



# Information Booklet for Small and Medium-Sized Enterprises (SMEs) in Financial Difficulties

0818 882 241

[www.pepper-advantage.ie](http://www.pepper-advantage.ie)

# Introduction

We at Pepper Asset Servicing (“Pepper”) are very aware that customers face challenges every day. If you are in or concerned about **arrears** or **financial difficulties** in respect of your **credit facility agreement(s)**, we want to engage with you with a view to resolving those difficulties and helping you to meet your obligations. In this booklet, the credit facility agreement is referred to as the “Facility”.

While each **borrower’s** circumstances are different and will be treated accordingly, this booklet provides an outline of our general procedures.

**The Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015** (the “SME Regulations”) aim to strengthen protections for **SMEs** while also facilitating access to credit, by introducing specific requirements that **regulated entities** must comply with. The SME Regulations cover:

- Applications for credit
- Refusing or withdrawing credit
- Information to be provided after sale of credit
- Dealing with arrears or financial difficulties
- Certain notifications to guarantors, including: when the borrower first enters into financial difficulties; the balance remaining on debt (the residual debt) after the security on a Facility has been realised (sold); and in relation to the borrower being classified as “not co-operating”
- Handling complaints and appeals.

We have included a useful **Glossary of Terms** used in this booklet, which you can find on page 12. These terms may also be used in our **communications** with you.

Our website ([www.pepper-advantage.ie](http://www.pepper-advantage.ie)) contains a section – “Arrears or financial difficulties” – which provides information to borrowers who are worried about or are in financial difficulties.

You can also find a copy of this booklet and the SME Regulations by selecting the following link on the homepage of Pepper’s website ([www.pepper-advantage.ie](http://www.pepper-advantage.ie)) – “Commercial borrowers in financial difficulties”.

## Financial Difficulties Resolution Process, and How It Works

There are 4 steps:

### **Step 1**

Communication

### **Step 2**

Financial Information

### **Step 3**

Assessment

### **Step 4**

Resolution

# Step 1: Communication

## We need to talk...

It is in your interest to engage with us about your arrears or financial difficulties. We want to work with you with a view to finding a solution for your situation. By addressing it early, together, we may be able to avoid the position becoming worse. You can contact our Commercial Team on **0818 882 241**, Monday to Friday from 9am to 5pm.

### Pre arrears or early arrears

If you inform us that you are at risk of going into arrears or you are in arrears and inform us that you are worried about going into financial difficulties, we will offer you the option of a credit review to consider your situation. See the definitions of arrears and financial difficulties in the Glossary on page 13.

If you accept the offer, we will conduct a credit review. This means we will look at your credit facilities, loan security and any **alternative arrangement** that may be in place and consider your particular circumstances. We will identify what options are available to address your arrears or financial difficulties and whether our financial difficulties process can be applied to your case.

### Financial difficulties

You may be classified as in financial difficulties if:

- Following a credit review, we determine that you are in financial difficulties, or
- You are in arrears for 3 consecutive months on your Facility or alternative arrangement.

We will write to you within 10 working days of you entering financial difficulties to confirm that your case has been classified as such. We will provide you with information including: the status of your account; any details we may need from you; the impact of your financial difficulties on any other loan with Pepper; and details of a designated contact and how to contact them. In addition, we will offer you an immediate review of your credit facilities, loan security and any alternative arrangement that may be in place.

We will give you sufficient time to complete any action that you have agreed to, and will take steps to agree with you any follow-up communication that may be required.

If you write to us in relation to your arrears or financial difficulties, we will respond to you within 10 working days of the date we receive your communication.



We will ensure that our communications with you are proportionate, taking into account your particular circumstances. Our communications with you are confidential, and any meetings with you will be conducted in privacy.

You may choose to engage a third-party adviser to accompany you during any discussions with us, whether these discussions are face-to-face or not. You may also choose to have a third party engage with us on your behalf. We will require written confirmation from you to authorise us to speak directly with any third party nominated by you.

Pepper will also communicate, as and when appropriate, with any guarantor on record and will ensure that they receive all required communications which are appropriate in line with the nature of their guarantee.

## Step 2: Financial Information

### We need to understand your finances

To make sure we have a detailed understanding of your finances, we will need certain information from you in order to assess your case.

This may include: up-to-date financial and tax information; cashflow projections; up-to-date business plans; financial statements; bank statements; a sworn statement of affairs; and any other information we believe is relevant.

It is important to provide complete and accurate information. If you feel you need help with this:

- **Speak to us.** We can provide help over the phone. If you prefer to meet in person, we can arrange a meeting at our offices in Dublin or in Shannon. Whichever location you choose, meetings will be conducted in privacy. To arrange a meeting, please contact our Commercial Team on 0818 882 241, Monday to Friday from 9am to 5pm.
- **Seek independent advice.** You may prefer to seek independent advice from your financial adviser or from MABS (the Money Advice and Budgeting Service). MABS is a national, free, confidential and independent advice service for people in debt difficulties or in danger of getting into debt difficulties. MABS can be contacted on 0818 072 000, Monday to Friday from 9am to 8pm.

## Step 3: Case Assessment

### We will assess your case

When we have all the information we need, we will assess your situation on its individual merits in order to work out the most appropriate solution for you. We will give careful consideration to:

- Your financial circumstances, including your overall personal and business debt
- Your current ability to make repayments
- Your previous repayment history
- Your income from any rental property
- Agreements or facilities you may have with other lenders
- Valuation of your assets
- Your financial accounts
- Any additional information relevant to your current financial circumstances.

As part of our assessment of your case, in certain circumstances we may ask a third party to carry out an independent review in order to evaluate the future viability of your business. If we do this, we will write to you setting out the following information: an explanation of our reasons for conducting the review; information about what will be covered by the review; the name of the person carrying out the review; and information about any costs that may be borne by you. If there is a guarantor on your Facility, we will inform them if we require an independent review.

We will also provide you with a copy of any report we receive following the independent review.

# Step 4: Resolution

## We look for a solution

We aim to find an approach to deal with your financial difficulties. We try to make a decision within 15 working days of receiving all of the information we need from you. If we have been unable to finalise a decision within that time, we will tell you the reason and how long it will take to reach a decision. When we make a decision, we will write to you to tell you if we can offer you an alternative arrangement or not.

### Alternative arrangement

An alternative arrangement is a negotiated variation or alternative to the terms and conditions of the Facility currently in place between you and Pepper.

We may be able to offer you an alternative arrangement with a view to addressing your arrears or financial difficulties, subject to you meeting our assessment criteria. If so, we will inform you of the details. If we are unable to offer you an alternative arrangement, or if you do not accept the arrangement offered to you, we will inform you of your option to appeal against our decision.

Alternative arrangement options may include one, or a combination, of the following:

- Restructuring the Facility
- A short-term extension, to allow you time to refinance the Facility (or Facilities)
- Consensual (agreed-upon) sale of all or part of your asset(s).

### Enforcement

If we are unable to agree an alternative arrangement or you break an agreed alternative arrangement and the arrears situation remains unresolved, we may proceed to enforcement. This may include the appointment of a receiver to manage and then sell the secured property, or we may initiate legal proceedings to repossess the secured property (or secured properties) and recover the debt.

It is important to be aware that you will remain liable for any remaining shortfall in the balance of your loan following the sale of an asset as a result of enforcement action. This amount will include any accrued interest, charges, legal, selling and other related costs in accordance with the terms of your Facility.

## “Not co-operating” – what does it mean?

It is important that you engage with us in a timely manner and provide a full and truthful disclosure of information we request when assessing your situation. Otherwise, there is a risk that you may be classified as “not co-operating”.

The SME Regulations define “not co-operating” as a situation in which:

- 1 The borrower has failed to make a full and truthful disclosure to the regulated entity of the information required by it to assess the borrower’s financial situation, within the timeframe specified by the regulated entity;
- 2 The required warning letter has been issued to the borrower; and
- 3 The borrower has not carried out the action(s) within the timeframe specified in the letter.

If we consider that you are not co-operating, before we classify you as such we will issue a warning letter to you (and to any guarantor on the Facility) in accordance with Provision 20 (8) of the SME Regulations. The letter will outline the specific actions we require you to carry out to avoid you being classified as “not co-operating”. We can classify you as “not co-operating” if you do not carry out these specific actions within 20 working days.

If you are classified as “not co-operating”:

- An alternative arrangement may not be made available to you.
- The balance on the Facility could be demanded in full and any guarantees and security that have been provided may be enforced, including the disposal (sale) of any secured asset.
- Enforcement action may be taken, including the appointment of a receiver to manage and subsequently sell any asset(s) that were provided as security in connection with your loan, or the initiation of legal proceedings.
- You will be pursued for any debt that remains outstanding after the security has been sold.

# Your right to complain

You have a right to make a complaint to Pepper about the service we have provided to you or our provision of (or refusal to provide) an alternative arrangement. You can make a complaint verbally or in writing to the Pepper Commercial Team (see Useful Contacts on page 15).

If you make a verbal complaint to us, we may be able to immediately resolve it to your satisfaction. However, you may prefer to have the complaint handled in accordance with our complaints process for written complaints as outlined below.

If you make a written complaint to us, we will acknowledge your complaint in writing within 5 working days of receiving it and provide you with the name and details of a contact person in relation to your complaint. We will provide you with regular written updates on our investigation of your complaint. The updates will be provided at intervals of no more than 20 working days from the date on which your complaint was made.

We will try to resolve your complaint within 40 working days. If your complaint is not resolved within 40 working days, we will inform you of the timeframe in which we hope to resolve the complaint.

We will inform you in writing of the outcome of our investigation within 5 working days of completing it. If you are not satisfied with our response to your complaint, you have the right to make a complaint to the Financial Services and Pensions Ombudsman (see Useful Contacts on page 15).

# Your right to appeal

You have a right to appeal to our dedicated SME Appeals Board (the “**Appeals Board**”) if you are not satisfied with:

- The withdrawal or reduction of your Facility
- A special term or condition required in order to provide you with an alternative arrangement
- Our refusal to offer you an alternative arrangement
- Your refusal to accept an alternative arrangement offered to you
- Having been classified as “not co-operating”.

You must submit your appeal in writing to the Appeals Board (see Useful Contacts on page 15) within 20 working days from the date that we notify you of a decision.

The Appeals Board will acknowledge your appeal in writing within 5 working days of receiving it. It will consider your appeal and adjudicate (decide) on it as soon as is reasonably practicable, and provide you with a response in writing within 5 working days of the completion of the appeal process. If it cannot reach a decision within 15 working days of receiving your appeal, you will be notified in advance of the reasons why and informed of the timeframe in which we hope a decision will be reached.

If the decision was to refuse, reduce or withdraw credit, you may have a right to refer the matter to the Credit Review Office. The Credit Review Office provides an independent, impartial credit appeals process for SMEs, including sole traders and farmers (see Useful Contacts on page 15).

# Other important information

## Impact of financial difficulties on your credit rating

We may share data relating to arrears on your credit facilities with a relevant credit reference agency or credit register, where permitted by contract or required by law. We will register information on your payment history with the Central Credit Register (CCR) in accordance with the Credit Reporting Act 2013.

Your credit rating may be adversely impacted if you miss scheduled repayments or do not make repayments on time.

## Fees and charges

Fees or charges may be imposed in certain circumstances, in accordance with the terms and conditions of your credit facility agreement. The circumstances may include your account falling into arrears or you entering into financial difficulties.

### **WARNING**



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.

**WARNING YOUR HOME IS AT RISK IF YOU DO NOT KEEP UP PAYMENTS ON A MORTGAGE OR ANY OTHER LOAN SECURED ON IT.**

If you have an interest-only loan:

**WARNING The entire amount that you have borrowed will still be outstanding at the end of the interest-only period.**

If you have a fixed-rate loan:

**WARNING You may have to pay charges if you repay early, in full or in part, a fixed rate credit facility.**

If you have a variable interest rate loan:

**WARNING The cost of your repayments may increase.**

# Glossary of Terms

**Alternative arrangement** means an agreement to discharge the borrower's debt obligations which is entered into in order to address arrears or financial difficulties and which is a change to the terms and conditions of the loan agreement. This agreement may be in the form of a loan restructure or a settlement agreement.

**Appeals Board** is a panel made up of at least 2 decision makers who have not been involved in the borrower's case previously, and with sufficient knowledge and experience to conduct the appeal.

**Arrears** arise where a borrower has not made a payment or part of a payment that is due in accordance with a credit facility agreement or alternative arrangement, by the scheduled due date for payment and, in the case of an overdraft facility, where the borrower's overdraft limit is exceeded for 30 consecutive days. **In arrears** means a situation in which arrears have arisen.

**Borrower**, for the purposes of this booklet, means a micro-enterprise, small enterprise or medium-sized enterprise in the State that has a credit facility agreement that is managed or administered by Pepper.

**Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015** (the "SME Regulations") means the regulations that apply to specific activities for regulated entities in respect of SME credit facility agreements.

**Communication** means the exchange of information between a regulated entity and a borrower by speaking, by writing or by any other method.

**Credit facility agreement** (also called **Facility**) means an agreement in which a lender provides, or promises to provide, credit to a borrower.

**Facility** – See **Credit facility agreement** above.

**Financial difficulty** (and **financial difficulties**) means a situation in which one or more of the following applies to a credit facility agreement or to an alternative arrangement:

- The borrower is in arrears under the credit facility agreement or alternative arrangement for 3 consecutive months.
- The credit facility agreement is an overdraft facility and the approved limit on the overdraft is exceeded for 90 consecutive days.
- The regulated entity has determined that the borrower is in financial difficulties, after an assessment carried out in accordance with the SME Regulations.

## Glossary of Terms (continued)

**Lender**, for the purposes of this booklet, means a company that owns a credit facility agreement and any related guarantee(s), security documents and rights relating to it. Pepper is the Lender in respect of your credit facility agreement(s).

**Pepper** (“us”, “we” or “our”) means Pepper Finance Corporation (Ireland) DAC trading as Pepper Advantage, Pepper Asset Servicing and Pepper Money. Pepper is the Lender in respect of your credit facility agreement(s).

**Regulated entity** means a regulated financial service provider carrying out relevant activities.

**SME** stands for small- and medium-sized enterprise and refers to a business that employs fewer than 250 people and has an annual turnover not exceeding €50 million or an annual balance sheet not exceeding €43 million.

**You** means the borrower(s) under any credit facility agreement for which Pepper is your Lender.

# Useful Contacts

## Pepper Commercial

Address: Pepper Commercial  
Real Estate  
Pepper Asset Servicing  
PO Box 690  
Shannon, Co. Clare

Phone: 0818 882 241

Hours: Monday to Friday 9am–5pm

Website: [www.pepper-advantage.ie](http://www.pepper-advantage.ie)

## Pepper's SME Appeals Board

Address: SME Appeals Board  
Pepper Asset Servicing  
PO Box 690  
Shannon, Co. Clare

## Central Bank of Ireland

The Central Bank of Ireland provides independent information on financial products and includes the SME Regulations.

Phone: 0818 681 681

Hours: Monday to Friday 9am–6pm

Email: [enquiries@centralbank.ie](mailto:enquiries@centralbank.ie)

Website: [www.centralbank.ie](http://www.centralbank.ie)

## Credit Review Office

The Credit Review Office provides an independent, impartial credit appeals process for small and medium-sized businesses (SMEs), including sole traders and farmers.

Address: Credit Review Office  
The Plaza, East Point Business Park  
Dublin 3

Phone: 0871 217 244

Hours: Monday to Friday 9am–1pm  
and 2pm–5pm

Email: [info@creditreview.ie](mailto:info@creditreview.ie)

Website: [www.creditreview.ie](http://www.creditreview.ie)

## Data Protection Commissioner

The Data Protection Commissioner provides information on individuals' rights and organisations' responsibilities relating to the processing and storing of personal data. It also provides guidance on how such rights and principles apply in different practical situations.

Email: [info@dataprotection.ie](mailto:info@dataprotection.ie)

Website: [www.dataprotection.ie](http://www.dataprotection.ie)

## Useful Contacts (continued)

### **Financial Services and Pensions Ombudsman**

This statutory office deals independently with unresolved complaints from consumers about their individual dealings with financial service providers. The service is provided free of charge.

Address: Financial Services and Pensions Ombudsman  
Lincoln House,  
Lincoln Place,  
Dublin 2,  
D02 VH29.

Phone: (01) 567 7000

Hours: Monday to Friday  
9.30am–1pm and 2pm–5pm

Email: [info@fspo.ie](mailto:info@fspo.ie)

Website: [www.fspo.ie](http://www.fspo.ie)

### **Insolvency Service of Ireland (ISI)**

This is an independent statutory body that was established on 1 March 2013 by the Minister of Justice and Equality. The purpose of the ISI is to help restore people who are financially insolvent to solvency, in a fair and transparent way. Its website explains the options available for people who are in debt and who do not see themselves being able to repay their debts in the next few years.

Website: [www.backontrack.ie](http://www.backontrack.ie)

### **MABS**

#### **(Money Advice and Budgeting Service)**

MABS is a national free, confidential and independent service for people in debt or who are in danger of getting into debt. Its website provides useful budgeting tools. It also has contact details for all local MABS offices.

Phone: 0818 072 000

Hours: Monday to Friday 9am–8pm

Email: [helpline@mabs.ie](mailto:helpline@mabs.ie)

Website: [www.mabs.ie](http://www.mabs.ie)

### **Office of the Revenue Commissioners**

This government department provides information on tax credits and reliefs that you may be entitled to. It also has contact details for all local Revenue offices.

Website: [www.revenue.ie](http://www.revenue.ie)



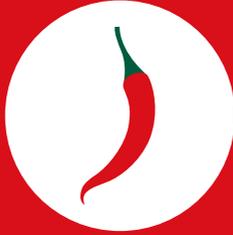
**Please note:**

Nothing in this booklet and no action or inaction on the part of Pepper is to be construed as a waiver of, or as prejudicing any of its rights, under a loan agreement or any letter, guarantee or security provided in connection with the loan (including, without limitation, the right to demand repayment of the loan and enforce the security and guarantees held), all of which rights and remedies are hereby expressly reserved.

The information in this booklet is intended to inform and to assist you in dealing with financial difficulty. It is not an alternative to seeking legal advice from your solicitor or other professional legal services provider. If you have questions about any legal matter, you should consult your solicitor or other professional legal services provider.







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