



Lapithus

Lapithus Management DAC

Small and Medium Enterprises

**Guide to
Managing
Arrears**

Introduction:

Lapithus Management DAC ("Lapithus") is an Irish regulated Credit Servicing Firm authorised by the Central Bank of Ireland. Lapithus services mortgage loans secured upon residential, commercial and other properties for and on behalf of its clients (the loan owners). As part of our services, Lapithus has a policy and process for dealing with SME borrowers who may find themselves in financial difficulty. A key objective of our policy is to assist borrowers in resolving their financial difficulties, in relation to their loan(s).

This guide describes the process that Lapithus has in place for the management of loans for SME borrowers in arrears or financial difficulty, in compliance with the Central Bank Lending to Small and Medium-Sized Enterprises Regulations 2015 as amended by the 2016 Regulations ("the Regulations") it relates to borrower companies that are micro, small or medium enterprises.

Important definitions for you:

Small and medium enterprises ("SME") are defined under the Regulations as follows:

Micro and Small Enterprises – 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

Medium enterprises - **means** enterprises which employs fewer than 250 persons and which has either or both of the following:

- a) an annual turnover not exceeding €50 million;
- b) an annual balance sheet total not exceeding €43 million and shall include "smaller enterprises" that do not meet the definition of a Micro and Small Enterprise;

SME – means Small to medium enterprises, this terms is used to refer Micro and Small Enterprises and Medium Enterprises collectively.

Financial Difficulties - Means a situation in which one or more of the following apply to a credit facility agreement or alternative arrangement for 3 consecutive months;

- 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) Lapithus has, following an assessment the borrower's account, determined that the borrower's circumstances are such that the policy for the management of arrears should be applied to the borrower's case.

Our customer support:

Lapithus may be contacted from Monday to Friday between 9:00 and 5:00 on 01 697 2606.

Important information that you need to be aware of:

If you are an SME at risk of going into arrears or are already in arrears it is important that you contact us and engage with us to try and address the situation.

For the purposes of the Regulations, arrears arise where you have not made a full repayment or have only made a partial repayment on your loan, by the scheduled repayment date.

The SME Arrears Process

In Lapithus, SME loans are managed by dedicated Portfolio Managers whose daily focus is to find the best resolution to the loans in those portfolios. If you are experiencing financial difficulties or if you are in arrears, your Portfolio Manager will actively engage with you to find a resolution. Your point of contact throughout the process of managing your arrears will be your Portfolio Manager.

This information sheet sets out the process for assessing your situation and finding the best resolution for your loan.

There are three steps in our SME Arrears Management Process:

1. Engagement and Financials
2. Analysis and Negotiation
3. Agreement and Resolution

1. Engagement and Financials

Proactive early engagement with your portfolio manager is the first step towards resolving your financial difficulties with regard to your loan(s). Once you advise your Portfolio Manager of your financial situation the conversation can begin to find an appropriate resolution. Without your engagement it will be difficult to reach a resolution that meets your needs.

To find the best resolution the Portfolio Manager will require detailed financial information including:

- A sworn statement of affairs,
- The most recent audited financials for the company to include profit and loss accounts and balance sheet,
- Details on the financial circumstances, and overall indebtedness of the individual shareholders of the company,
- Your current ability to make repayments,
- Management accounts,
- Bank statements,
- Rental income,
- Copy leases,
- Agreements/facilities with other banks,
- Valuations of assets,

It is important to fill out the Statement of Affairs accurately, honestly and fully and to provide any supporting documentation requested.

There may be other pertinent information requested during the process depending on the nature of your financial difficulties.

2. Analysis and Negotiation

Each case is assessed for an appropriate solution based on the information provided. With SMEs this process will generally involve a lot of input from the borrower to find a mutually agreeable solution.

In assessing your case on its own merits, our aim is to assist you to meet your obligations and resolve your loan(s) within a reasonable time frame.

The Portfolio Manager will seek an appropriate resolution based on the following factors:

- The financial information provided by you as described above; Your company's current financial means
- Your company's current and future repayment capacity
- Your repayment history
- Any business debt related to the property and other investments;
- The asset value
- The marketable condition of the asset
- Your loan to value
- The viability of the business
- Management agreements/operating agreements entered into by the borrower
- Any links with personal debt of the owners of the borrower who are concerned in its management that impact on the business of the borrower
- 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;

This is generally an iterative process and can take time to find the right resolution. However, from the date on which you provide your financial information, we will endeavor to respond with regard to how we propose you might manage your account within 30 working days.

3. Agreement and Resolution

As loans and companies vary, the appropriate resolution for one SME may be very different to that for another SME. We have a suite of resolutions that we may consider to resolve your loan.

1. Voluntary sale of the asset, which can be managed by you to permit you to get the best deal you can.
2. Surrender of the asset, this is where we may appoint a third party to manage the sale of the security in order to resolve your loan.
3. Repayment or settlement of the loan, at an agreed sum that may be less than the current amount outstanding.

Should an alternative arrangement be proposed or agreed this will be sent to you in writing and you will be given sufficient time (at least one calendar month) to seek advice and make an informed decision.

Any proposed change to your credit facility agreement will also be advised to any guarantor of your loan.

There is no guarantee that a suitable, sustainable and mutually agreeable solution will be found, however your ongoing engagement in the process will permit us to take your company's situation and priorities into account.

Fees and Charges

Interest will be charged on your loan on the full amount outstanding including the arrears.

There may be fees and charges incurred in the sale of your property or the appointment of a receiver, where necessary. These costs vary depending on the value of the asset(s) and the action taken.

We may be entitled to impose additional fees or charges on borrowers in financial difficulties in accordance with the terms and conditions of your loan.

Not Co-Operating Borrowers

In accordance with the Regulations, borrowers that fail to engage in the SME arrears process will be considered 'Not Co-Operating'.

As the resolution of arrears or financial difficulty involves the agreement of both parties, it will not be possible for us to find a resolution that meets your needs without your involvement. Failure to engage with us regarding a loan with significant or unaddressed arrears will result in enforcement of your loan(s) which may result in, among other consequences, you losing your property.

A Not Co-operating Customer means:

- A borrower that has failed to make a full and truthful disclosure of the information required by us to assess the borrower's financial situation, within the timeframe specified.
- A borrower that has failed to carry out the action requested in a Not Co-Operating warning letter within the timeframe specified.

Before classifying you as Not Co-Operating we will issue a warning letter to you and any guarantor, advising of the risk of being classified as Not Co-operating and the consequences of same. This letter will also advise of any action we need you to take in order to avoid this classification.

Should we classify you as Not Co-Operating, following the period provided to you to take the actions set out in the warning letter described above, Lapithus will notify you and any guarantor in writing of this decision and advising of the consequences of this decision.

For an SME borrower that has been classified as Not Co-operating;

- we may seek resolution through the appointment of a receiver, which may result in you losing your property,
- we may call on any guarantor that has provided security on behalf of the SME to meet their obligations under that guarantee,
- the costs associated with the appointment of a receiver and any other disposal related costs will be added to your loan amount.
- when the property is sold and all other security has been realised, any shortfall on the loan will be borne by you.

Further Steps for You to Consider

- You may wish to seek independent financial and/or legal advice to assist you when completing the Standard Statement of Affairs.
- You may employ a third party adviser who may accompany you during discussions with Lapithus Management DAC, whether they are face-to-face or not.
- You may wish to seek independent debt management/servicing advice from an accredited debt advisor if you would like help with managing your finances.
- You can refer to the Regulations regarding SME arrears which are available on the Central Bank of Ireland's website. www.centralbank.ie
- It is important for you to remain actively engaged in the process.
- You may require independent legal advice regarding the resolution of your loan.

Your Right to Appeal

If you are not satisfied with the decision that we reach in respect of an alternative repayment arrangement you can appeal in writing within a period of 21 business days from the date that we advise you of our decision on the alternative repayment arrangement.

All written appeals must be addressed to the "SME Appeals Board" in Lapithus, at the following address:

***SME Appeals Board,
Lapithus Management DAC,
35-38 St. Stephen's Green, Dublin 2***

The appeal will be reviewed by two independent reviewers who will consider your appeal in full.

Your appeal will be considered and adjudicated on and a written response will be provided to you within 15 business days of receipt of the appeal and any supporting information requested from you to support the appeal. In exceptional cases it may take us a little longer to deal with your complaint and in such circumstances we will inform you of this within 15 days of receipt of your appeal setting out how long it will take to deal with your appeal and the reasons for the extended time for consideration.

Credit Reference Agency

Lapithus Management DAC may share information on your loan with a credit reference agency, which would include details of any missed payments.

If you do not meet the repayments on your credit facility agreement, your account will go into arrears. This may affect your credit rating, which may limit your ability to access credit in the future.

Complaints Policy

Our commitment is to provide you with the best service at all times. However we understand that sometimes you may be unhappy with a decision that we have made.

We will endeavour to deal with your complaint quickly, efficiently and fairly and would encourage you to contact us by telephone or in writing should you need to raise a concern.

The following guidelines aim to explain how we will deal with your complaint.

- We will acknowledge your complaint in writing within 5 working (use business or working days consistently) days of receipt and a designated member of our team will investigate your concerns. You will be given a point of contact who you may liaise with regard to your complaint until it has been resolved.
- It is our intention, where possible to investigate and resolve your complaint within 40 business days. If we cannot resolve your complaint in 40 business days we will write to you explaining the reasons for the delay and indicate when we might expect to have a resolution.
- You will receive regular updates on progress every 20 business days.
- Following the completion of our investigation we will provide you with a written final response.
- If you remain dissatisfied with our final response, or if we have failed to provide a satisfactory response within 40 days of your complaint, you may refer the matter to the Financial Service Ombudsman at:

Financial Services Ombudsman's Bureau

3rd Floor, Lincoln House,
Lincoln Place,
Dublin 2

Lo Call: 1890 88 20 90
Tel: +353 1 6620899
Fax: +353 1 6620890
Email: enquiries@financialombudsman.ie.

It is important to remember that you will need to complete our internal complaints process before the Ombudsman will review your concerns.