A Guideline for Credit Unions:

Act Quickly to Maximize Recovery of Bankruptcy Debt

In 2013 alone, nearly 200,000 members filed for bankruptcy which accounted for about $1 billion in charge offs according to Callahan Peer-to-Peer data. This is a significant amount of debt that falls into an altogether different and precarious collection process. Bankruptcy is one of the more common occurrences that will surely thwart your recovery progress; however, if you act quickly, there are measures you can take to maximize recovery.

First, a Closer Look at Chapter 7 & Chapter 13

Let's take a look at the two most common types of consumer bankruptcy filings, Chapter 7 and Chapter 13. Chapter 7 is typically for members with little or no assets available for liquidation that wish to eliminate their unsecured debt through the filing process. Chapter 13, however, is for members with assets they want to protect from liquidation. They may have equity in their home or property and need to restructure their debt to retain as many assets as possible through the bankruptcy process.

Chapter 7 traditionally serves as a method to eliminate unsecured debt with few borrowers actually losing any assets. Chapter 7 bankruptcy does not effectively eliminate debt attached to collateral resulting in the creditor (in most cases) retaining a pursuable lien post discharge.

Chapter 13 will provide a member with a repayment plan, normally administered through a trustee to be executed over a three to five year period. With Chapter 13, there are pre-petition payments that are made through the trustee and set up at the time of filing and disbursed in accordance with the confirmed plan. Post-petition payments can come straight to you from the debtor and not through the trustee, depending on the jurisdiction of the bankruptcy filing. You'll also want to be cognizant of lien strip motions that are proposed at the time of filing or shortly thereafter. If filed against your collateral, make certain to work with an attorney to quickly assess whether it makes sense to contest or not.

When a Member Files Bankruptcy, Act Quickly with These Steps:

Once a member has filed a bankruptcy, all is not lost. There are a few things you can do to secure the ability to recover your funds, but you must act quickly.

1. As dictated by the stay against the lender, cease all contact with the member regarding the collection of their debt. If you're dealing with a mortgage or a deed of trust and moving to put the property in foreclosure, you'll want to retain legal counsel to file a motion for relief from stay in the bankruptcy case before the foreclosure may be pursued.
2. If the member has filed a Chapter 13 bankruptcy, make certain to file a proof of claim prior to the bar date. Act as quickly as possible with regard to the asset category of the debt in an effort to protect your interest in the house, car, student loan, or collateral that secured the loan.
3. Utilize reporting software like Banko® from LexisNexis to ensure constant monitoring of the member's bankruptcy filing(s).
4. If you receive a notice of dismissal of the bankruptcy filing, and you still have uncollected debt, proceed with your normal collection process to recover the remaining funds.
5. Once you've received a discharge of the bankruptcy filing, and if your collateral is still secured, proceed with collection processes to resolve and assert your rights associated with the remaining secured lien. Make it clear you are not pursuing the member for personal liability.

read more

6. Finally, it's important to be fully aware of all the laws and regulations that surround how you handle bankruptcies based on your member's current address, so you can maintain proper compliance when handling your recovery activities.

If you don't have the bankruptcy resources or expertise in-house to fulfill one or more of these stages, there are agencies that provide this type of expertise and monitoring services. Finding a reputable agency ensures you don't have to go it alone, or construct an entire bankruptcy department for the occasional member filing.

Remember, though bankruptcy filings take patience and expertise, when handled correctly you can maximize recovery and reinvest the funds back into your community and your productive members.

About the Author

Debra Engh is the Director of Bankruptcy at LCS Financial Services Corporation and has more than 30 years of experience in the mortgage industry and eight years of bankruptcy and collections expertise. LCS Financial Services Corporation is backed by more than 30 years of receivables management experience. The company maximizes debt recovery for financial institutions nationwide, specializing in the recovery of mortgage, auto, and student loans.

To contact Debra Eng, email **CUinfo@lcsfin.com** or call 1-888-485-8856. To find out more about LCS Financial, visit **www.lcsfin.com**.

Celebrating 30 YEARS of recovery excellence

To receive more information on how to effectively handle collections, click here to join our mailing list.

Download "Best Practices for Successful Debt Recovery: A Collections Checklist for Credit Unions"

** This information is not to be construed as legal advice. The information contained herein is not intended to be a full and exhaustive explanation of the law in any area. This information is not intended as legal advice and may not be used as legal advice. It should not be used to replace the advice of your own legal counsel. The opinions expressed are the views of the authors alone and should not be attributed to any other individual or entity. Any distribution, reproduction, copying or sale of this material or the contents hereof without consent is expressly prohibited.*