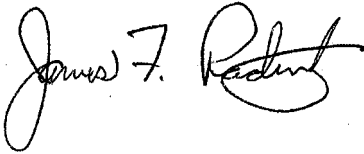


**For:** State and County Offices

**Guidance on Direct and Guaranteed Loan Making and Servicing Actions**

**Approved by:** Acting Deputy Administrator, Farm Loan Programs



**1 Overview**

**A Background**

Natural disasters, low commodity prices, and high input costs are creating financial stress for many farmers and/or ranchers. FSA is committed to using all available authorities, consistent with prudent lending practices, to assist borrowers in times of financial stress.

**B Purpose**

This notice provides guidance and policy as follows:

- extending repayment terms for annual OL’s for farmers and/or ranchers
- extending unequal repayment schedules for term OL’s for farmers and/or ranchers
- releasing normal income security
- notifying borrowers of servicing options
- informing guaranteed lenders of:
  - direct loan making and loan servicing options available
  - loan making and servicing options under the Guaranteed Loan Program.

**C Contact**

If there are questions about this notice:

- County Offices shall contact their State Office
- State Offices shall contact either of the following:
  - LMD at 202-720-3889 for loan making inquiries
  - LSPMD at 202-720-1984 for loan servicing inquiries.

<b>Disposal Date</b>  December 1, 2015 3-17-15	<b>Distribution</b>  State Offices; State Offices relay to County Offices
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### 2 Direct Loanmaking

#### A Repayment Terms

3-FLP, subparagraph 204 B allows repayment of annual OL's to be scheduled beyond 18 months under extenuating circumstances, including recovery from economic reversal. This provision is intended as a means to help borrowers survive through unique periods of financial difficulty. When considering this provision, repayment terms for annual OL's:

- shall be repaid in the shortest timeframe possible and be consistent with cash flow projections
- may be extended beyond 18 months, only when necessary for a feasible plan, and must **not** exceed 7 years.

In assessing the decision to extend the repayment period beyond 18 months, the loan **must be secured by basic security** according to 3-FLP, subparagraph 204 B. Repayment of term OL's may include unequal repayment schedules under extenuating circumstances, including recovery from economic reversal according to 3-FLP, subparagraph 204 C.

**Note:** Annual OL repayment periods exceeding 18 months or term loans with unequal installments shall be used only in unusual situations. With either repayment schedule, there must be adequate basic security. Borrower equity may be depleted and FSA's ability to provide additional loan assistance may be reduced. FLP staff should have a candid discussion with borrowers about the implications of using these payment structures for their operation during FBP development.

#### B Determining Repayment Period

In addition to the current year FBP developed for applicants, a "feasible plan" requires developing a typical cash flow budget in situations where the planned cash flow budget is atypical and the loan approval action exceeds 1 production cycle. Therefore, **two FBP's** shall be prepared to:

- determine a feasible repayment period
- show the long-term viability of the operation.

#### C DLS

When obligating an annual operating loan for more than 18 months, Field Offices shall:

- use the Type of Assistance Code (051, 106, 211, or 212) for OL-Term loans
- select Loan Purpose Code "08" to indicate annual operating expenses.

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### 3 Direct Loan Servicing

#### A Releasing Normal Income Security for Essential Family Living and Farm Operating

Normal income security proceeds may be released according to 4-FLP, subparagraph 163 B and any additional guidance in approved State Supplements. Any portion of the proceeds planned for FSA FLP debt reduction may be released as needed for essential family living or farm operating expenses. County Offices shall revise FBP and FSA-2040 to account for the release of proceeds according to 4-FLP, subparagraph 162 D.

**Note:** Normal income security includes crop, milk, market livestock, and livestock product sales.

#### B Notifying Borrowers of Available Servicing Options

For counties designated as disaster areas, County Offices shall notify all active borrowers of DSA availability according to 5-FLP, Part 2.

Borrowers who are in financial distress, or request primary loan servicing, will be:

- notified according to 5-FLP, Part 3
- given all primary loan servicing options allowed.

Debt restructure may be considered while the borrower is still current under 5-FLP, Parts 2, 3, and 4. All restructuring options available for distressed borrowers will be considered, including the following:

- DSA
- rescheduling
- consolidation
- reamortization
- deferral for 1 to 5 years.

Attention should be given to the deferral authorities and procedures in 5-FLP, paragraphs 159 and 160, to ensure that deferral is considered in a manner that provides adequate time for borrowers to recover financially while limiting interest accrual on the deferred balance.

**Note:** Borrowers who become delinquent will immediately be considered for debt writedown, and those that become 90 calendar days past due will be notified again of all options according to 5-FLP.

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### 4 Guaranteed Loan Making

#### A Informing Guaranteed Lenders

Authorized loan officials shall inform guaranteed lenders of:

- direct loanmaking and loan servicing policies in this notice
- options available to assist guaranteed loan borrowers.

#### B Available Repayment Terms for Annual OL's and Lines of Credit

2-FLP, paragraph 137 allows lenders to schedule repayment of annual OL's and lines of credit for up to 7 years when recovering from an economic reversal, and to schedule unequal installments on term loans if needed to recover from an economic reversal. These measures are authorized to assist producers with long-term viability in obtaining operating capital in difficult times and should be used with care and caution. Consistent with direct loan policies, the requirement to meet the definition of "feasible plan" using a typical plan also applies to guaranteed loans. Lenders shall structure repayment over the shortest period of time practical, based on cash flow budgets.

When lenders use extended repayment terms for annual OL's or lines of credit, the lender must ensure that proper and adequate security is obtained. 2-FLP, subparagraph 166 B provides the following:

- the lender **must** ensure that adequate collateral is obtained and maintained to protect the interests of the lender and Government

**Note:** When repayment of an annual production loan is scheduled over multiple years, the:

- borrower's expected normal income security will **not** be sufficient security
  - loan must be secured with basic security having an expected life equal to or greater than the term of the loan.
- additional security may be required if the cash flow margin is excessively tight.

**Note:** The amount of basic security needed above a 1:1 collateral ratio is dependent on the particular operation, considering the requirement for the lender to maintain adequate security. In no case will a loan or line of credit be extended beyond the current operating cycle without adequate basic security.

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### 4 **Guaranteed Loan Making (Continued)**

#### **C Refinancing Lender's Debt**

Lenders shall be cautioned against extensive use of refinancing their own debt to transfer risk of loss to the Government. In cases where a lender is refinancing their own debts, FSA is authorized to reduce the percent of guarantee based on the credit risk to the lender and FSA both before and after the transaction, according to 2-FLP, subparagraph 195 A. OL and FO guarantees to CLP and Preferred Lender Program lenders will not be less than 80 percent. Authorized agency officials should consider this authority during this period of financial stress and ensure that available rates and terms for the refinancing improve the applicant's likelihood of success, rather than simply transferring risk to the Government.

### 5 **Guaranteed Loan Servicing**

#### **A Informing Guaranteed Lenders**

Authorized loan officials shall maintain regular contact with and encourage guaranteed lenders to work closely with borrowers and integrators.

#### **B Releasing Normal Income Security for Essential Family Living and Farm Operating**

Lenders are permitted to temporarily release normal income security. However, any releases beyond what is necessary to make the annual payments will require the lender to prepare a cash flow budget showing repayment in the year of the release or a typical year cash flow budget reflecting loan restructuring, including deferrals, that will be necessary to keep the operation in business. Documents shall be submitted according to the lender status requirements in 2-FLP.

**Note:** Normal income security includes crop, milk, market livestock, and livestock product sales.

#### **C Loan Servicing Options**

Lenders may consider all options under 2-FLP, Parts 11 and 12, including a line of credit emergency advance, deferral, and writedown to assist farmers and/or ranchers.

Lenders should be reminded of their responsibility in working with delinquent borrowers under 2-FLP, paragraph 300, particularly subparagraphs C and D. For any case in which a lender submits a liquidation plan, that plan may not be approved according to 2-FLP, subparagraph 355 F, unless the FSA file includes appropriate documentation of the meeting required in 2-FLP, subparagraph 300 D on FSA-2248.

Requests for a subordination from lenders to advance additional funds against basic or additional security will be immediately forwarded to DAFLP for exception authority consideration according to 2-FLP, subparagraphs 278 A and B. The subordination request must document that it is for a farming and/or ranching operation experiencing distress.