

For: State and County Offices

Limited Liability Companies (LLC) and Trust Eligibility for FLP Loans

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A

Background

FSA is authorized to make direct farm loans to the following entities:

- cooperatives
- corporations
- partnerships
- joint operations.

Several States have enacted legislation to recognize LLC's as a form of business organization. LLC's combine tax benefits of a traditional partnership with the limited civil liability of a corporation. Many farm operations are organizing as LLC's. Additionally, in certain circumstances listed in subparagraph 2 A, a trust may be considered a joint operation.

B

Purpose

This notice:

- identifies LLC's and, in certain cases, trusts as eligible entities for FLP loans
- makes Notice FLP-118 obsolete.

C

Contact

State Offices shall direct questions about this notice to the Direct Loans and Funds Management Branch, LMD, at 202-720-1472.

<p>Disposal Date</p> <p>July 1, 2001</p>	<p>Distribution</p> <p>State Offices; State Offices relay to County Offices</p>
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2 Implementation

A

Treatment of LLC's

In States where LLC's are recognized entities, LLC's with more than 1 member may be treated as joint operations under appropriate FmHA Instructions.

A trust may be a joint operation if it is a farming operation in which 2 or more farmers work together sharing equally or unequally the following:

- land
- labor
- equipment
- expenses
- income.

When processing loan applications:

- LLC's and trusts must meet all eligibility criteria applying to entities
- the members of LLC and trust must sign the debt instruments:
 - for LLC or trust
 - as individuals to evidence personal liability for the debt
- the loan applicants must provide evidence that the organization is recognized as LLC or trust under the laws of the States in which LLC or trust will operate
- a State supplement should be issued after OGC consultation in subparagraph B.

B

OGC Consultation

State Offices should consult with their regional OGC about any special requirements when lending to LLC or trust, such as signatures on promissory notes or security instruments, and any unique characteristics of State LLC or trust statutes.
