



For: State and County Offices

Capitalization of Interest When Restructuring Guaranteed Loans

Approved by: Acting Deputy Administrator, Farm Credit Programs



1 Overview

A

Background

On October 13, 1995, a Special Procedure Notice was issued revising FmHA Instruction 1980-B to allow the capitalization of accrued interest when restructuring a guaranteed loan.

B

Purpose

This notice answers questions that have arisen as a result of this regulation change.

C

Contact

Questions about this notice may be directed to the Loan Servicing Division, Guaranteed Loan Servicing Branch, through the Area Office.

D

Filing

Instructions

Place this notice in procedure manuals preceding FmHA Instruction 1980-B, where available. Otherwise, file in chronological order with FC series notices.

Disposal Date

January 1, 1997

Distribution

State Offices; State Offices relay to County Offices and Ag Credit Teams

2 Issues

A
Approval of
Restructuring
Actions

When interest is to be capitalized, FmHA Instruction 1980-B, section 1980.124 (a)(7) requires approval of guaranteed loan restructuring based on the new loan amount and loan approval authorities. The authority to approve restructuring actions should be delegated according to Notice AO-1088. The SED approval authority for restructuring guaranteed loans may be delegated to State Agriculture Credit Directors, State and Area Agriculture Credit Specialists, and DD's as appropriate. Other servicing actions may continue to be approved according to FmHA Instruction 1980-B, section 1980.130 ADMINISTRATIVE E.

Approval of servicing actions will be provided to lenders in writing with a copy to the appropriate FSA servicing office. The approval letter should clearly summarize the terms of the restructuring that are approved and other conditions that have been applied. FmHA 1980-84 or FmHA 1980-85 may be executed by the local Agriculture Credit Manager or his or her designee. A copy of the approval letter should be attached to this form.

Example: A lender wishes to reamortize a delinquent Farm Ownership (FO) loan with a principal balance of \$260,000 and an interest balance of \$30,000. Since the new principal balance will be \$290,000, this request should be forwarded to SED or his or her designee for approval.

B
Exceeding
Statutory Limits

When accrued interest causes the loan amount to exceed the authorized loan maximum, rescheduling or reamortization may be approved **without capitalization of the amount that exceeds the limit.**

Continued on the next page

2 Issues (Continued)

B

**Exceeding
Statutory Limits
(Continued)**

As provided in FmHA Instruction 1980-B, the maximum principal balance is \$300,000 for guaranteed FO loans [section 1980.180 (d)(1)] and \$400,000 for guaranteed Operating (OL) loans [section 1980.175 (d)(2)]. The maximum indebtedness for each loan type is the same if it is combined direct and guaranteed loans. The total maximum allowable combined direct and guaranteed indebtedness is \$650,000 for any combination of FO, OL, Soil and Water, Economic Emergency, or Recreation Loans. Accrued uncapitalized interest above authorized loan maximums may be covered by the Loan Note Guarantee in the case of a loss.

Example: A delinquent FO loan has a principal balance of \$290,000 and accrued unpaid interest of \$40,000. The lender may restructure the loan by capitalizing \$10,000 of interest and establishing a new principal amount at the statutory maximum of \$300,000. The lender may then establish a repayment schedule for the \$30,000 remainder; however, it would not be allowed to charge interest on the \$30,000.

C

**Loan Guarantee
Documents**

Execute FmHA 1980-38 (Rev. 10-95) for loans guaranteed after October 13, 1995. Dispose of the 11-93 revision of FmHA 1980-38.

Certified Lender Program (CLP) lenders may execute a new FmHA 1980-38 because of the removal of language prohibiting the charging of interest on interest. CLP lenders are not required to execute a new form, but probably will want the new version.

Loans that were guaranteed between October 13, 1995, and receipt of the new forms should be corrected by executing new forms. If the lender refuses to sign new forms, repeat the request and clearly outline the reasons and benefits to the lender. If the lender still refuses to sign new forms, contact the Regional Office of the General Counsel on how to proceed.

Continued on the next page

2 Issues (Continued)

D

**Approved
Lender Program
Loans**

FmHA Instruction 1980-B, Exhibit A was not revised for this regulation change as it contains no prohibition against capitalizing interest. Loans made under the Approved Lender Program do not require a new Exhibit A, Attachment 1 or 2; however, other guarantee documents should be revised according to the October 13, 1995, Special Procedure Notice.

E

Interest Rates

FmHA Instruction 1980-B, section 1980.124 (a)(8) was added on October 13, 1995, to reinforce the requirements of FmHA Instruction 1980-A, section 1980.22 (b)(2). Lenders are allowed to have late payment charges and default rates of interest. However, late payment charges or default interest rates are not covered by the guarantee and cannot be capitalized.

F

**Reporting
Requirements**

After a guaranteed loan has been restructured, the Agency approval official shall complete FmHA 1980-47 and submit it to the Finance Office. Until FmHA 1980-47 is revised, outline the new principal and guaranteed amount in either or both of the following:

- item 20, "Remarks"
- an attached memorandum.

Note: Explanatory language should be included as necessary to ensure that the account is adjusted correctly.

FmHA Instruction 1980-B, Exhibit D, section XIII, paragraph D was revised to require the obligation of additional interest assistance if capitalization of interest increases the amount of interest assistance required.
