

Small Business Administration

§ 107.1410

you must give SBA a written explanation of the failure to close.

(3) If you do not comply with this paragraph (e), you will not be eligible for additional draws. SBA may also determine that you are not in compliance with the terms of your Leverage under §§ 107.1810 or 107.1820.

[61 FR 3189, Jan. 31, 1996, as amended at 63 FR 5868, Feb. 5, 1998; 64 FR 70996, Dec. 20, 1999]

§ 107.1240 Funding of Licensee's draw request through sale to short-term investor.

(a) *Licensee's authorization of SBA to arrange sale of securities to short-term investor.* By submitting a request for a draw of Debenture or Participating Security Leverage, you authorize SBA, or any agent or trustee SBA designates, to enter into any agreements (and to bind you to such agreements) necessary to accomplish:

(1) The sale of your Debenture or Participating Security to a short-term investor at a rate that may be different from the Trust Certificate Rate which will be established at the time of the pooling of your security;

(2) The purchase of your security from the short-term investor, either by you or on your behalf; and

(3) The pooling of your security with other securities with the same maturity date.

(b) *Sale of Debentures to a short-term investor.* If SBA sells your Debenture to a short-term investor:

(1) The sale price will be the face amount.

(2) At the next scheduled date for the sale of Debenture Trust Certificates, whether or not the sale actually occurs, you must pay interest to the short-term investor for the short-term period. If the actual sale of Trust Certificates takes place after the scheduled date, you must pay the short-term investor interest from the scheduled sale date to the actual sale date. This additional interest is due on the actual sale date.

(3) Failure to pay the interest constitutes noncompliance with the terms of your Leverage (see § 107.1810).

(c) *Sale of Participating Securities to a short-term investor.* If SBA sells your Participating Security to a short-term

investor, the sale price will be the face amount.

(d) *Licensee's right to repurchase its Debentures before pooling.* You may repurchase your Debentures from the short-term investor before they are pooled. To do so, you must:

(1) Give SBA written notice at least 10 days before the cut-off date for the pool in which your Debenture is to be included; and

(2) Pay the face amount of the Debenture, plus interest, to the short-term investor.

[61 FR 3189, Jan. 31, 1996, as amended at 63 FR 5868, Feb. 5, 1998]

PREFERRED SECURITIES LEVERAGE— SECTION 301(D) LICENSEES

§ 107.1400 Dividends or partnership distributions on 4 percent Preferred Securities.

If you issued Preferred Securities to SBA on or after November 21, 1989, you must pay SBA a dividend or partnership distribution of 4 percent per year, from the date you issued Preferred Securities to the date you repay them, both inclusive. The dividend or partnership distribution is:

(a) Computed on the par value of the outstanding stock or the face value of the outstanding limited partnership interest.

(b) Cumulative. This means that if you do not pay the entire dividend or partnership distribution for a given fiscal year, the unpaid balance accumulates as a distribution in arrears. You do not have to pay interest on distributions in arrears.

(c) Preferred. This means that you must pay SBA in full (including distributions in arrears) before setting aside or paying any amount to any other equity holder.

(d) Payable at the discretion of your Board of Directors or General Partner(s), except that all distributions in arrears must be paid in full when you redeem the Preferred Securities.

[61 FR 3189, Jan. 31, 1996, as amended at 63 FR 5869, Feb. 5, 1998]

§ 107.1410 Requirement to redeem 4 percent Preferred Securities.

You must redeem 4 percent Preferred Securities not later than 15 years from