



Asset finance

Information for SMEs
in financial difficulty



Close Brothers
Commercial Finance

Modern Merchant Banking

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Introduction

The Central Bank of Ireland has implemented regulations which introduce conduct of business rules for regulated firms providing credit to small and medium enterprises (SMEs). In summary, the rules cover processing applications, advertising of credit, complaints handling, dealing with guarantors, annual reviews and dealing with customers who are in arrears or financial difficulties.

This booklet sets out the Close Brothers Commercial Finance procedure for dealing with SME customers in financial difficulty and aims to give you information on the support that we are able to provide you. We treat each case individually and our decision is based on the information you provide and any relevant security that we hold.

We recommend that you read all the information contained in this booklet and contact us as soon as possible if you are, or feel you may shortly be, facing financial difficulties.

What are financial difficulties?

Under the SME Regulations you are considered to be in financial difficulties when one or more of the following events occur:

- You are in arrears under your credit agreement or alternative payment arrangement for three or more consecutive months; or
- We have assessed you to be in financial difficulties after assessing your credit agreement.

What should I do if I am in financial difficulties

We understand that from time to time you may face financial difficulties which could affect your ability to re-pay your credit agreement with us. If you find yourself in this situation we are on hand to help you and can work with you to try and arrive at a solution.

Below are some steps that enable us to help you as soon as possible:

- Contact us as soon as you are not able to make your payments
- Tell us as soon as there are any changes to your financial circumstances that could change your ability to repay your agreement
- Once you have made contact discuss your circumstances with us and cooperate fully with any information requests within agreed time frames. Any information that you provide must be accurate and correct
- Keep us informed of any further developments as the situation develops.

We strongly advise that you contact us and fully co-operate at all stages of our discussions. It is in your best interest to engage with us in resolving your arrears situation. We may classify you as “not co-operating” where:

- You fail to engage with us or respond to our communications
- You fail to provide the information requested by us in order to assess your financial situation within the timeframes specified; and/or
- The information provided by you is incomplete, false or misleading.

If we classify you as “not co-operating” then we will not be able to work with you to reach a resolution of your financial difficulties and you may not be eligible for a Temporary Alternative Repayment Arrangement. If that occurs then we may be left with no option but to terminate the agreement, which would mean that we would need to recover the asset and pursue any security that we may hold. You will also remain liable for any money owed under the agreement including any shortfall after the asset has been recovered and sold.

It is essential therefore for you to address any warning signs of financial difficulty that are facing your business.

If you find that your business is facing financial difficulties, you should contact us as soon as possible via one of the ways disclosed at the end of this booklet. Where financial difficulties first arise on your credit facility with us, we will contact you to offer you an opportunity to review your agreements with us.

On review of the difficulties facing your business you will be appointed a designated contact who will work with you in order to find a solution. It is very important for you to engage fully when experiencing financial difficulties. The sooner you contact us, the sooner we can help you to find a way forward.

I have informed you of my situation or have been assessed as being in financial difficulties what happens now?

Once you have informed us of your situation or you have been assessed as being in financial difficulties we will take the following steps:

Step 1: Gathering information

The first step is to gather information about your finances so that we can understand the current position. We will let you know what information is required for us to gain a clearer understanding of your business’s financial circumstances. The financial information that we require to make an assessment will vary depending on the size and nature of your business but will, generally, include the following:

- Financial information and projections
 - latest audited accounts
 - latest management accounts
 - up-to-date cash flow statement
 - bank statements
 - detailed projections, where available
 - aged creditor and debtor reports.

- Conduct a credit search of your business and individuals
- Details of your current tax position
- Asset and Liabilities statement of your business and its owners
- Details of your security position, if relevant.

Step 2: Assessment for a Temporary Alternative Payment Arrangement

The second step in the process is to assess your position for a Temporary Alternative Payment Arrangement which is completed on a case by case basis and done by reviewing the information provided in Step 1. We will also consider your particular circumstances, your repayment capacity and repayment history.

We will then respond to you, in writing, with our decision regarding a Temporary Alternative Payment Arrangement as soon as possible (usually within 15 days of receiving all of the information that we requested from you). Complex reviews or exceptional circumstances may take longer. Please note that a Temporary Alternative Payment Arrangement may not be offered in all cases.

Step 3: Communication of decision

Once we have made a decision about a Temporary Alternative Payment Arrangement, we will write to you with details of our proposals, together with all terms, conditions and, if relevant, any additional fees or charges. We will also explain the steps you must take next.

It is important that you fully understand the implications and details of any new payment arrangement before you commit to it. You may therefore wish to seek independent financial advice.

Step 4: Appeals

If we are not in a position to offer you a Temporary Alternative Payment Arrangement, we will advise you of this, in writing, together with the reasoning for this decision. Close Brothers Commercial Finance operates an internal appeals process for you to use where you are not satisfied with the outcome of the above process. Our appeals process comprises a panel of individuals with financial services experience who have not been previously involved in your case.

You can appeal our decision not to offer a Temporary Alternative Payment Arrangement or, where we do offer a Temporary Alternative Payment Arrangement, the terms and conditions of that offer. You have up to 20 working days to appeal a decision from the date you are notified of the decision. We will consider your appeal and will write to you with our decision within 15 working days. If we cannot make a decision on your appeal within 15 working days, we will write to you and inform you of the reasons for the delay and when you can expect a decision on your appeal.



All appeals must be submitted in writing to the Credit Appeals Officer, Close Brothers Commercial Finance, Swift Square, Building 1, Santry Demesne, Northwood, Dublin 9, D09 A0E4.

Alternatively, you may email your appeal with any supporting documentation to: appeals.ireland@closebrothers.com

Please note the application of our financial difficulties procedure is without prejudice to our legal rights to enforce any agreement including any credit agreement and related security. They are also dependent on your co-operation in meeting any requests we make of you.

What other information should I be aware of?

If you miss any payment we will be entitled to charge you default fees and interest in accordance with the terms of your credit agreement. Please refer to your credit agreement for more information.

Your data in relation to the arrears may be shared with a credit reference agency in accordance with our credit agreement or statutory obligations. This may have an impact on your credit rating and make obtaining credit more difficult in the future.

Can I appoint a third party to help me?

You should consider whether you need to engage a financial adviser to assist you with the process. Where you do appoint an adviser they can accompany you during any discussions that we have whether they be face to face or by other means.

Do I have a right to complain?

Yes. If you have a complaint you can contact us by any of the methods shown below. We take all complaints seriously and will endeavour to resolve the matter straight away. Some complaints do take a little more time to resolve and if we have been unable to resolve your complaint within five days we will write to you explaining who is dealing with your complaint and will then write to you regularly with updates until your complaint is resolved. If after 40 days we have been unable to resolve your complaint you may have the right to refer it to the Financial Services and Pensions Ombudsman (FSPO), we will provide you with the details of how to do that at the time.

Once we have investigated your complaint we will write to you confirming the outcome, explaining what we are going to do to resolve it for you.

You may email your complaint with any supporting documentation to: complaints.ireland@closebrothers.com

Alternatively, you may also make a complaint verbally by calling us on the phone number on the next page.



How do I contact you?

Where you have been classified as being in financial difficulties we will provide you with the name and contact details of a designated contact point who will deal with your case throughout the financial difficulties process.

You can contact us by any of the following methods:

By Post:

Close Brothers Commercial Finance
Swift Square
Building 1
Santry Demesne
Northwood
Dublin 9, D09 A0E4

Contacts:

Stewart Wilson, Gerard Mclroy and Daniel Power

Telephone:

+353 1 8711060

Between the hours of 9am and 5pm

Email: collections.ireland@closebrothers.com

If you would like any further information about the SME Regulations a copy can be obtained from the Central Bank of Ireland website and via the link [here](#)



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