Farm Credit Administration

§617.7010

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 forebear on, a loan.


§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

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).