



GE Money

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24<sup>th</sup> August 2011

**Re: CP 55: Consultation on Financial Difficulties Requirements of the Code of Conduct for Small and Medium Enterprises ('SME's')**

To Whom It May Concern:

Please find enclosed our response to Consultation Paper CP55 on the Code of Conduct for SME's (the 'Code').

We appreciate that the Central Bank has gone to some lengths to enhance the protection offered to SME's in financial difficulties. While GE Money no longer writes new business for this sector, we have a significant number of finance agreements with borrowers in the SME sector. We have always engaged constructively with any of these borrowers who might be in financial difficulty to seek the optimum solution for all concerned.

In addition to this, we are of the view that the requirements of the Code are very prescriptive. While we have no issue with this when dealing with borrowers who have larger value finance agreements, many of the provisions are not practical or are too detailed when dealing with smaller value finance agreements. In addition, the resource requirements to implement every provision could be a significant burden on finance providers. We believe that there should be a threshold and that the code in its entirety should be applied only where the finance balance is greater than €50,000. For smaller balances, lenders should be allowed use their discretion and apply the Code in principle.

Regarding specific provisions, I enclose herewith our comments.

If you have queries regarding our response, please don't hesitate to contact Patricia Dardis on 01 4021191.

Yours sincerely

Ciarán Barr  
CEO, GE Money



# GE MONEY

## RESPONSE TO CP55

GE Money is a trading name of GE Capital Woodchester Limited (reg. no.9380), GE Capital Woodchester Finance Limited (reg. no. 24267) and GE Capital Woodchester Home Loans Limited (reg. no. 34927).  
Registered Offices: 31-36 Golden Lane, Dublin 8.

## INTRODUCTION

This response to CP55 is on behalf of GE Money, also referred to in the response below as "we/us/our" and contains our submissions on specific chapters and provisions in chronological order.

### Section: General

**Provision 24:** A regulated entity shall only impose surcharge/penalty interest, unpaid direct debit fees and/or referral fees on arrears arising on a credit facility, for any period in respect of which a borrower in financial difficulties is considered as not co-operating with the regulated entity.

**Response:** Penalty interest is automatically calculated and applied to every account by our IT systems. To amend this will require an implementation timeframe of at least 6 months to allow for IT system development.

### Section: Communication

**Provision 30:** A regulated entity must ensure that responsibility for direct engagement with a borrower in financial difficulties must only be assigned to a different section, area or staff member within a regulated entity, after staff members taking over the responsibility are familiar with and have been briefed in writing, on the circumstances of the borrower.

**Response:** We agree that those taking over the responsibility to deal with a borrower in financial difficulty must be familiar with the circumstances of the borrower. However we do not believe that the provision should include 'briefed in writing'. Preparing a formal brief would be a very onerous, time consuming task that would provide little benefit. We propose that our system account notes provide sufficient information.

**Provision 32:** "Each calendar month, a regulated entity and/or any third party acting on its behalf, may not initiate more than five unsolicited communications, by whatever means, to a borrower in respect of financial difficulties. The five unsolicited communications include any communication that has not been requested by, or agreed in advance with, the borrower and any communication where contact is not made with the borrower

The following communications are not included in the unsolicited communications limit:

- a) Any communications to the borrower which are required by this Code or other regulatory requirements; or
- b) Any communications to the borrower which are necessary for the operation of the borrower's credit facility."

**Response:** Contacting business people tends to be a lot more difficult than contacting other borrowers, given the nature of their work. Based on our experience, we submit that 5 unsolicited contacts per month are not sufficient for lenders to contact borrowers in the SME sector. Many borrowers in the SME sector are farmers and sole traders who work irregular hours and are often not available to answer a call. Thus additional attempts are required.

**Provision 33:** A regulated entity must only contact a borrower regarding financial difficulties between 9.00am and 7.00pm Monday to Friday except where:

- a) The purpose of the contact is to protect the borrower from fraud or other illegal activity, or
- b) The borrower requests, in writing, contact at other times or in other circumstances.

**Response:** We do not agree with the proposed times. While the proposed hours may be sufficient for contacting businesses who trade during those hours, many are not necessarily contactable during those hours. These might include farmers and other sole traders who work outside those hours and often prefer to be contacted later in the evening or on Saturdays. Thus we submit that the proposed times for permitting contact should not be changed and should remain as set out in S.46 of the Consumer Credit Act 1995 which allows contact between the hours of 9am and 9pm, Monday to Saturday, excluding public holidays.

**Provision 34:** Where a borrower in financial difficulties requests a regulated entity to contact them to discuss the financial difficulties, the regulated entity must respond to such a request within 3 business days.

**Response:** We suggest that the requirement to 'respond' to a request to discuss financial difficulties should be amended to read 'acknowledge' a request. In many instances, it may not be possible to contact the borrower on the telephone within that timeline so one could only send a written acknowledgement within such a short timeline. In addition, we propose that the timeline of 3 business days should be extended to 5 business days.

#### **Section: Information for Borrowers in Financial Difficulty**

**Provision 38:** A regulated entity must ensure that, where responsibility for direct engagement with a borrower in financial difficulties is assigned to a different section, area, or staff member within a regulated entity, the borrower must be notified immediately of this change and provided with the relevant contact information for the new direct contact.

**Response:** As a finance provider with thousands of borrowers from the SME sector, it is not feasible or indeed makes no sense to have staff dedicated to specific accounts. In order to ensure queries are dealt with in a timely manner, a number of staff should be able to deal with any one account at any given time. The onus should be on the provider to ensure anyone dealing with borrowers in financial difficulty is adequately trained.

We consider this provision to be superfluous and that should be removed from the proposed Code.

**Provision 39:** ...The letter must include the following information:....

- ii) the number and total amount of full or partial missed payments.
- x) offer the borrower the option of an immediate review meeting...

**Response:** Regarding (ii), we suggest that 'partial missed payment' is removed from the provision. The original finance agreement will not provide for a partial payment. If there is an arrangement in place, the payment required during the arrangement is also a 'full payment'. Thus, it is not possible for a 'partial payment' to be missed.

Regarding (x) we suggest that 'immediate' is replaced with 'timely'. An immediate meeting implies that it should take place in the next two or three days. Depending on the number of meeting requests received at any one time, it may not be feasible to schedule all meetings to take place immediately. Thus we suggest that the meetings be scheduled in a timely manner, dependant on the availability of the borrowers, the borrower's personal circumstances, the status of the account etc.

#### **Section: Assessment for a Revised Repayment Arrangement**

**Provision 42:** Where a borrower contacts a regulated entity, or contact is established with the borrower by the regulated entity, by whatever means, to discuss an alternative arrangement to address financial difficulties, a regulated entity must provide the borrower with a complete list of the information the borrower will be required to provide for the regulated entity's assessment of their case.

**Response:** Each SME in financial difficulty should be dealt with on a case by case basis. While the information required to assess their case will be similar in certain instances, given the varying nature of businesses, types of finance agreements, types of assets, asset values etc., there may be additional information required in order to fully assess a particular case. Thus, where the provision states that 'a regulated entity must provide the borrower with a complete list of information', we suggest that the word 'complete' be removed. This will facilitate the situation where borrowers disclose information which requires further follow up from the lender.

**Provision 46:** This provision lists the factors that should be included when considering the circumstance of the borrower.

**Response:** While this list is not designed to be exhaustive, we propose that an additional circumstance should be included:

j) Any assets disposed of by the borrower.

**Provision 47:** A regulated entity must assess a borrower's case and inform the borrower of the outcome of the assessment in writing. This response should be provided to the borrower within 15 business days....

**Response:** As suggested in 42 above, there are likely to be instances where further information is required in addition to the initial list requested. In such cases it will not be feasible to provide a final response within 15 business days. We suggest that the provision should read 'within 20 business days of receipt of all requested information.'

**Provision 48:** "A regulated entity must explore the options for alternative repayment arrangements that the regulated entity has available for borrowers in financial difficulty. The alternative repayment arrangements which a regulated entity must explore to determine a viable option must include:

(i) general alternative repayment arrangement options including:

- a) interest only,
- b) term extension,
- c) reduced payment arrangements, and
- d) capitalisation of arrears

(ii) atypical alternative repayment arrangement options based on the individual circumstances of the borrower"

**Response:** in certain circumstances, it is clear that a finance agreement is not viable, and thus there is no value on completing a detailed exploration of each alternative repayment arrangement options listed. In instances where the borrower has financed the purchase of an asset, and it is clear the finance agreement is not viable, it is not in anyone's interest to leave the asset with the borrower by extending the term or reducing payments for a period. For the borrower, such an arrangement will mean additional interest payable in the long term, and assuming the asset is eventually surrendered, the value has much diminished leaving a greater liability for the borrower after the asset is sold.

**Provision 51:** A regulated entity must monitor the arrangement that is put in place for a case in financial difficulties, on an on-going basis and formally review the appropriateness of that arrangement for the borrower at least every six months....

**Response:** In instances where a borrower has had their account restructured and is making the required repayments, there is limited benefit to conducting a 'formal review' every 6 months. As previously stated, many of the finance agreements with SME's are for small ticket items and we suggest that resource would be more productively used by focusing such reviews on borrowers with larger debts or those who are not adhering to their repayment arrangement.