UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

For: State and County Offices

Notice FLP-264

1951-C, 1955-A, 1956-B, 1962-A

Monitoring the Statute of Limitations (SOL's)

Approved by: Deputy Administrator, Farm Loan Programs

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1 Overview

A Background

The government is unable to seek:

- monies owed on defaulted FSA loans, beyond the value of any remaining security, once the 10-year SOL runs
- deficiency judgments once the 6-year SOL runs.

State Offices must ensure that all necessary and applicable collection actions are taken before SOL's expire to receive the greatest possible recovery of taxpayer dollars.

B Purpose

This notice provides guidance to ensure that State Offices are monitoring SOL's.

C Contact

If there are any questions about this notice:

- County Offices shall contact the State Office
- State Offices shall contact Mary Durkin, LSPMD, at 202-720-1658.

Disposal Date	Distribution
October 1, 2004	State Offices; State Offices relay to County Offices

2 Action

A Farm Loan Chief (FLC) Responsibility

FLC is responsible for monitoring delinquent accounts to ensure that all required collection activities occur before the expiration of the 6-year and 10-year SOL's. In general, after:

- 6 years from the accrual date, FSA may not obtain a deficiency judgment against a delinquent borrower but can still pursue collection through offsets
- 10 years from the accrual date, the statute bars any collection activity (i.e. offsets) beyond liquidating the security.

FLC shall ensure that:

- the State Office establishes a system to monitor the 6-year SOL's on delinquent farm loan accounts
- all cases in which the 6-year SOL's have not yet run receive top servicing priority before the statute bars judicial collection of a deficiency judgment
- in cases where it appears the 6-year SOL's may bar collection of a deficiency but the debtor has repayment ability or other assets, consult with the Regional Office of General Counsel (OGC) to determine if a deficiency judgment can be sought.

Notes: Consult with the Regional OGC about whether State law prevents FSA from pursuing offset collection or referring deficiency judgments to the Department of Treasury (Treasury) for the Treasury Offset Program (TOP). Judgment debt is not classified as currently not collectible (CNC) before TOP referral.

If a deficiency judgment will not be sought, steps should be taken immediately to determine if the account can be classified as CNC and ensure that it is referred to Treasury for cross-servicing, which will be limited to Treasury referral to private collection agencies to request payment.

Continued on the next page

2 Action (Continued)

B
Farm Loan Manager (FLM) Action

Each FLM or Ag Credit Team shall:

- maintain a running list of all delinquent accounts where the 6-year SOL's may bar deficiency collection within the next 24 months

  Note: In certain situations, the time period remaining under SOL's may be suspended because of certain other actions that may have prohibited the Agency from enforcing collection of the debt such as the debtor filing bankruptcy.

- quarterly, send an updated list of these cases to DD and FLC.

  Note: FLC's may want to monitor additional information on the list such as whether the:

  - security has been liquidated
  - debtors have repayment ability or other assets.

3 Determining When SOL's Begin to Run

A Acceleration

In general, when loans are accelerated, SOL's begin to run from the date of acceleration.

B Voluntary Liquidation

In some cases the borrower may voluntarily liquidate the security before receiving an acceleration letter through the 1951-S loan servicing process. In these cases, there should be a signed FmHA 455-3 or FmHA 455-4.

FmHA 455-3, item 2 states that "the FmHA debt is all immediately due and payable upon signing of this form by the Borrower and the FmHA representative". SOL begins to run on the date FmHA 455-3 is signed.

- FmHA 455-4, item 8 states that "nothing contained in this agreement shall be construed to release the Debtor or any other party from liability for any deficiency owing to or insured by the Government after application of the proceeds as provided in this agreement. Any such deficiency shall be immediately due and payable". SOL begins to run on the date FmHA 455-4 is signed.

In cases where borrowers have made payments on the debt after signing FmHA 455-3 or FmHA 455-4, consult the Regional OGC to determine the beginning date of SOL's.

C 30 Days Past Due

When a loan has not been accelerated through the 1951-S process or there is no remaining security and the borrower did not sign a voluntary liquidation form, SOL generally begins to run on each installment as it comes due. The statute begins to run when the installment is 30 days past due.