



CANADA SMALL BUSINESS FINANCING PROGRAM



Realizing on a Loan

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.csbf-pfpec.IC@canada.ca
 - Fax: 1-343-291-1837
 - Address: 235 Queen Street, Ottawa, Ontario K1A 0H5



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