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BCMA E~CREDIT NEWS

February 2020

This month's topics…

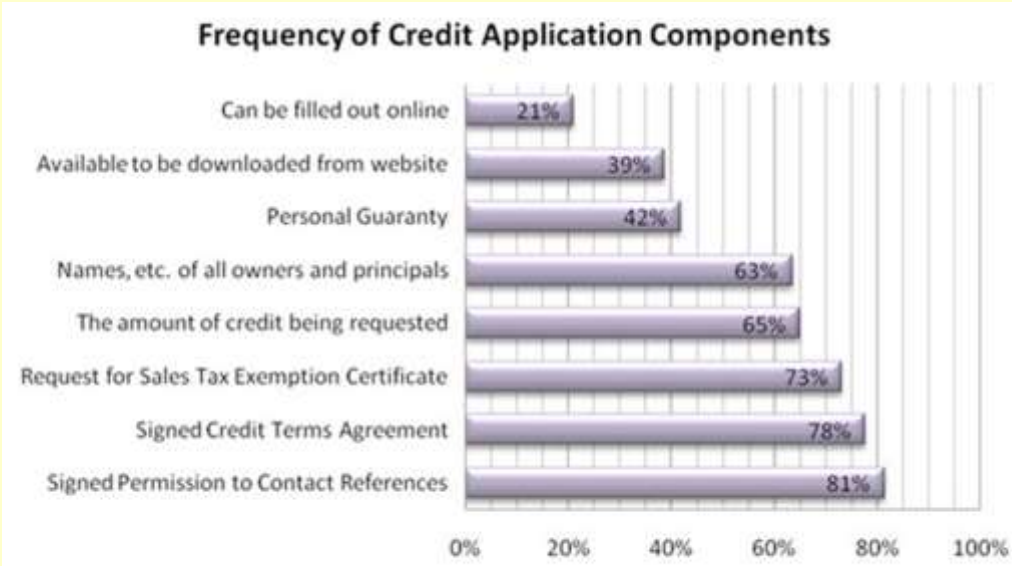
BCMA - It is All About You!

1. Is it Time to Improve Your Credit App?

If you are like most, you probably have a relatively old credit app that you have copied and re-copied for many years. But it certainly pays to periodically revisit this important document to see if it is the best, you can make it.

Even with real-time access to new data from sources that were not available five years ago, this basic document is still one of the most important you will use in your credit operations. It sets the tone up front, establishes your relationship with your customers, and of course, helps you gather vital data for your immediate and longer-term credit and collection decisions.

In a Credit Today benchmarking survey, we explored the entire credit app process. One of the more interesting tables we generated shows the frequency of some of the most common components of credit applications:



What is interesting about the data from this graphic is not so much what is included on credit applications, but what is being left off. For example:

- 58% do not include a personal guaranty.
- At least 50% do not provide online access to their credit application form.

BCMA MEMBERS

- [NACS Credit Services, Inc.]
- [Wisconsin Credit Association]

GOT AN IDEA?
Would you like to contribute to the BCMA Newsletter? The most important part is your idea. We can handle the polishing. Just write to us at BCMAEditor@ CreditToday.net with your idea!

1. Is it Time to Improve Your Credit App?

- 37% do not ask for the names and other details of all the owners and principals of the business.
- 35% do not ask how much credit is being requested.
- 27% do not ask for a Sales Tax Exemption Certificate.
- 22% do not include a Signed Credit Terms Agreement on their application form.
- 19% do not get signed permission to contact references, which is absolutely essential for bank reference checking.

Of course, some situations may not require that all of these data be captured, but we expected the percentages to be higher.

So maybe now is a good time to pull yours out and see if you cannot make a few improvements.

2. Educating Debtors Who "Walk Away"

It is not done on impulse. It is usually carefully planned. The struggling customer, rather than filing for bankruptcy, folds the business and walks away. Then he reorganizes under a new LLC and sets up shop, sometimes literally across the street and not even bothering to change phone numbers. He may even reapply for credit from the same vendors he failed to pay before. And it is all legal. What do you do? Try "educating" them.

All taxpayers have consequences when debts are cancelled. Under the Internal Revenue Code, the discharge of indebtedness is known as Cancellation of Debt or "COD Income," must be included in a taxpayer's gross income.

This is the basis of the 1099 CASH FLOW OPTIMIZER (CFO), a tool devised by Assa Abloy Corporate Credit Manager Steve Savino to "leverage IRS rules and regulations to 'educate' debtors as to the extent of their liabilities in situations like these.

Savino explains that the 1099 CFO is neither a collection letter writing service nor a demand for payment. "Nowhere in the wording is there a request or plea for payment, an implied threat of IRS or legal action," he explains. "It's a series of 'educational' memos along with the required 'disclaimers,' detailing in clear and precise language contents of IRS Form 4681 as it relates specifically to the individual debtor's situation. Done properly, the results greatly exceed standard collection agency returns."

Savino's 1099 CFO procedures begin with a review of the Corporate Dissolution Statues of the state where the customer is incorporated. If the customer has failed to follow these regulations, neglecting to properly dissolve the "old" LLC that leads to the agent of record (owner) becoming personally responsible for the existing debt of the "inactive" corporation.

"Every state has specific and often exacting procedures for these dissolutions," Savino explains. "Very often these "walk away" debtors are led to believe they can dissolve their corporation simply by not paying corporate annual fees or by dropping the secretary of state a notice of termination. It does not work that way.

2. Credit Department Turnaround: Systems Are Key Continued

"When the corporate veil is pierced, amounts written off or deemed uncollectable by creditors become income to debtors, income which is required to be reported on their personal income tax returns."

When one recent "walk away" from Assa Abloy was educated as to the option of amending his tax return to include $200,000 of additional income or assigning the proceeds coming in from his folded business to cover this debt, via a UCC assignment, he chose the latter.

"What we're doing is prioritizing the debt," Savino says. "Who will be paid first, the creditor who places him with a collection agency or the one in a position to require him to file an amendment to his personal tax return? Prioritizing debts in this way opens opportunities that simply don't exist within standard collection flows."

3. Forum Q&A: What hierarchy do you use to prioritize your customer's historical credit documentation?

On Credit Today's email-based forum for senior level credit executives, a Member posted the following question:

I have questions regarding the hierarchy, (for lack of a better word) of documentation that you may have in place for some of your customers.

So my customer XYZ Industries opened a new company, XYZ Millworks, in 2014.

I procured a 'Cross Corporate Guarantee from "Industries" for "Millworks'" debt in 2014. Also in place is a personal guarantee from 'Industries' on their credit app, and 'Millworks' had no personal guarantee. The owner wanted to go on the strength of the cross-corporate guarantee since Industries is well established, and Millworks was new, has struggled, and is still struggling.

Enter a non-owner ops manager at 'Millworks'. For some reason he signed a whole new credit application in May 2018. Here are my questions:

1. Does the non-owner ops manager's credit application of May 2018 override or 'trump' the one we already had in place in 2014 for Millworks? Or is it null because he is a non-owner, and our 2014 application is still in place.
2. Should we obtain a new application with the owners signature dated 2018 to 'fix' the erroneously signed application by the non-owner?
3. Will anything in 1 and 2 affect the cross-corporate guarantee signed in 2014? The Cross Corporate Guarantee does not address our credit application for either organizations.

Please don't say 'consult your attorney' I am aware of that and may likely will go that route, but I was curious what the list thought or if you had any experience with litigation when something like this takes place.

Regards,

National Credit and AR Manager

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Hi,

1. No, the non-owner has no authority unless he/she has been made an Officer of industries-. 2014 App is valid.
2. Yes, get the Industries-owner to sign the Millworks credit application and you should be good.
3. Yes, 1 negates the contract because Ops Manager possibly does not have authority. 2 would resolve the matter; although I might try to update the cross-corporate guarantee to include both entities.

Best Regards,

Credit Manager

Thanks to Credit Today's Senior Credit Executive Forum.