Canadian Small Business Financing Program

Realizing on a Loan

Building a prosperous and innovative Canada
Overview

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Default on Loan

- **Default** occurs when a borrower fails to comply with a material condition of the loan agreement.

- Material conditions can include borrower’s failure to:
  - Make principal and/or interest payments;
  - Maintain ownership of the secured assets;
  - Maintain insurance; or
  - Pay property taxes.

- A minor failure (i.e. late filing of yearly statements) is not considered material.

- If payments are current but borrower is in default of a material condition, lenders may follow their normal lending practice and take action.
Notice Process & Timeline

- The lender may send a Notice of Default* demanding the borrower comply with the conditions set out in the notice within a specified time period.

- The lender shall issue a Demand for repayment* if the borrower fails to comply with the Notice of Default.

- Time limit for submitting a claim for loss is 60 months** and begins after the day on which the borrower made the last payment (principal or interest) on a loan under the terms of the loan agreement.

- If required, a Request for Extension of claim submission date can be submitted.

* One document can be used to issue the Notice of Default and demand for repayment.
** 36 month period applies for loans which defaulted before February 19, 2016.
Realization Process

- Lender must take all necessary measures:
  - to minimize the loss;
  - to realize on 100% of the assets of the business;
  - to realize up to 100% of the corporate guarantee; and
  - for personal unsecured guarantees and personal liabilities, the amount of the guarantees or suretyships signed by the guarantor.

- The lender shall provide documentation substantiating the sale price of the assets. If realization < costs, abandon the assets and provide documentation supporting the decision.

- The lender may negotiate a compromise settlement in order to reduce legal costs.

- If necessary, the lender shall explain the sharing of the realization proceeds and costs attributable to the CSBF loan.
Quick Facts

- **Minister's liability** is limited to up to 85% of lender’s eligible losses.

- Claims may be adjusted or disallowed due to:
  - Lacking evidence of purchase or proof of payment;
  - Failure to provide a proper appraisal;
  - Failure to take or maintain a valid and enforceable security; or
  - Sharing of realization cost.

- **Non compliance remedies**: payment of a claim is permitted in certain situations, provided that the non-compliance is remedied as stipulated in the Regulations.

- Once a claim is final, the **Minister is subrogated** to all the rights of the lenders up to the amount paid.
Claim Submission Process

• Lenders must submit to Innovation, Science and Economic Development Canada a properly completed Claim for Loss Form.

• Types of Claims include:
  • Regular claim for loss – after realization on all security, guarantees or suretyship is complete;
  • Interim claim for loss – when realization on security is complete but before implementation of compromise settlement or full realization on guarantees and suretyship is complete;
  • Additional claim – can be presented for a period of 12 months following the time limit for submitting a claim for loss; and
  • Appeal claim – Lender provide additional information and requests that the Directorate review its decision.

• When submitting a claim, the lender may refer to the checklist of required documents.
Reference Tools

- **Toolbox for Lenders**

- Each financial institution has its own designated Senior Program Delivery Officer who can be contacted at:
  - Toll Free: 1-866-959-1699
  - IC.csbfp-pfpec.IC@canada.ca
  - Fax: 1-343-291-1837
  - Address: 235 Queen Street, Ottawa, Ontario K1A 0H5