and the credit union.

**Privacy Notice** - please take time to read the privacy notice of the credit union which outlines how and why we process your personal data. A copy is available in any of our branches for you to take away and you can access the privacy notice anytime on our webpage.

**This information booklet can be viewed and downloaded from the credit union’s website or upon request to the credit union’s Credit Control Officer, the SME borrower can receive a printed copy of this booklet (free of charge).**

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## 1. Introduction:

Small businesses are key contributors to the Irish economy and are vital for its growth. This credit union is committed to supporting SMEs as they establish, launch and mature.

Many businesses face financial challenges from time to time. Market forces, cashflow issues and a host of other financial pressures can put stress on a business. We recognise that it isn't always easy, and we want to help where we can.

Dealing with financial problems in business can be daunting but tackling problems and seeking advice at an early stage can make a significant difference. We are fully committed to working with you in attempting to find appropriate solutions as regards the loan you hold with us which may assist your business to get through any period of financial difficulties.

To assist you in dealing with your financial difficulties, you may also wish to consider consulting a professional adviser. Your accountant or solicitor may be able to offer financial and debt management advice and, if you do not already work with one, it may be worth considering finding an independent adviser who has specialist knowledge of your business sector. If you ask us to, we will work with your advisers.

This booklet outlines the approach and procedures of this credit union when dealing with SME borrowers who are in financial difficulties and gives information on the various options available and also details of the criteria which will be applied. **At all times, it is in your interest to engage with the credit union about your arrears or financial difficulties so that a suitable arrangement can be found.**

We will endeavour at all times to be both clear and transparent in all our member engagements and to comply in full with relevant legal and regulatory obligations.

This booklet applies to all borrowers who come under the definition of "borrower" as set out in the Central Bank (Supervision and Enforcement) Act, 2013 (Section 48) (Lending to Small and Medium Sized Enterprises) Regulations 2015 as amended by the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) (Amendment) Regulations 2016 – **referred to in this booklet as the "the SME Lending Regulations"**.

The SME Lending Regulations set out the standards you should expect from us and addresses key aspects of the relationship between this credit union and SMEs from loan applications and communications to dealing with financial difficulties should any problem arise.

The SME Lending Regulations aim to promote fairness in the treatment of SME borrowers by lenders and to provide greater transparency for borrowers around the lending application process including the requirement to provide information in relation to the lending application process, timelines and government support schemes. The SME Lending Regulations also provide greater protections for guarantors. Under the regulations, the credit union is required to contact SME borrowers who are in loan arrears, seek to identify the reason why they are in loan arrears and assess whether their circumstances are such that the requirements placed on the credit union for dealing with SME borrowers in financial difficulties (as outlined in the regulations) should apply to that SME borrower.

The regulations introduce a concept of 'not co-operating' which will act as a warning system for SME borrowers in financial difficulties who are not co-operating with the lender and who may, for instance, be at an increased risk of having security realised. There are also expanded grounds for appeal and appeal process requirements for the credit union.

**Further information on SME Lending and a copy of the SME Lending Regulations are available on [www.centralbank.ie](http://www.centralbank.ie)**

## **2. What are the SME Lending Regulations?**

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

The purposes/objectives of the SME Lending 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 SME borrowers.
- To ensure that when dealing with 'financial difficulties' cases, the objective of a regulated entity (i.e. the credit union) will be to assist SME borrowers to meet their obligations, or otherwise deal with the situation in both an orderly and appropriate manner.

***The provisions of the SME Lending 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 agreement.***

## **3. Who and what do the SME Lending Regulations apply to?**

The SME Lending Regulations apply to borrowers who are "micro, small and medium sized enterprises" in the state and the SME Lending 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.

In more specific and practical terms, in this credit union, such a borrower is normally either a sole trader/self-employed business person (including farmers and taxi-drivers etc.), a business partnership or a partner in a business partnership, a company director or a company, **where the purpose for which the loan was borrowed was commercial/business (i.e. where the purpose of the loan was personal or private – then the SME Lending Regulations do not apply)**. The definition of "commercial/business purposes" is set out in the credit union's lending policy and reflects guidance issued by the Central Bank (i.e. where the loan is made for the purpose of the member's trade, business or profession).

Such a borrower where the purpose of the loan was business/commercial is **referred to in this booklet as the "SME borrower"**.

**It should be noted that although the SME Lending Regulations DO NOT APPLY to a business person who borrows from the credit union and the purpose of the loan WAS NOT commercial/business – many of the principles and aspects of the approach outlined in this booklet will where possible be applied by the credit union if such a borrower falls into loan arrears and/or financial difficulties. Similarly, we would encourage such a borrower to contact us as soon as possible when they become aware that their credit union loan is in arrears or may be about to go into arrears and such a borrower should, where possible, follow the principles and the approach outlined in this booklet, especially as outlined in Section 6 below as regards "the SME borrower who is in financial difficulties communicating with the credit union".**

#### **4. When is the SME borrower classified as being in “loan arrears” or in “financial difficulties”?**

Under the SME Lending Regulations “**arrears**” means a payment or part of a payment due in accordance with a credit facility agreement or alternative arrangement which has not been paid by the borrower by the scheduled repayment date, in the case of an overdraft facility, where the borrower’s overdraft limit is exceeded for 30 consecutive days, and “**in arrears**” means a situation in which arrears have arisen.

**In more specific and practical terms, in this credit union, the SME borrower is classified as being in “loan arrears” when** the SME borrower has not made a full repayment or only makes a partial repayment on their credit union loan, as per the terms of the credit agreement or alternative arrangement, by the scheduled repayment date.

The SME Lending Regulations defines “**financial difficulties**” as being a situation in which one or more of the following apply to a credit facility agreement or alternative arrangement:

- a) the borrower is in arrears under the credit facility agreement or alternative arrangement for 3 consecutive months;
- b) where the credit facility agreement is an overdraft facility, the approved limit on the overdraft is exceeded for 90 consecutive days;
- c) the credit union has, following an assessment carried out in accordance with Regulation 17(2)(b), 17(4)(b) or 35(2)(b), determined that the borrower’s circumstances are such that Regulations 18 to 23 or Regulations 36 to 41 (of the SME Lending Regulations) should be applied to the borrower’s case, and “financial difficulties cases” shall be construed accordingly.

**In more specific and practical terms, in this credit union, the SME borrower is classified as being in “financial difficulties” when;**

- the SME borrower’s loan has been in arrears for 3 consecutive months, and/or
- Where the **credit union has determined** that the SME borrower’s circumstances are such that the ‘financial difficulties’ provisions of the SME Lending Regulations should be applied to the SME borrower.

#### **5. The credit union communicating with the SME borrower who is in financial difficulties:**

When contacting you, we shall ensure that;

- a) the level of contact and communications made by the credit union, and any third party acting on our behalf, with you is proportionate and not excessive, taking into account your particular circumstances.
- b) communications with you are not aggressive, intimidating or harassing.
- c) you are given sufficient time to complete an action to which you have committed, before follow-up communication is attempted.
- d) steps are taken to agree when the next communication will take place and the method of such communication.

See Section 8 below as regards further related information.

Note: In deciding what constitutes sufficient time for the purposes of point c above, we shall give consideration to the action the SME borrower has committed to carry out, including whether it may require assistance or co-operation from a third party in carrying out the action.

## **6. The SME borrower who is in financial difficulties communicating with the credit union:**

**It is important that you contact us as soon as possible when you become aware that you are in or may be about to fall into financial difficulties.** The sooner you contact us, the easier it will be for us to help.

You should contact our Credit Control Officer on 025-24800 or at c.tobin@mitchelstown-cu.ie. The **Credit Control Officer will be your designated contact point within this credit union** in relation to our efforts to assist you. You will be informed in writing, if your designated contact point changes in the future.

**We always emphasise in such situations that “IT IS IN THE SME BORROWER’S INTEREST TO ENGAGE WITH THE CREDIT UNION ABOUT LOAN ARREARS AND/OR FINANCIAL DIFFICULTIES” as soon as possible.**

We have set out below the main steps that the SME borrower may consider taking, when in or facing ‘financial difficulties’, which we believe may assist in the process of dealing with the financial difficulties;

- Step 1 - Contact us as early as possible regarding the ‘financial difficulties’ which your business is encountering or facing, particularly where such difficulties may impact on your ability to meet your loan repayment commitments to this credit union.
- Step 2 - Tell us about any concerns you have in relation to the impact of any ‘financial difficulties’ on your business relationship with this credit union.
- Step 3 - Promptly engage and fully co-operate with the Credit Control Officer in attempting to find a possible solution.
- Step 4 - Provide relevant and reliable business information and documentation as requested by the Credit Control Officer and within the timeframes specified in order to support our assessment of your situation in a timely manner.
- Step 5 - Complete any necessary documentation within the timeframes requested, as part of the assessment, again so that a timely assessment of your financial situation can be conducted.
- Step 6 - Review your progress with us regularly and advise us if your circumstances change.

It is very important that the information provided by you to the credit union is a full and honest disclosure of your circumstances.

It is always a good idea to consult with your financial adviser/accountant and/or legal adviser to seek assistance and/or review any proposal in advance of meeting and/or corresponding with us. You may of course bring your financial adviser and/or legal adviser to any such meeting if you wish.

You should always be aware that - ***If you do not meet the repayments on your credit union loan, your loan account will go into arrears. This may affect your credit rating, which may limit your ability to access credit in the future.***

## **7. How this credit union will deal with SME borrowers who are in “loan arrears” or “financial difficulties”:**

This booklet outlines our procedures when dealing with SME borrowers who are in ‘financial difficulties’ and gives information on the support which will be provided by the credit union in such a situation. We recognise that individual SMEs may differ by size, business activity and indeed sector and therefore each SME in financial difficulties will be dealt with on a case by case basis. This will enable us to adopt a flexible approach when dealing with each borrower’s situation.

If your business gets into financial difficulties, we will consider your situation sympathetically and we will try to work with you constructively to explore possible appropriate solutions as regards the repayment of your business loan.

A key objective of our approach **“IS TO ASSIST SME BORROWERS TO RESOLVE THEIR FINANCIAL DIFFICULTIES”**, by continuing to work together, we may find an acceptable alternative way forward.

**8. An overview of the normal process in this credit union as regards dealing with the SME borrowers who are in loan arrears and/or financial difficulties:**

Note: The outline of the process set out below is subject to the level of flexibility which must be present to allow for the different circumstances of each individual case.

Note: A copy of any correspondence issued to the SME borrower under the process set out below, will also be issued to any guarantor on the loan.

Note: Without prejudice to any other timeframes prescribed by the SME Lending Regulations, the credit union will respond to all written communications from the SME borrower regarding financial difficulties or arrears within 10 working days of the date of receipt of those communications.

**a) The process will normally commence under one of the following circumstances:**

- i. Where the SME borrower notifies the credit union that they may be at risk of going into loan arrears or are already in loan arrears or are concerned about going into financial difficulties, the credit union will offer the SME borrower the option of an immediate review of their situation including a review of the SME borrower's loan agreements, alternative arrangements and security, as appropriate. Where the SME borrower agrees to this review, then the Credit Control Officer will; (a) perform the review and identify what options are available to the SME borrower to address the borrower's anticipated loan arrears or financial difficulties, having regard to the particular circumstances of the SME borrower and (b) assess if the SME borrower is in financial difficulties and therefore that the "financial difficulties" sections of the SME Lending Regulations should be applied. The SME borrower will be informed in writing of the outcome of this review within 10 working days of the SME borrower's notification and any recommended course of action that the SME borrower should take pursuant to the review. If this outcome assesses that the "financial difficulties" sections of the SME Lending Regulations should be applied, then the process will move onto "Step b" below.

OR

- ii. Where it comes to the attention of the credit union that the SME borrower's loan remains in arrears for 15 working days after the arrears first arose and that the arrears are continuing, then the Credit Control Officer will write to the SME borrower confirming the existence of the loan arrears and ask them to contact the credit union. This letter will normally be followed within 3 working days by a phone call. The Credit Control Officer will attempt to identify the reason for the loan arrears and based on the information available, the Credit Control Officer will assess if the SME borrower is in financial difficulties and therefore that the "financial difficulties" sections of the SME Lending Regulations should be applied. The SME borrower will be informed in writing of the outcome of this assessment within 10 working days of the assessment being completed. If this outcome assesses that the "financial difficulties" sections of the SME Lending Regulations should be applied, then the process will move onto "Step b" below.

**b) Offering the SME borrower who is in financial difficulties a review facility:**

If the result of an assessment conducted as outlined under "Step a" above – is that the SME borrower is in or will soon be in financial difficulty and therefore that the "financial difficulties" sections of the SME Lending Regulations should be applied – then within 10 working days (of either the SME borrower's call/notification under step a (i) above or the completion of the assessment under step a (ii) above), the Credit Control Officer will write to the SME borrower informing them of the following; (1) the status of their loan account; (2) the applicability of the SME Lending Regulations; (3) the availability of this Information Booklet; (4) the option of an immediate review of the SME borrower's situation including the credit facilities, alternative arrangements and security (as appropriate); (5) the information/documentation required to be supplied by the SME borrower to facilitate the review; (6) any impact of the financial difficulties on other loans held by the SME borrower with the credit union

and (7) that it is in the SME borrower's interest to engage with the credit union about their loan arrears or financial difficulties.

**Information/documentation the credit union may require in order to carry out a review of the financial situation of the SME borrower who is deemed to be in financial difficulties:**

Prior to conducting a review of the financial situation of the SME borrower who is deemed to be in financial difficulties, certain information/documentation is likely to be requested from them. As stated previously, each case will be assessed on its own merits. The type of information/documentation requested will differ from case to case, but is likely to include some or all of the following:

- Up to date financials including the 2 most recent years' financial statements or the most recent set of financial statements with prior year figures (including at least a Profit & Loss Account, Capital Account and Balance Sheet).
- At least 3 months recent personal AND business current account bank statements.
- Two most recent filed Income Tax Return Forms/Form 11's and/or similar tax returns for a company (if relevant) – Note: full form including the final IT/CT computation information and with a ROS submission acknowledgement wording on the top of the form.
- An up to date Revenue Tax Clearance Certificate or confirmation from a firm of accountants/tax advisers as regards the tax affairs of the SME borrower.
- Up to date details of any loans, mortgages, H.P., lease or other borrowings (i.e. principal balance and repayment details).
- Details of any forbearance measures with other financial institutions availed of during the previous 3 years or currently being offered by other financial institutions.
- Details of any personal insolvency arrangements availed of previously or currently in progress.
- Up to date list of creditors and debtors.
- Recent management accounts.
- Cash flow projections
- Up to date business plan and financial projections.
- Up to date property valuations (if applicable)
- Where relevant, details and back-up as regards any additional employment, social welfare and rental income etc.
- Any other information/documentation the Credit Control Officer feels is pertinent to review as part of the review process.

Please note this list is not exhaustive and the credit union may require independent verification of any information you provide.

In each individual case, the Credit Control Officer will advise the SME borrower of the exact information/documentation which will be required. This information will be used to complete a review of the SME's borrower's financial situation. We will only request information/documents which are relevant and needed to allow it to obtain a full picture of the SME borrower's financial situation.

**In this credit union, the SME borrower is normally required to provide the Credit Control Officer with the required information/documentation within 15 working days of the date of the letter in which the information was requested. If the SME borrower is experiencing any difficulties in obtaining the required information/documentation, they should contact the Credit Control Officer. Normally if the required information/documentation is not supplied or not supplied in full within 15 working days, the Credit Control Officer will assess if the SME borrower is "not co-operating" (See Section 9 below).**

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.



**c) Conducting the review of the financial position of the SME borrower who is deemed to be in financial difficulty:**

Following receipt of all the requested information/documentation, the Credit Control Officer will conduct a review of the SME borrower's financial situation **for the purposes of considering whether an alternative arrangement would assist in resolving their financial difficulties.**

The offering of an alternative arrangement will be subject to the SME borrower meeting the credit union's alternative arrangement assessment criteria and to an individual assessment of the specific situation and details involved in each individual case.

It should be noted that arising from the review conducted, the credit union may decide that it is not suitable or possible to offer the SME borrower an alternative arrangement.

In order to determine the suitability of any alternative arrangement, the credit union's assessment will typically consider **the following factors/criteria**, along with other relevant factors pertinent to each individual case;

- The full circumstances of the SME borrower including their loans repayments, credit/loan repayment history and the viability of the business.
- The SME borrower's ability to meet the proposed loan repayments in the context of their total overall business commitments – i.e. current and future overall repayment capacity.
- Whether the SME borrower has any business debt other than the credit union loan and if so the overall indebtedness of the borrower.
- Any related personal debts of the business owners that could impact on the business.
- Any business debt related to property and other investments.
- The related business environment.
- The level of security that may be offered/ available.
- The level of co-operation by the SME borrower to enable the credit union to carry out a complete assessment on the feasibility of an alternative arrangement.
- The information (including proposed changes and/or future plans) provided by the SME borrower.

Where deemed necessary, the credit union will facilitate separate consideration of debt related to the business, debt related to property and other investments or the SME's borrower's personal debt or persons who are concerned in the management of the business which will have an impact on the business.

The credit union will consider all reasonable options available before suggesting that the SME borrower dispose of assets essential to the running of their business, trade or profession.

**The assessment or review process in this credit union for an alternative arrangement will not normally take longer than 15 working days following the receipt of all the information/documentation requested. If the credit union cannot make a decision on whether it will facilitate an alternative arrangement within the 15 working days – then the credit union will promptly write to the SME borrower** informing them of the following;

- how long it will take to complete the consideration of whether to facilitate an alternative arrangement, and
- the reasons why it will take longer than 15 working days.

**d) Possible types of alternative arrangements:**

Some of the more common alternative arrangements that a financial institution may offer could include one or more of the following elements;

- Share/savings transfer – the financial institution may allow the SME borrower to off-set pledged shares/savings against the loan balance and/or outstanding loan interest.
- Temporary amendments to loan repayments – the financial institution may temporarily reduce or suspend loan repayments.
- Loan reschedule – the financial institution may offer the SME borrower a new loan agreement with reduced repayments over a longer term.
- Freezing interest – the financial institution may freeze the loan interest on the loan for a specified period.
- Interest only – the financial institution may allow the SME borrower to only pay interest on the loan for an agreed period and not pay loan principal during that period.

**It should be noted that this credit union does not normally offer all the above alternative arrangements to its members.**

**As regards those alternative arrangements that the credit union does offer, the suitability of any particular type of alternative arrangement to be offered to the SME borrower will depend solely on the results of the credit union's review of their financial situation.**

**It is important to note that alternative arrangements; (1) may be affordable for your business in the short term but could be more expensive in the longer term AND (2) may affect your credit rating, which may limit your ability to access credit in the future - thus before accepting any suggested alternative arrangement, the SME borrower should seek independent advice as regards both of these matters.**

**e) Informing the SME borrower of the review/assessment decision:**

Once the credit union reaches a decision on any proposed alternative arrangement, it will respond by letter to the SME borrower within 15 working days from receipt of all information/documentation requested and outline its decision and if relevant the terms of the alternative arrangements.

**If the decision of the credit union is to offer an alternative arrangement – the SME borrower has 15 working days (from the date the review decision letter was issued by the credit union) to decide whether to accept or decline the alternative arrangement offered and inform the credit union of their decision.**

**If the SME borrower does not inform the credit union of their decision to accept or decline the alternative arrangement offered within 15 working days – then the Credit Control Officer will promptly issue a letter to the SME borrower advising them that they have failed to respond to the credit union within the stated timeframe and therefore, the credit union will be commencing or re-commencing the credit control process.**

**If the SME borrower declines to accept the alternative arrangement that was offered by the credit union – the credit union will write to the SME borrower within 10 working days (of the date the SME borrower informed the credit union of their decision) to: (1) advise the SME borrower of the next steps the credit union may take; (2) advise the SME borrower of their right to appeal the terms and conditions applying to the alternative arrangement proposed and (3) refer the SME borrower to Section 13 in this information booklet, which outlines the alternative arrangement appeals process.**

**The credit union may decide that an alternative arrangement is not possible.** If this is the case, it will write to the SME borrower within 15 working days (following the receipt of all the information/documentation requested from the SME borrower needed for the review) to: (1) inform the SME borrower of the reasons, with reference to the specific criteria applied, for not offering an alternative arrangement; (2) advise the SME borrower of the next steps the credit union may take; (3) advise the SME borrower of their right to appeal the credit union's decision and (4) refer the SME borrower to Section 13 in this information booklet, which outlines the alternative arrangement appeals process.

**If the decision of the credit union is to offer an alternative arrangement** – the credit union's letter to the SME borrower will include the following information;

- the timeframe for the SME borrower to avail of the offer of the alternative arrangement (in this credit union, the timeframe is 15 working days from the date the review decision letter was issued by the credit union).
- the new repayment amounts on the loan under the proposed alternative arrangement, as applicable, and the number and frequency of those repayment amounts.
- the term of the alternative arrangement.
- the implications arising from an alternative arrangement including the impact on;
  - i. the term of the loan agreement,
  - ii. the balance outstanding on the account, and
  - iii. the monetary amount of any loan arrears on the account.
- the frequency with which the alternative arrangement will be reviewed and the criteria against which the borrower's financial difficulties will be assessed.
- if known, details of any residual debt remaining at the end of the alternative arrangement and owed by you and, if not known, details of how any residual debt will be determined.
- how interest and charges will be applied to the loan as a result of the alternative arrangement.
- how the alternative arrangement will be reported by us to a relevant credit reference agency or credit register and that it may impact on your credit rating.
- a statement highlighting your right to seek independent legal and financial advice, and a recommendation that you should do so.

**f) Operation of alternative arrangements:**

When the alternative arrangement comes to an end, the credit union shall promptly review the SME borrower's situation in order to assess whether a further alternative arrangement is necessary.

**9. Details regarding the SME borrower NOT CO-OPERATING with the credit union and the possible consequences:**

It is very important that you engage with us and co-operate with the credit union when you are in or facing "financial difficulties". By engaging with us and providing us with the required information/documentation as requested by us, you will enable us to provide you with a timely review/assessment of your financial situation and enable us to offer you a suitable alternative arrangement if appropriate.

Under the SME Lending Regulations "not co-operating" is defined as a situation in which:

- a) the SME borrower has failed to perform specific actions required by the credit union to enable us to assess the borrower's financial situation, within the timeframe specified by the credit union. In this credit union, this includes the SME borrower's failure to make a full and truthful disclosure to us of the information requested by the credit union and/or their failure to provide (without reasonable explanation) the information/documentation requested by us within the timeframe specified.

- b) the warning letter, required in accordance with Regulation 20(8), has been issued to the SME borrower, and
- c) the SME borrower has not carried out the action or actions within the timeframes specified in the warning letter (note – the timeframe will be at least 20 working days).

Prior to classifying the SME Borrower as not co-operating, the credit union is obliged to issue a warning letter (as referred to under point b above), informing you and any guarantor that you will be classified as not co-operating if you do not perform specific actions (which the credit union deem to be reasonable and proportionate) to enable us to complete a review/assessment of your financial circumstances and setting out the timeframe within which any specific actions are to be carried out. The timeframe for performance of specific actions must be at least 20 working days from the date of issue of the warning letter. This warning letter will also outline the implications for the SME borrower of not co-operating, including;

- i. The impact on the credit union's consideration of an alternative arrangement,
- ii. The impact of such a classification on the credit union's consideration of it, exercising any existing legal or contractual rights to enforce security, and
- iii. Where security is realised by the credit union, that the SME borrower will remain liable for any outstanding debt.

**Normally, the implications on the SME Borrower of not co-operating are that we will not be in a position to carry out an assessment of your current situation and we will not be in a position to consider offering you an alternative arrangement. We may be left with no option but to commence or recommence our credit control process which may result in legal action being taken against you and also by not co-operating, we may have no other option but to exercise any legal rights or contractual rights to enforce security in accordance with the credit agreement and the Credit Union Acts, 1997 – 2012 and any regulations made thereunder. Please also note that where security is realised, you will remain liable for any outstanding debt.**

Where we classify you as not co-operating following a period whereby you have been given the opportunity to co-operate in line with the paragraphs above, we shall;

- a) notify you and any guarantor by letter that you have been classified as not co-operating, and
- b) inform you and any guarantor, by letter of:
  - i. The impact of such a classification on the credit union's consideration of an alternative arrangement,
  - ii. The impact of such a classification on the credit union's consideration of it exercising any existing legal or contractual rights to enforce security, and
  - iii. Where security is realised by the credit union, that you will remain liable for any outstanding debt.

#### **10. Impact of loan arrears on the SME borrower's credit rating:**

Please note that as this credit union is registered with the ICB and are obliged under law to make returns to the Central Credit Register, data relating to your repayment history will be disclosed to the ICB and/or the Central Credit Register. We will advise you (via our Privacy Notice) that we will be making these disclosures at the time of your loan application, however we are required by law to make returns to the Central Credit Register for loans in excess of €2,000. **Please note that if arrears do arise on your loan, your credit rating may be adversely affected. This may have an impact on your ability to avail of additional credit in the future both in this credit union and in other financial institutions.**

## **11. Independent reviews:**

Where the SME borrower is in financial difficulties and we require an independent review of your business by a third party in order to assess the future viability of the business, we shall, in writing, provide you with:

- a) an explanation of the reasons for the review.
- b) information on what will be covered by the review.
- c) the name of the person carrying out the review.
- d) information on any costs to be borne by you.

Where the SME loan is guaranteed, we shall inform the guarantor, in writing, where we require an independent review. We shall promptly provide you, in writing, with a copy of any report provided to us following the completion of the review referred to above. Where you bear any cost of the review referred to above, the SME Lending Regulations require that the cost of the review must be proportionate to the outstanding loan balance and the size and complexity of your business.

## **12. 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. Such fees or charges may include, charges for late or missed payments, arising from the requirement to engage legal recovery services. It should be noted that late or missed repayments can result in an increase in the overall cost of credit.

Please note that in the event you are in default under the terms of the credit agreement, the credit union reserves the right to pass the collection of the loan repayments to another organisation or a debt collection agency who will act on our behalf.

## **13. Alternative arrangement appeals process:**

This credit union has in place an appeals process to allow the SME borrower to appeal at least the following decisions of the credit union; (1) the credit union refusing a loan application; (2) a special loan approval term or condition (including reference to guarantors or security) required by the credit union; (3) the withdrawal or reduction of a loan facility; (4) a special alternative arrangement term or condition required by the credit union; (5) the credit union's refusal to offer an alternative arrangement and/or (6) the credit union's classification of the SME borrower as not co-operating.

In this credit union, the appeal will normally be made to an appellate body (i.e. the Board of Directors – but excluding any officers who were previously involved in the SME borrower's case) under Section 37 of the Credit Union Act 1997-2012. You have 20 working days from the date of notification of the decision (which you wish to appeal) within which to lodge the appeal. You should submit your appeal in writing to the CEO of the credit union and ensure that you obtain confirmation of its receipt from the CEO.

We will acknowledge receipt of your appeal within 5 working days from the date it was received by the CEO and provide you with a designated point of contact in relation to the appeal.

The appeal will be conducted as soon as is reasonably practicable and where the credit union cannot make a decision on the appeal within 15 working days following the submission of the appeal by the SME borrower, we will write to you before the expiry of the 15 working days and inform you of the following;

- i. how long it will take to reach a decision, and
- ii. the reasons why it will take longer than 15 working days.

Within 5 working days of the completion of the appeal, we will write to the SME borrower to:

- (a) notify the SME borrower of the decision of the appeal.
- (b) explain the reasons for the decision.
- (c) where the SME borrower's appeal is upheld, in whole or in part, set out the terms of any offer being made in a clear and comprehensible manner.

Note: It is our understanding, that the decisions of credit unions are not subject to review by the Credit Review Office. Also, it should be noted that as stated in the SME Lending Regulations, S.24 (entitled Appeals) of the SME Lending Regulations does not apply in respect of matters for which a borrower has a right of appeal under the Credit Union Act 1997-2012.

#### **14. Complaints procedure:**

This credit union is always committed to providing the best service to its members. However, in the event that 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 us as early as possible.

The complaints procedure in this credit union is as follows;

##### 1. We will identify if you have a concern or a complaint.

- A concern or complaint might be for example an error, unfair treatment or poor service.
- A concern can be resolved on the spot.
- If in doubt whether it is a concern or a complaint, we will ask you if you wish it to be treated as a complaint.
- A complaint cannot be resolved on the spot.

2. This procedure need not apply where the complaint has been resolved to your satisfaction within 5 business days.

##### 3. If it is a verbal complaint:

- We will ask you if you want to put the complaint in writing.
- We will record that we offered you the opportunity to put the complaint in writing but that you declined.
- We will inform you that we are recording the complaint on our computer system.
- We will record the facts of the complaint.
- We will inform you that the complaint will be dealt with by the Complaints Officer and record same.
- We will inform you that the complaint will be acknowledged in writing by the credit union or the Complaints Officer within 5 business days of being received by the credit union.
- We will give you the Members Complaint Procedure and Sub-Committee Complaint Form.
- We will give you the name of the Complaints Officer who will be your primary contact for all issues in relation to the complaint.
- We will inform the Complaints Officer of the complaint.

##### 4. If you request to put the complaint in writing:

- We will ask you to write a letter of Complaint and to address it to the Complaints Officer.
- We will give you the Members Complaint Procedure and Sub-Committee Complaint Form.
- We will acknowledge receipt of the complaint within 5 business days of being received and send the Members Complaint Procedure (this contains the name of the Complaints Officer/s) and Sub-Committee Complaint Form to you if you have not already received same. The credit union

will provide you with the name of the Complaints Officer who will be the contact person for you in relation to the complaint, until the complaint is resolved, or cannot be processed any further.

- You will be given the opportunity to discuss the complaint with the Complaints Officer (at a prearranged appointment time), who will try to resolve the complaint.

**5. If the complaint is not resolved to your satisfaction:**

You should complete the “Complaints Form” which is pre-addressed to the complaints sub-committee. You will have the right to be heard by this sub-committee who will investigate, discuss and, wherever possible, resolve the complaint.

**6. If the complaint is not resolved to your satisfaction:**

You should request the secretary of the credit union to forward the complaint to the board of directors. You will have the right to be heard by the board, which will investigate and, wherever possible, resolve the complaint.

Note: Nothing in Rule 108 shall prevent the Financial Services Ombudsman from investigating and adjudicating a complaint made against a credit union about the provision of, or failure to provide, a financial service, so long as the complaint:

- a) falls within the jurisdiction of that Ombudsman, and
- b) does not relate to a matter that involves only the governance of the credit union.

The credit union will provide you with a regular written update on the progress of the investigation of the complaint at intervals of not greater than 20 business days starting on the date when the complaint was made.

The credit union will attempt to investigate and resolve a complaint within 40 business days of having received the complaint; where the 40 business days have elapsed and the complaint is not resolved, the credit union will inform you of the anticipated timeframe within which we hope to resolve the complaint and of the consumer’s right to refer the matter to the Financial Services Ombudsman or the Pensions Ombudsman, where relevant and will provide you with the contact details of such Ombudsman.

**Financial Services Ombudsman’s address:**

3rd Floor, Lincoln House,  
Lincoln Place,  
Dublin 2  
Phone Number: Lo Call: 1890 88 20 90  
01 6620899  
Website: [www.financialombudsman.ie](http://www.financialombudsman.ie)

The credit union will advise you in writing, within 5 business days of the completion of the investigation of a complaint, of the outcome of the investigation and, where applicable, explain the terms of any offer or settlement being made. The credit union will also inform you of the right to refer the matter to the Financial Services Ombudsman or the Pensions Ombudsman, where relevant, and will provide you with the details of such Ombudsman.

Note: Source of this procedure is a combination of a Complaints Handling and Financial Ombudsman Online Course provided by the Irish League of Credit Unions, Standard Rules for Credit Unions, Republic of Ireland, Rule 108 – Settlement of Disputes between Members and the Credit Union and the Consumer Protection Code 2006 from the Financial Regulator.

## **15. Other helpful information:**

The following steps may assist you in managing financial difficulties in relation to your business;

- Don't ignore the problem and act quickly to address potential issues.
- Keep all joint parties and guarantors informed.
- Talk to your accountant/financial/legal adviser.
- Contact the credit union and any other relevant financial institutions.
- Engage fully with the credit union and any other relevant financial institutions.
- Seek independent financial and/or legal advice when considering any alternative arrangement that the credit union and other relevant financial institution may offer you.
  
- Possible financial actions that you should consider:
  - Review all costs, including rent, salaries and wages, utilities, office supplies, advertising, vehicle & equipment maintenance and fuel, etc.
  - Improve cashflow by turning stock into cash more quickly and review the level & age of stock.
  - Accelerate collection of amounts due from debtors by offering discounts to customers who pay more quickly, issuing invoices promptly and following up immediately if payments are not made on time.
  - Inform your creditors as soon as possible if you are finding it difficult to pay. You may be able to renegotiate your payments.
  - Convert liquid assets into cash.
  - Consider investment into the business from your own resources.

**End of Booklet**