



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

A Guide for Micro and Small Enterprises and Guarantors: Regulations on Lending to Small and Medium-Sized Enterprises

2016

Introduction

The Regulations on Lending to Small and Medium-Sized Enterprises (SME Regulations) were introduced by the Central Bank of Ireland on 17 December 2015. They provide protections for micro, small and medium-sized enterprises (SMEs) when they are either applying for or have credit facilities, and also for guarantors of SME credit.

When dealing with SMEs, lenders must:

- ✓ give SME borrowers transparency around the application process,
- ✓ provide SME borrowers with reasons for declining credit, in writing, that are specific to their application,
- ✓ provide protections for guarantors,
- ✓ contact SME borrowers who have been in arrears for 15 working days,
- ✓ warn SME borrowers if they are in danger of being classified as not co-operating, and
- ✓ provide SME borrowers with the right of appeal.

The SME Regulations came into effect on 1 July 2016 for all lenders that provide SME credit, and from 1 January 2017 for credit unions. Technical amendments to the SME Regulations were published concerning the definitions of SMEs in January 2018. These Amendment Regulations took effect immediately.

An unofficial consolidation of the full text of the SME Regulations is available [here](#). Set out below are key protections for micro and small enterprises (who represent the vast majority of SMEs covered by the SME Regulations).

A micro and small enterprise is defined with reference to Commission Recommendation 2003/361/EC and means an enterprise which employs fewer than 50 persons and which has either or both of the following:

- a) an annual turnover which does not exceed €10 million,
- b) an annual balance sheet total which does not exceed €10 million.

In certain circumstances, where a micro and small enterprise is connected with another enterprise, the staff headcount, annual turnover and annual balance sheet total of the connected enterprise may also be taken into account.

Information for micro and small enterprises — 10 things you should know

1. Your lender must make information about the credit application process available to you

Your lender must publish information about its credit application process on its website. This must include the relevant timelines, information that your lender may ask of you and information about Government support schemes available from or through your lender. You can ask your lender questions about the credit application process. If you engage with your lender before you make a credit application, your lender must provide you with guidance which may assist you to make a successful credit application.

2. If your lender does not make a decision on your credit application within 15 working days, it must tell you the reasons why

Your lender must tell you the expected timeframe within which a decision on your application for credit will be made. If your lender cannot make a decision within 15 working days because it needs you to provide more information, it must tell you what information it needs and when you need to provide this information.

3. If your credit application is declined

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

If your lender's decisions are subject to review by the Credit Review Office, your lender must give you information about the role and contact details for the Credit Review Office.

4. If your credit application is successful

If your credit application is successful, your lender 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 your lender to explain it and consider getting independent advice.

5. Your lender must offer you the option of a meeting, which includes a credit review, at least once a year

Your lender 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 your lender in respect of those loans and any alternative arrangements that have been put in place between you and your lender to discharge your debts. You are also entitled to ask your lender to carry out a credit review at any time.

6. What happens if you go into arrears

If you fall into arrears on your repayments and you remain in arrears for 15 working days after you miss a repayment, your lender must contact you to let you know that you are in arrears and to find out why you are in arrears. Your lender will then assess whether you should be treated as a financial difficulties case. A financial difficulties case includes any case where a borrower has:

- ✓ missed payments for 3 months in a row, or
- ✓ exceeded his/her overdraft for 90 days in a row, or
- ✓ been assessed by the lender as being in financial difficulties.

If you are concerned about going into arrears, or you are in arrears and are concerned about going further into arrears, you should engage with your lender as early as possible. It is also important that you co-operate fully with your lender. If you do not co-operate with your lender, your lender must advise both you and your guarantor of the possible implications of not co-operating.

7. A lender must give information on how it will work with borrowers in financial difficulties

Your lender must publish an information booklet on its website with information for SME borrowers in financial difficulties, including a description of the types of alternative arrangements that may be available. The information booklet must include details of your lender's internal appeals process for its decisions to grant an alternative arrangement and the timelines involved, and where its decisions are subject to review by the Credit Review Office.

8. Your lender must have an internal appeals procedure

Your lender's appeals procedure allows you to appeal a decision in relation to the following decisions:

- ✓ 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'

9. Your lender must give you information about the security required for a loan

If security is required for your credit facility, your lender must explain to you in writing why the security is required and any potential consequences for you of providing this security.

10. If your lender offers you an alternative arrangement to discharge your debts, you must be provided with information about the alternative arrangement in the loan offer document

This information includes:

- ✓ timeframe to avail of the offer,
- ✓ new repayment amount,
- ✓ number of repayments,
- ✓ frequency of repayments,
- ✓ term of the arrangement,
- ✓ implications of the arrangement,
- ✓ details of any residual debt remaining at the end of the arrangement,
- ✓ how interest and charges are applied.

Information for guarantors of SME credit

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

Where a lender asks you to provide a guarantee to support the application for credit, the lender 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.

During the term of the loan, the lender 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
- ✓ the lender requires an independent review.

*When security has been realised, the lender 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 lender must inform you of how the surplus is to be repaid to the borrower or guarantor(s).

Where can you get more information?

Central Bank of Ireland

www.centralbank.ie

Irish Government's Supporting SMEs online guide

www.supportingsmes.ie

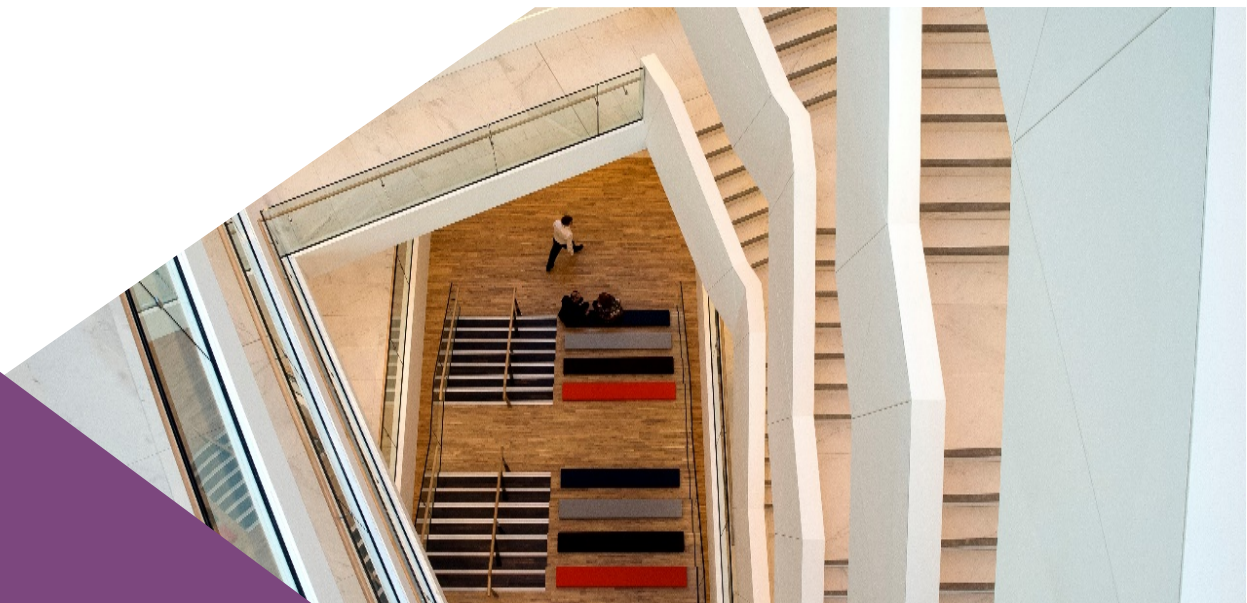
Credit Review Office

www.creditreview.ie

Financial Services and Pensions Ombudsman

For information on how to make a complaint about your lender.

www.fspo.ie



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