

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Guaranteed Loan Making and Servicing
2-FLP (Revision 1)**

Amendment 63

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 33 B has been amended to emphasize FSA's responsibility to ensure that NAD notifies lenders of an appeal filed by an applicant or borrower.

Subparagraph 50 B has been amended to update CLP loan volume criteria.

Subparagraph 69 C has been amended to clarify that SED authority for approving lenders outside the lender's normal trade area is limited to their State.

Subparagraph 73 B has been amended to clarify Application for Guarantee processing when signatures are missing.

Subparagraph 108 A has been amended and subparagraph 108 M has been added to address applicant eligibility requirements related to debarment or suspension.

Subparagraph 108 C has been amended to clarify that:

- a prior loss to the Agency that has been repaid should still be evaluated to assess creditworthiness
- assistance received under the Inflation Reduction Act is not considered prior debt forgiveness.

Subparagraph 123 B has been amended to clarify requirements for the purchase of undivided interests.

Subparagraph 137 F has been amended to clarify the scenarios in which unequal or balloon installments are acceptable.

Paragraphs 151 through 155 have been amended to clarify options to account for capital reserves and savings for education and retirement in projections.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 244 A has been amended to update the guaranteed loan limit for FY 2025.

Subparagraph 248 B has been amended to clarify the processing of guarantee fees when using Pre-Authorized Debit instead of a paper check.

Subparagraphs 278 A and 279 A have been amended to clarify policies for subordinations when refinancing an existing prior lien.

Subparagraphs 280 B and D have been amended to clarify policies about partial releases.

Subparagraph 281 B has been amended to clarify how all lenders will process transfer and assumption requests.

Subparagraph 281 C has been amended to clarify appraisal requirements for transfer and assumption requests.

Subparagraph 312 A has been amended to clarify loan restructuring requirements.

Subparagraph 313 B has been amended to clarify requirements for write-downs from CLP lenders.

Exhibit 2 has been amended to:

- update the definitions of “Adjustment”, “Agricultural Commodity”, “Beginning Farmer”, “Debt Forgiveness”, “Family Farm”, “Feasible Plan”, “Good Faith”, “Non-Eligible Enterprise”, “Non-Essential Assets”, “Related by Blood or Marriage”, and “Relative”
- add the definitions of “Commercially Foraged”, “Indian Land”, “Indian Tribe”, “Personal Property”, and “Undivided Ownership Interest”.

Amendment Transmittal (Continued)

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32 Conflict of Interest (7 CFR 762.110(f)) (Continued)

B FSA Employees

--An FSA employee will not participate, directly or indirectly, in deliberations on, or-- determination of, any matter affecting the application or servicing of a guaranteed (or direct) loan to any relative of the employee, any person residing in the employee's household, anyone with continuing business dealings with the employee, or any entity controlled by the employee.

--An FSA employee will also not participate, directly or indirectly, in deliberations on, or-- determination of, any matter affecting the application or servicing of a guaranteed loan submitted by a lender who employs (in a lending capacity) any relative of the employee, any person residing in the employee's household, or anyone with continuing business dealings with the employee.

Note: This provision applies when the lender's employee in question is involved in the lending process of FSA guaranteed loans or is a member of the lender's management team overseeing their FSA guaranteed loan portfolio. It is not considered to be a conflict of interest if the lender's employee works in a nonmanagement, administrative capacity or has no involvement in the FSA guaranteed lending process.

FSA employees should notify their immediate supervisor of any potential conflict of interest with an applicant or an employee of a guaranteed lender.

Any processing or servicing activity conducted according to this subparagraph is subject to 3-PM provisions. When an FSA employee has a conflict of interest with an employee of a lender as outlined in this subparagraph, the same guidance from 3-PM should be followed as if the FSA employee had a conflict of interest with an applicant.

33 Review and Appeals (7 CFR 762.104)

A Appeal Rights

7 CFR Part 11 (the National Appeals Division regulation) stipulates that an adverse guaranteed loan approval or loan servicing decision directly affects the applicant/borrower and grants appeal rights to the applicant/borrower. The lender is defined as an "interested party", without appeal rights.

Because an adverse decision of a liquidation plan, interest assistance claim, or loss claim directly affects the lender, the lender will be provided with appeal rights when making an adverse decision in these situations.

A decision made by the lender adverse to the borrower is not a decision by the Agency, whether or not concurred in by the Agency, and may not be appealed.

33 **Review and Appeals (7 CFR 762.104) (Continued)****B Handling Appeals**

FSA appeals will be handled **in accordance with parts 11 and 780 of this title** (1-APP).

*--1-APP, subparagraph 75 C states if, for any reason, an interested party (such as a guaranteed lender) is **not** given notice of an appeal to NAD, FSA's representative should bring the omission to NAD's attention without delay, providing names and addresses of interested parties, if known to FSA. Therefore, when FSA is notified of an appeal filed by a guaranteed loan applicant or borrower, an authorized agency official will ensure that the appropriate lender has been notified by NAD.--*

C Actions When a Denial Is Overturned in NAD Final Determination

1-APP, subparagraph 135 A requires that FSA implement a final determination not later than 30 calendar days after the effective date of the notice of final determination. An appeal determination is administratively final when the provisions of 1-APP, subparagraph 135 B have been met.

The borrower and lender, as appropriate, will be advised of the next steps to be taken within 5 workdays of the date the appeal decision becomes administratively final, or the date FSA determines that it will not pursue a further review of the hearing officer's decision, whichever comes first. The contact will be by telephone or in person, with a written follow-up.

1-APP, subparagraph 135 D provides that, according to FSA regulations, changes in the borrower's condition in implementing NAD's final determination may be considered. If there have been significant changes to the borrower's financial or farming situation since the date of the original FSA decision, only the information that has changed needs to be submitted or revised.

Note: A significant change is a change that would materially affect the feasibility of, or eligibility for, the proposed loan servicing action.

The lender or Agency may request updated information from the borrower to implement an appeal decision.

The lender or FSA may request updated financial or production information as the borrower's circumstances may have changed during the pendency of the appeal, which may adversely affect the borrower's farming operation.

Note: Adversely affect means that a change unrelated to the issue resolved through the appeal will result in the borrower no longer being eligible for the assistance requested.

The State appeals coordinator will monitor receipt and implementation of final NAD determinations to ensure that they are properly and timely implemented.

50 Approval of Certified Lenders (7 CFR 762.106) (Continued)**B Eligibility Criteria**

Before a lender is approved for CLP status, the lender must demonstrate compliance with the following eligibility criteria:

- provide evidence of being an eligible lender
- provide information to show that loan losses (net of recovery) do not exceed 7 percent
- have the capacity to process and service FSA-guaranteed loans
- certify that the person designated to process and service FSA-guaranteed loans has attended FSA loan processing and servicing training within the previous 12 months or will attend training within the next 12 months
- agree to send for annual training the designated person from each of the lender's offices responsible for processing and servicing guaranteed loans
- agree to use forms acceptable to FSA for processing, analyzing, securing, and servicing *--FSA-guaranteed loans or LOC's--*
- if not previously submitted, copies of financial statements, cash flow plans, loan agreements, analysis sheets, security agreements, and promissory notes should be submitted with the request for CLP status
- *--have closed a minimum of 10 FSA-guaranteed FO, SW, CL, and OL loans or LOC's within the past 5 years.--*

C FSA Approval

The CLP-eligible lender will have a track record in FSA programs. SED may request that authorized agency officials that the lender has worked with provide a recommendation for CLP status and any issues or concerns that should be considered by SED before granting *--CLP status. SED will make a decision on CLP status within 30 calendar days of receipt--* of the lender's complete application.

50 Approval of Certified Lenders (7 CFR 762.106) (Continued)

C FSA Approval (Continued)

CLP status is granted on a statewide basis by SED. A separate Lenders Agreement is required for each State. A lender may request CLP status for all branches within a State, or only the specific branches that are using the guaranteed program. **[7 CFR 762.106(d)(2)] The Agency will determine which branches of the lender have the necessary experience and ability to participate in the CL Program based on the information submitted in the lender application and on Agency experience.** The branch offices for which CLP status is granted are listed on Lenders Agreement.

[7 CFR 762.106(d)(3)] Lenders who meet the criteria will be granted CLP status for a period not to exceed 5 years. Once a Lenders Agreement is executed by the CLP lender and SED, the executed agreement will be kept in the State Office and copies will be sent to the lender and County Offices where the lender is expected to submit applications. In addition, the FSA-approved lender forms and the names of the lender's designated representatives will be sent to the affected County Offices.

D Renewal

[7 CFR 762.106(f)(1)] CLP status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed.

[7 CFR 762.106(f)(2)] Renewal of CLP status is not automatic. A lender must submit a written request for renewal of a lender's agreement with CLP status which includes information:

- **updating the material submitted in the initial application**
- **addressing any new criteria established by the Agency since the initial application.**

A request for renewal of CLP status must be submitted to FSA before the expiration of the current lenders agreement. FSA will work with the lender to ensure that CLP status remains in effect until a new CLP lenders agreement is executed.

[7 CFR 762.106(f)(3)] CLP status will be renewed if the applicable eligibility criteria under this section are met, and no cause exists for denying renewal under paragraph (g) of this section (subparagraph 51 C).

69 Application Requirements for PLP Lenders [7 CFR 762.110]**A Application Requirements**

[7 CFR 762.110 (e)] **A complete application for PLP lenders will consist of:**

- **an application form FSA-2211**

Note: Applications submitted electronically will be processed according to paragraph 3.

- **a loan narrative**
- **any other items agreed to during the approval of the PLP lender's status and contained in the PLP lender agreement.**

PLP lenders must certify that the required items, not submitted, are in their files. On a case-by-case basis, **the Agency may request additional information from any lender or review the lender's files as needed to make eligibility and approval decisions.** These requests shall be made only in situations when, because of the unique characteristics of the loan request, an eligibility or approval decision cannot be made without additional information.

FSA can conduct its environmental review in most cases without additional information from the lender. However, occasionally additional information is needed, and until this information is received, the application is not complete, and the 14-calendar-day timeframe does not start. Situations needing additional information often involve wetland determinations, potential historical or archaeological sites, or construction of major confinement livestock facilities. The review is FSA's responsibility to conduct. However, *--the information FSA needs to complete this review is part of a complete application.

This environmental review, conducted by FSA (using FSA-850 or an environmental assessment), focuses on the proposed use of loan funds and the environmental compliance of the action being supported by FSA funds. This is unrelated to the lender's own environmental due diligence (FSA-851 or other similar forms) which focuses on the suitability of loan security. See subparagraph 208 C for information about the lender's environmental due diligence requirements.--*

69 Application Requirements for PLP Lenders [7 CFR 762.110] (Continued)**B Loan Narrative**

FSA expects PLP lenders to include, in the narrative, a discussion of the 5 “C’s” of credit; that is, character, capacity, capital, conditions, and collateral.

For many PLP lenders, the narrative will often contain the same information submitted to the lender’s loan committee. Since the authorized agency official will rely on the narrative and application form for making the loan approval decision, it is important that the narrative covers any issues or questions that may arise during the loan evaluation process.

--The lender will state the proposed method to establish the real estate market value,-- evaluation, or appraisal.

If the application is for CL, a discussion of the conservation plan or Forest Stewardship Management Plan and need for the qualifying conservation practices including a discussion of the transition plan, if applicable, must be provided in the loan narrative.

C Submitting Applications Outside Normal Trade Area

PLP status will be approved for the lender’s normal trade area as defined in CMS. If a lender wants to make a guaranteed loan outside of this area, the lender should contact the State Office responsible for that area for guidance on where to submit the request for guarantee.

--On a case-by-case basis, for applications submitted in their State, SED may authorize the-- approval of guarantees outside the lender’s normal trade area if SED determines that the lender can adequately make and service the loan. If the lender wants to permanently expand its approved normal trade area, it will request an expansion through SED to DAFLP.

--72 Market Placement Program (7 CFR 762.110(j)) (Continued)*C FSA Preparation of Loan Application**

[7 CFR 762.110(j)] When the Agency determines that a direct loan applicant or--* borrower may qualify for guaranteed credit, the Agency may submit the applicant or borrower's financial information to one or more guaranteed lenders. If a lender indicates interest in providing financing to the applicant or borrower through the guaranteed loan program, the Agency will assist in completing the application for guarantee.

FSA shall complete and provide the following to lenders:

- Application for Guarantee
- farm operating plan
- a narrative
- a suggested plan for servicing
- an appraisal.

To complete the guaranteed loan application, the authorized agency official shall use estimated interest rates and terms. If more than 1 lender is interested in the guaranteed loan, the applicant shall select 1 of the lenders. The lender must prepare the loan or LOC agreement. SEL's must submit the loan or LOC agreement to FSA before FSA issues the Conditional Commitment. The Conditional Commitment shall be issued upon the lender's acceptance of the loan application and confirmation that funds are available.

73 Filing Applications Electronically**A Registering to Submit Applications**

Lenders may submit applications electronically through USDA's Online Services website. Lenders interested in filing electronically must first register. An explanation of the registration process, along with the necessary form, can be found by either of the following:

- at <http://www.sc.egov.usda.gov>, CLICK "Register"
- contacting any USDA Service Center.

Currently, registration is limited to individuals; lenders cannot be registered as organizations. However, persons representing lenders may register as an individual, and then may electronically sign and submit applications on behalf of the lender.

73 Filing Applications Electronically (Continued)

B Submitting Applications

After a lender's representative has registered and received a user ID and password, the representative may submit applications electronically. Go to <http://www.sc.egov.usda.gov>, CLICK "eForms", sign in, and follow the instructions to find, complete, and submit forms. Other electronic documents needed for a complete *--application may be attached to the application form and submitted to FSA. Lenders will see Exhibit 5 for additional information about registering and accessing FSA's electronic online systems.

If an application is received without a lender's signature or all necessary loan applicant signatures, the lender must be notified of the items missing, including any signatures needed. The application will continue to be processed, but will be considered incomplete until the necessary signatures are obtained.

However, when it is not possible to obtain an individual entity member's or co-borrower's signature before submitting the application, such as when the application is submitted through USDA's Service Center Agencies eForms website at <https://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>, the application will be approved subject to a completed Application for Guarantee with appropriate applicant signatures being provided to FSA before FSA issues a guarantee, assuming that all other applicable requirements are met.

In no case may a Loan Guarantee be issued before obtaining all lender and borrower signatures, including co-borrowers and entity members.

Lenders may also submit the application electronically by FAX or email. FAXed and scanned signatures will be accepted according to 1-CM, paragraph 676.--*

C Lender Requirements for Electronic Reporting

Information supplied by lenders through the USDA LINC web site meets the submission requirements. Lenders are not required to submit hard copies of information, such as loan closing reports or status reports.

Lenders must complete the following requirements to participate in electronic reporting through the USDA LINC website.

- Each lender employee who participates in electronic reporting must create a Level 2 eAuthentication ID and password at <https://www.eauth.usda.gov/home/>.
- Level 2 security provides users with the ability to conduct official electronic business transactions with USDA agencies through the Internet. If a lender's employee presently has a Level 2 eAuthentication ID/account with any USDA agency, then a second account is not needed.

73 Filing Applications Electronically (Continued)

C Lender Requirements for Electronic Reporting (Continued)

- Lenders are responsible for ensuring that all employees who will have access to electronic reporting adhere to the requirements in FSA-2201.
- Each lender must designate an employee as their Security Administrator who will have the authority and responsibility of granting access to other employees designated by the lender to use FSA's electronic reporting applications. The Security Administrator can have authority over all of the lender's portfolio as a Lender Administrator or can be limited to a single branch as a Branch Administrator. The Security Administrator will be the point of contact for FSA for maintaining the lender employees' eAuthentication ID's in AASM. A lender can choose to designate additional Security Administrators to act as a backup for the primary Security Administrator.

After the Security Administrators are designated and the requirements have been fulfilled, the lender will have the Security Administrator contact FSA with his or her eAuthentication ID and lender information to be validated and entered into AASM.

After Security Administrators are validated in the system, they will receive an email confirmation validating their authorization and authority to add additional lender employees to AASM. Additional lender employees may be added by logging into the USDA LINC website at <https://usdalinc.sc.egov.usda.gov>. Lenders will refer to Exhibit 5 for additional information about registering and accessing FSA's electronic online systems.

Note: The email confirmation is sent to the e-mail address the Security Administrator entered when creating the eAuthentication account.

The following types of roles can be assigned to lender employees in AASM by the Security Administrator.

- "Representative" is an employee that the lender designates and authorizes to input electronic data through the USDA LINC website. The Security Administrator can authorize access for the entire portfolio as a Lender Representative or limit access to a specific branch as a Branch Representative.
- "Viewer" is an employee that the lender authorizes to view loan data and has view only capabilities of all transactions in the USDA LINC website. The Security Administrator can authorize access for the entire portfolio as a Lender Viewer or limit access to a specific branch as a Branch Viewer.

Note: FSA does **not** add or maintain any roles for lenders' employees.

74-82 (Reserved)

Part 8 Loan Evaluation

Section 1 Applicant Eligibility (7 CFR 762.120)

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120)

A Summary of Eligibility Requirements

An applicant, including members of an entity applicant, must meet the following eligibility criteria to obtain a guaranteed loan. An eligible applicant is an applicant that:

- meets all requirements about prior debt forgiveness
- is not delinquent on any Federal debt
- ***--Note:** The authorized agency official will check DNP to verify that the applicant is--* not delinquent on any Federal debt. See 1-FLP, paragraph 53 and Exhibit 15.6 for more information on DNP.
- does not have any outstanding recorded judgments obtained by the United States in a Federal court
- is a citizen of the United States, a U.S. non-citizen national, or a qualified alien under applicable Federal immigrations laws
- has the legal capacity to incur the obligations of the loan
- has an acceptable credit history
- is unable to obtain sufficient credit elsewhere without a guarantee

Note: This does **not** apply to CL.

- has not been convicted of planting, cultivating, growing, producing, harvesting, storing, trafficking, or possessing a controlled substance within the last 5 crop years

Note: If an applicant is convicted of one of the offenses above, they may be ineligible during the crop year of the conviction and the next 4 succeeding crop years. Therefore, at the time of the application, if the applicant's conviction was within the past 5 years, they could be considered ineligible.

- is not ineligible because of disqualification resulting from a Federal Crop Insurance violation
- ***--is not debarred or suspended from participating in government contracts or programs.--***

The authorized agency official will document in the FSA running record that the applicant meets all eligibility requirements.

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)**B Clarification of Applicant**

In the case of an entity, the applicant includes all the members of the entity who will execute the promissory note.

C No Agency Loss

The applicant, and anyone who will execute the promissory note, has not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the “ACT” by debt write-down or write-off; compromise, adjustment, reduction, or charge-off under the provisions of section 331 of the “ACT”; discharge in bankruptcy; or through payment of a guaranteed loss claim on: more than three occasions on or prior to April 4, 1996; or any occasion after April 4, 1996, except as noted below.

The applicant may receive a guaranteed OL to pay annual farm operating and family living expenses, provided the applicant meets all other requirements for the loan, if the applicant and anyone who will execute the promissory note:

- **received a write-down under section 353 of the “ACT”**
- **is current on payments under a confirmed reorganization plan under Chapter 11, 12, or 13 of Title 11 of the United States Code; or**
- **received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for a county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FSA loans prior to the beginning date of the incidence period for a Presidentially-designated emergency and received debt forgiveness on that debt within three years after the designation of such emergency meet this exception.**

--If the debt forgiveness is resolved by repayment of the Agency’s loss, the Agency may still consider the debt forgiveness in determining the applicant’s creditworthiness.--

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)

C No Agency Loss (Continued)

Notes: An “ACT” loan is any of the following, whether direct or guaranteed, made by FSA or its predecessor agency, FmHA:

- CL
- EE
- EL
- EM
- EO
- FO
- OL
- RHF
- RL
- SW.

*--Debt forgiveness does **not** include any write-down provided as part of a resolution of a discrimination complaint or any direct or guaranteed loan assistance received under the Inflation Reduction Act.--*

A borrower who has successfully completed a bankruptcy reorganization plan will be considered to be current on the plan.

All debt forgiveness actions that are part of 1 transaction and occur on or about the same date are normally considered 1 occasion of debt forgiveness, regardless of the number of loans involved. Since debt forgiveness on direct loans and guaranteed loans are always considered separate transactions, concurrent forgiveness on direct and guaranteed loans are separate occasions. A single loan may have debt forgiveness on more than 1 occasion, when, for example, a borrower received a

*--write-down and the loan was later liquidated at a loss.

The authorized agency official will verify previous loss to the Government, or--* debt forgiveness, for each applicant and all individuals who will sign the promissory note. Both DLS, for direct loans, and GLS, for guaranteed loans, will be used to verify prior debt forgiveness.

Note: The applicant may be considered eligible if the loss to the Agency is paid in full at loan closing.

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)**D Delinquency on Federal Debt**

The applicant, and anyone who will execute the promissory note, is not delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986. Any debt under the Internal Revenue Code of 1986 may be considered by the lender in determining cash flow and credit worthiness.

Federal debt not paid within 90 calendar days of the due date is considered delinquent.

The applicant may be considered eligible if the delinquency will be remedied by the date of loan closing. Unless otherwise prohibited, applicants may use loan funds to cure delinquencies. Federal debt includes, but is not limited to, student loans, CCC loans, FSA direct loans, VA loans, and SBA loans. FSA-guaranteed loans are not Federal debts.

Loans that are made, using the following, become a delinquent Federal debt upon the payment of a final loss claim:

- FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date
- Application for Guarantee or Preferred Lender Application.

--The authorized agency official shall verify, through DNP, that the applicant and all individuals who will sign the promissory note are not delinquent on Federal debt. DNP screen prints will be placed in the case file to document the basis for eligibility. See 1-FLP, paragraph 53, and 1-FLP, Exhibit 15.6, for more information related to the use of DNP.--

E Outstanding Recorded Judgments

The applicant, and anyone who will execute the promissory note, has no outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

Applicants must provide evidence that all Federal judgments have been released or paid in full to be eligible for guaranteed loans. Loan funds will not be used to pay Federal judgments. Questions by FSA employees about outstanding judgments should be directed to OGC.

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)**K Controlled Substances**

[7 CFR 762.120(n)] The applicant and anyone who will sign the promissory note must not be ineligible for loans as a result of a conviction for controlled substances according to 7 CFR 718 of this chapter.

Notwithstanding any other provision of law, any person convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payment made under any Act, with respect to any commodity produced during the crop year of conviction and the 4 succeeding crop years, by such person. Therefore, at the time of the application, if the applicant's conviction was within the past 5 years, they could be considered ineligible.

At the discretion of the court, applicants convicted of any Federal or State offense for distribution (trafficking) or possession of a controlled substance shall be ineligible for any or all program benefits.

Note: Consult with the Regional OGC Attorney before initiating any actions on cases involving controlled substance violations.

--The Application for Guarantee requires applicants to certify that they are not ineligible-- for Federal benefits based on a conviction of any Federal or State controlled substance offense. Self-certifications on Application for Guarantee and Preferred Lender Application will be the only documentation required involving convictions of controlled substances.

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)

L Federal Crop Insurance Violations

[7 CFR 762.120(o)] The applicant, and all entity members in the case of an entity, must not be ineligible due to disqualification resulting from a Federal Crop Insurance violation, according to 7 CFR part 718.

Federal Crop Insurance Act, Section 515(h), provides that a person who willfully and intentionally provides any false or inaccurate information to FCIC or to an approved insurance provider with respect to a policy or plan of FCIC insurance after notice and an opportunity for a hearing on the record, will be subject to 1 or more sanctions that may change the applicant's eligibility for all Federal assistance.

Applicant's will certify on the Application for Guarantee that they are not ineligible due to disqualification resulting from a Federal Crop Insurance violation. Additionally, RMA will notify the National Office of individuals and entities that have been disqualified as a result of crop insurance violations. The National Office will notify the State Office. State Offices will notify the appropriate County Office. Unless offices are notified of a violation, there will be no other documentation required involving Federal Crop Insurance violations.

***--M Debarment and Suspension**

The applicant, and anyone who will execute the promissory note, must not be debarred or suspended from participation in government contracts or programs. In the case of an entity applicant, this requirement applies to both the entity itself and all members of the entity. This requirement also applies to any cosigners. See 2 CFR 180.115 and 417.10 for further regulatory guidance.

See 1-FLP:

- paragraph 43 for additional guidance about debarment and suspension
- Exhibits 15.5 and 15.6 for additional guidance about using the DNP system.

If DNP provides no SAM Exclusion Record for the searched parties, then the individuals or entities are not debarred or suspended from participating in Federal Government programs, and, therefore, meets this eligibility requirement.

If search records indicate that the individuals or entities are excluded or debarred from participating in Federal Government programs, the applicant will not be eligible to participate in the Guaranteed Loan Program.

Note: SAM, which is searched using DNP, also includes other entity records besides exclusion records. If a search result is received, the agency official should verify that it is an exclusion record. For further guidance, contact the State Office. State Offices may contact the National Office for guidance as needed.

A copy of the returned search record will be filed in the applicant's case file.--*

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)

N Operator Requirement

A loan application should be submitted in the name of the actual operator of the farm. This should be consistent with any representations previously made by the applicant for farm program benefits.

If inconsistencies in the structure of the farming operation are identified, the application will be considered incomplete and the lender will be informed according to paragraph 97. The inconsistencies must be resolved before the application being considered complete.

109 Specific Requirements for OL’s (7 CFR 762.120(i))

A Operator Requirement

For Operating Loans, the individual or entity applicant must be an operator of not larger than a family farm after the loan is closed.

When determining whether or not the farm meets the family farm definition, the authorized agency official shall:

- analyze all the factors that make up the regulatory definition of family farm and the items discussed in the following table
- look at all aspects and the circumstances of the farm operations.

Note: Consider and analyze these factors and how they relate to each another.

Application of judgment, combined with documentation of all the factors for the decision, should provide reasonable determinations of an applicant’s qualifications as a family farm.

Item	Factor	Consideration
1	Recognized in the community as a farm	Consider how the applicant’s farm operation compares to similar farm operations in the community. In most areas of the country and in most farming enterprises, the family will provide most of the day-to-day labor on a family farm. An exception may be made for enterprises that produce high-value, labor-intensive crops, such as fruit or vegetables.
2	Management and control of the farm business	All of the day-to-day management and operational decisions should be made by members of the farm family. The use of consultants, advisors, and similar experts is certainly acceptable provided someone in the farm family is the decision maker.
3	Amount of labor	A substantial amount of the full-time labor required must be contributed by family or entity members to the operation. The use of seasonally hired labor should not be precluded. The borrower may not necessarily perform a majority of the labor, but the amount of labor provided by the borrower is significant. One distinguishing characteristic of a family farm is that the family members provide both physical labor and management for the farm. Consider the labor requirements that are necessary for the production of specific high-value, labor-intensive crops.

123 FO Purposes (7 CFR 762.121(b)) (Continued)

B FO Purposes (Continued)

--When considering requests to purchase ownership and shares in an entity:--

- in all cases, the entity must be the applicant and operator of the farm
- all entity members must sign the promissory note providing individual liability for the debt (unless waived as allowed for subparagraph 247 A)
- the assets purchased must be an authorized FO loan purpose
- the loan amount must be consistent with the interests purchased.

*--State Offices will contact the National Office for guidance about purchasing shares, if needed.

Purchases of undivided interests are also authorized in limited circumstances.

When considering requests to purchase an undivided interest:

- all owners, including non-applicants, must pledge their property ownership interest as security
- all owners who are not FSA applicants must be either of the following:
 - existing owners who held interest in the property before the transaction, with the exception of a spouse
 - new owner gaining their respective ownership share in the property through their own funding source, such as cash, FSA financing, or other creditor financing
- FSA applicants must operate at least a share comparable to their investment in the overall property
- to ensure that the FSA applicant is a separate operator with their own farm operation and not only part of a joint operation, the applicant must satisfy all of the following for their individual operation:
 - obtain financing for their operation separate from other undivided interest owners
 - have separate bank accounts--*

123 FO Purposes (7 CFR 762.121(b)) (Continued)

B FO Purposes (Continued)

- *--maintain separate financial and production records
- file tax returns for their individual operation
- make independent management decisions.

In addition to these requirements, the agency official should consider other factors that may demonstrate separate operations versus a joint operation. The following list of questions represent examples of factors to consider as part of the analysis.

- Will applicants own their own cattle individually and have an individual brand, tags, etc. to separately identify livestock, such as the applicant owns 25 identifiable cows rather than half of 50 cows?
- Will applicants own their own livestock and decide when and where they sell?
- Will applicants own their own equipment?
- Will applicants obtain separate RMA crop or Livestock Risk Protection livestock insurance policies for their own operations?
- Will applicants market and sell grain, livestock, and other products separately, or is everything sold together with revenues split equally?
- Will input suppliers maintain separate accounts for each individual instead of a single, joint account?
- Do lien search results show separate filings for each individual?

The lender will document if the applicant meets these requirements in the loan narrative.

Notes: Applications for certain guaranteed loans do not require lenders to submit items, such as tax returns, debt verifications, lien searches, and other similar items, to FSA. Therefore, for these applications, the lender should document items, such as those outlined in this subparagraph, in their loan narrative.

State Offices will contact the National Office for guidance, if needed, when evaluating loan requests involving undivided interests.--*

--137 Loan Term and Payment Schedules (7 CFR 762.124(b), (c), (d), and (e))--

A OL's Repayment Schedule

Loan funds or advances on a line of credit used to pay annual operating expenses will be repaid when the income from the year's operation is received, except when the borrower is establishing a new enterprise, developing a farm, purchasing feed while feed crops are being established, or recovering from disaster or economic reverses.

When repayment is scheduled over a longer period, the borrower's expected income is not sufficient security. The lender must secure the loan with additional chattel or real estate security for the period of repayment.

Advances for purposes other than for annual operating expenses will be scheduled for repayment over the minimum period necessary considering the applicant's ability to repay and the useful life of the security, but not in excess of 7 years.

B OL/LOC Final Maturity Date

The final maturity date for each loan cannot exceed 7 years from the date of the promissory note or line of credit agreement.

137 Loan Term and Payment Schedules (7 CFR 762.124(b), (c), (d), and (e)) (Continued)**C LOC Advances**

All advances on a line of credit must be made within 5 years from the date of the loan Guarantee.

D FO Final Maturity Date

Each loan must be scheduled for repayment over a period not to exceed 40 years from the date of the note or a shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

E CL Terms

Each loan must be scheduled for repayment over a period not to exceed 30 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

F Loan Note Guarantee Balloon Payments

Balloon payment terms are permitted on FO, OL or CL subject to the following.

- **Extended repayment schedules may include equal, unequal, or balloon *--installments if needed by a borrower on a guaranteed loan to establish a new enterprise, develop a farm, recover from a disaster or an economic reversal, or reasonably increase cash flow margin to increase working capital reserves and savings, including reasonable savings for retirement and education.--***
- **Loans with balloon installments must have adequate collateral at the time the balloon installment comes due. Crops, livestock other than breeding livestock, or livestock products produced are not sufficient collateral for securing such a loan.**
- **The borrower must be projected to be able to refinance the remaining debt at the time the balloon payment comes due based on the expected financial condition of the operation, the depreciated value of the collateral, and the principal balance on the loan.**

When conditions warrant, FO, OL, or CL may have repayment schedules that may include equal, unequal, or balloon payments. The period of time between loan origination and a balloon installment must be no shorter than that provided to nonguaranteed customers for similar type transactions.

Section 4 Credit Decision

Subsection 1 Financial Feasibility of Proposed Loan (7 CFR 762.125)

151 Determining Financial Feasibility of Loans (7 CFR 762.125)

A Purpose

This paragraph describes how SEL and CLP lenders must demonstrate that an applicant has sufficient financial resources to repay a guaranteed loan. PLP lenders use methods outlined in their CMS to determine the financial feasibility of a loan.

B Feasible Plan

The applicant's proposed operation must project a feasible plan. The cash flow budget analyzed to determine feasible plan must represent the predicted cash flow of the operating cycle.

Note: See Exhibit 2 for the definition of feasible plan.

A lender must determine whether an applicant has sufficient financial resources to repay a guaranteed loan. To make this determination, lenders work with the applicant to prepare a cash flow budget for the farm operation. As used in this part, the term "operation" includes all farm activities and income as well as all nonfarm income pledged by the applicant.

The cash flow budget used in the loan application must:

- reflect, as closely as possible, the predicted cash flow of the operating cycle
- be documented in sufficient detail to adequately reflect the overall condition of the operation.

--The lender's projected cash flow budget should include all cash inflows and outflows, including any reasonable capital reserves or savings for education and retirement if needed to support operational stability and growth. If the authorized agency official determines that cash inflows have been overestimated or cash outflows have been underestimated or omitted from the plan, the authorized agency official will recalculate the debt coverage. If the recalculation shows adequate cash flow, the authorized agency official will document the findings and proceed with processing the request. The inclusion of reasonable capital reserves or savings for education and retirement in the budget is not required, but may be done at the lender's discretion according to their internal lending policies. If a lender does not specifically budget for reasonable working capital reserves or savings, they still should address how the applicant is able to make progress toward long-term goals in the loan narrative.--

If, after re-evaluation, the cash flow budget is no longer feasible, the lender will be notified and given up to 10 calendar days to revise the plan. The lender will justify any changes made to the cash flow budget.

151 Determining Financial Feasibility of Loans (7 CFR 762.125) (Continued)

B Feasible Plan (Continued)

Note: For streamlined CL requests, a cash flow budget is **not** required. The lender should follow their internal procedures to determine financial feasibility.

Poultry or hog production contracts are the basis of grower income and facility value. The dependability of production contracts has a profound impact on the prospects for loan repayment. “Flock-to-flock” or “turn-by-turn” type arrangements alone may not be a dependable source of income or a reasonable projection of income for poultry or hog applicants who **do not** have a current financial performance history with FSA.

Note: For contract income to be considered dependable, the contract must:

- be for a minimum period of 3 years
- provide for termination based on objective “for cause” criteria only
- require that the grower be notified of specific reasons for cancellation
- provide assurance of the grower’s opportunity to generate enough income to ensure repayment of the loan, by incorporating requirements such as a minimum number of flocks or turns a year, minimum number of bird or hog placements per year, or similar quantifiable requirements.

Applicants requesting loans to expand their poultry or hog operation by adding more houses/barns or purchasing additional land to increase the size of the poultry or hog operation, and who **are** presently indebted to FSA, will be required to have a contract with a minimum 3-year term. The contract must at least cover the facilities financed with the guaranteed funds.

*--When contract income **cannot** be determined to be dependable and likely to continue, it **cannot** be used to reasonably project future income, the authorized agency officials will:--*

- inform the guaranteed lender of the contract provisions that result in the determination
- provide an opportunity for submitting a revised contract before a final decision on the request.

Note: Whenever possible, guarantee requests should be approved subject to modification of unacceptable contract provisions.

151 Determining Financial Feasibility of Loans (7 CFR 762.125) (Continued)**B Feasible Plan (Continued)**

*--The impact of industry trends must be assessed in guaranteed loan requests from poultry and/or hog growers and can be based on standard production budgets developed by contractors, consultants, or extension specialists. While these budgets are acceptable starting points, the budget must reflect realistic performance assumptions for the individual situation, including, but not limited to, the following:

- increased input costs
- changes in unit numbers and weights
- increased idle time between flocks of poultry or turns of hogs
- other relevant factors that affect net income.

The impact of age, condition, and potential obsolescence of the facilities must be assessed for loans to purchase or refinance existing facilities. Budgets must factor in any reduced efficiency and the potential costs for required modernization of existing facilities to comply with production contract requirements.

Note: Unless PLP lender's CMS specifically addresses how production contracts are evaluated and analyzed for financial feasibility, PLP lenders will comply with the requirements of this subparagraph.--*

152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125)**A Purpose**

SEL's must follow FSA methodology for calculating projected income and expenses. This paragraph explains the methodology SEL's must use.

B Projected Income and Expenses

For standard eligible lenders, the projected income and expenses of the borrower and operation used to determine a feasible plan must be based on the applicant's proven record of production and financial management.

SEL's also must use reliable or reasonable forecasted crop or livestock prices. Where available, the operation's actual production records must be used to estimate future production yields. The expenses used in the cash flow budget should be based on prior experience and be consistent with anticipated prices for similar goods and services. Projections of income from FSA farm programs should be prepared with assistance from FSA farm program staff.

The projected production yields and financial performance should not be outside of the range of the applicant's previous performance, unless fully documented and justified. The loan narrative must support the projected production, income, and expenses, explain any *--discrepancies, and support other major assumptions used in the cash flow budget, including any reasonable capital reserves or savings for education and retirement if needed to support operational stability and growth. The inclusion of reasonable capital reserves or savings for education and retirement in the budget is not required, but may be done at the lender's discretion according to their internal lending policies. If a lender does not specifically budget for reasonable working capital reserves or savings, they still should address how the applicant is able to make progress toward long-term goals in the loan narrative.--*

Note: For streamlined CL requests, SEL's will follow their internal procedures for determining financial feasibility.

152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125) (Continued)

G Consistency of Farm Operating Plans

When the applicant has or will have a cash flow budget developed in conjunction with a proposed or existing Agency direct loan, the two cash flow budgets must be consistent.

To be consistent, the 2 plans must be of the same operation, with similar major assumptions, but they do not have to be identical.

***--Example:** The lender and FSA may use slightly different projected prices and yields or different allocations for reasonable working capital reserves or savings for education and retirement.--*

H Refinancing Existing Debt

Loan guarantee requests for refinancing must ensure that a reasonable chance for success still exists. The lender must demonstrate that problems with the applicant's operation have been identified, can be corrected, and the operation returned to a sound financial basis.

An allowed use of guaranteed loan funds is to refinance existing debt, including direct loans and other farm loans. In many cases, refinancing existing debt is required because the borrower is experiencing financial difficulties. In these cases, requests for use of guaranteed loan funds for refinancing debt must ensure that a reasonable chance for operational success exists.

The lender must indicate in the loan narrative what the applicant will do differently to ensure the success of the farming operation. The lender must explore different financial options that would allow the applicant to achieve a feasible plan. The lender should consider adjusting the loan terms or negotiating with other creditors to adjust their loan terms or rates as needed to make the loan feasible. See Section 2 for additional information on limitations to refinancing.

152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125) (Continued)**I Alternate Income**

When a feasible plan depends on income from other sources in addition to income from owned land, the income must be dependable and likely to continue. The lender will analyze business ventures other than the farm operation to determine their soundness and contribution to the operation.

Income from custom work and seasonal or temporary positions should not be included in the cash flow budget, unless there is a history of income from similar sources or other strong evidence of likelihood.

153 Calculating Projected Income and Expenses by CLP Lenders (7 CFR 762.125)

A Purpose

CLP lenders are provided greater flexibility in estimating the projected income and expenses of an operation. They are not required to estimate production yields or price forecasts for crops, livestock, and livestock products.

The remainder of this paragraph explains the FSA guidelines for determining an applicant's income and expenses by CLP lenders.

B Using Financial History

For CLP lenders, the projected income and expenses of the borrower and operation must be based on the applicant's financial history and proven record of financial management.

CLP lenders must use their judgment and evaluation of the individual circumstances to determine the best method for estimating the projected income and expenses of the applicant, including any reasonable working capital reserves or savings for education and retirement if needed to support operational stability and growth. CLP lenders have the option of using the operation's production yields, as described in paragraph 152 for SEL. CLP lenders will use the applicant's income and other financial records. As with the use of production yields, the lender should not merely average 3 years of income figures. An average is only appropriate when there have not been major changes in the operation. If there have been major changes in yields, prices, or production, this should be considered when estimating the projected income and expenses. The inclusion of reasonable working capital reserves or savings for education and retirement in the budget is not required, but may be done at the lender's discretion according to their internal lending policies. If a lender does not specifically budget for reasonable working capital reserves or savings, they still should address how the applicant is able to make progress toward long-term goals in the loan narrative.

The lender should consider the range and trends as indicators of the capability and limitations of the operator, land, and equipment. The projection should:

- reflect what the current or proposed operation can reasonably and justifiably accomplish
- not be outside the range of historical performance unless fully justified.

The loan narrative should:

- document the method used to project income and expenses
- provide an explanation of any deviations from historical production
- address any major changes in yields or prices.

Note: For streamlined CL requests, CLP lenders will follow their internal procedures for determining financial feasibility.

154 Determining Financial Feasibility of Loans by PLP Lenders (7 CFR 762.125)**A Purpose**

PLP lenders are not required to use the financial feasibility methods in paragraph 151. These lenders will use the methods that FSA approved at the time of PLP certification.

This paragraph explains the guidelines FSA will use in evaluating PLP determination of the financial feasibility of loans.

B Using Internal Procedures

Notwithstanding any other provision of this section, PLP lenders will follow their internal procedures on financial feasibility as agreed to by the Agency during PLP certification.

To determine financial feasibility, PLP lenders must follow the procedures agreed to by FSA and the lender as described in CMS. The loan narrative must contain justification for *--assumptions made during the determination of financial feasibility, including any reasonable capital reserves or savings for education and retirement if needed to support operational stability and growth. The inclusion of reasonable working capital reserves or savings for education and retirement in the budget is not required, but may be done at the lender's discretion according to their internal lending policies. If a lender does not specifically budget for reasonable working capital reserves or savings, they still should address how the applicant is able to make progress toward long-term goals in the loan narrative.--*

155 Determining Financial Feasibility of EZ Guarantee Loans (7 CFR 762.125)**A Purpose**

Lenders submitting EZ Guarantee applications are not required to use the financial feasibility methods in paragraph 151. Lenders will demonstrate financial feasibility using the procedures in this paragraph.

B Using Internal Procedures

[7 CFR 762.125(d)] Notwithstanding any other provision of this section, FSA will evaluate EZ Guarantee application financial feasibility using criteria below. EZ Guarantee applications that satisfy the criteria will be determined to meet the financial feasibility standards in this section.

The lender's standards need to meet the following requirements:

- The lender must perform the same evaluation and apply their same underwriting standards for an EZ Guarantee loan as they would for a nonguaranteed loan of the same size and type, including any reasonable working capital reserves or savings for education and retirement if needed to support operational stability and growth. The inclusion of reasonable working capital reserves or savings for education and retirement in the budget is not required, but may be done at the lender's discretion according to their internal lending policies. If a lender does not specifically budget for reasonable working capital reserves or savings, they still should address how the applicant is able to make progress toward long-term goals.
- The lender must determine that the EZ Guarantee applicant demonstrates reasonable prospects to repay the requested loan. This determination must be arrived at using the lender's typical underwriting criteria and methods such as a cash flow projection, a scorecard underwriting model, historical income and expenses, or other repayment capacity indicator.
- The lender will describe the methods and criteria used to determine the applicant's prospects for repayment on the EZ Guarantee application form. The description should address how the EZ Guarantee application compares to their own approval standards.

The following are examples of commonly used methods to evaluate capacity for repayment, other methods may be used:

- projected cash flow
- historical cash flow
- scorecard underwriting system.

[7 CFR 762.125(d)(3)] EZ Guarantee applications that do not satisfy the criteria will require further documentation.

156-165 (Reserved)

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p))**A Consolidation of Loans**

Loans covered by interest assistance agreements cannot be consolidated.

B Transfer and Assumption

For loans covered by an IA agreement, such loans can be transferred only when the transferee was liable for the debt on the effective date of the interest assistance agreement. Loans covered by interest assistance can be transferred to an entity if the entity is eligible in accordance with § 762.120 (paragraph 108 and applicable paragraphs 109 and 110) and § 762.150(b) (paragraph 224) and at least one entity member was liable for the debt on the effective date of the interest assistance agreement.

***--C Debt Write-Down**

When consideration is given to using a debt write-down to service a delinquent account, the subsidy level will be recalculated before any write-down. If IA is available on the loan and a feasible plan can be obtained using IA, IA will be used instead of a write-down. Interest assistance will be discontinued as of the date of any write-down on a loan covered--* by an interest assistance agreement. No further IA will be available on any loan that has been written down.

D Rescheduling or Deferral of Loans and Additional Beginning Farmer IA Funding

When a borrower defaults on a loan with interest assistance or the loan otherwise requires rescheduling or deferral, the interest assistance agreement will remain in effect for that loan at its existing terms. The lender may reschedule the loan in accordance with § 762.145 (see also paragraphs 312-327). For Interest Assistance Agreements dated June 8, 2007, or later increases in the restructured loan amount above the amount originally obligated do not require additional funding; however, interest assistance is not available on that portion of the loan as interest assistance is limited to the original loan amount.

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

D Rescheduling or Deferral of Loans and Additional Beginning Farmer IA Funding (Continued)

If additional funding is required because of additional years of IA either for loans being rescheduled or for beginning farmers receiving additional years of IA, the authorized agency official must modify loan documents according to the following table.

Loan Document	Action
Original FSA-1940-3 or FSA-2231	<p>In item 5, ENTER “This loan has been restructured. The term of the IA is being modified from _ years to _ years.”</p> <p>Modify the Guarantee Obligation Request Screen to indicate the correct IA term.</p> <p>In GLS the Beg Farmer/Rancher dropdown menu must be checked in order to have the additional funding obligated, if IA is being extended beyond 5 years for a beginning farmer.</p>
FSA’s copy of FSA-1980-64 or FSA-2221	Strike through the original expiration date and enter the new expiration date as applicable. The lender, borrower, and FSA shall initial the changes.

Note: The effective ending date must be equal to or before the new loan maturity date but cannot be greater than 10 years from the effective date of the borrower’s first FmHA-1980-64, FSA-1980-64, or RD-1980-64 for loans made before June 8, 2007. For loans made after June 8, 2007, the ending date of the FSA-2221 must not exceed 5 years from the date of the first FSA-2221, unless the borrower was a beginning farmer at the time of rescheduling, reamortization, or deferral.

--Copies of the modified loan documents will be FAXed or sent to the RD Business Center, Guaranteed Commercial Branch, according to 1-FLP, paragraph 5.--

Part 10 Processing Approvals and Issuing the Guarantee

244 Loan Approval (7 CFR 762.122)

A Loan Limits

[7 CFR 762.122 (a)] The agency will not guarantee any loan that would result in the applicant's total indebtedness exceeding the limits established in § 761.8 of this chapter (1-FLP, paragraph 29).

The maximum FO, CL, or OL levels outlined in this subparagraph include the guaranteed loan being made plus any outstanding direct or guaranteed principal balances, as indicated, owed by anyone who will sign the promissory note.

The total outstanding combined guaranteed FO, CL, SW, and OL principal balance cannot *--exceed \$2,251,000.

The total outstanding direct and guaranteed FO, CL, and SW principal balance cannot exceed \$2,251,000.

The total outstanding direct and guaranteed OL principal balance cannot exceed \$2,251,000.

The total combined outstanding direct and guaranteed FO, CL, SW, and OL principal balance cannot exceed \$2,851,000.

The total combined outstanding direct and guaranteed FO, CL, SW, OL, and EM principal balance cannot exceed \$3,351,000.

Notes: The maximum loan levels established in this subparagraph are for FY 2025.--*

The dollar limit of guaranteed loans is adjusted annually based on inflation.

--FSA employees should see 1-FLP for information on loan approval authorities.--

B Submitting FSA-2231 to the Approval Official

When the loan exceeds the authorized agency official's approval authority, the authorized agency official should send the approval official all information the approval official needs to evaluate the loan request, including the following:

- a completed FSA-2231
- GLS Loan Approval Screens
- Application for Guarantee for all applicants

244 Loan Approval (7 CFR 762.122) (Continued)

B Submitting FSA-2231 to the Approval Official (Continued)

- Conditional Commitment with recommended changes
- the balance sheet and cash flow statement (for SEL applicants)
- the loan narrative
- any other information the approval official requests.

The authorized agency official should verify the lender has a Lender's Agreement in effect.

Once the loan approval official executes FSA-2231, the authorized agency official may then proceed to execute all other loan-related documents, unless otherwise specified by the loan approval official.

C Lender Notification of Authorized Agency Official Decision

The lender and applicant should be informed of the approval decision in writing.

- If the application is approved and funds are available, the authorized agency official shall prepare a letter to the lender (subparagraph D), with a copy to the applicant, and a Conditional Commitment, and proceed to paragraph 245.
- If the application is approved and funds are not available, the authorized agency official shall prepare a letter (subparagraph E) to the lender with a copy to the applicant, informing them the loan is approved, subject to the allocation of funding. This letter should inform the lender that funding is being requested and the loan should not be closed until they receive the Conditional Commitment, agree to the conditions, and execute the document.

Notes: Under certain circumstances a lender may find it necessary to close a loan that has been approved but funds are not available. These closings shall not be construed as an indicator that the guarantee is not needed. Any lender who decides to close an approved loan before funds are available should contact FSA before closing to determine whether there will be any additional closing conditions that would have been on the Conditional Commitment. Lenders should be aware that:

- the closing is at their own risk and there are circumstances that could result in FSA not issuing the guarantee once funding becomes available, such as any material change in the borrower's condition, financial or otherwise, since submission of the application
- all interest accrued on the lender's loan before guaranteed loan closing (execution of the allonge), will not be covered by the guarantee.

--Accrued interest is any interest documented on the allonge.--

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

B FSA Actions (Continued)

*--The loan guarantee shall not be issued if the lender has not closed the loan according to the agreed upon conditions and supplied all required closing documents in accordance with FSA requirements.

In those instances, FSA shall make all reasonable efforts to work with the lender to resolve the issue(s) and shall also consider if any conditions can be revised. If the lender is unwilling to correct the problem(s), unable to correct the problem(s), or becomes unresponsive to those requests, the authorized agency official shall issue a rejection letter and inform the applicant, with a copy to the lender, of the appeal rights according to 1-APP. Only after completion of any appeal may the authorized agency official proceed with deobligation of funding as outlined in paragraph 249.--*

248 Issuing the Loan Guarantee

A Action

Once the requirements of paragraph 247 have been met, the authorized agency official may prepare and issue the Loan Guarantee.

- If the lender submitted loan closing documentation by LINC, the authorized agency official will review the data input by the lender along with the documents received directly from the lender and accept the loan closing in the GLS Add Loan Screen, if acceptable. If the data or other documentation needed is not correct, the agency official will work with appropriate parties to correct the data.
- If the lender completed and submitted hard copy of FSA-2236, the authorized FSA agency official must review and complete the closing in GLS.

The original Loan Guarantee should be provided to the lender to be attached to the original note. A conformed copy, or signed and dated photocopy, with copies of the note should be kept by FSA in the loan docket.

B Documents To Be Transmitted to the RD Business Center, Guaranteed Commercial Branch

--The guarantee fee will be processed through NRRS using applicable collection type if the fee is paid by paper check. See 64-FI for additional guidance. Guarantee fees may also be processed through Pre-Authorized Debit in GLS on the Add Loan Closing Screen. If the guarantee fee is paid by Pre-Authorized Debit, no additional action is needed in NRRS. The authorized agency official will make every attempt to review the closing documents before processing the guarantee fee. However, FSA will adhere to the timeframes in 64-FI to process the fee even in situations when the authorized agency official is not able to review the closing documents timely. The loan closing transaction will be input through the GLS Add Loan Closing Screen.--

C Refund of Guarantee Fee

The guarantee fee is not refundable once the Loan Guarantee has been issued and loan funds disbursed. However, if the fee was processed before reviewing closing documents and it is later determined that the guarantee cannot be issued, the fee may be refunded to the lender.

The authorized agency official will forward a memorandum to the State Office with the reasons FSA was not able to issue the Loan Guarantee and request that the fee be refunded. If approved, the State Office will FAX the memorandum to the RD Business Center, Guaranteed Commercial Branch, requesting that the fee be refunded.

--A request for a guarantee fee refund for any other reason will be forwarded to the-- National Office for approval.

Section 2 General Servicing Actions**278 Subordination of Guaranteed Loan Security (7 CFR 762.142)****A Overview**

The lender may not subordinate its interest in property which secures a guaranteed loan except as follows:

- **the lender may, with written Agency approval, subordinate its security interest in crops, feeder livestock, livestock offspring, or livestock products when no funds have been advanced from the guaranteed loan for their production, so a lender can make a loan for annual production expenses**
- **the lender may, with written Agency approval, subordinate its interest in basic or additional security in cases where the subordination is required * * * to refinance an existing prior lien, no additional debt is being incurred, and the lender's security position will not be adversely affected by the subordination**
- **the Agency's National Office may provide an exception to the subordination prohibition if such action is in the Agency's best interest.**

However, in no case can the loan made under the subordination include tax exempt financing.

B Lender Request for Subordination of Guaranteed Loan Security

The authorized agency official may approve a lender's request to subordinate crops, feeder livestock, livestock offspring, milk, produce, and other normal income security that were not produced through advances made under the guaranteed loan, to allow a borrower to obtain unguaranteed annual operating credit. Multi-year assignments of FSA program payments will not be subordinated. However, in those cases where normal income security is being subordinated so another lender can make a loan for annual production expenses, any amount that exceeds the guaranteed loan payment for that year may be released.

278 Subordination of Guaranteed Loan Security (7 CFR 762.142) (Continued)

B Lender Request for Subordination of Guaranteed Loan Security (Continued)

FSA discourages subordination of real estate, equipment, and other basic security and will **not** provide regulatory approval authority at levels lower than DAFLP, except in cases where the subordination is required to allow another lender to refinance an existing prior lien. The * * * authorized agency official will approve the subordination, provided:

- no additional debt is being incurred
- the lender's security position will **not** be adversely affected by the subordination.

When SED determines that the subordination of basic and/or additional security for any other purpose is in the best interest of FSA and the borrower, the request shall be forwarded to the National Office for DAFLP approval. Subordination of basic and/or additional security will **not** be approved simply to allow the operation to expand or to make improvements, unless necessary for the operation to remain feasible, or to allow a lender to secure an operating loan with the security. The request should contain:

- a description of the transaction including the use of the funds to be obtained through the subordination
- explanation of the borrower's cash flow before and after the proposed subordination documenting the improvement to be attained
- certification that the guaranteed loan will still be secured after the subordination based on a current appraisal

Note: If the subordination request is to refinance existing real estate debt and no additional funds are provided, an appraisal is **not** required.

an explanation of how the subordination is necessary to keep the borrower in business, or otherwise how the Government will benefit from the subordination, other than through conservation of loan funds

- if funds are to be advanced for expansion or improvements, an explanation as to how the proposal is necessary for the feasibility of the operation.

FSA's refusal to grant an exception to published regulations is **not** appealable.

279 Subordination of Direct Loan Security (7 CFR 762.142(c))

A Direct Loan Subordination When Guaranteed Loan Is Being Made

The Agency may subordinate its security interest on a direct loan when a guaranteed loan is being made if, as appropriate, the requirements of the regulations governing Agency direct loan subordinations are met and only in the following circumstances:

- to permit a guaranteed lender to advance funds and perfect a security interest in crops, feeder livestock, livestock offspring, or livestock products, such as milk, eggs, wool, etc.
- when the lender requesting the guarantee needs the subordination of the Agency's lien position to maintain its lien position when servicing or restructuring
- *--when the lender requesting the guarantee is refinancing debt and the Agency's position on real estate (or personal property) security will not be adversely affected--*

* * *

- to permit a Line of Credit to be advanced for annual operating expenses.

See 4-FLP for additional guidance.

B Direct Loan Subordination to Secure LOC

The Agency may subordinate its basic security in a direct loan to permit guaranteed line of credit only when both of the following additional conditions are met.

- The total unpaid balance of the direct loans is less than or equal to 75 percent of the value of all of the security for the direct loans, excluding the value of growing crops or planned production, at the time of the subordination. The direct loan security value will be determined by an appraisal. The lender requesting the subordination and guarantee is responsible for providing the appraisal and may charge the applicant a reasonable appraisal fee.
- The applicant cannot obtain sufficient credit through a conventional guaranteed loan without a subordination. Before approving a combination guaranteed loan and subordination, the local loan approval official will document that the applicant requested a Contract of Guarantee - LOC through at least 1 participating lender. If the local loan approval official has information available that supports a conclusion that credit is not available without a subordination, documentation in the case file will be sufficient to verify that other credit is not available.

280 Partial Releases (7 CFR 762.142(b))

A Overview

A partial release is the release of a portion of security used as collateral for a loan.

B Lender Request for Partial Release

A lender may release guaranteed loan security without FSA concurrence as follows:

- **when the security item is being sold for market value and the proceeds will be applied to the loan in accordance with lien priorities**

Note: In the case of term loans, proceeds will be applied as extra payments and not as a regular installment on the loan. Security will not be released for the purposes of providing collateral for another loan.

- **the security item will be used as a trade-in or source of down payment funds for a like item that will be taken as security**

Notes: The security may be exchanged for a like item of equal or greater value, based on a current appraisal.

FSA input may be requested when there is a question of whether a reasonable value is being obtained for the security.

- **the security item has no present or prospective value.**

Note: Older security items that are now junk or obsolete may be left off of the lender's security agreement when it is updated. Regardless, proceeds from the sale of such items as scrap or salvage should be applied to the loan as an extra payment.

***--A partial release of security may be approved in writing by the Agency (SED) upon--* the lender's request when:**

- **proceeds will be used to make improvements to real estate that increase the value of the security by an amount equal to or greater than the value of the security being released**

Example: A borrower may sell a parcel of real estate to provide funds for construction of a dwelling.

280 Partial Releases (7 CFR 762.142(b)) (Continued)

B Lender Request for Partial Release (Continued)

- **security, other than significant income generating property, will be released outright, with no consideration, but the total unpaid balance of the guaranteed loan is less than or equal to 75 percent of the value of the security for the loan after the release, excluding the value of growing crops or planned production, based on a current appraisal of the security**

***--Note:** For LOC's, the loan ceiling must be used when calculating the loan to value. The value of crops may be considered in the calculation only if harvested and marketable; for example, stored in bins; and the value of market livestock must be considered at their current weight.--*

- **significant income generating property will not be released unless it is being replaced, and business assets will not be released for use as a gift or any similar purpose**

***--Notes:** Significant income generating property is real or personal property that is collateral for the guaranteed loan and generates income that is necessary for the farming operation to achieve a feasible plan.

Significant income generating property is considered a business asset and will not be released unless being replaced or proceeds are being used for comparable authorized loan purposes if the loan to value is 75 percent or less after the release, and if the lender can demonstrate that the release will improve the borrower's profitability and likelihood of success.--*

- **Agency concurrence is provided in writing to a lender's written request.**

Note: Standard eligible lenders and CLP lenders will submit the following to the Agency:

- **a current balance sheet on the borrower**
- **a current appraisal of the security**

Note: Unless specifically requested by FSA, the lender will not be required to provide an appraisal of any real estate security being released. **Based on the level of risk and estimated equity involved, the Agency shall determine what security needs to be appraised. Any required security appraisals must meet the requirements of § 762.127.**

- **a description of the purpose for the release**
- **any other information requested by the Agency to evaluate the proposed servicing action.**

280 Partial Releases (7 CFR 762.142(b)) (Continued)**C FSA Response to Request for Partial Release**

Written consent of any prior or junior lien holder must be obtained and delivered to FSA if any proceeds are not applied according to lien priority.

A partial release will not be allowed if it would result in the borrower being released from loan liability.

D Reviewing Requests for Partial Releases

--FSA will review and approve or reject the request and notify SEL within 30 calendar-- days, and CLP and PLP lenders within 14 calendar days, from receipt of a complete request for servicing.

When reviewing a lender's request for a partial release, the authorized agency official should *--carefully consider if the security to be released is significant income generating property. In all instances, the authorized agency official should assess whether or not the release of land will affect the overall value of the remaining security. In addition, the authorized agency official will determine whether an appraisal of security is necessary based on risk and perceived equity involved in the release. If there is a question on the value of the security, the authorized agency official should request an appraisal. The appraisal must be paid for by the lender or borrower and meet the requirements of Part 8, Section 4, Subsection 3. Partial releases that require agency approval must be approved by SED.--*

The lender will provide the Agency copies of any agreements executed to carry out the servicing action. PLP lenders will request servicing approval in accordance with their agreement with the Agency at the time of PLP status certification. * * *

281 Transfers and Assumptions (7 CFR 762.142(d))**A Overview**

A transfer and assumption is an action whereby a new, eligible guaranteed loan applicant assumes an existing guaranteed loan. The transfer and assumption process is very similar to the application and approval of a new loan.

B Lender Request for a Transfer and Assumption

--The servicing action must be approved by the Agency in writing. The transferee must apply for a loan in accordance with § 762.110 (Part 5), and provide any other information requested by the Agency to evaluate the transfer and assumption request. A current appraisal is required unless the lien position of the guaranteed loan will not change.--

* * *

Any required security appraisals must meet the requirements of § 762.127 (Part 8, Section 4, Subsection 3).

Lenders must also submit a request to release the transferor, guarantor, or any third party from liability when applicable. The request must include documentation to support the release according to § 762.146(c) (paragraph 361).

Note: A release of liability as a result of a transfer and assumption is considered a release due to liquidation. The transferor is liquidating by transferring the operation to a different individual or entity but with no loss to the agency.

281 Transfers and Assumptions (7 CFR 762.142(d)) (Continued)

C Conditions and Requirements for a Transfer and Assumption

The following limitations apply to transfers and assumptions.

- **The transferee must meet the eligibility requirements and loan limitations for the *--loan being transferred, including all requirements relating to loan rates and terms, loan security, feasibility, and environmental and other laws applicable to an applicant under this part, except for a current appraisal when permitted in paragraph (d)(2) of this section.--***

Note: Loans made to beginning or socially disadvantaged farmers in conjunction with the direct FO down payment loan program may be transferred to and assumed only by beginning farmers and socially disadvantaged farmers. Loans made to beginning farmers participating in a qualified State beginning farmer program may be transferred to and assumed only by beginning farmers.

- **The lender will use its own assumption agreements or conveyance instruments providing they are legally sufficient to obligate the transferee for the total outstanding debt.**
- **The lender must give any holder notice of the transfer. If the rate and terms are changed, written concurrence from the holder is required.**

Additional limitations that apply to transfers and assumptions are as follows:

- the market value of the security being acquired, plus any additional security the transferee proposes to give, must be adequate to secure the balance of the guaranteed loan plus any prior liens
- at the time of the assumption, the indebtedness of the transferee may not exceed the limits outlined in subparagraph 244 A.

288 Servicing SAA's (7 CFR 762.147)**A Overview**

--When receiving a debt write-down, a borrower is required to execute FSA-2253 that entitles the lender to future payments if the real estate used to secure the written down loan appreciates in value. FSA-2253 gives both the lender and FSA the possibility of recapturing money that was written off as a result of a debt write-down.--

Before executing FSA-2253, the lender must obtain an appraisal of the real estate that is used to secure the written down loan. The appraisal figure will be recorded on FSA-2253. The appraisal must be dated within 1 year of FSA-2253 execution to be valid.

All servicing requirements apply to all existing SAA's that were entered into before SAA becoming FSA-2253. For purposes of this handbook, wherever FSA-2253 is referred to, it will also pertain to existing SAA's.

All requirements in this paragraph apply to all lender types, unless otherwise noted.

B Lender Responsibilities When Servicing FSA-2253

The lender is responsible for:

- **monitoring the borrower's compliance with the Shared Appreciation Agreement**
- **notifying the borrower of the amount of recapture due**
- **beginning October 1, 1999, a notice of the agreement's provisions not later than 12 months before the end of the agreement**
- **reimbursing the Agency for its pro-rata share of recapture due.**

288 Servicing SAA's (7 CFR 762.147) (Continued)

C Events That Trigger Recapture

Recapture of any appreciation of real estate security will take place at the end of the term of the Agreement, or sooner, if the following occurs:

- **on the conveyance of the real estate security (or a portion thereof) by the borrower**

Note: If only a portion of the real estate is conveyed, recapture will only be triggered against the portion conveyed. Partial releases will be handled in *--accordance with § 762.142(b) (paragraph 280); and transfer of title to the--* spouse of the borrower on the death of such borrower, will not be treated as a conveyance under the agreement.

- **on the repayment of the loans**
- **if the borrower ceases farming operations.**

Recapture may also occur in either of the following cases:

- the note FSA-2253 is attached to is accelerated
- the borrower dies and there is no spouse to whom the property will be conveyed.

After FSA-2253 has been executed, the lender must monitor the borrower's compliance with FSA-2253. This includes determining when an event that activates FSA-2253 occurs.

When the borrower performs an action that triggers the collection under FSA-2253, the lender will obtain an appraisal of the collateral, determine the recapture due, if any, and notify the borrower of the amount due in writing. **Security values will be determined by appraisals obtained by the lender and meeting the requirements listed in 7 CFR 762.127** (paragraphs 181 through 183). The lender will pay for the appraisal or recapture the appraisal expense from the borrower. If the sale of security triggers recapture and the price received for the security is higher than its appraised value, then the sale price will serve as the upper limit when calculating incremental increase in the appreciation of security.

After recapture, the lender will give FSA its pro-rata share of the proceeds or service the account according to subparagraph F.

To help lenders monitor a borrower's compliance with FSA-2253, authorized agency officials may encourage lenders to use the letter in subparagraph D to remind the borrower of the FSA-2253 commitment.

288 Servicing SAA's (7 CFR 762.147) (Continued)

***--D Example of Letter Reminding Loan Borrowers of Potential Write-Down Recapture**

The following is an example of a letter for reminding loan borrowers of potential write-down recapture.

Borrower's Address

Dear (Borrower):

On Month, Day, Year, Name of Lender, wrote down \$_____ of a debt that you owed in connection with a guarantee that was provided by the Farm Service Agency (FSA). In consideration for receiving this write-down, you executed a ___10-year ___5-year Shared Appreciation Agreement (Agreement) in connection with the real estate that you pledged as collateral for this loan. We have enclosed a copy of the Agreement for your reference.

This letter is to remind you of the possibility that you may have to repay all or a portion of the amount of your loan that was written down. The Agreement that you signed requires you to repay all or a portion of the debt written down if the real estate that secured the loans increased in value and one of the following occurs:

- ___10 years ___5 years have passed since you signed the Agreement;
- Title of the real estate security (or a portion thereof) was conveyed (with certain exceptions);
- The remainder of the loan has been repaid; or
- You have quit farming.

If you believe the value of your property has increased, you will need to consider this potential liability when you make future plans. The amount of repayment cannot exceed the amount written down.

If you would like any additional information on how this Agreement can affect you and what actions you need to take, please contact this office.

Sincerely,

Lender's Representative

Enclosure

--*

288 Servicing SAA's (7 CFR 762.147) (Continued)

E Calculating Recapture

The amount of recapture will be based on the difference between the value of the security at the time recapture is triggered and the value of the security at the time of *--write-down as shown on the Shared Appreciation Agreement.--*

- If recapture is triggered within 4 years of the date of the Shared Appreciation Agreement, the lender shall recapture 75 percent of any positive appreciation in the market value of the property securing the loan or line of credit agreement.
- If recapture is triggered after 4 years from the date of the Shared Appreciation Agreement, the lender shall recapture 50 percent of any positive appreciation in the market value of the property securing the loan or line of credit agreement.

--The amount of recapture will not exceed the amount of write-down shown on the-- Shared Appreciation Agreement.

288 Servicing SAA's (7 CFR 762.147) (Continued)

F Servicing Recapture Debt

If recapture is triggered under the Shared Appreciation Agreement and the borrower is unable to pay the recapture in a lump sum, the lender may do 1 of the following.

- **Reschedule the recapture debt with the consent of the Agency, provided the lender can document the borrower's ability to make amortized payments on the recapture debt plus pay all other obligations. In such case, the recapture debt will not be covered by the Guarantee.** The lender will send FSA its share of every payment when it's received.
- **Pay the Agency its pro rata share of the recapture due. In such case, the recapture debt of the borrower will be covered by the Guarantee.**

***--Note:** FSA-2247 will be completed and submitted to the RD Business Center, Guaranteed Commercial Branch to indicate the new maturity date, if applicable, including the amortization period of the recapture. If the guaranteed loan has matured, complete FSA-2244 and submit it to the RD Business Center, Guaranteed Commercial Branch indicating that the termination will be reversed and the--* loan reinstated.

- **Service the account in accordance with § 762.149.**

If recapture is triggered, and the borrower is able, but unwilling to pay the recapture in a lump sum, the lender will service the account in accordance with § 762.149.

Any shared appreciation recaptured by the lender will be shared on a pro-rata basis between the lender and the Agency.

All appraisal fees will be paid by the lender. The lender may pass the fee on to the borrower. The borrower has 30 calendar days to repay the debt in a lump sum after receiving a notice of the appreciation due to the lender.

The authorized agency official shall process recapture payments by completing FSA-2254
--and forwarding it with payment to the RD Business Center, Guaranteed Commercial Branch.--

288 Servicing SAA's (7 CFR 762.147) (Continued)

G Basis for the Amount of Recapture

Because of 2 consecutive years of drought that destroyed crops, a farmer and lender devised a restructuring plan where \$200,000 of remaining debt was written down to \$100,000 and FSA-2253 was executed. FO had been guaranteed by FSA at 90 percent. An appraisal at the *--time of the write-down valued the farmer's security at \$75,000.--*

One year later the farmer sells his farm for \$85,000. The Basis for the Amount of Recapture is equal to:

Value of real estate security (appraisal or sale price, whichever one is higher) at the time of a recapture triggering event minus value of real estate security when FSA-2253 was executed.

Basis for the Amount of Recapture: $\$85,000 - \$75,000 = \$10,000$.

Since Basis for the Amount of Recapture is positive, the borrower will be required to pay the lender a percentage of the recaptured monies. The percentage to be paid to the lender within the first 4 years of FSA-2253 execution is 75 percent (the percentage drops to 50 percent 4 years after FSA-2253 execution). Therefore, the farmer owes his lender the following:

$\$10,000 \times 75\% = \$7,500$ due the lender.

FSA is entitled to the portion of the shared appreciation equal to the rate of the guarantee on the loan. Therefore, in this case, FSA's pro-rata share is equal to:

$\$7,500 \times 90\% = \$6,750$ due FSA.

At least annually, the authorized agency official will contact all lenders with active FSA-2253's to determine whether any FSA-2253 monies have been collected. To help lenders in their FSA-2253 monitoring responsibilities, a copy of the letter in subparagraph H may be used by FSA employees when performing this annual lender contact.

288 Servicing SAA's (7 CFR 762.147) (Continued)

H Example of Servicing Recapture Debt Reminder Letter

This is an example of a letter for reminding lenders of guaranteed loan accounts that received *--a write-down.

Lender's Address

Dear (Lender's Representative or Sir/Madam):

Our records indicate that the Farm Service Agency (FSA), paid your institution \$ ___ on Month, Day, Year, to reimburse it for the guaranteed portion of a \$ ___ loss that you suffered by writing down the account of your borrower Borrower's Name. This letter is to remind you that the borrower signed a Shared Appreciation Agreement (SAA) in connection with this write-down and you are obligated to monitor that agreement. We have enclosed a copy of SAA for your reference and provided you with a letter that you may use to remind your borrower of the potential for recapture under SAA.

SAA requires the borrower to repay all or a portion of the debt written down as a result of an increase in value of the real estate that secured the loans written down. This recapture is triggered by any of the following events:

- ___10 years ___5 years have passed since the borrower executed SAA;
- Title to the real estate security (or a portion thereof) was conveyed by the borrower to someone other than the borrower's spouse upon the death of the borrower;
- The loans have been repaid; and
- The borrower quits farming.

Please review your records, consult with the borrower, review land records, or take other actions to determine whether any of the triggering actions have occurred in this case. If so, you should inform the borrower of the amount that they owe your institution under the terms of their agreement. If SAA has not been triggered, you may still wish to remind the borrower of the terms of this agreement, to allow sufficient time for them to plan for this possibility. You are responsible for obtaining any appraisals necessary to document the amount of appreciation; however, you may pass the expense to the borrower.

I sincerely appreciate your efforts to meet the credit needs of the farmers in our area. If you would like any additional information or assistance on this subject, please contact this office.

Sincerely,

Loan Servicing Official

Enclosure

--*

288 Servicing SAA's (7 CFR 762.147) (Continued)

I FSA Monitoring of FSA-2253

If an FSA employee suspects a recapture triggering event has occurred, and the lender has not taken action, the authorized agency official should discuss appropriate servicing actions with the lender.

Beginning October 1, 1999, the lender must provide a borrower notice of the agreement's provisions not later than 12 months before the end. The authorized agency official must send a note to lenders reminding them of FSA-2253 and their responsibilities at the time of recapture triggering.

289-299 (Reserved)

Section 2 Restructuring Requirements for Guaranteed Loans

312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)

A General Requirements

For any restructuring action, the following conditions apply.

- **The borrower meets the eligibility criteria of § 762.120, except the provisions regarding prior debt forgiveness and delinquency on a Federal debt do not apply.**

Notes: When a lender submits a request for FSA concurrence with a restructuring action, the authorized agency official will review the borrower's eligibility for the loan. However, the eligibility provisions of subparagraphs 108 C and D do not apply to the restructuring of existing loans.

If a co-borrower or co-signer is required to execute a note in conjunction with a restructuring the lender must provide the name, Social Security number, and current address of the co-borrower or co-signer to FSA. The co-borrower must also meet the eligibility criteria of § 762.120.

- **The borrower's ability to make the amended payment is documented by the following:** (SEL and CLP lender only; PLP lender shall see the Lender's Agreement)

- **a feasible plan**

Note: If interest assistance is required to achieve a feasible plan, the items required by Sec. 762.150(d) must be submitted with a restructuring request.

- **current financial statements from all liable parties**
- **verification of nonfarm income**
- ***--verification of all debts (if over \$5,000)--***
- **applicable credit reports**
- **financial history (and production history for standard eligible lenders) for the past 3 years to support the cash flow projections.**

Note: A final loss claim may be reduced, adjusted, or rejected as a result of negligent servicing after the concurrence with a restructuring action under this section.

312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145) (Continued)

A General Requirements (Continued)

- *--Loans can be restructured using a balloon payment, equal installments, or unequal installments. Under no circumstances may crops or livestock other than breeding stock, be the only security for a loan to be rescheduled using a balloon payment. If a balloon payment is used, the projected value of the security must indicate that the loan will be fully secured when the balloon payment becomes due. The projected value will be derived from a current appraisal adjusted for depreciation of depreciable property, such as buildings and other improvements, that occurs until the balloon payment is due. For other security, a current appraisal is required. The lender is required to project the security value at the time the balloon payment is due based on the remaining life of the security, or the depreciation schedule on--* the borrower's Federal income tax return. Loans restructured with a balloon payment that are secured by real estate will have a minimum term of 5 years, and other loans will have a minimum of 3 years before the scheduled balloon payment. If statutory limits on terms of loans prevent the minimum terms, balloon payments may not be used. If the loan is restructured with unequal installments, a feasible plan, as defined in §761.2(b) of this chapter, must be projected for when installments are scheduled to increase.

Example of unequal installment: A payment that increases as the cash flow and debt repayment ability of the farming operation increases because of development or expansion. Unequal installments may be used when development is being financed, such as the planting of orchards or other perennial crops, the construction of livestock or other processing facilities, or the purchase of foundation livestock. Since typical production income may not be realized for quite a number of years in some cases, higher installments could be scheduled later in the life of the loan. For instance, an orchard development may be financed resulting in the planting of immature trees. In years 1 through 3, there may be no realized production and income. In years 4 through 6, initial production may be anticipated; however, full production may not be expected until years 8 through 10. Unequal payments may be adjusted accordingly.

- **If a borrower is current on a loan, but will be unable to make a payment, a restructuring proposal may be submitted prior to the payment coming due.**
- **The lender may capitalize the outstanding interest,** according to the requirements of subparagraph 326 D.

**312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)
(Continued)****A General Requirements (Continued)**

- **The lender's security position will not be adversely affected because of the restructuring. New security instruments may be taken if needed, but a loan does not have to be fully secured in order to be restructured, unless it is restructured with a balloon payment. When a loan is restructured using a balloon payment, the lender must * * * project the loan to be fully secured at the time the balloon payment becomes due, in accordance with 7 CFR 762.145 (b)(4).**

Note: If the lender takes additional security as part of the loan restructuring, a list of the new security items and their estimated values should be forwarded to the authorized agency official along with all other restructuring materials according to paragraph 313.

- **Any holder agrees to any changes in the original loan terms.**

All lenders will submit copies of any restructured notes or lines of credit to the Agency. If a new note is not taken, the existing note or line of credit agreement must be modified by attaching an allonge or other legally effective amendment.

For CL, the lender must ensure that the borrower is maintaining the practice for which CL was made.

313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145)**A SEL Request for Restructuring**

Standard eligible lenders must obtain prior written approval of the Agency for all restructuring actions. The request must include items listed in subparagraph 312 A.

After FSA has approved the restructure and SEL has restructured the loan, the lender must submit:

- FSA-2248 indicating that the loan is current
- copies of restructured notes, line of credit agreements, or allonges.

After SEL has submitted all of these documents, FSA shall:

- review the documents for compliance
- input FSA-2248 into GLS
- execute FSA-2245 and provide a copy to the lender, if applicable
- *--complete and forward FSA-2249 to the RD Business Center, Guaranteed Commercial Branch.--*

313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145) (Continued)

B CLP Restructuring Requirements

CLP lenders must obtain prior written approval of the Agency only for debt write-down under this section.

CLP lenders must submit all calculations required in paragraph (e) of this section for debt write-down.

For restructuring other than write-down, CLP lenders will provide FSA with a certification that each requirement of this section (Part) has been met, a narrative outlining the circumstances surrounding the need for restructuring, and copies of any applicable calculations.

In addition, the CLP lender will provide:

- FSA-2248 to show the loan is current
- copies of any restructured notes, lines of credit agreements, or allonges.

After the CLP lender has submitted all of these documents, FSA will complete the same actions as for SEL's.

C PLP Restructuring Requirements

PLP lenders will restructure loans in accordance with their lender's agreement.

A PLP lender may request guidance on or concurrence with a restructuring proposal. The authorized agency official will review the lender's request for compliance with the terms indicated in the credit management system of their PLP Lender's Agreement.

All PLP lenders will submit copies of any restructured notes, line of credit agreements, or allonges to FSA. With the copies of any restructured notes, line of credit agreements, or allonges, PLP's must attach a cover memo explaining the restructuring and, if the loan was delinquent, submit FSA-2248 to confirm that the loan is once again current.

After the PLP lender has submitted all of these documents, FSA will complete the same actions as for SEL lenders.

314 FSA Response to Restructuring Requests**A Authorized Agency Official Responsibilities**

Authorized agency officials have several responsibilities in the event a loan defaults and a lender submits a restructuring plan, including:

- provide loan restructuring assistance and guidance as requested
- review FSA-2248 for compliance with FSA guarantee documents, the lender's loan agreement, promissory notes, and FSA regulations
- inform the lender if the borrower is eligible for IA if requested
- process all FSA-2248's in GLS.

The authorized agency official should contact the lender to discuss any problems with the proposal, request corrections, or suggest revisions. If the requested corrections are significant, this contact should be followed up with a letter outlining the additional information needed and a timeframe for it to be provided. If the proposal is approved, the authorized agency official will inform the lender that they may proceed to restructure the loan.

If the lender fails to provide updates on recent or planned collection actions, estimated timeframes for corrective actions proposed by the borrower, or other information reviewed that indicates that the lender is not acting timely or prudently to protect their interest, the authorized agency official will inform the lender in writing of the problems noted and request modifications.

If an SEL lender has made the decision to liquidate a loan, the authorized agency officials should ensure that SEL has investigated the feasibility of every restructuring option before a decision to liquidate was reached. It is solely the lender's prerogative to accept or reject a borrower's plan for resolution of a default or offer an option for restructuring the debt. Still, the authorized agency official should review the situation and advise the lender of any unexplored servicing options that exist that may benefit the borrower, lender, and FSA.

327 Deferrals (7 CFR 762.145(d))

A General Description

A deferral postpones the payment of principal and interest on CL, FO, OL, or LOC to accommodate a temporary inability of the borrower to make scheduled payments. Loan principal can be deferred in whole or part. If the deferment period is 1 year or less, interest can be deferred in whole or in part. Interest may only be deferred in part if the deferral period extends over 1 year.

A deferral may be particularly useful for borrowers who have lost contracts with their current contractor, but have obtained a contract with a new contractor that will **not** begin immediately. The authorized agency officials should immediately inform affected lenders that a 90-calendar-day forbearance, extension, or loan modification can be approved if the lender believes the problem (loss of contract or reduction of bird or hog placement) can be resolved in a timely manner. The 90-calendar-day forbearance will be considered only if all ~~other servicing actions, such as rescheduling of debt, deferral, or write-down, will **not**~~ resolve the problem. At the end of the 90-calendar-day period, the lender **must** resume their regular servicing actions.

If the:

- problem is **not** resolved and the loan account is delinquent, the lender will proceed with default servicing
- loss of contract puts the loan in nonmonetary default based on the promissory note or loan agreements, the lender will review the promissory note and determine whether they may proceed with default servicing
- lender is **not** pursuing liquidation for loans in nonmonetary default, the lender and borrower must be actively seeking other sources of income.

Most guaranteed loans impacted have lender's agreements that require interest accrual to cease 90 calendar days from the date of the decision to liquidate. The agreement to exercise forbearance allows for a liquidation decision to be made, if necessary, when the forbearance period is complete. However, in all cases, the loan guarantee will **not** cover interest beyond 210 calendar days from the payment due date.

327 Deferrals (7 CFR 762.145(d)) (Continued)**B Conditions**

The following conditions apply to deferrals.

- **Payments may be deferred up to 5 years, but the loan may not be extended beyond the final due date of the note.**
- **The principal portion of the payment may be deferred either in whole or in part.**
- **Interest may be deferred only in part. Payment of a reasonable portion of accruing interest as indicated by the borrower's cash flow projections is required for multi-year deferrals.**
- **There must be a reasonable prospect that the borrower will be able to resume full payments at the end of the deferral period.**

The amount of principal and interest deferred must be based on the borrower's current ability to pay, and projections about ability to pay in the future. If the deferral period is to extend beyond 1 year, only a portion of the interest can be deferred.

If a LOC deferral exceeds 1 year, then LOC must be restructured and no new advances can be made. For LOC deferrals for less than 1 year there must be either inventory on hand to cover the carryover debt balances or the borrower must show repayment of the carryover debt plus the new operating cycle advances. If the LOC deferral is 1 year or less, it is *--unnecessary to notify the RD Business Center, Guaranteed Commercial Branch.--*

The loan may be rescheduled after the deferral if payments as scheduled cannot be made.

C Lender Request to Defer a Loan

To request a deferral, SEL lenders must submit documentation according to the requirements listed in paragraph 312. Based on this documentation, the authorized agency official will notify the lender in a timely manner whether or not the deferral plan is approved.

CLP lenders must submit documentation according to paragraph 313, after completing the loan restructuring.

PLP must restructure loans according to the Lender's Agreement and provide post-restructuring documentation to FSA according to paragraph 313.

--328 Debt Write-Down (7 CFR 762.145(e))*A Overview**

A debt write-down involves writing off a portion of the outstanding balance of a loan. A lender may write down a delinquent guaranteed loan only in an amount sufficient to enable the borrower to repay the reduced debt over the remaining term of the loan. All lenders must seek FSA concurrence before they can execute a debt write-down. Debt write-down loss claims must be approved by SED.

B General Requirements

[7 CFR 762.145(e)(1)] The following conditions apply to debt write-down:

- **A lender may only write-down a delinquent guaranteed loan or line of credit in an amount sufficient to permit the borrower to develop a feasible plan of operation as defined in § 761.2(b) of this chapter.**
- **The lender will request other creditors to negotiate their debts before a write-down is considered.--***
- **The borrower cannot develop a feasible plan after consideration is given to rescheduling and deferral under this section.**
- **The present value of the loan to be written down, based on the interest rate of the rescheduled loan, will be equal to or exceed the net recovery value of the loan collateral.**
- **The loan will be restructured with regular payments at terms no shorter than 5 years for a line of credit and OL term note; and no shorter than 20 years for FO and CL, unless required to be shorter by paragraphs (c)(1)(i) through (ii) of this section (subparagraph 326 B).**
- **No further advances may be made on a line of credit that is written down.**
- **Loans may not be written down with interest assistance. If a borrower's loan *--presently on interest assistance requires a write-down, the write-down will be--* considered without interest assistance.**

--328 Debt Write-Down (7 CFR 762.145(e)) (Continued)*B General Requirements (Continued)**

- **The write-down is based on writing down the shorter-term loans first.**
- **When a lender requests approval of a write-down for a borrower with multiple loans, the security for all of the loans will be cross-collateralized and continue to serve as security for the loan that is written down. If a borrower has multiple loans and one loan is written off entirely through debt write-down, the security for that loan will not be released and will remain as security for the other written down debt. Additional security instruments will be taken if required to cross-collateralize security or maintain lien priority.**
- **The write-down will be evidenced by an allonge or amendment to the existing note or line of credit reflecting the write-down.**

The payment of a loss claim in conjunction with a debt write-down does not establish a Federal debt and is not subject to offset.

The holder or holders, if any, must agree to the write-down or the lender must repurchase--* the guaranteed portion.

C Borrower Execution of FSA-2253

The borrower executes an Agency shared appreciation agreement for loans which are written down and secured by real estate. See paragraph 288 for information on servicing FSA-2253's.

- **The lender will attach the original agreement to the restructured loan document.**
- **The lender will provide the Agency a copy of the executed agreement.**
- **Security instruments must ensure future collection of any appreciation under the agreement.**

--328 Debt Write-Down (7 CFR 762.145(e)) (Continued)*D Lender Actions to Support Write-Down Debt Request--***

The lender will prepare and submit the following to the Agency:

- a current appraisal of all property securing the loan in accordance with § 762.127 and paragraphs 181 through 183
- a completed report of loss on the appropriate Agency form for the proposed ***--write-down loss claim**
- detailed write-down calculation as follows:

Note: Detailed write-down calculations will be recorded on FSA-2252. If a--* borrower's cash flow projection indicates that within a definite, foreseeable time, additional repayment will be available for the guaranteed loan, the present value of the loan will be calculated based on an uneven payment stream.

- calculate the present value (Exhibit 10)
- determine the net recovery value (Exhibit 10)
- ***--if the net recovery value exceeds the present value, write-down is unavailable;--*** liquidation becomes the next servicing consideration
- if the present value equals or exceeds the net recovery value, the debt may be written down to the present value
- the lender will make any adjustments in the calculations, as requested by the Agency.

The appraisal will be paid for by the lender, but the cost can be passed to the borrower.

FSA-2252 will be used to calculate lender loss. After the lender loss has been calculated on FSA-2252, the lender loss claim will be submitted on FSA-2254. Lender loss will be the percentage of the guarantee multiplied by the difference between the outstanding principal ***--and interest balance of the loan before the write-down and the outstanding balance of the loan after the write-down.**

In addition to the materials noted in this paragraph, SEL's and CLP's must submit materials according to paragraph 313 to request a debt write-down.--*

329 FSA Review and Monitoring of Restructured Loans (7 CFR 762.145(b))**A Post-Restructuring Review and FSA Reporting Requirements**

--The authorized agency official will, after receiving a restructured note or LOC or an-- amendment to a note or LOC from a lender, review all applicable restructuring documents received by FSA, including the restructured note and FSA-2248 stating that the loan is current, and ensure that the loan was restructured with the principal, accrued interest, payments, interest rate and terms to which FSA agreed. If any discrepancies are found between regulatory requirements or the restructuring plan FSA originally agreed to and the executed restructuring, the lender must correct the restructured note. After the correctness of the restructured note has been verified, the restructured or amended note and the Modification of Guarantee, if interest was capitalized, should be attached to the copy of the original note.

B FSA Monitoring of Lender Loan Files With Restructured Loans

When reviewing files of loans that have been restructured, FSA employees must ensure that lenders restructured their loans according to the terms agreed to by FSA according to their Lender's Agreement. If the loan was restructured with terms that FSA did not agree to, the lender must adjust the loan terms to comply with terms FSA agreed to originally.

When reviewing CLP loan files, authorized agency officials should ensure that loans were restructured according to FSA rules and regulations and that the materials submitted in support of a restructuring action are accurate.

When reviewing restructured loan files made by PLP lenders, authorized agency officials should ensure that all restructuring was done according to the Lender's Agreement. If the Lender's Agreement is silent on a certain restructuring subject, the PLP lender must follow FSA rules and regulations for CLP lenders.

--FSA may use FSA-2294 as a guide for reviewing debt write-downs.--

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2262	Notice of Liquidation Responsibility		362
FSA-2291	Lender's Processing Checklist		65, 95
FSA-2292	Guaranteed Loan Processing Checklist		65
FSA-2293	Annual File Review Checklist for SEL and CLP Lenders		267
FSA-2294	Debt Writedown Review Checklist		329
FSA-2295	Guaranteed Estimated Loss Review Checklist for SEL and CLP Lenders		342, 359
FSA-2296	Guaranteed Loan Final Loss Review Checklist		360
FSA-2701	Notice of Intent to Collect by Administrative Offset		376
FSA-2731	Cancellation of Debt Without Application (RD-1956-1)		363
FSA-2731A	Cancellation of Debt Without Application (Continuation)		363
FSA-2732	Debt Settlement Application (RD-1956-1 Application For Settlement of Indebtedness)		363
IRS-1099-C	Cancellation of Debt		362
IRS-8379	Injured Spouse Claim and Allocation		Ex. 17, 18
NRCS CPA-1155	Conservation Plan or Schedule of Operations		66
RD-1980-64	Interest Assistance Agreement		224, 228, 230
UCC1	Financing Statement		364
W-2	Wage and Tax Statement		152

Note: Agency officials may use digital signatures on all Guaranteed Loan Program forms. Lenders and loan applicants may use digital or other electronic signatures on all Guaranteed Loan Program forms.

Some secondary market holders may not accept digital signatures on FSA-2235 and FSA-2242. Lenders should verify with their secondary market holders and notify FSA if digital signatures will **not** be accepted.

Authorized agency officials shall reference the User Guide for Digital Signatures on FLP's Presentation intranet web site for instructions to create a digital signature with their employee LINCPASS.

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AASM	Application Authorization Security Management	73, Ex. 5
ACT	Consolidated Farm and Rural Development Act	1, 108, 286
ADPB	average daily principal balance	228, Ex. 10
CAFO	Concentrated Animal Feeding Operation	181, 358, Ex. 15
CL	conservation loan	Text, Ex. 2
CMS	Credit Management System	Text
DNP	Do Not Pay	46, 108
EL	emergency livestock loan	108
EO	economic opportunity loan	108
FmHA	Farmers Home Administration	108, Part 9, Part 11, 360
FTP	file transfer protocol	Ex. 15.4
GFO	guaranteed farm ownership loan	135
GLOC	guaranteed line of credit	108
GLS	guaranteed loan system	248, Ex. 15.4
GOL	guaranteed operation loan	135
IA	interest assistance	18, Parts 9, 11-15, Ex. 10
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7
LINC	Lender Interactive Network Connection	73, 266, Ex. 5
LOC	line of credit	Text
MLP	Micro Lender Program	Text
NPO	nonprofit organization	111
PLP	Preferred Lender Program	Text, Ex. 12
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 7
SAA	Shared Appreciation Agreement	286, 288, Ex. 2
SAM	System for Award Management	108
SDMS	State Directive Management System	84
SEL	Standard Eligible Lender	Text, Ex. 12
SOFR	Secured Overnight Financing Rate	135
USCIS	U.S. Citizenship and Immigration Services	Ex. 7, 8

Delegations of Authority

This table lists the delegations of authority in this handbook.

Delegation	Reference
Administering handbook provisions	20

Definitions of Terms Used in This Handbook (7 CFR 761.2(b))

Act

Act is the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

Additional Security

Additional security is property which provides security in excess of the amount of security value equal to the loan amount.

Adversely Affect

Adversely affect means that a change unrelated to the issue resolved through the appeal will result in the borrower no longer being eligible for the assistance requested.

Adjustment

--Adjustment means the settlement of an FLP debt for less than the total amount owed. The adjusted amount is collected through a series of payments that are scheduled over time. An adjustment is not a final settlement until all scheduled payments have been made. After applying all payments pursuant to the adjustment agreement, any remaining balance is canceled. The amount canceled is reported to the IRS pursuant to § 3.90 of this title and applicable IRS requirements.--

Administrative Appraisal Review

Administrative appraisal review is a review of an appraisal to determine if the appraisal:

- *--(i) Meets applicable Agency requirements; and**
- (ii) Is accurate outside the requirements of standard 3 of USPAP.--***

Agency

Agency is the FSA.

Agency Official

Agency official is any employee with FSA.

Agricultural Commodity

--Agricultural commodity means livestock, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, ornamental plants, nursery crops, nuts, aquaculture species, and the products resulting from livestock, tree farming, and other plant and animal production as determined by the Agency.--

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Allonge

Allonge is an attachment or an addendum to a promissory note.

Applicant

Applicant is the individual or entity applying for a loan or loan servicing under either the direct or guaranteed loan program.

Aquaculture

Aquaculture is the husbandry of any aquatic organisms (including fish, mollusks, crustaceans or other invertebrates, amphibians, reptiles, or aquatic plants) raised in a controlled or selected environment of which the applicant has exclusive rights to use.

Assignment of Guaranteed Portion

Assignment of guaranteed portion is a process by which the lender transfers the right to receive payments or income on a guaranteed loan to another party, usually in return for payment in the amount of the loan's guaranteed principal. The lender retains the unguaranteed portion in its portfolio and receives a fee from the purchaser or assignee to service the loan and receive and remit payments according to a written assignment agreement. This assignment can be reassigned or sold multiple times.

Assignment of Indemnity

Assignment of indemnity is the transfer of rights to compensation under an insurance contract.

Assistance

Assistance is financial assistance in the form of a direct or guaranteed loan or interest subsidy or servicing action.

Assumption

Assumption is the act of agreeing to be legally responsible for another party's indebtedness.

Authorized Agency Official

Authorized agency official is an employee who has either inherent or delegated authority to complete the described action.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Basic Security

Basic security is all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency. With respect to livestock herds and flocks, animals that are sold as a result of the normal culling process are typically treated as normal income security unless the borrower does not have replacements that will keep the numbers and production up to planned levels. However, if the borrower plans to make a significant reduction in the foundation livestock herd or flock, the animals that are sold in making this reduction will be considered basic security.

Beginning Farmer

Beginning farmer is an individual or entity who:

***--(i) Meets the loan eligibility requirements for a direct or guaranteed OL, FO, or CL loan, as applicable;**

(ii) Has not operated a farm for more than 10 years. This requirement applies to all--* members of an entity;

Note: Experience obtained through agriculture education programs when the applicant was not the primary owner or operator of the farm or ranch is not included when calculating the 10-year period.

***--(iii) Will materially and substantially participate in the operation of the farm:**

(A) In the case of a loan made to an individual, individually or with the family members, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm, consistent with the practices in the county or State where the farm is located; or

(B) In the case of a loan made to an entity, all members must materially and--* substantially participate in the operation of the farm. Material and substantial participation requires that the member provide some amount of the management, or labor and management necessary for day-to-day activities, such that if the individual did not provide these inputs, operation of the farm would be seriously impaired;

***--(iv) Agrees to participate in any loan assessment and borrower training required by--* Agency regulations;**

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Beginning Farmer (Continued)

--(v) Except for an OL applicant, does not own real farm property or who, directly or-- through interests in family farm entities owns real farm property, the aggregate acreage of which does not exceed 30 percent of the average acreage of the farms in the county where the property is located. If the farm is located in more than one county, the average farm acreage of the county where the applicant's residence is located will be used in the calculation. If the applicant's residence is not located on the farm or if the applicant is an entity, the average farm acreage of the county where the major portion of the farm is located will be used. The average county farm acreage will be determined from the most recent Census of Agriculture;

*--(vi) Demonstrates that the available resources of the applicant and spouse (if any) are not sufficient to enable the applicant to enter or continue farming on a viable scale; and

(vii) In the case of an entity:

(A) All the members are related by blood or marriage; and

(B) All the members are beginning farmers.--*

Borrower (or Debtor)

Borrower (or debtor) is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term "borrower" includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

Cancellation

Cancellation is the final discharge of, and release of liability for, a financial obligation to the Agency on which no settlement amount has been paid.

Cash Flow Budget

Cash flow budget is a projection listing of all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred during the period of the budget. Advances and principal repayments of lines of credit may be excluded from a cash flow budget. Cash flow budgets for guaranteed loans under \$125,000 do not require income and expenses itemized by categories. A cash flow budget may be completed either for a 12-month period, a typical production cycle, or the life of the loan, as appropriate. It may also be prepared with a breakdown of cash inflows and outflows for each month of the review period and include the expected outstanding operating credit balance for the end of each month. The latter type is referred to as a "monthly cash flow budget."

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Certified Mail

Certified mail is a delivery service offered by USPS that allows the sender proof of mailing, as well as proof of delivery.

Notes: Certified mail service provides the following:

- electronic verification that an article was delivered or delivery attempt was made

Note: If the item was delivered, the electronic verification provides the date, time, and location of delivery.
- proof of delivery record (copy of the recipient’s signature) that is kept at the Post Office for 2 years after mailing. If needed, the signature proof can be requested after mailing by purchasing the “Return Receipt After Mailing” service.

“Return Receipt” is an additional feature that may be purchased but is **not** required.

Chattel Security

Chattel security is property that may consist of, but is not limited to: crops; livestock; aquaculture species; farm equipment; inventory; accounts; contract rights; general intangibles; and supplies that are covered by financing statements and security agreements, chattel mortgages, and other security instruments.

Civil Action

Civil action is a court proceeding to protect the Agency’s financial interests. A civil action does not include bankruptcy and similar proceedings to impound and distribute the bankrupt’s assets to creditors, or probate or similar proceedings to settle and distribute estates of incompetents or decedents, and pay claims of creditors.

*--Commercially Foraged

Commercially foraged means the harvesting of naturally occurring plants, or plantlike material, including fungi, that develop naturally with limited management of the resource.--*

Compromise

Compromise is the settlement of an FLP debt or claim by a lump-sum payment of less than the total amount owed in satisfaction of the debt or claim.

Conditional Commitment

Conditional commitment is the Agency’s commitment to a lender that the material the lender has submitted is approved subject to the completion of all listed conditions and requirements.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Conservation Contract

Conservation Contract is a contract under which a borrower agrees to set aside land for conservation, recreation or wildlife purposes in exchange for reduction of a portion of an outstanding FLP debt.

Conservation Loan (CL)

CL means a loan made to eligible applicants to cover the costs to the applicant of carrying out a qualified conservation project.

Conservation Plan

Conservation plan means an NRCS-approved written record of the land user's decisions and supporting information, for treatment of a land unit or water as a result of the planning process, that meets NRCS Field Office Technical Guide (FOTG) quality criteria for each natural resource (soil, water, air, plants, and animals) and takes into account economic and social considerations. The conservation plan describes the schedule of operations and activities needed to solve identified natural resource problems and takes advantage of opportunities at a conservation management system level. This definition only applies to the direct loans and guaranteed loans for the Conservation Loan Program.

Conservation Practice

Conservation practice means a specific treatment, such as a structural or vegetative measure, or management technique, commonly used to meet specific needs in planning and implementing conservation, for which standards and specifications have been developed. Conservation practices are contained in the appropriate NRCS Field Office Technical Guide (FOTG), which is based on the National Handbook of Conservation Practices (NHCP).

Conservation Project

Conservation project means conservation measures that address provisions of a conservation plan or Forest Stewardship Management Plan.

Consolidation

Consolidation is the process of combining the outstanding principal and interest balance of two or more loans of the same type made for operating purposes.

Construction

Construction is work such as erecting, repairing, remodeling, relocating, adding to, or salvaging any building or structure, and the installing, repairing, or adding to heating and electrical systems, water systems, sewage disposal systems, walks, steps, and driveways.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Controlled

Controlled is when a director or an employee has more than a 50 percent ownership in an entity or, the director or employee, together with relatives of the director or employee, have more than a 50 percent ownership.

Controlled Substance

Controlled substance is the term as defined in 21 U.S.C. 812.

Cooperative

Cooperative is an entity that has farming as its purpose, whose members have agreed to share the profits of the farming enterprise, and is recognized as a farm cooperative by the laws of the state in which the entity will operate a farm.

Corporation

Corporation is a private domestic corporation created and organized under the laws of the state in which it will operate a farm.

Cosigner

Cosigner is a party, other than the applicant, who joins in the execution of a promissory note to assure its repayment. The cosigner becomes jointly and severally liable to comply with the repayment terms of the note, but is not authorized to severally receive loan servicing available under 7 CFR parts 765 and 766. In the case of an entity applicant, the cosigner cannot be a member of the entity.

County

County is a local administrative subdivision of a State or similar political subdivision of the United States.

County Average Yield

County average yield is the historical average yield for an agricultural commodity in a particular political subdivision, as determined or published by a government entity or other recognized source.

Criminal Action

Criminal action is the prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violation of criminal statutes.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Debt Forgiveness

***--Debt forgiveness means the reduction or termination of a debt under the Act in a manner that results in a loss to the Agency:**

(i) Debt forgiveness includes:

(A) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;

(B) Cancellation of remaining amounts owned after compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981;

(C) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency;

(D) Discharging a debt as a result of bankruptcy; or

(E) Releases of liability which result in a loss to the Agency.

(ii) Debt forgiveness does not include:

(A) Debt reduction through a conservation contract;

(B) Any write-down provided as part of the resolution of a discrimination complaint against the Agency;

(C) Prior debt forgiveness that has been repaid in its entirety;

(D) Consolidation, rescheduling, reamortization, or deferral of a loan; and

(E) Forgiveness of YL debt, due to circumstances beyond the borrower's control.

The Agency will use the criteria in 7 CFR 766.104(a)(1) to determine whether the circumstances were beyond the borrower's control.--*

Debt Settlement

Debt settlement is a compromise, adjustment, or cancellation of an Agency debt.

***--Debt Write-Down**

Debt write-down means the reduction of the borrower's debt to that amount the Agency--* determines to be collectible based on an analysis of the security value and the borrower's ability to pay.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Default

Default is the failure of a borrower to observe any agreement with the Agency, or the lender in the case of a guaranteed loan, as contained in promissory notes, security instruments, and similar or related instruments.

Deferral

Deferral is a postponement of the payment of interest or principal, or both.

Delinquent Borrower

Delinquent borrower, for loan servicing purposes, is a borrower who has failed to make all scheduled payments by the due date.

Direct Loan

Direct loan is a loan funded and serviced by the Agency as the lender.

Disaster

Disaster is an event of unusual and adverse weather conditions or other natural phenomena, or quarantine, that has substantially affected the production of agricultural commodities by causing physical property or production losses in a county, or similar political subdivision, that triggered the inclusion of such county or political subdivision in the disaster area as designated by the Agency.

Disaster Area

Disaster area is the county or counties declared or designated as a disaster area for EM loan assistance as a result of disaster related losses. This area includes counties contiguous to those counties declared or designated as disaster areas.

Disaster Yield

Disaster yield is the per-acre yield of an agricultural commodity for the operation during the production cycle when the disaster occurred.

Down Payment Loan

***--Down payment loan** is a type of FO direct loan made to eligible applicants to finance a--* portion of a real estate purchase under part 764, subpart E of this chapter.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Due Diligence

Due Diligence (762.128) is the process of evaluating real estate in the context of a real estate transaction to determine the presence of contamination from release of hazardous substances, petroleum products, or other environmental hazards and determining what effect, if any, the contamination has on the security value of the property.

Economic Emergency Loan

Economic Emergency loan is a loan that was made or guaranteed to an eligible applicant to allow for continuation of the operation during an economic emergency which was caused by a lack of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities. EE loans are not currently funded; however, such outstanding loans are serviced by the Agency or the lender in the case of a guaranteed EE loan.

Emergency Loan

Emergency loan is a loan made to eligible applicants who have incurred substantial financial losses from a disaster.

Embedded Entity

Embedded entity means an entity that has a direct or indirect interest, as a stockholder, member, beneficiary, or otherwise, in another entity.

Entity

Entity means a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organization, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. Organizations operating as non-profit entities under Internal Revenue Code 501 (26 U.S.C. 501) and estates are not considered eligible entities for Farm Loan Programs purposes.

Entity Member

Entity member means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.

EZ Guarantee

EZ Guarantee means a type of OL or FO of \$100,000 or less made using a simplified loan application. As part of the simplified application process, EZ Guarantees are processed using a streamlined underwriting method to determine financial feasibility.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

False Information

False information is information provided by an applicant, borrower or other source to the Agency that the applicant or borrower knows to be incorrect.

Family Farm

Family farm is a business operation that:

- *--(i) Produces agricultural commodities, including agricultural commodities commercially foraged on Indian land for the purposes of OLS, for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence or non-eligible enterprise;
- (ii) Has both physical labor and management provided as follows:
 - (A) The majority of day-to-day, operational decisions, and all strategic management decisions are made by:
 - (1) The borrower, with input and assistance allowed from persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
 - (2) The members responsible for operating the farm, in the case of an entity; and
 - (B) A substantial amount of labor to operate the farm is provided by:
 - (1) The borrower, with input and assistance allowed from persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
 - (2) The members responsible for operating the farm, in the case of an entity;
- (iii) May use full-time hired labor in amounts only to supplement family labor; and
- (iv) May use reasonable amounts of temporary labor for seasonal peak workload--* periods or intermittently for labor intensive activities.

Family Living Expenses

Family living expenses are the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

Family Members

Family members are the immediate members of the family residing in the same household with the borrower.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Farm

Farm is a tract or tracts of land, improvements, and other appurtenances that are used or will be used in the production of crops, livestock, or aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term “farm” also includes the term “ranch.” It may also include land and improvements and facilities used in a non-eligible enterprise or the residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

Farmer

Farmer is an individual, corporation, partnership, joint operation, cooperative, trust, or limited liability company that is the operator of a farm. The term “farmer” also includes the term “rancher”.

Farm Income

Farm income is the proceeds from the sale of agricultural commodities that are normally sold annually during the regular course of business, such as crops, feeder livestock, and other farm products.

Farm Loan Programs

Farm Loan Programs are Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.

Farm Ownership Loan

Farm Ownership loan is a loan made to eligible applicants to purchase, enlarge, or make capital improvements to family farms, or to promote soil and water conservation and *--protection. It also includes the direct Down Payment loan.--*

Farm Program Payments

Farm Program payments are benefits received from FSA for any commodity, disaster, or cost share program.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Feasible Plan

--Feasible plan means when an applicant or borrower's cash flow budget or farm operating plan indicates that there is sufficient cash inflow to pay all cash outflow. If a loan approval or servicing action exceeds one production cycle and the planned cash flow budget or farm operating plan is atypical due to an interest only or otherwise unequal installment, cash or inventory on hand, new enterprises, carryover debt, atypical planned purchases, important operating changes, or other reasons, a cash flow budget or farm operating plan must be prepared that reflects a typical cycle. If the request is for only one cycle, a feasible plan for only that production cycle is required for approval.--

Fixture

Fixture is an item of personal property attached to real estate in such a way that it cannot be removed without defacing or dismantling the structure, or damaging the item itself.

Floodplains

Floodplains are lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain is used to designate the 100-year floodplain (one percent chance floodplain). The critical floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

Foreclosure Sale

Foreclosure sale is the act of selling security either under the power of sale in the security instrument or through judicial proceedings.

Forest Stewardship Management Plan

Forest Stewardship Management Plan means a property-specific, long-term, multi-resource plan that addresses private landowner objectives while recommending a set and schedule of management practices designed to achieve a desired future forest condition developed and approved through the USDA Forest Service or its agent.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Good Faith

--Good faith means when an applicant or borrower provides current, complete, and truthful information when applying for assistance and in all past dealings with the Agency, and adheres to all written agreements with the Agency including, loan agreements, security instruments, farm operating plans, and agreements for use of proceeds. If the borrower's inability to adhere to all agreements is due to circumstances beyond the borrower's control, the Agency will consider the borrower to have acted in good faith. In addition, the Agency may also consider fraud, waste, or conversion actions, when determining if an applicant or borrower has acted in good faith. Such determinations of fraud, waste, or conversion that are substantiated by a legal opinion from OGC constitute an independent basis for determinations of not having acted in good faith.--

Graduation

Graduation is the payment in full of all direct FLP loans, except for CLs, made for operating, real estate, or both purposes by refinancing with other credit sources either with or without an Agency guarantee.

Guaranteed Loan

Guaranteed loan is a loan made and serviced by a lender for which the Agency has entered into a Lender's Agreement and for which the Agency has issued a Loan Guarantee. This term also includes guaranteed lines of credit except where otherwise indicated.

Guarantor

Guarantor is a party not included in the farming operation who assumes responsibility for repayment in the event of default.

Hazard Insurance

Hazard insurance is insurance covering fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workers compensation, or any similar insurance that is available and needed to protect the Agency security or that is required by law.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Highly Erodible Land

Highly erodible land is land as determined by Natural Resources Conservation Service to meet the requirements provided in section 1201 of the Food Security Act of 1985.

Holder

Holder is a person or organization other than the lender that holds all or a part of the guaranteed portion of an Agency guaranteed loan but has no servicing responsibilities. When the lender assigns a part of the guaranteed loan by executing an Agency assignment form, the assignee becomes a holder.

Inaccurate Information

Inaccurate information is incorrect information provided by an applicant, borrower, lender, or other source without the intent of fraudulently obtaining benefits.

***--Indian Land**

Indian land, for the purposes of the definition of “family farm” in this section, means land, or the interest therein, that is:

- (i) Owned by an Indian tribe;
- (ii) Owned by an Indian tribe and is subject to restrictions against alienation or encumbrance by the United States; or
- (iii) Held in trust by the United States for an Indian tribe.--*

Indian Reservation

Indian reservation is all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Indian Tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally recognized Indian Tribe.

***--Indian Tribe**

Indian tribe means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.--*

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

In-House Expenses

In-house expenses are expenses associated with credit management and loan servicing by the lender and the lender's contractor. In-house expenses include, but are not limited to, employee salaries, staff lawyers, travel, supplies, and overhead.

Interest Assistance Agreement

Interest Assistance Agreement is the appropriate Agency form executed by the Agency and the lender containing the terms and conditions under which the Agency will make interest assistance payments to the lender on behalf of the guaranteed loan borrower.

Internal Administrative Offset (IAO)

Internal Administrative Offset (IAO) is a non-centralized administrative offset between a USDA creditor agency and a USDA payment authorizing agency.

Joint Financing Arrangement

Joint financing arrangement is an arrangement in which two or more lenders make separate loans simultaneously to supply the funds required by one applicant.

Joint Operation

Joint operation is an operation run by individuals who have agreed to operate a farm or farms together as an entity, sharing equally or unequally land, labor, equipment, expenses, or income, or some combination of these items. The real and personal property is owned separately or jointly by the individuals.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Non-Eligible Enterprise

***--Non-eligible enterprise means a business that meets the criteria in any one of the following categories:**

- (i) Produces exotic animals, birds, or aquatic organisms or their products which may be agricultural in nature, but are not primarily associated with agricultural production, for example, there is no established or stable market for them or production is speculative in nature;**
- (ii) Produces animals, birds, or aquatic organisms ordinarily used for pets, companionship, sport, or pleasure and not primarily associated with human consumption, fiber, or draft use;**
- (iii) Primarily markets goods or provides services which might be agriculturally related, but are not produced by the farming operation; or**
- (iv) Processes or markets farm products when the majority of the commodities processed or marketed are not produced by the farming operation.**

Non-Essential Assets

Non-essential assets means assets in which the borrower has an ownership interest, that:

- (i) Do not contribute to:**
 - (A) Income to pay essential family living expenses, or**
 - (B) The farming operation; and**
- (ii) Are not exempt from judgment creditors or in a bankruptcy action.**

For guaranteed loans, it is appropriate for a borrower to hold a reasonable amount of working capital reserves and savings, including those for retirement and education of family members, to support operational stability and growth. A reasonable amount of working capital reserves and savings is not considered a non-essential asset.--*

Non-Monetary Default

Non-monetary default means a situation where a borrower is not in compliance with the covenants or requirements of the loan documents, program requirements, or loan.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Non-Traditional Lender**

Non-traditional lender is a lender that extends credit but is without federal deposit or share insurance protection. They typically do not hold deposit accounts and are not subject to supervision by the FDIC, Office of Comptroller of the Currency, Office of Thrift Supervision, Federal Reserve Board, Farm Credit Administration, or National Credit Union Administration. They include, but are not limited to, lenders regulated by the U.S. Department of the Treasury's Community Development Financial Institutions Fund.

Normal Income Security

Normal income security is all security not considered basic security, including crops, livestock, poultry products, other property covered by Agency liens that is sold in conjunction with the operation of a farm or other business, and FSA Farm Program payments.

Offset

Offset is the referral of a debt to TOP for offset of payments made to a debtor by Federal agencies other than USDA.

Operating Loan

Operating loan is a loan made to an eligible applicant to assist with the financial costs of operating a farm. The term also includes a direct Youth loan.

Operator

Operator is the individual or entity that provides the labor, management, and capital to operate the farm. The operator can be either an owner-operator or tenant-operator. Under applicable State law, an entity may have to receive authorization from the State in which the farm is located to be the owner and/or operator of the farm. Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.

Partial Release

Partial release is the release of a portion of the security used as collateral for a loan, usually accomplished by the sale of the property.

Partnership

Partnership is any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the partnership will operate a farm. It also must be authorized to own both real and personal property and to incur debt in its own name.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Past Due

Past due is when a payment is not made by the due date.

***--Personal Property**

Personal property is property that may consist of, but is not limited to, crops, livestock, aquaculture species, farm equipment, inventory, accounts, contract rights, general intangibles, and supplies that are covered by financing statements and security agreements, chattel mortgages, and other security instruments. It is property that is not real estate, and the term is generally used to replace references to the term “chattel”.--*

Potential Liquidation Value

Potential liquidation value is the amount of a lender’s protective bid at a foreclosure sale. **Potential liquidation value is determined by an independent appraiser using comparables from other forced liquidation sales.**

Present Value

Present value is the present worth of a future stream of payments discounted to the current date.

Presidentially-Designated Emergency

Presidentially-designated emergency is a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

Production Cycle

Production cycle is the time it takes to produce an agricultural commodity from the beginning of the production process until it is normally disposed of or sold.

Program Loans

Program loans include FO, CL, OL, and EM. In addition, for loan servicing purposes the term includes existing loans for the following programs no longer funded: SW, RL, EE, ST, and RHF.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Promissory Note**

Promissory note is a written agreement to pay a specified sum on demand or at a specified time to the party designated. The terms “promissory note” and “note” are interchangeable.

Prospectus

Prospectus consists of a transmittal letter, a current balance sheet and projected year’s budget which is sent to commercial lenders to determine that lenders interest in financing or refinancing specific Agency direct loan applicants and borrowers.

Protective Advances

Protective advance is an advance made by the Agency or a lender to protect or preserve the collateral from loss or deterioration.

Purchase Money Interest

Purchase money interest is a component of UCC dealing with security and lien position. A lender providing for a crop or a particular piece of equipment can frequently have first position on that item despite other financing statements in place.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Reamortization

Reamortization is the rewriting of rates or terms, or both, of a loan made for real estate purposes.

Recapture

Recapture is the amount that a guaranteed lender is entitled to recover from a guaranteed loan borrower in consideration for writing down a portion of their guaranteed loan debt when that loan was secured by real estate and that real estate increases in value. Also, the act of collecting shared appreciation.

Reasonable Rates and Terms

Reasonable rates and terms are those commercial rates and terms that other farmers are expected to meet when borrowing from a commercial lender or private source for a similar purpose and similar period of time. The “similar period of time” of available commercial loans will be measured against, but need not be the same as, the remaining or original term of the loan.

Recoverable Cost

Recoverable cost is a loan cost expense chargeable to either a borrower or property account.

Recreation Loan

Recreation loan is a loan that was made to eligible applicants to assist in the conversion of all or a portion of the farm they owned or operated to outdoor income producing recreation enterprises to supplement or supplant farm income. RL's are no longer funded, however, such outstanding loans are serviced by the Agency.

Redemption Right

Redemption right is a Federal or state right to reclaim property for a period of time established by law, by paying the amount paid at the involuntary sale plus accrued interest and costs.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Related by Blood or Marriage

Related by blood or marriage is being connected to one another as husband, wife, parent, *-child, brother, sister, uncle, aunt, grandparent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, nephew, niece, cousin, grandson, granddaughter, or the spouses of any of those individuals. “Related by blood or marriage” is used for consistency with a requirement in the CONACT. It has the same meaning as the word “relative” for the Farm Loan Programs regulations in this Chapter.

Relative

Relative means the spouse and anyone having one of the following relationships to an applicant or borrower: parent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of those individuals. Relative has the same meaning as the term “Related by blood or marriage” for the Farm Loan Programs regulations in this Chapter.--*

Rescheduling

Rescheduling is the rewriting of the rates or terms, or both, of a loan made for operating purposes.

Restructuring

Restructuring is changing the terms of a debt through rescheduling, reamortization, *-deferral, write-down, or a combination thereof.--*

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Security

Security is property or right of any kind that is subject to a real or personal property lien. Any reference to “collateral” or “security property” will be considered a reference to the term “security.”

Security Instrument

Security instrument includes any document giving the Agency or lender a security interest on real or personal property.

Security Value

Security value is the market value of real estate or chattel property (less the value of any prior liens) used as security for an Agency or lender’s loan.

Shared Appreciation Agreement

Shared Appreciation Agreement is an agreement between the Agency, or a lender in the case of a guaranteed loan, and a borrower on the appropriate Agency form that requires *--the borrower who has received a write-down on a direct or guaranteed loan to repay the Agency or the lender some or all of the write-down received, based on a percentage of--* any increase in the value of the real estate securing an SAA at a future date.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

***--Socially Disadvantaged Applicant or Farmer**

Socially disadvantaged applicant or farmer is an individual or entity who is a member of--* a socially disadvantaged group. For entity applicants, the majority interest must be held by socially disadvantaged individuals. For married couples, the socially disadvantaged individual must have at least 50 percent ownership in the farm business and make most of the management decisions, contribute a significant amount of labor, and generally be recognized as the operator of the farm.

Socially Disadvantaged Group

Socially disadvantaged group is a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups consist of: American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women.

Soil and Water Loan

Soil and Water loan is a loan that was made to an eligible applicant to encourage and facilitate the improvement, protection, and proper use of farmland by providing financing for soil conservation, water development, conservation, and use; forestation; drainage of farmland; the establishment and improvement of permanent pasture; pollution abatement and control; and other related measures consistent with all Federal, State and local environmental standards. SW loans are no longer funded, however, such outstanding loans are serviced by the Agency.

State Beginning Farmer Program

State Beginning Farmer Program is any program that is carried out by, or under contract to, a State and designed to assist persons in obtaining the financial assistance necessary to establish a new or maintain a recently established farming operation.

***--Streamlined Conservation Loan (CL)**

Streamlined CL means a direct or guaranteed CL made to eligible applicants based on reduced documentation.--*

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Subordination

Subordination is a creditor's temporary relinquishment of all or a portion of its lien priority in favor of another creditor, providing the other creditor with a priority right to collect a debt of a specific dollar amount from the sale of the same collateral.

Subsequent Loans

Subsequent loan is any FLP loan processed by the Agency after an initial loan of the same type has been made to the same borrower.

Technical Appraisal Review

Technical appraisal review is a review of an appraisal to determine if such appraisal meets the requirements of USPAP pursuant to standard 3 of USPAP.

***--Traditional Lender**

Traditional lender is a lender that is subject to examination and supervision by a Federal or State agency, and has Federal deposit or share insurance protection. This includes, but is not limited to, lenders supervised by FDIC, Office of Comptroller of the Currency, Office of Thrift Supervision, Federal Reserve Board, Farm Credit Administration, or National Credit Union Administration.--*

Transfer and Assumption

Transfer and assumption is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding or the market value of the collateral.

Typical Plan

Typical plan is a projected income and expense statement listing all anticipated cash flows for a typical 12 month production cycle; including all farm and nonfarm income and all expenses (including debt service) to be incurred by the borrower during such period.

Typical Cash Flow Budget

Typical cash flow budget is a cash flow budget that reflects the cash inflows and outflows the operation will likely incur during a normal production cycle.

Trust

Trust is an entity that under applicable state law meets the criteria of being a trust of any kind but does not meet the criteria of being a farm cooperative, private domestic corporation, partnership, or joint operation.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Unaccounted for Security

Unaccounted for security is security for a direct or guaranteed loan that was misplaced, stolen, sold, or otherwise missing, where replacement security was not obtained or the proceeds from its sale have not been applied to the loan.

Unauthorized Assistance

Unauthorized assistance is any loan, loan servicing action, lower interest rate, loan guarantee, or subsidy received by a borrower, or lender, for which the borrower or lender was not eligible, which was not made in accordance with all Agency procedures and requirements, or which the Agency obligated from the wrong appropriation or fund. Unauthorized assistance may result from borrower, lender, or Agency error.

***--Undivided Ownership Interest**

Undivided ownership interest means a common interest in the whole parcel of land that is owned by two or more people. Undivided ownership interest does not include those who own a specific piece of a parcel of land; rather they own a percentage interest in a parcel of land as a whole.--*

Uniform Standards of Professional Appraisal Practice

Uniform Standards of Professional Appraisal Practice are standards governing the preparation, reporting, and reviewing of appraisals established by the Appraisal Foundation pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

United States

United States is any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands.

U. S. Attorney

U. S. Attorney is an attorney for the United States Department of Justice.