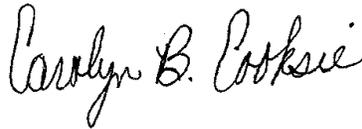


UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Guaranteed Loan Making and Servicing 2-FLP	Amendment 17
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Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 108 C has been amended to revise the agency loss eligibility requirement to allow a guaranteed OL to an applicant who had previously received debt forgiveness as a result of a Presidentially-designated emergency.

Exhibit 2 has been amended to add the definition of a “Presidentially-designated emergency”.

Page Control Chart		
TC	Text	Exhibit
	8-1, 8-2 8-2.5, 8-2.6 (add)	1, pages 3, 4 2, pages 13, 14

Part 8 Loan Evaluation

Section 1 Eligibility (7 CFR 762.120)

108 General Eligibility Requirements for OL and FO (7 CFR 762.120)

A**Summary of Eligibility Requirements**

A loan applicant and anyone who will execute the promissory note, including members of an entity applicant, must meet the following eligibility criteria to obtain a guaranteed loan. An eligible loan applicant is an applicant that:

- *--meets all requirements about prior debt forgiveness--*
- is not delinquent on any Federal debt
- does not have any outstanding recorded judgments obtained by the United States in a Federal court
- is a citizen of the United States, a U.S. non-citizen national, or a qualified alien under applicable Federal immigrations laws
- has the legal capacity to incur the obligations of the loan
- has an acceptable credit history
- is not able to obtain sufficient credit elsewhere without a guarantee
- has not been convicted of planting, cultivating, growing, producing, harvesting, or storing a controlled substance within the last 5 crop years.

The Authorized Agency Official will document in the FSA running record that the loan applicant meets all eligibility requirements.

B**Clarification of Loan Applicant**

In this part, the loan applicant includes any person who will execute the promissory note. In the case of an entity, the loan applicant includes all the members of the entity who will execute the promissory note.

Continued on the next page

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)**C****No Agency Loss**

***--The applicant, and anyone who will execute the promissory note, has not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the CONACT by debt write-down or write-off; compromise, adjustment, reduction, or charge-off under the provisions of section 331 of the CONACT; discharge in bankruptcy; or through payment of a guaranteed loss claim on more than three occasions on or prior to April 4, 1996 or on any occasion after April 4, 1996, except as noted below.**

The applicant may receive a guaranteed OL to pay annual farm and ranch operating and family living expenses, provided the applicant meets all other requirements for the loan, if the applicant and anyone who will execute the promissory note:

- **received a write-down under section 353 of the CONACT**
- **is current on payments under a confirmed reorganization plan under Chapter 11, 12, or 13 of Title 11 of the United States Code**
- **received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for a county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FSA loans prior to the beginning date of the incidence period for a Presidentially-designated emergency and received debt forgiveness on that debt within three years after the designation of such emergency meet this exception.**

Notes: A CONACT loan is any of the following, whether direct or guaranteed, made by FSA or its predecessor agency (FmHA):

- FO
- OL
- SW
- EM
- EE
- EO
- RL
- RHF
- EL.

Debt forgiveness does not include any writedown provided as part of a resolution of a discrimination complaint.--*

Continued on the next page

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)

C
No Agency Loss
(Continued)

A borrower who has successfully completed a bankruptcy reorganization plan will be considered to be current on the plan.

All debt forgiveness actions that are part of 1 transaction and occur on or about the same date are normally considered 1 occasion of debt forgiveness, regardless of the number of loans involved. Since debt forgiveness on direct loans and guaranteed loans are always considered separate transactions, concurrent forgiveness on direct and guaranteed loans are separate occasions. A single loan may have debt forgiveness on more than 1 occasion, when, for example, a borrower received a writedown and the loan was later liquidated at a loss.

A lender should contact the local FSA office if it is unsure of a loan applicant's eligibility.

Continued on the next page

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
RD-1910-5	Request for Verification of Employment		69.6, 152
RD-1940-3 <u>1/</u>	Request for Obligation of Funds Guaranteed Loans		226, 230, 244, 245, 326
RD-1951-C-1	Notice of Intent to Collect by Administrative Offset		376
RD-1980-7	Notification of Transfer and Assumption of a Guaranteed Loan		281
RD-1980-19	Guaranteed Loan Closing Report		227, 247, 249, 286
RD-1980-43	Lender's Guaranteed Loan Payment to USDA		376
RD-1980-45	Notice of Liquidation Responsibility		362
RD-1980-47	Guaranteed Loan Borrower Adjustments		281, 284, 288
W-2	Wage and Tax Statement		152

1/ This form is obsolete.

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ADPB	average daily principal balance	228
ALP	Approved Lender Program	34
BCIS	Bureau of Citizenship and Immigration Services	Ex. 7, 8
CLP	Certified Lender Program	Text
CMS	Credit Management System	52-54, 151, 262, 287
CONACT	Consolidated Farm and Rural Development Act	108
ECOA	Equal Credit Opportunity Act	31, 210
EE	economic emergency loan	108
EFT	Electronic Funds Transfer	360
EIS	Executive Information System	84

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
EL	emergency livestock loan	108
EM	emergency loans	108, 138, 244
EO	economic opportunity loan	108
FmHA	Farmer's Home Administration (formerly by FSA)	108
FMI	Forms Manual Inserts	226, 328, 359, 362
FO	farm ownership loan	Text
GLS	Guaranteed Loan System	Text
IA	interest assistance	Text
INA	Immigration and Nationality Act	Ex. 7
INS	Immigration and Naturalization Service	108
LOC	line of credit	Text
MOU	Memorandum of Understanding	Ex. 16
OL	operating loan	Text, Ex. 2
PLP	Preferred Lender Program	Text
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 7
RHF	Rural Housing for farm service buildings	108
RL	recreation loan	108
SAA	Shared Appreciation Agreement	286, 288
SEL	Standard Eligible Lender	Text
SW	soil and water loan	49, 50, 52, 108, 244, 281, 326
USPAP	Uniformed Standards of Professional Appraisal Practice	181, 183, 267

Redelegations of Authority

This table lists the redelegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	20

Definitions of Terms Used in This Handbook (Continued)

Net Recovery Value	<u>Net recovery value</u> is the market value of the security property assuming that it will be acquired by the lender, and sold for its highest and best use, less the lender's costs of property acquisition, retention, maintenance, and liquidation.
<hr/>	
Nonessential Assets	<u>Nonessential assets</u> are assets in which the borrower has an ownership interest that do not contribute an income to pay essential family living expenses or maintain a sound farming operation, and are not exempt from judgment creditors.
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Normal Income Security	<u>Normal income security</u> is all security not considered basic security.
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Partial Release	<u>Partial release</u> is the release of a portion of the security used as collateral for a loan, usually accomplished by the sale of the property.
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Participation	<u>Participation</u> is a loan arrangement where a primary or lead lender is typically the lender of record but the loan funds may be provided by one or more other lenders due to loan size or other factors. Typically, participating lenders share in the interest income or profit on the loan based on the relative amount of the loan funds provided after deducting the servicing fees of the primary or lead lender.
<hr/>	
Partnership	<u>Partnership</u> is any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the entity will operate and be authorized to own both real estate and personal property and to incur debts in its own name.
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Present Value	<u>Present value</u> is the present worth of a future stream of payments discounted to the current date.
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--Presidentially-Designated Emergency	A <u>Presidentially-designated emergency</u> is a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 <u>et seq.</u>).--
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Primary Security	<u>Primary security</u> is the minimum amount of collateral needed to fully secure a proposed loan.
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Continued on the next page

Definitions of Terms Used in This Handbook (Continued)

Principals of Borrowers Principals of borrowers includes owners, officers, directors, entities and others directly involved in the operation and management of a business.

Protective Advances Protective advances are advances made by a lender to protect or preserve the collateral itself from loss or deterioration. Protective advances include but are not limited to:

- payment of delinquent taxes
 - annual assessments
 - ground rents
 - hazard insurance premiums against or affecting the collateral
 - harvesting costs
 - other expenses needed for emergency measures to protect the collateral.
-

Purchase Money Interest Purchase money interest is a component of UCC dealing with security and lien position. A lender providing for a crop or a particular piece of equipment can frequently have first position on that item despite other financing statements in place.

Qualified Alien Qualified alien, as defined under PRWORA (8 U.S.C. 1641), is:

- an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act
- an alien who is granted asylum under section 208 of PRWORA
- a refugee who is admitted to the United States under section 207 of PRWORA
- an alien who is paroled into the United States under section 212(d)(5) of PRWORA for a period of at least 1 year
- an alien whose deportation is being withheld under section 243(h) of PRWORA
- an alien who is granted conditional entry according to section 203(a)(7) of PRWORA as in effect before April 1, 1980
- an alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980
- an alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act.

Reamortization Reamortization is to rewrite the rates or terms of a loan made for real estate purposes.
