



Small and Medium Enterprise Loan Restructure Process

Information Booklet

INTRODUCTION

At Fitzwilliam Loan Management (“FLM”) we are committed to working with our customers and are very aware that in the current economic environment Small and Medium Enterprises (“SMEs”) can experience financial difficulties. We also understand that each SME’s individual financial circumstances are unique and each case needs to be assessed on its own merits.

Our objectives are:

- to promote fairness and transparency in the treatment of SMEs;
- to comply with the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium Sized Enterprises) Regulations 2015 (the “SME Regulations”);
- to work with you in a positive manner to resolve financial difficulties where possible; and,
- to ensure when dealing with financial difficulty cases, we assist you to meet their obligations or otherwise deal with the situation in an orderly and appropriate manner.

If you are currently experiencing financial difficulties or are concerned about your financial position please contact us and we will endeavour to work with you to help you meet your financial obligations. The earlier we are made aware of the situation, the sooner we can work together to endeavour to find a solution. It is in your interest to engage with FLM about arrears or financial difficulties so that we can endeavour to work together to address the situation.

It is important that where you find yourself in financial difficulties that you engage and co-operate in this process. Where efforts to reach a satisfactory solution fail, consideration will be given to initiating enforcement action which may include the appointment of a receiver or the initiating of legal proceedings to take possession of, and sell, any asset held as security under the facilities.

NOTE: This restructure loan process applies where FLM is servicing your loan facility on behalf of a third party, who is the owner of that facility. FLM works closely with these third parties to ensure the best possible outcome is offered. FLM is a credit servicing firm currently authorised under section 34F of Consumer Protection (Regulation of Credit Servicing Firms) Act 2015 providing credit services on behalf of other entities.

RESTRUCTURE PROCESS

If you are currently experiencing financial difficulties or are concerned about your financial position please contact us on **01 542 4888** and we will endeavour to work with you to help you meet your financial obligations.

‘Financial difficulties’ – A borrower will be classified as in financial difficulties where:

- (a) The credit facility of a borrower is in arrears for three consecutive months;
- (b) In the case of an overdraft credit facility, where the approved limit on the facility is exceeded by the borrower and remains exceeded for 90 consecutive days;
- (c) The regulated entity has, following an assessment of the borrower’s circumstances, determined that the borrower should be treated as being in financial difficulties.

With a view to working with SME's in financial difficulties the following process has been established by FLM:

Step 1: Financial information

When you contact and / or we contact you when financial difficulties arise, we will require current financial information in order to assess your financial position. We will appoint a designated contact point within FLM to liaise with a borrower in financial difficulties and we will inform you of the relevant contact details. We will set out in writing the information which will be required which may include the following where applicable:

- Up-to-date sworn Statement of Affairs / Standard Financial Statement.
- Audited accounts for to the previous 3 years.
- Up-to date management accounts.
- Rental income schedules.
- Financial projections.
- Recent bank statements (6 months consecutive) for current accounts and any other loan facility.
- Confirmation of tax affairs.

Given the individual nature of SME lending there may also be additional documentation required specific to your circumstances. You may wish to seek independent advice to assist you in providing the requested information and if you wish a third party advisor may accompany you during discussions with FLM whether in face to face meetings or otherwise.

We may require you to sign a confidentiality agreement as part of a resolution.

Step 2: Review of Financial Position

Upon receipt of all the information requested we will commence our review of your situation. As part of the resolution we may consider an alternative arrangement to address your arrears or financial difficulties which may include a revised repayment schedule, disposal of assets and debt settlement. Depending on the business' circumstances we may review the following in assessing the suitability of an alternative arrangement:

1. The viability of the business;
2. Any links with personal debt of the owners of the business who are concerned in its management that impacts on the business.
3. Any business debt related to the property and other investment;
4. The borrowers current and future repayment capacity;
5. The borrower previous repayment history;
6. Whether the borrower has any business debt other than the credit facility in financial difficulties, and if so the overall business indebtedness of the borrower; and,
7. The information provided by the borrower.

Step 3: Decision

We will endeavour to respond in writing with a decision on your request within 15 days of receipt of the full information requested.

If an alternative arrangement is agreed we will provide a written agreement for acceptance. Please note that while some of these options will decrease your repayment in the short term, they may be subject to a margin increase which would cause the overall cost of your loan to increase. It is important that you fully understand the implications of any new arrangement before you go ahead with it and we recommend that you take independent advice before entering into the arrangement. Where the terms of an alternative repayment arrangement are coming to an end, we will write to you offering you a further review meeting.

It may not be possible to reach a resolution in all cases, and in such cases we will write to you outlining the reasons for our decision.

If the information requested as part of Step 1 is not forthcoming we may have to consider alternative options. If you are classified as Not Co-Operating (as defined in Important Information later) it will impact on our ability to consider an alternative arrangement and may result in the loan owner exercising its right of enforcement which may include the appointment of a receiver over assets. You may also be pursued for any debt that is owed. Following sale of an asset in an enforcement scenario you will remain liable for any outstanding debt.

Step 4: Appeal

If you are not happy with the decision in relation to an alternative arrangement or being classified as not co-operating you have the option to appeal the decision. The appeal should be submitted in writing within 20 business days of our decision to the following address:

Appeals Board
Fitzwilliam Loan Management
61a Fitzwilliam Square
Dublin 2

Your appeal will be independently reviewed by an Appeals Board including personnel who were not previously involved in the original decision. FLM will provide a written response on the outcome of the appeal within 15 business days of receipt of the appeal. If we are unable to reach a decision on your appeal within 15 business days we will notify you of how long we expect it to take to reach a decision and the reason for the delay.

IMPORTANT INFORMATION

“not co-operating” means a situation in which—

- (a) 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;
- (b) The warning letter, required in accordance with Regulation 20(8) of the SME Regulations, has been issued to the borrower; and,
- (c) The borrower has not carried out the action or actions within the timeframes specified in the letter referred to in subparagraph (b) above.

Small & Medium Enterprises (“SMEs”)

“Micro and small enterprise” means an enterprise which employs fewer than 50 persons and which has an annual turnover and balance sheet total which does not exceed €10million.

“Micro, small and medium-sized enterprise” means an enterprise which employs fewer than 250 persons and which has an annual turnover not exceeding €50million and an annual balance sheet total not exceeding €43million.

“Medium size enterprise” means a micro, small and medium sized enterprise that is not a micro and small enterprise.

Fees & charges

- Additional charges and default interest may be applied to facilities in default in line with the terms and conditions of the facility.

Credit rating

- We may submit details of your payment history to the Irish Credit Bureau where permitted by contract or required by law. This may have an adverse effect on your ability to secure finance in the future.
- If your facility remains in default it may have an adverse impact on related facilities you have with the same lender.

SME Regulations

The Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium Sized Enterprises) Regulations 2015 are available on the Central Bank website www.centralbank.ie.

Complaint

You have a right to make a complaint at any stage to FLM and this can be made verbally or in writing. The complaint will be dealt with in line with our complaints process which is summarised as follows:

- Within 5 working days we will acknowledge receipt of the complaint and advise you of a contact person within FLM who will be the responsible person for the complaint.
- A written update will be provided at intervals of no more than 20 working days from the date on which the complaint was made.

- We will try to resolve the complaint as soon as possible and at the latest within 40 working days from receipt. If the complaint remains unresolved after 40 working days we will inform you of the timeframe in which we hope to resolve the complaint.
- Within 5 days of completing our investigation of the complaint we will inform you in writing of the outcome. If you are not satisfied with the outcome you have the right to make a complaint to the Financial Services Ombudsman.

For the avoidance of doubt this information booklet is non – binding and intended for information and guidance purposes only and is without prejudice to FLM’s regulatory and /or legal obligations and legal rights to enforce any agreement and security taken in connection with an agreement. Neither the passing of time, nor any action, inaction, statement or discussion by any or part of the Bank and its agents, is to be construed as constituting a waiver or release of, or as prejudicing, any of the Bank’s rights under the Facility Letter.