

22nd August 2011.



IRISH SMALL AND MEDIUM
ENTERPRISES ASSOCIATION LTD

Consumer Protection – Banking & Policy

Central Bank of Ireland

Dear Madam/Sir,

Code of Conduct for business lending to SMEs in relation to financial difficulties.

Thank you for the opportunity to comment on the Code of Conduct for business lending to SMEs in relation to financial difficulties.

ISME, the Irish Small & Medium Enterprises Association, is the only truly independent representative body for owner managers, with no constraints placed on us by big business, trades unions or Government. The association represents 8,500 SMEs, across all sectors of the economy, employing 229,000.

We welcome this important initiative from the Central Bank, which acknowledges the difficulties experienced by many small & medium businesses and their owners when dealing with their banks. It is a fact that the bank is always the dominant and stronger entity in any negotiation with SMEs and it is essential that abuse of a dominant position is stopped.

Clarity of the penalty interest on facility /agreement letters.

Banks draw up facility / agreement forms / letters and as the dominant party they should ensure that the facility / agreement is totally clear and transparent to the customer. Unfortunately this is not so.

Excess / penalty interest rates can be a very major part of the cost to the customer. That being so this should be very evident on page 1 or 2 of the facility / agreement letter. A number of the banks do not even cover excess / penalty interest rates in their facility / agreements but the customer must hunt through the Banks terms and conditions booklet (that is if the bank makes it available to the customer) to find it on page 19 under Section 22 Sub section 3.66.

We therefore suggest that a greater effort is made by the regulated entities to ensure that the borrower is made aware of the consequences of straying outside the agreed terms.

General Principles (8)

If not already included we would require a precise definition of '*speedily*'.

General (16)

While subsection (b) mentions alternative that may be offered, we feel that a separate subsection is required to state **'the regulated entity must inform the borrower and must exhaust ALL avenues of alternative repayment measures and any other relief that could be offered to borrowers by the regulated entity'**

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General (17)

VIABILITY. Who actually determines 'viability' and is there a process at this early stage to determine and agree what 'viability' for that specific entity is.

General (17) a.

We suggest that the period of time (reasonable time) commences from the initial meeting between regulated entity and the borrower and NOT from the time the borrower is CLASSIFIED as in financial difficulties.

General (23)

The issue of third part information and reasonable notification is accepted. However the regulated entity should give the borrower reasonable notice, whether there is a third part involved or not. It could still take the borrower some time to collect the information from within their own business.

A definition of 'reasonable notice' may or may not be required. Who to appeal to?

Communication (26)

We agree that 'legal or financial jargon must be avoided, where possible. If not possible a full definition of the jargon should be a prerequisite and an advice included to consult with an appropriate person.

We would also suggest that the use of 'threatening language' be avoided.

Communication (28)

As soon as a borrower goes into arrears a regulated entity must communicate 'in writing' promptly and clearly.....

Communication (34)

Where a borrower or a third party acting on behalf of the borrower requests a regulated entity to contact them to discuss.....

Assessment for a Revised Repayment Arrangement. (43)

What is 'reasonable' who defines and who to appeal to.

Assessment for a Revised Repayment Arrangement. (44)

A regulated entity should require a borroweris accurate and represents the financial situation of the borrower 'at that time.'

Should you require any further information, please contact me.

Yours faithfully,

Mark Fielding

CEO, ISME.

