

Your partner
to grow your
business

A GUIDE FOR SMALL & MEDIUM ENTERPRISES IN OR FACING FINANCIAL DIFFICULTIES





Introduction

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From time-to-time, challenges can arise which can put financial pressure on the operations of a business. In some cases, this can mean cash flow difficulties which, where the business has loans or credit facilities, can lead to repayment arrears.

This information booklet sets out AGCO FINANCE DAC's framework for assisting customers that are small and medium sized enterprises ('SME's) and who are either experiencing difficulties making their repayments or who anticipate that they may have difficulties doing so in the future.

This booklet forms a part of our obligations under the Central Bank of Ireland (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015 ('SME Regulations'), the purpose of which is to provide protections for micro, small and medium-sized enterprises when they are either applying for or have credit facilities, and also for guarantors of that credit. A copy of the SME Regulations can be found in the Consumer Protection Codes and Regulations section of the Central Bank of Ireland website:

<https://www.centralbank.ie/regulation/consumer-protection/consumer-protection-codes-regulations>

AGCO Finance DAC is a company registered in Ireland with company number 314627. AGCO Finance DAC is regulated by the Central Bank of Ireland as a retail credit firm.

Definitions

Alternative arrangement

An alternative arrangement in respect of a credit facility agreement means an agreement to discharge the borrower's debt obligations to AGCO Finance DAC which is entered into in order to address arrears or financial difficulties and which is a variation or alternative to the terms and conditions of the credit facility agreement.

Arrears

Arrears arise when a payment or part payment due in accordance with a credit facility agreement has not been paid by the borrower by the scheduled due date for payment.

Borrower

The micro, small or medium sized enterprise in Ireland with which, or in respect of which, AGCO Finance DAC has provided, or has agreed to provide, credit.

Credit facility agreement

An agreement whereby AGCO Finance DAC grants or has agreed to grant credit to you, the borrower.

Financial difficulties

Financial Difficulties means a situation in which one or more of the following apply to a credit facility agreement or alternative arrangement:

- a. the borrower is in arrears for 3 consecutive months, or
- b. following an assessment by AGCO Finance DAC it is has determined that the borrower is in financial difficulties.

Micro Enterprise

Micro Enterprise means an enterprise which employs fewer than 10 persons and which has either or both of the following:

- a. an annual turnover which does not exceed €2 million;
- b. an annual balance sheet total which does not exceed €2 million.

Definitions continued

Micro, Small and Medium Sized Enterprise

Micro, Small and Medium Sized Enterprise means an enterprise 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.

Not Co-operating

Not co-operating is a situation in which:

- a. the borrower has failed to make a full and truthful disclosure to AGCO Finance DAC about the information required by AGCO Finance DAC to assess the borrower's financial situation, within the timeframe specified,
- b. the warning letter outlining the action or actions required to be carried out by the borrower within the specified timeframe has issued, and
- c. the borrower has not carried out the specified actions or actions within the time frame specified in the warning letter.

Small Enterprise

Small Enterprise 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.

Helping borrowers in or facing Financial Difficulties

We recommend those customers who are in or facing financial difficulty engage as early as possible with us so that we can jointly discuss and agree a potential solution.

1. It is in your own interest to contact us as soon as possible if your business is in or may be facing financial difficulties, as this may affect your ability to meet your financial commitments to AGCO Finance DAC.

2. We will ask you to provide up to date business information so that we can better determine whether an alternative arrangement can be offered to assist in resolving the financial difficulties. You will also be offered the option of a review meeting to discuss your current credit facilities with us. We will also designate a point of contact for you and will confirm these details to you.

3. If you fall into arrears and you remain in arrears for 15 business days after the arrears first arose, we will promptly;
 - a. contact you to notify you that you are in arrears and, where possible, seek to identify the reason why you are in arrears, and
 - b. based on the information available to us, assess whether your circumstances are such that you should be classified as being in or at risk of financial difficulty.

4. In order to assess whether an alternative arrangement is suited to your circumstances, we may request up to date business information from you to assist us to do so. We will complete this assessment within 15 business days, and where we do not we will write to you to confirm the reason why, and an expected date of the outcome of this assessment.

5. Where a borrower enters financial difficulties, we will provide details of a designated point of contact at AGCO Finance DAC, including the relevant contact details of that designated point of contact.

6. You may employ the services of a third party advisor to assist you in your discussions with AGCO Finance DAC, regardless of whether these discussions are face-to-face or in another medium.

7. If you are not satisfied with the outcome of the assessment, you will have a right to appeal the decision within 21 business days of the receipt of our correspondence. Further information on making an appeal can be found in section Appeal Process later in this booklet.

Impact on Credit Rating

Your credit rating may be affected by arrears on your account. Where applicable, the Central Credit Register records and/or any other credit reference agency or credit register, where permitted by contract or required by law, are updated when arrears arise on accounts. This may also have an impact on your ability to avail of credit products in the future.

Not Co-operating

It is essential that you co-operate with AGCO Finance DAC in relation to your arrears or financial difficulties. If you fail to co-operate with us, you will be classified as 'not co-operating', which may affect our consideration for an alternative arrangement on any accounts you have with us. It may also have an impact on our consideration of exercising any existing legal or contractual rights we have to enforce security over borrowings, and where any security is realised, you will remain liable for any outstanding debt.

Business Information that may be required for our review

Where a review meeting has been scheduled with you to discuss the financial position of your business, there are certain documents we require from you to allow us to carry out the review of your position.

The type of information required will vary by individual circumstances but may include all or some of the following:

- ✓ Up to date financials including annual audited (or draft), quarterly management accounts
- ✓ Six months current account bank statements for the business
- ✓ Up to date list of debtors and creditors
- ✓ Cash flow projections for the next 12 months
- ✓ Completion of a standard financial statement (SFS) where you have been advised to do so
- ✓ Up to date business plan including details of your trading performance in the last 12 months plus the outlook for the next 12 months
- ✓ Estimate or independent report on property valuation (if applicable)
- ✓ Up to date statement of affairs for all named borrowers, material shareholders or guarantors as required
- ✓ Confirmation that the tax affairs of the business and named borrowers and/or material shareholders are up to date and in order
- ✓ Any other information we feel is relevant for the review and the assessment. Where we require additional information, we will communicate this to you in advance of any meetings that are scheduled with you.

Assessment and Decision

Following receipt of the required information, we will complete a full assessment of your situation with the view to providing you with an alternative repayment / payment option or alternative arrangement appropriate to your circumstances. Any offer we may make to you for an alternative repayment/payment option or any other alternative arrangement will be subject to you meeting our assessment criteria, which determines the affordability and sustainability of your situation.

Please note there may be cases where AGCO Finance DAC will be unable to provide an alternative repayment arrangement.

We will communicate to you in writing details of the outcome of the assessment based on the information provided by you within 15 business days of receiving all of the requested information. We may write to you requesting additional information, which we may need in order to complete our assessment.

Where we are unable to make a decision within 15 business days, we will write to you outlining the reason why and confirmation of a revised timeframe for making a decision to you.

Appeals Process

AGCO Finance DAC have an appeals process in place for customers who wish to appeal the refusal to offer an alternative arrangement. If you decide to appeal a decision by AGCO Finance DAC, you will need to send your appeal in writing within 21 business days from the date of our correspondence to you for which you are making the appeal against.

The appeal letter should be sent to;

AGCO Finance DAC
Credit & Risk Department
Customer Service Centre
PO Box 4525
Kenilworth
CV8 9AX

AGCO Finance DAC will acknowledge receipt of your appeal within 5 working days. Two independent reviewers will review the appeal. In some circumstances, we may require additional information from you in support of your appeal.

Where we are unable to adjudicate on your appeal within 15 days and require additional time, we will write to you within the timeframe of 15 business days of receiving your appeal to advise the reason why and when we expect to communicate our decision to you.

Making a Complaint

Our Complaint Handling Explained

Our Commitment

We strive to deliver high levels of satisfaction to all our customers and aim to resolve every complaint in a fair, transparent, prompt and consistent manner. We undertake ongoing analysis on complaints and associated trends and use the outputs of this analysis to drive improvements to our service delivery standards.

How to make a complaint

To express any dissatisfaction, or to register a complaint, you can:

- Online on AGCO Finance DAC website: Contact form ([agcofinance.com](https://www.agcofinance.com))
- E-mail our customer support team at customersupport@agcofinance.com
- Call us on 01 447 9312, or
- Write to us at

AGCO Finance DAC
Credit & Risk Department
Customer Service Centre
PO Box 4525
Kenilworth
CV8 9AX

How we respond to a complaint

Wherever possible we aim to acknowledge your complaint by either phone or email within 24 hours of receipt of your complaint.

We aim to resolve complaints within 5 business days following receipt of the complaint. However, depending on the nature of the complaint, it may not be possible for us to do so.

Acknowledgement

We will always acknowledge receipt of your complaint, in writing, within 5 working days of receipt. Where further investigation is needed, regular communication and updates will be provided. We will provide you with details of the AGCO Finance DAC employee who will investigate your complaint. They will be of sufficient competence and will not have been involved in the matter which is the subject of the complaint. If you have any questions, or further information that may assist in investigating your complaint, you should contact this person using the contact details provided.

Progress Updates and Closure

If we have been unable to resolve your complaint within 20 days of receipt, we will write to you to advise of the progress of our investigation and when we expect to be able to provide a response.

In the unlikely event if we are unable to resolve your complaint within 40 days of receipt, we will write to advise an anticipated time frame within which we hope to resolve the complaint. We will provide updates and communication at intervals of not greater than 20 business days.

If you are not satisfied with our final response, you can refer the matter to the Financial Services and Pensions Ombudsman (FSPO), an independent body.

Complaints to the FSPO can be made online through their website www.fspo.ie. Or alternatively you can contact them by emailing info@fspo.ie or by phoning 01 567 7000.

Fees and Charges

In accordance with the terms and conditions of a credit facility agreement, AGCO Finance DAC may be entitled to impose additional fees and charges on borrowers in financial difficulties. Where a repayment or payment is not made to a loan account or credit product on the due date, an interest surcharge will apply to the amount in arrears.

Further information on AGCO Finance's fees and charges can be found here [Fees&Charges AGCO Finance DAC](#).

SME Regulations

The Central Bank (Supervision & Enforcement) Act 2013 (Section 48) (Lending to Small & Medium Sized Enterprises) Regulations 2015 is available in the Financial Regulation Section on www.centralbank.ie

The Central Bank of Ireland has also published A Guide for Micro and Small Enterprises and Guarantors: Regulations on Lending to Small & Medium Sized Enterprises, a copy of which is available in the Public Information Section on www.centralbank.ie