

For: State and County Offices

1-FLP, 2-FLP, 3-FLP,
4-FLP, 5-FLP

Guidance on Direct and Guaranteed Loan Making and Servicing Actions

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A Background

Natural disasters and low commodity prices 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. Additionally, FSA employees are reminded to prioritize their efforts to focus on processing new loan requests and servicing distressed loan accounts.

B Purpose

This notice provides guidance and policy for:

- extending repayment terms for annual OL's for farmers and ranchers
- extending unequal repayment schedules for term OL's for farmers and ranchers
- releasing normal income security
- notifying borrowers of servicing options
- informing guaranteed lenders of:
 - available direct loan making and loan servicing options
 - Guaranteed Loan Program loan making and servicing options
- focusing employee efforts on new loans and servicing distressed accounts
- priorities for loan servicing.

Disposal Date	Distribution
February 1, 2017	State Offices; State Offices relay to County Offices

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1 Overview (Continued)

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.

2 Direct Loanmaking

A Repayment Terms

According to 3-FLP, paragraph 204 repayment of annual OL's may be scheduled beyond 18 months under extenuating circumstances, including recovery from a disaster or 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.

Repayment of term OL's may include unequal repayment schedules under extenuating circumstances, including recovery from a disaster or economic reversal.

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. These repayment terms may deplete borrower equity 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.

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2 Direct Loanmaking (Continued)

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, 2 FBP's shall be prepared to:

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

C DLS

When obligating an annual operating loan for more than 18 months, field offices shall:

- use type of assistance code 051, 106, 211, or 212 for OL term loans
- select loan purpose code 08 to indicate annual operating expenses.

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: Proceeds from the sale of basic security may **not** be used for any family living or farm operating expenses.

B Notifying Borrowers of Available Servicing Options

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

Borrowers who are in financial distress, or are 90 calendar days past due, will be:

- notified according to 5-FLP, Part 3
- provided all available primary loan servicing options.

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1 Direct Loan Servicing (Continued)

C Distressed Borrowers Who Are Not Delinquent

Debt restructure may be considered while the borrower's account is still current under 5-FLP, Parts 2, 3, and 4 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: Eligible borrowers who file a complete primary loan servicing application and become delinquent will immediately be considered for debt writedown and those that become 90 calendar days past due will again be notified of their loan servicing options according to 5-FLP, Part 3.

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

According to 2-FLP, paragraph 137 lenders are allowed 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 practical period of time, based on cash flow budgets.

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4 Guaranteed Loan Making (Continued)

B Available Repayment Terms for Annual OL's and Lines of Credit (Continued)

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. According to 2-FLP, subparagraph 166 B:

- 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.

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.

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 write down 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.

6 **Priority Actions**

A **Direct Loanmaking**

Authorized loan officials should encourage borrowers to use the following applications when eligible:

- streamlined operating loan
- microloan OL
- microloan FO.

Eligible applicants using 1 of these methods may experience a quicker turnaround on the farm loan request and loan officials may experience a savings of time while processing the application.

6 Priority Actions (Continued)

B Direct Loan Servicing

Authorized loan officials should prioritize their work efforts to first resolve any delinquent or distressed borrower accounts before completing regular loan servicing actions on current, non-distressed accounts.

Borrowers that are not 90 calendar days past due but are unable to make all their payments, or that probably cannot develop a feasible plan, should be notified as distressed borrowers according to 5-FLP, subparagraph 67 A as soon as possible. This allows FSA to begin processing and possibly complete restructure before the borrower becomes 90 calendar days past due. Even if processing can't be completed and the 90-calendar-day package has to be sent, 5-FLP, subparagraph 83 A allows a borrower who submitted a complete application while current to only submit a new request for servicing if all other information is less than 90 calendar days old.

C Establishing Priorities for Other FLP Servicing Requirements

• **Farm Assessment**

According to 1-FLP, subparagraph 223 A, FSA is required to review the assessment and the borrower's progress at least annually.

Annual assessments should be completed according to the following priority order based on borrowers who:

- are 90 calendar days or more past due or are financially distressed
- received an annual OL
- require additional FSA counseling according to action planned in the farm assessment
- are not distressed and are current.

1-FLP, subparagraph 223 A provides that the annual review may be completed through "an office visit, field visit, letter, telephone conversation, or year-end analysis". A telephone conversation and e-mail should be used whenever possible to complete the annual review. When using an office visit, schedule the visit to coordinate with the borrower's need to conduct other FSA business.

6 Priority Actions (Continued)

C Establishing Priorities for Other FLP Servicing Requirements

- **Year-End Analysis (YEA)**

1-FLP, subparagraph 263 A requires a year-end analysis of borrowers who:

- have received any direct loan, except for streamlined CL's, chattel subordination, or primary loan servicing action within the last year
- are financially distressed or delinquent
- have a loan deferral
- are receiving a limited resource rate on any loan.

YEA should be completed according to the following priority order based on borrowers who:

- are 90 calendar days or more past due or are financially distressed
- received an annual OL
- received a chattel subordination or PLS in the prior year
- if time permits, received any other direct loan (except streamlined CL's) and are current and not distressed.

- **Security Inspections**

According to 4-FLP, subparagraph 96 C chattel security shall be inspected annually unless the assessment or analysis justifies no undue risk, in which case chattel security will be inspected every 2 years. Real estate security shall be inspected once every 3 years.

In times of limited resources, the authorized agency official may prioritize the completion of security inspections within the requirements of the applicable regulations.

Examples: An FO borrower who is current with FSA and has provided chattels only as additional security might not need an annual inspection.

An OL borrower who is current with FSA and whose security is composed of fixture equipment such as silos, modular buildings, grain bins, or other certain equipment might not need an annual inspection.

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6 Priority Actions (Continued)

C Establishing Priorities for Other FLP Servicing Requirements (Continued)

Inspections should only be completed for borrowers who:

- are 90 calendar days or more past due or are financially distressed
- received an annual OL
- require additional FSA counseling according to action planned in the farm assessment
- if time permits, are not distressed and are current.

When inspections are required, FLP staff shall coordinate with other County Office employees who may need to visit the farm for another program. Visits shall be scheduled to limit the required travel, such as completing the visit on the way to or from work.