

- (2) Directors must take the lead in promoting a teamwork approach to recoveries. Since liquidation and legal staff have separate areas of responsibility and authority, it is vital that a cooperative attitude exist.
- b. Regional administrators (RA) must ensure that the required meetings take place and discuss any recommendations with their directors.
  - (1) The purpose of the periodic director's review is:
    - (a) To provide for the effective management of resources; and
    - (b) To emphasize the importance of recovery processes.
  - (2) The reviews are not meant to substitute for the existing in-depth portfolio reviews by liquidation supervisors.
- c. For lender oversight and managerial reviews, see Chapter 8, "Lender-Serviced Liquidations."

**6. Placing a Loan "In Liquidation" or "In Litigation" Status.**

You must prepare a 327 action for SBA-serviced loans that provides full justification for the action. Disaster home loans are consumer-type credits and do not require the amount of information necessary for business loans. Lender-serviced 7(a) loans may be placed in liquidation status upon lender notification without a 327 action so long as the loan does not have an SBA status of "approval," "cancelled," or "paid in full." If a loan has one of these three statuses, it must not be placed in liquidation. Further research must be done by the servicing office to determine the proper classification of the loan.

**a. When MUST a loan be placed "in liquidation" status?**

A loan Must be placed "in liquidation" when:

- (1) Foreclosure action by a prior lien holder or a law suit has been instituted against the borrower or obligor with respect to any substantial collateral securing the loan or guaranty and the loan or guaranty and the Agency's interest may be adversely affected;
- (2) The borrower has filed a voluntary petition or any involuntary petition has been filed against the borrower under the bankruptcy code and there is evidence that borrower has assets pledged as collateral which this Agency must protect and the loan is delinquent;
- (3) A receiver has been appointed, an assignment for the benefit of creditors has been made, or other legal actions have been taken for the purpose of liquidation the collateral or obligor's assets; or

- (19) Compromise actions;
- (20) All charge-offs;
- (21) Any other document or 327 actions with issues regarding legal compliance; and
- (22) Substantive revisions to the loan authorization.

**NOTE:** Other exceptions may be noted in chapter 10 on “Special Programs.”

- b. Counsel must refer all purely credit issues or administrative aspects to the Liquidation/Servicing Division.
- c. For lender-serviced loans, the lender is responsible for the preparation and legal review of all documentation.
- d. For CDC loans, the CDC is responsible for preparing all documents. The SBA counsel must review all CDC prepared documentation.

**10. What Other 327 Actions Does SBA Counsel Typically Review?**

Besides the 327 actions listed above which counsel must review in each instance, the following are examples of other 327 actions which counsel should review:

- a. **Transfers into liquidation status of SBA-serviced loans;**
- b. Protective bids at foreclosure sales;
- c. Assignment for the benefit of creditors;
- d. Alterations in the terms of any loan instrument;
- e. Disposal of COLPUR;
- f. Transfers to servicing from liquidation; and
- g. Abandonment of collateral.

**NOTE:** For all matters discussed in this SOP where there is an issue regarding legal compliance, final authority rests with the General Counsel or designee.