

BUSINESS BULLETIN

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Understanding the Credit Process and Securing Credit in Today's Economy

by J.J. Burchman

The recent economic problems in the United States resulting from the recent credit crunch have proven to be problematic not just for banks but also for businesses of all sizes. Regardless of the size of the bank or credit union or the condition of their portfolio, the credit crunch has affected their ability and willingness to lend to businesses and individuals. Underwriting standards, generally considered to be fairly lax in the recent past, have tightened up considerably. The lending institutions, to a certain extent, are caught in a difficult position.



Everybody understands that there must be credit available to allow businesses to operate and to keep the wheels of the United States economy greased and rolling. Bank regulators, however, are under tremendous pressure for their past actions in failing to adequately monitor and regulate lending institutions' loan portfolios to make sure only prudent loans are made and are now insisting that there is sufficient capital in an institution to weather a difficult time such as we are in now. Consequently, bank regulators are hammering on lending institutions to increase their capital base and to curtail their lending.

Where does that leave the business community? In practicality, only the "crème-de-la-crème" are able to get credit. The underwriting process is much more detailed and a slight irregularity that previously would have been overlooked now may result in a denial of a loan application. Put another way, as a business owner, you need to make sure your corporate house is in order. The following details some areas to think about and "tidy up" to en-

sure that when the time comes, your business is more likely to be approved than to be denied for that loan.

Organizational Documents

Every type of entity (with the exception of a partnership) requires some sort of organizational documents to be filed with the Michigan Department of Energy, Labor and Economic Growth. These would be Articles of Incorporation (corporation), Articles of Organization (limited liability company), Application to Register a Limited Liability Partnership (limited liability partnership) or Certificate of Limited Partnership (limited

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partnership). If your organizational documents are older, it may be useful to have them reviewed to make sure they contain appropriate language for your current business practices. One example of a potential omission in older organizational documents is an absence of appropriate limitation of liability language for corporate officers, directors and members. The state of Michigan additionally

requires annual information statements to be filed along with annual fees certifying the good standing of your business. This will be one of the first things a lending institution will do to verify the corporate existence of your business, so it is important to make sure any past due filings are corrected before approaching the lending institution.

In addition to the filing requirements, many lending institutions require documents governing the operation of the entity. These would be bylaws (corporation), operating agreement (limited liability company), and partnership agreements. The lending institution will review these documents to determine whether the business has

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UNDERSTANDING THE CREDIT PROCESS - *continued*

the legal authority to borrow money and pledge assets and, if so, who has the authority to legally bind the business. Again, it may be useful to have these documents reviewed if they are older to make sure that they accurately reflect the current business practices of your business.

Corporate Governance

The proper corporate procedures for how decisions get made and carried out for your business will be delineated in the organizational documents referred to above. The lending institution may want to review your corporate minute books and will, at the very least, require a corporate resolution authorizing the borrowing of money and pledging of assets as collateral. The resolution should indicate which officers or persons are authorized to sign loan documents on behalf of the business. Generally, a lending institution will require at least two separate individuals to sign the loan documents in the capacity of two different offices (i.e., president and secretary, secretary and treasurer, etc.). If your company does not have officers designated, it would be wise to take care of that issue before approaching a lending institution.

Business Documents

The lending institution will likely require several documents and reports in addition to those identified above. Be prepared to provide them. This will avoid unnecessarily delays and will expedite the process. At a minimum, the lending institution will require audited financial statements of the business as well as personal financial statements if any individuals are acting as a guaranty. They will most likely also request a business plan that is current and, depending on the structure of your business, they may require a suc-

cession plan if there are a few key persons that drive the business. Finally, the lending institution may well require a guaranty from one or more individuals and associated entities. With respect to any associated entities, be prepared to provide similar documentation regarding organizational documents, corporate governance and business plans.

Businesses are facing unprecedented challenges in getting financing that is necessary to thrive and prosper. Underwriting standards have stiffened and lending institutions are simply not loaning as much money as they have in the past and are being much more particular to whom they lend. While there may be little you can do to improve the overall financial picture of your business in the short-term, there are several things that you can do to ensure that other underwriting standards do not deny you the capital you need for your business. Make sure you have the proper documentation filed at the state level and make sure it is updated to reflect the current needs and operations of your business. Make sure you have the proper documents in order governing the operations of your business and make sure that you are following what those documents say. Finally, make sure you have the financial and business planning documents that the lending institution will require. While you may not be able to control the larger environmental factors affecting your business, you can make sure you have all your I's dotted and T's crossed. Don't give the lending institutions a reason to turn you down

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