

## Code of Conduct on the handling of borrowers in financial difficulties

- *Natural Persons*
- *Legal Persons*

## What is the Code of Conduct of the Central Bank of Cyprus?

The Code of Conduct provides the Authorised Credit Institutions (ACI) the common base for dealing with eligible borrowers (see criteria below) and intends to support efforts to achieve a fair, viable, consensual and voluntary restructuring, where possible.

## What is the scope of application of the Code of Conduct?

The provisions of the Code of Conduct apply to the following persons:

- (a) Natural Person with total balances of credit facilities, including credit facilities of their connected persons, up to €1.000.000.
- (b) Micro and small enterprise (as defined in the EC Recommendation 2003/361/EC-specifically including enterprises employing less than 50 persons with an annual turnover and/or annual balance sheet total not exceeding €10.000.000) with total balances of credit facilities, including credit facilities of their connected persons, up to €1.000.000.

The Code of Conduct covers possible Guarantors of the borrower as well as third party Natural Persons providing collateral in favor of the ACI.

The following persons do not fall within the scope of application of the Code of Conduct: (i) persons for which an application for bankruptcy was filed by another creditor, (ii) persons for which a receiver or administrator was appointed by another creditor, and (iii) persons for which a dissolution decree was issued.

## What is a credit facility?

Credit facility means:

- (i) loan,
- (ii) overdraft account with a debit balance, and debit balances in accounts without an approved limit,
- (iii) revolving credit facility, financial leasing, hire purchase financing and credit card,
- (iv) discounting of promissory note or bill of exchange, payment under documentary letter of credit, payment under letter of guarantee, advance against goods in bonded warehouses, trust receipt advance, and
- (v) any other type of funded facility.



### **What is a credit facility in arrears?**

Credit facility in arrears means the borrower has not made a full repayment of a loan installment by the due date, and includes excesses.

### **What is a restructured credit facility?**

A restructured credit facility means any action by the ACI that changes the terms and/or conditions of the credit facility, aiming to deal with the borrower's existing or expected difficulties to service the credit facility according to the existing repayment program.

## **Which are the stages of communication between the ACI and the borrower?**

### ***(a) Pre-arrears***

When the ACI anticipates that there is a material risk of the borrower going into financial difficulties and creating arrears.

The communication is by telephone or in person, is consultative and focuses on identifying relevant preventive measures.

### ***(b) Early arrears***

When a borrower has not made a full repayment or only makes a partial repayment on the credit facility, up to 30 days following the contracted due date of the repayment program.

The communication is by telephone and consultative in nature and is done within the first 20 days.

When arrears reach 31 days and the borrower does not

respond to an oral arrangement, the ACI has to notify in writing both the borrower and possible guarantor(s).

The content of the written notification includes, among other, the following: information on arrears, potential fees/penalties/interest relating to the arrears, borrower's obligations and liabilities as well as the potential impact of arrears, invitation to set an appointment to consider the reassessment of the borrower's financial circumstances and the potential restructuring of his credit facilities.

The written notification is accompanied by a telephone call to the borrower to ensure receipt of the notification, to remind the repayment obligations, to enquire on the expected payment and to schedule a face-to-face meeting.

### ***(c) Mid arrears***

When arrears have reached 60 days past due and no workout arrangement is made or is in progress.

The ACI shall send another notification in writing, to the borrower and possible guarantor(s).

The content of the written notification includes, among other, the following: updated information on arrears, any applicable fees/charges/penalties/interest, the right of the ACI to initiate legal proceedings, a call to the borrower to contact the ACI within 30 days from the date of this letter to either settle the arrears or to submit the financial and other information requested.

### ***(d) Serious arrears***

When arrears have reached or exceeded 90 days and no workout arrangement is made or is in progress.

The ACI shall send a warning letter to the borrower and possible guarantor(s) setting out, among other, the following: all the information and actions included in the mid arrears written notification, information that if the borrower does not act in accordance with the said letter within 30 days from the date of this letter then he will be classified as "non-cooperative", outline the implications of being classified a "non-cooperative" including the potential for the initiation of legal proceedings by the ACI.



### **(e) Classification of borrower as “non-cooperative”**

When the borrower is classified as “non-cooperative” the ACI shall send a letter to the borrower and possible guarantor(s) setting out, among other, the following: that the borrower is classified as “non-cooperative”, details on the timeframe within which the ACI will begin legal proceedings, the risk of repossession and disposal of collateral pledged in favor of the ACI by the borrower and/or the Guarantors for the credit facilities in arrears, and that the ACI offers a final opportunity to the borrower to be reclassified as cooperative should he

properly acts within fourteen (14) days from the date of this letter.

### **When is a borrower defined as “non-cooperative”?**

A borrower is defined as “non-cooperative” when:

(a) any of the following conditions (i) to (iv) apply:

- (i) does not fully and honestly disclose to the ACI relevant and material information that would have a significant impact on the assessment of his repayment ability; or
- (ii) does not provide the relevant information and/or documentation as requested by the ACI for the assessment of his financial position, within a determined time limit; or
- (iii) the duration of the contact between the ACI and the borrower, after the first communication of the ACI on its decision for a proposed restructuring solution/solutions, exceeds the 14 day time limit due the borrower’s culpability; or

(iv) 90 days elapse during which the borrower: has failed to meet his contractual repayments in full and has not entered into a workout arrangement, or fails to meet the new contractual repayment schedule as provided for in the agreed restructuring solution, and does not contact or does not respond to contact and notifications initiated by the ACI or does not collaborate with the ACI to develop a restructuring plan;

and

(b) a warning letter has been sent to the borrower due to the presence of serious arrears (over 90 days) and the borrower did not carry out the actions specified in the said letter.

### **Which financial information are borrowers required to submit to the ACI for the assessment of their repayment ability?**

(a) Natural Person: "Personal Financial Statement" (PFS) duly completed and signed, signed declaration to the ACI on

the completeness and accuracy of the data in the PFS, and any possible additional required information for the purposes of assessing the repayment ability.

(b) Legal Person: audited financial statements or management accounts (if audited financial statements are unavailable) and any possible additional required information for the purposes of assessing the repayment ability

In case of borrowers (Natural and Legal Persons) whose repayment ability of credit facilities under restructuring is based also on their guarantors, the ACI shall require from these guarantors to submit corresponding information as that required from the borrowers in order to adequately assess their repayment ability.

### **What is the time limit for the submission of financial and other information?**

(a) Natural Person: Fourteen (14) days from the maturity date for action by the borrower in accordance with the



communication letter for mid arrears or serious arrears or due to the borrower classification as “non-cooperative”, whichever applies.

- (b) Legal Person: Two (2) months in case audited financial statements will be submitted or one (1) month in case management accounts will be submitted, from the maturity date for action by the borrower in accordance with the communication letter for mid arrears or serious arrears or due to the borrower classification as “non-cooperative”, whichever applies.

### How is the collateral assessment performed?

The ACI shall perform a thorough assessment of the collateral as a secondary source of repayment. It shall conduct an independent professional valuation to determine the open market value and forced sale value of the property, in cases where:

- (a) the existing collateral will be sold to reduce the borrower’s credit facilities;
- (b) an unencumbered property will be considered as additional collateral;
- (c) an unencumbered property will be assigned so to convert an unsecured credit facility into a secured credit facility.

### What is considered a “sustainable restructuring solution”?

A restructuring solution is considered sustainable when it provides the borrower with an opportunity to repay his credit facility in accordance with a revised restructuring plan and

when it achieves a reduction of the credit facility balance in the medium/long term.

### **What is the time framework for completing the borrower assessment process by the ACI?**

The completion time of the assessment process and first oral briefing of the borrower regarding a proposed restructuring solution/s, or unavailability of a viable restructuring solution, shall not exceed the following:

- (a) Natural Person: One (1) month from the date of receipt of all the necessary information for restructuring purposes by the borrower and where applicable the guarantors.
- (b) Legal Person: Two (2) months from the date of receipt of all the necessary information for restructuring purposes by the borrower and where applicable the guarantors.

### **How does the ACI communicate its decision to the borrower?**

The ACI communicates to the borrower, and where applicable to the guarantor, its final decision by handing him a “letter of offer”/“letter of negative decision” or by post where a meeting is not feasible.

### **What process shall the borrower follow in case he decides to reject the ACI’s restructuring solution?**

In case a borrower decides to reject the restructuring solution he needs to notify the ACI in writing within twenty-one (21) days from the date of receipt of the “letter of offer”.

Thereafter, the ACI shall within seven (7) days respond to the borrower in writing: (a) expressing its willingness to converge, again, in order to assess other options, if possible, or (b) explaining that this is not possible and setting out the implications for the borrower if he rejects the proposal.





### What is the Mediation process?

A borrower (Natural Person or Legal Person with annual turnover not exceeding €250.000) can submit in writing a request to the Financial Ombudsman (Ombudsman) to appoint a Mediator in relation to the restructuring of credit facilities, provided the total contractual obligation of the borrower does not exceed €350.000 and is guaranteed by collateral or by an agreement of assignment of collateral rights on the property used as a primary residence (occupied by the owner for a period of at least 6 months per year).

The application for the appointment of a Mediator can be submitted within fourteen (14) working days from the day: (a) the borrower submits his financial information (PFS or audited financial statements/management accounts) to the ACI, or (b) the ACI communicates to the borrower the "letter of offer"/"letter of negative decision" for restructuring a credit facility.

The Mediation process does not exceed in total one (1) month. The cost for the mediation service does not exceed €500 and is distributed 80% for the ACI and 20% for the borrower.

On completion of the mediation process the Mediator submits to the Ombudsman a report indicating whether: (a) the two parties have appeared, (b) the two parties have consulted in good faith, and (c) an agreement has been achieved or not.

For more information contact the Financial Ombudsman Office. (tel: 22 848900, fax: 22 660584)/22 660118, email: [mediations@financialombudsman.gov.cy](mailto:mediations@financialombudsman.gov.cy)).

## What is the Appeals Committee (AC) of the ACI and when can a borrower submit an appeal?

The AC is composed by members who are independent from the credit departments and restructuring services of the ACI and handles borrowers' appeals in relation to the restructuring of credit facilities.

A borrower has the right to submit in writing an appeal to the AC within:

- (a) one (1) month from the date of receipt of the letter from the ACI explaining that it is not possible to assess other options beyond the "letter of offer" that has been already communicated to the borrower, or
- (b) one (1) month from the date of receipt of the "letter of negative decision" from the ACI, or
- (c) five (5) working days from the date the ACI submits its restructuring proposal, as a result of the mediation process.



The AC examines whether: (a) the ACI complied with the provisions of the Code of Conduct, (b) the restructuring solution offered was suitable and compatible with the borrower's circumstances, otherwise recommend the development of an alternative restructuring solution, and (c) in case the ACI does not propose a restructuring solution (negative decision) due to absence of a viable restructuring solution, to re-assess the borrower and ensure that indeed no restructuring solution exists.

The AC shall issue its decision within two (2) months from the date of receipt of borrower's appeal.

*The content of this brochure is based on the Directive on Arrears Management of 2015 issued by the Central Bank of Cyprus. Any references given herein do not represent opinions of the Association of Cyprus Banks or its members, do not constitute advice and should not be interpreted as such in relation to any matter.*



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