

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

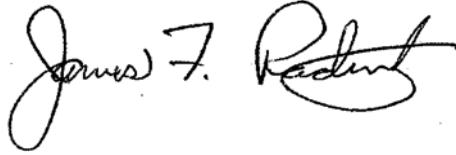
Notice FLP-741

2-FLP, 4-FLP, 5-FLP

For: FSA Offices

Operator for Loan Servicing

Approved by: Deputy Administrator, Farm Loan Programs



1 Servicing Operators

A Background

As required by the 2014 Farm Bill, Farm Loan Programs was able to expand its ability to make direct and guaranteed loans involving entities, embedded entities, and their members. Subsequently routine and special servicing issues have continued to be identified with regard to entities, particularly entities that were created after loan closings, that have added considerable complexity to the loan servicing processes.

B Purpose

This notice establishes the operator for loan servicing, leasing and disaster set-aside in those cases where the original operator has changed as a result of entity or embedded entity formation.

C Contact Information

If there are questions about this notice:

- County Offices shall contact the State Office
- State Offices shall contact Lee Nault, LSPMD, at 202-720-6834.

Disposal Date	Distribution
October 1, 2016	All FSA Offices; State Offices relay to County Offices

Notice FLP-741

2 Routine and Special Servicing

A Definitions

The following definitions of terms are from 7 CFR 761.2(b):

- embedded entity - an entity that has a direct or indirect interest, as a stockholder, member, beneficiary or otherwise, in an entity
- entity - see 2-FLP, 4-FLP or 5-FLP, Exhibit 2 for definition
- entity member - 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
- operator - an 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 for the State in which the farm is located to be the owner and/or operator of the farm.

Note: 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.

- relative - **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, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of the foregoing.**

B Implementation

In all situations where an individual borrower is now operating as part of an operating-only entity with a relative, FSA recommends and encourages transfer and assumption of the original debt to the operating-only entity; but it is not required.

FSA has interpreted the changes in the operator definition to include borrowers who obtained individual loans and later formed an operating only entity with a family member. So long as the member with the individual loan owns at least 50 percent of the operating entity, the individual meets the definition of operator for all loan servicing and disaster set asides.

Example: An individual obtains an FO and later forms an operating-only entity with a relative and obtains an OL for the same operation. The individual then needs servicing for the individual FO. In these cases so long as the individual owns at least 50 percent of the operating entity, they meet the current definition of operator.

2 Routine and Special Servicing (Continued)

B Implementation (Continued)

Borrowers who obtained individual loans and later formed an operating-only entity with a non-relative must have the entity assume the debt to be eligible for loan servicing, as provided in 4-FLP, subparagraph 248 C. However transfer of the collateral to the entity is not required.

In either of the above circumstance the operating entity must have its own unique tax identification number.

2-FLP, 4-FLP, and 5-FLP will be amended to comply with this policy.