

## Farm Credit Administration

## §617.7010

a non-interest-earning asset or distressed loan; or

(2) The seizing of and realizing on non-real property collateral, other than collateral subject to a statutory lien arising under titles I and II of the Act, to effect collection of a non-accrual or distressed loan.

*Independent evaluator* means an individual who is a qualified evaluator and who satisfies the standards of §614.4260, subpart F of this chapter, and the standards set by the qualified lender for the type of property to be evaluated. The independent evaluator may not be an employee or agent of a qualified lender or have a relationship with the lender or any of its officers or directors in contravention of part 612 of this chapter.

*Interest rate* means the stated contract rate of interest.

*Loan* means an extension of credit made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing that directly relates to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

*Loan application* means a complete oral or written request for an extension of credit made in accordance with a qualified lender's procedures for the type of credit requested. An application is complete when the qualified lender receives all the information normally obtained and used in evaluating applications for credit. This information may include credit reports, supporting information for the credit requested, and reports by governmental agencies or other persons necessary to guarantee, insure, or provide security for the credit or collateral.

*Qualified lender* means:

(1) A System institution, except a bank for cooperatives, that makes loans as defined in this section; and

(2) Each bank, institution, corporation, company, credit union, and association described in section 1.7(b)(1)(B) of the Act (commonly referred to as an other financing institution), but only with respect to loans discounted or pledged under section 1.7(b)(1).

*Restructure and restructuring of a loan* means a reamortization, renewal, deferral of principal or interest, monetary concessions, or the taking of any other action to modify the terms of, or forbear on, a loan.

[69 FR 10907, 10908, Mar. 9, 2004, as amended at 69 FR 16459, Mar. 30, 2004]

### §617.7005 When may electronic communications be used in the borrower rights process?

Qualified lenders may use, with the parties' agreement, electronic commerce (E-commerce), including electronic communications for borrower rights disclosures. Part 609 of this chapter addresses when a qualified lender may use E-commerce. Consistent with these rules, a qualified lender should interpret part 617 broadly to allow electronic transmissions, communications, records, and submissions. However, electronic communications may not be used for a notice of default, acceleration, repossession, foreclosure, eviction, or the right to cure when a borrower's primary residence secures the loan. In these instances, a qualified lender must use paper disclosures.

### §617.7010 May borrower rights be waived?

(a) A qualified lender may not obtain a waiver of borrower rights, except as indicated in paragraphs (b) and (c) of this section.

(b) A borrower may waive rights relating to distressed loan restructuring, credit reviews, and the right of first refusal when a loan is guaranteed by the Small Business Administration or in connection with a loan sale as provided in §617.7015. Waivers obtained pursuant to this paragraph must be voluntary and in writing. The document evidencing the waiver must clearly explain the rights the borrower is being asked to waive.

(c) A borrower may waive all borrower rights provided for in part 617 of these regulations in connection with a loan syndication transaction with non-System lenders that are otherwise not required by section 4.14A(a)(6) of the Act to provide borrower rights. For purposes of this paragraph, a "loan syndication" is a multi-lender transaction in which each member of the