

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

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**Guaranteed Loan Making and Servicing  
2-FLP (Revision 1)**

**Amendment 7**

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**Approved by:** Acting Deputy Administrator, Farm Loan Programs

*Chris P. Beyerhelm*

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**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 263 B has been amended to include lender's supervision of borrowers according to the provisions of the Servicemembers Civil Relief Act of 2003.

Subparagraph 283 A has been amended to clarify that an emergency advance cannot be used if this will cause the total amount of the borrower's debt to exceed the statutory limit.

Subparagraph 284 B has been amended to clarify that if the loan has been sold on the secondary market, the lender must repurchase the loan according to paragraph 375 B or obtain the holder's written consent.

Subparagraph 355 A has been amended to un-bold the liquidation dates.

Subparagraphs 359 C, 360 C, and 376 A have been amended to remove reference to FSA-2254A.

Subparagraph 359 G has been amended to remove the text referencing interest payments on estimated loss claim payments because of delays by FSA.

Subparagraph 363 G has been amended to change State Office official to authorized agency official.

Subparagraph 363 H has been amended to update State Office responsibility in discontinuing offset when a guaranteed borrower is called to report for military service.

Subparagraph 363 I has been amended to clarify processing collections that have a debt offset receivable established using FSA-2254.

Subparagraph 374 C has been amended to clarify closing secondary market transactions.

**Amendment Transmittal (Continued)**

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
	7-7, 7-8 11-3, 11-4 11-47 through 11-50 14-1, 14-2 14-13 through 18 14-31 through 14-34 15-5, 15-6 15-15, 15-16	1, pages 3, 4

## 97 Incomplete Application (7 CFR 762.110(e)) (Continued)

**D Example of Second Notification Letter**

The following is an example of a second notification letter.

Date: _____
Dear _____:
<p>Your application on behalf of <i>(insert name of borrower/applicant)</i> for Farm Service Agency loan guarantee assistance is still incomplete. We must receive the following information before we can finish processing this request:</p> <p><i>(Insert list of items necessary to complete application.)</i></p> <p>If you do not submit this information or contact this office by <i>(insert date 10 calendar days from date of letter)</i>, your application will be withdrawn without further notice.</p> <p>The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.</p> <p><i>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.</i></p>
Sincerely,
_____
(Title)

**97 Incomplete Application (7 CFR 762.110(e)) (Continued)**

**E Automatic Withdrawal of Application**

**If the lender does not provide the information needed to complete its application by the deadline established in an Agency request for the information, the application will be considered withdrawn by the lender.**

**98-107 (Reserved)**

**263 Borrower Supervision (7 CFR 762.140(b))****A Overview**

Lenders must supervise guaranteed loan borrowers in a manner similar to their supervision of regular loan customers. Lenders are expected to apply standard, agricultural loan servicing principles to their guaranteed customers.

Examples of standard borrower supervision include the following:

- maintaining regular contact with the farmer
- periodically discussing the farmer's goals and monitoring progress in meeting these goals
- accounting for loan proceeds by monitoring expenditures and discussing how these will facilitate the achievement of the operator's expressed goals
- monitoring collateral and tracking the sale of security.

**B Lender Supervision of Borrowers**

**The lender's responsibilities regarding borrower supervision include, but are not limited to the following:**

- **ensuring loan funds are not used for unauthorized purposes**
- **ensuring borrower compliance with the covenants and provisions contained in the promissory note, loan agreement, mortgage, security instruments, any other agreements, and this part**

**Note: Any violations which indicate non-compliance on the part of the borrower, must be reported, in writing, to both the Agency and the borrower.**

- **ensuring the borrower is in compliance with all laws and regulations applicable to the loan, the collateral, and the operations of the farm**

## 263 Borrower Supervision (7 CFR 762.140(b)) (Continued)

**B Lender Supervision of Borrowers (Continued)**

- **receiving all payments of principal and interest on the loan as they fall due and promptly disbursing to any holder its pro-rata share according to the amount of interest the holder has in the loan, less only the lender's servicing fee**
- **performing an annual analysis of the borrower's financial condition to determine the borrower's progress.**

**\*--Note:** Provisions of the Servicemembers Civil Relief Act of 2003 affect guaranteed lenders with borrowers and/or co-borrowers called to active duty. Guaranteed lenders are responsible for:

- understanding their lending institution's rights and remedies
- ensuring that benefits are promptly and properly extended to eligible guaranteed borrowers.

Servicing actions taken according to the Servicemembers Civil Relief Act of 2003 will not jeopardize guaranteed lenders' rights under the loan guarantee.--\*

**(7 CFR 762.140(d)) When a lender receives a payment from the sale of encumbered property, loan installments will be paid in the order of lien priority. When a payment is received from the sale of unencumbered property or other sources of income, loan installments will be paid in order of their due date. Agency approval is required for any other proposed payment plans.**

The loan application and other loan specific documents, including the Conditional Commitment, will detail the purposes and conditions for the loan. Lenders must inform FSA of any changes in the use of loan funds. SEL's must first receive FSA concurrence **before** allowing a change in the use of loan funds. If a borrower uses loan funds improperly, the lender must take steps to correct the violation. If improper use of loan funds results in a loss claim, lenders **must** make every effort to collect the loan's remaining outstanding debt and minimize loss to FSA.

Failure by the lender to report a borrower violation to FSA in a timely manner could result in the reduction or denial of a loss claim.

Borrower's progress is demonstrated by an annual improvement in balance sheets and the meeting of any interim goals (paragraph 265).

The lender shall obtain a perfected security interest in the loan collateral. Lenders **must** obtain secure liens on all collateral as outlined in the Conditional Commitment. A loss claim may be reduced if a lender failed to perfect the loan security.

## 283 Emergency Advances (7 CFR 762.146(a))

## A Issuing an Emergency Advance Under LOC

**In cases of a guaranteed line of credit, lenders may make an emergency advance when a line of credit has reached its ceiling. The emergency advance will be made as an advance under the line and not as a separate note.** An emergency advance made on a loan with interest assistance is **not** and **cannot** be covered under the existing FSA-2221. Therefore, the lender will charge the full note interest rate on the emergency advance and the advance **cannot** be used as part of the average principal balance calculation for the lender's interest assistance claim.

**The lender's loan documents must contain sufficient language to provide that any emergency advance will constitute a debt of the borrower to the lender and be secured by the security instrument. The following conditions apply:**

- **the loan funds to be advanced are for authorized operating loan purposes**

**Note:** An emergency advance may not be used to pay a carryover of an existing line of credit or for annual operating expenses for a subsequent year.

- **the financial benefit to the lender and the Government from the advance will exceed the amount of the advance**
- **the loss of crops or livestock is imminent unless the advance is made.**

**Note:** An emergency advance:

- in excess of the original loan amount is made when some aberration causes expenses to exceed the original budgeted amount, and is necessary to avoid significant damage to or loss of the security
- **--shall not be used if its use will cause the total amount of the borrower's debt to exceed the statutory limit.--\***

**283 Emergency Advances (7 CFR 762.146(a)) (Continued)****A Issuing an Emergency Advance Under LOC (Continued)**

The following are examples where an emergency advance may be appropriate.

- The cost of an input item necessary for production of a crop, such as fertilizer or fuel unexpectedly increases substantially in price between the time the loan is made and the time the input is used.
- Unusual weather conditions result in additional expenses, such as a late freeze that results in a replanting of a crop, or an insect infestation results in unanticipated spraying.
- Fire or other calamity destroys a tractor or harvesting equipment just before harvest, and it is necessary to rent equipment, or custom hire for the harvest.
- The cost of inputs for raising livestock unexpectedly increases substantially, such as the cost of feed.

**B Lender Request for an Emergency Advance**

SEL's and CLP lenders must obtain written permission from the authorized agency official before an emergency advance on LOC can be made.

Emergency advances are authorized for ongoing operations and may be used for OL's with a 1-year term, or in any year of LOC. Where liquidation is imminent, advances will be made as protective advances according to Part 14.

To request an emergency advance, SEL's and CLP lenders must submit the following to the authorized agency official:

- a narrative explaining that the loss of crops and/or livestock is imminent and can be prevented by an infusion of cash
- cash flow projections
- if necessary, a copy of the modified loan note that reflects the additional cash advanced.

PLP lenders may make emergency advances according to their Lenders Agreement.

**283 Emergency Advances (7 CFR 762.146(a)) (Continued)****C FSA Response to Request for Emergency Advance**

The authorized agency official:

- shall review a SEL's and CLP lender's request for an emergency advance and notify the lender of FSA's decision in a timely manner
- should make every effort to respond to a request for an emergency advance within several days of receiving the lender's request.

**284 Interest Rate Changes (7 CFR 762.146(d))****A Overview**

**The lender may change the interest rate on a performing (nondelinquent) loan only with the borrower's consent.**

**B A lender must follow the following procedures to change the interest rate.**

- **\*--If the loan has been sold on the secondary market, the lender must repurchase the loan according to paragraph 375 B or obtain the holder's written consent.--\***
- **To change a fixed rate of interest to a variable rate of interest or vice versa, the lender and the borrower must execute a legally effective amendment or allonge to the existing note.**
- **If a new note is taken, it will be attached to and refer to the original note.**
- **The lender will inform FSA of the rate change by:**
  - completing FSA-2247
  - forwarding FSA-2247 to the County Office.

**Note:** Lenders do **not** need to seek FSA concurrence to change an interest rate.

## 285 Release of Liability Upon Withdrawal (7 CFR 762.146(b))

## A General Requirements

**An individual who is obligated on a guaranteed loan may be released from liability by a lender with the written consent of the Agency provided the following conditions have been met.**

- **The individual to be released has withdrawn from the farming operation.** The lender must submit a narrative outlining who is to be released and why.
- **A divorce decree and final property settlement does not hold the withdrawing party responsible for the loan payments.** A copy of the divorce decree must be submitted with the lender's request. The lender must document that release of divorced borrowers is a common practice carried out in their nonguaranteed loan portfolio.
- **The withdrawing party's interest in the security is conveyed to the individual or entity with whom the loan will be continued.**
- **The ratio of the amount of debt to the value of the remaining security is less than or equal to .75, or the withdrawing party has no income or assets from which collection can be made.**
- **Withdrawal of the individual does not result in legal dissolution of the entity to which the loans are made. Individually liable members of a general or limited partnership may not be released from liability. Partners, parents, cosigners, stockholders, and entity members may often be released from liability.** However, when the guaranteed loan is made to individuals farming as a partnership, and each partner is fully liable, release of 1 partner would terminate the partnership and the existence of the entity to which the loans were made. The lender must document that release of withdrawing members is common in their unguaranteed portfolio and all other conditions in this paragraph are met.
- **The remaining liable party projects a feasible plan (see § 762.102(b)).** The lender must submit a cash flow projection for the remaining liable party with the request for release. A release will not be approved when a loss is probable.

## Part 14 Liquidation

### 355 Liquidation Process (7 CFR 762.149)

#### A Liquidation Process Overview

After a lender has determined that a borrower's financial difficulties cannot be solved with any 1 or combination of the loan restructuring options, the lender must liquidate the loan. All lenders are expected to proceed with liquidation in the following chronological order.

- The lender must give the borrower notice that the loan will be liquidated.
- The lender must accelerate the note.
- The lender must prepare a liquidation plan. SEL and CLP lenders will provide FSA with a copy.
- The lender must submit an estimated loss claim with the liquidation plan .
- The lender must liquidate the security.
- The lender must submit a final loss claim.
- The lender must remit future recoveries to FSA in proportion to the percentage of the guarantee.

Liquidation steps (maximum timeframes) are summarized as follows. All dates measured in calendar days after payment due date unless otherwise noted.

<b>Liquidation Dates</b>	<b>Action</b>
60	Earliest date that lender may file to liquidate security.  <b>Note:</b> Sixty calendar days after disposition of IA eligibility issue (paragraph 300).
90	Lender gives notice to borrower and accelerates the loan or implements a loan restructuring plan.
120	Lender must reach a decision as to whether the account will be restructured or liquidated.
150	Liquidation plan and estimated loss claim must be submitted.
164	Estimated protective advances must be concurred with by FSA.
170	Liquidation plan must be approved by FSA.
180	Estimated loss claim must be approved by FSA.
260	Liquidation completed.
290	Final loss claim submitted.
330	FSA should approve or request modification of final loss claim.  <b>Note:</b> Forty calendar days after submission of final loss claim (subparagraph 360 F).

**355 Liquidation Process (7 CFR 762.149) (Continued)****B Earliest Date the Lender Can File to Liquidate Security**

The lender may not initiate foreclosure action on the loan until 60 calendar days after eligibility of the borrower to participate in the IA Program has been established by FSA. The lender and borrower must discuss IA Program eligibility at the default meeting. See paragraph 300 for more information on this meeting. If IA eligibility was waived in writing by the borrower, the lender may prepare to liquidate the loan immediately following receipt of the waiver.

It is the lender's prerogative to request IA on a loan, regardless of the borrower's desire or eligibility for the subsidy. However, it must be considered and documented in some fashion that it was rejected as an option. The authorized agency official shall remind the lender of this requirement if they attend the post default lender borrower meeting. Following this meeting or receipt of FSA-2248, the authorized agency official shall make a written entry in the running record of the borrower's FSA file as to the date that IA was considered and when the 60-calendar-day abeyance period ends.

**C FSA-2248 Is Submitted**

FSA-2248 must be submitted following the lender-borrower default meeting and every  
 \*--60 calendar days thereafter. The initial FSA-2248 will notify FSA that the borrower is in default and if IA was considered as an option to correct the default. Subsequent FSA-2248 will comment on the progress of liquidation and identify any problems the lender is having--  
 \* or may have in completing the liquidation in a timely manner.

If FSA-2248 is not received as required, the authorized agency official shall contact the lender, inquire as to the status of the account and request that an accurate report be provided. If necessary, this contact should be followed up with a letter, and if the authorized agency official feels it is necessary, a copy provided to SED. Interest that accrues during unnecessary delays will not be paid as part of a loss claim. SED and DD shall monitor guaranteed loan  
 \*--delinquency reports to ensure that liquidating accounts are being monitored and FSA-2248--\* are being filed timely.

## 359 Lender Submission of Estimated Loss Claim (7 CFR 762.149)

## A Overview

**\*--An estimated loss claim must be submitted by the lenders no later than 150 days after the payment due date unless the account has been completely liquidated and then the final loss claim must be filed. The estimated loss will be based on the following:--\***

- **The Agency will pay the lender the guaranteed percentage of the total outstanding debt, less the net recovery value of the remaining security, less any unaccounted for security**
- **The lender will discontinue interest accrual on the defaulted loan at the time the \*--estimated loss claim is paid by the Agency. The Agency will not pay interest beyond 210 days from the payment due date. If the lender estimates that there will be no loss after considering the costs of liquidation, an estimated loss of zero will be submitted and interest accrual will cease upon approval of the estimated loss and never later than 210 days from the payment due date.--\***

See subparagraph 329 C for loss claims on restructured loans.

## B Estimated Liquidation Expenses

Certain reasonable costs to liquidate a loan may be included in the estimated loss claim. Eligible liquidation expenses include, but are not limited to, the following:

- appraisals
- marketing expenses
- auctioneer expenses
- legal fees.

**Note:** Legal fees associated with the liquidation are a liquidation expense. FSA allows reasonable and necessary legal fees, including fees incurred in a Chapter 7 liquidation bankruptcy, to be deducted from the sale of the collateral before application of the net proceeds to the guaranteed debt. Lenders will be compensated for liquidation expenses incurred before the filing of a reorganization bankruptcy proceeding. An estimate of legal fees, and all liquidation costs, must be provided with an estimated loss claim, and documentation of actual expenses incurred must be provided with the final loss claim.

**Packager fees and outside consultant fees for servicing of guaranteed loans are not covered by the guarantee, and will not be paid in an estimated \* \* \* loss claim.**

**359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)****B Estimated Liquidation Expenses (Continued)**

In-house expenses are not allowable liquidation costs. In-house expenses include, but are not limited to, the following:

- employee salaries
- staff lawyers
- photocopying
- travel.

**C Lender Submission of Estimated Loss Claim**

\*--Lenders will prepare and submit the estimated loss claim on FSA-2254 along with other supporting documentation to support the estimates to the authorized agency official.--\*

The lender's supporting documentation shall include the following:

- unpaid accrued interest
- advances
- payments
- periods of time
- interest rates
- principal balances.

SEL and CLP lenders will also be required to submit appraisals and other documentation to support the estimates on FSA-2254. Estimated loss claims for PLP lenders will only be reviewed for accuracy and calculations of FSA-2254. FSA-2254 instructions provide examples on how to complete certain fields.

The lender must justify and explain any liquidation expenses on the estimated loss claim \* \*

**D Unapproved Loans or Advances**

**The amount of any payments made by the borrower on unapproved loans or advances outside of the guarantee will be deducted from any loss claim submitted by the lender on the guaranteed loan, if that loan or advance was paid prior, and to the detriment of, the guaranteed loan.**

**359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)****E FSA Approval of Protective Advances**

FSA will approve a request for a protective advance if the request is reasonable and the value of the security would decrease significantly if the advance was not made. FSA will respond within 14 calendar days to an SEL and CLP written request for concurrence on a protective advance. Concurrence with protective advances can be provided separately from approval of the liquidation plan.

PLP lenders will make protective advances according to the Lenders Agreement.

**F FSA Approval and Payment of Estimated Loss Claim**

The estimated loss claim may be reviewed and approved separately from the liquidation plan using FSA-2295. The estimated loss claim is submitted on FSA-2254 to the authorized agency official. After reviewing FSA-2254, the authorized agency official shall forward FSA-2254 and supporting documentation to SED with a recommendation to approve or dispute the estimated loss claim.

If SED finds the estimated loss claim to be accurate, SED shall approve the payment within 30 calendar days of estimated loss claim submission. If FSA wants to dispute the estimated loss claim, FSA shall attempt to resolve the differences with the lender within 30 calendar days of the submission.

After approval by SED, SED shall forward FSA-2254 to FSC, FLOO for payment of the estimated loss claim, by either of the following:

- FAXed to:
  - 314-539-3111 for States 01 through 32
  - 314-539-6447 for States 33 through 64
- sent to:

USDA-FSA-FSC-FLOO  
PO Box 200003  
St Louis MO 63120-0003.

FSC, FLOO shall issue a check to the lender within 30 calendar days of receiving FSA-2254. The PLP estimated loss claim will be paid after a brief review for accuracy.

**359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)****G Application of Estimated Loss Payment**

**The lender will discontinue interest accrual on the defaulted loan at the time the estimated loss claim is paid by the Agency. The Agency will not pay interest beyond 210 days from the payment due date. If the lender estimates that there will be no loss after considering the costs of liquidation, an estimated loss of zero will be submitted and interest accrual will cease upon approval of the estimated loss and never later than 210 days from the payment due date.**

**\* \* \***

**The application of the loss claim payment to the account does not automatically release the borrower of liability for any portion of the borrower's debt to the lender. The estimated loss payment compensates the lender for the loss, but does not reduce the loan balance or cure a delinquency, and should not be reflected as such on FSA-2248.**

**360 Lender Submission of Final Loss Claim (7 CFR 762.149)****A Overview**

**Lenders may submit a final loss claim when the security has been liquidated and all proceeds have been received and applied to the account.**

**B General Requirements**

**If a lender acquires title to property either through voluntary conveyance or foreclosure proceeding, the lender will submit a final loss claim after disposing of the property. The lender may pay reasonable maintenance expenses to protect the value of the property while it is owned by the lender. These may be paid as protective advances or deducted as liquidation expenses from the sales proceeds when the lender disposes of the property. The lender must obtain Agency written concurrence before incurring maintenance expenses which exceed the amounts allowed in § 762.149(e)(1) (subparagraph D).**

**The lender will make its records available to the Agency for the Agency's audit of the propriety of any loss payment.**

The final loss claim will be based on the amount received from the sale of the property, less expenses incurred for its care and maintenance, assuming the lender has acted expeditiously  
**\*--and prudently to sell it. All proceeds must be applied to the principal first and then toward accrued interest if the interest is still accruing.--\***

**360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)****C Lender Submissions of Final Loss Claim**

All lenders will submit the following documents with a final loss claim:

- an accounting of the use of loan funds
- an accounting of the disposition of loan security and its proceeds
- a copy of the loan ledger indicating loan advances, interest rate changes, protective advances, and application of payments, rental proceeds, and security proceeds, including a running outstanding balance total

**Note:** The lender's supporting documentation shall include the following:

- unpaid accrued interest
  - advances
  - payments
  - periods of time
  - interest rates
  - principal balances.
- **documentation, as requested by the Agency, concerning the lender's compliance with the requirements of this part**
  - the name, SSN, and current address of any co-borrower or co-signer for liquidation of loans that were made using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date, if not previously submitted to FSA.

**Note:** See subparagraph 359 B for liquidation expenses and legal fees.

**The lender will designate 1 or more financial institutions to which any FSA payments will be made by electronic funds transfer (EFT).**

Lenders should also submit EFT account numbers that are to be used for transmission of any loss payment from the Government.

\* \* \*

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)**

**E Salary Offset**

The authorized agency official shall determine whether collection by salary offset is feasible according to 7 CFR Part 3 and RD Instruction 1951-C, section 1951.111.

**F Referral of Debt for IAO Offset**

The authorized agency official shall refer debtors:

- immediately for IAO and non-centralized administrative offset if Exhibit 18 or 20 was sent
- for IAO and non-centralized administrative offset 30 calendar days after sending Exhibit 17 or 19, and/or after the conclusion of a review or appeal.

The authorized agency official must complete the debtor's IAO referral information in GLS for the debt to be referred for offset.

**Note:** Debtors who are ineligible for IAO or who later become ineligible for IAO shall be removed from referral in GLS.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)**

**G Referral of Debt to TOP**

\*--The authorized agency official shall refer debtors to TOP 60 calendar days after:--\*

- Exhibit 17 or 18 was sent
- the conclusion of a review or appeal.

\*--The authorized agency official must complete the debtor's TOP referral information in--\*  
GLS. Once the information is entered, debtors will be programmatically referred according to the established Treasury quarterly referral schedule.

Once the debt is referred for TOP, FSC, FLOO will send Exhibit 21. The date of Exhibit 21 will be shown on the debtor's GLS maintenance screen.

**Note:** Debtors who are ineligible for TOP or who later become ineligible for TOP shall be removed from referral on the GLS maintenance screen.

**H State Office Responsibility**

SED shall ensure that FSA employees responsible for servicing FLP guaranteed loans notify all County Offices where the debtor receives Federal payments that these payments are to be offset.

DD shall ensure that all County Offices are updated monthly on debtors whose payments are eligible to be offset.

**Note:** Management reports for debts currently referred for IAO and TOP are available in GLS.

\*--IAO and TOP collections taken by FSA will be discontinued when a guaranteed borrower and/or co-borrower are called to report for induction or military service. Co-borrowers associated with the debt must also be suspended from offset collections in GLS in an effort to reduce hardship on the family. Offsets should not be taken during the period of active duty and 3 months thereafter. Any collections received as a result of offset, **after** the date the borrower and/or co-borrower were called to active duty, will be refunded. State Offices shall make refund request to FSC, FLOO.

Offsets shall be suspended by State Offices by accessing GLS Debt Offsets Maintenance Screen and:

- selecting the Reason Deleting as "Other"
- inputting the Why Agency Deleting as "National Defense Act"
- inputting the delete date.

**Note:** This information should be entered for both IAO and TOP.--\*

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)**

**I Collections and Refunds**

Amounts collected through administrative offset will be applied to the debtor’s account according to 3-FI using the Guaranteed Collection Codes in this table.

<b>Code</b>	<b>Description</b>
70	Administrative Offset – Other
71	Administrative Offset – DCP
72	Administrative Offset – LCP
73	Administrative Offset – CRP
74	Administrative Offset – EQIP
75	Administrative Offset – Tobacco
76	Administrative Offset – Peanuts
77	Administrative Offset – Rice
78	Administrative Offset – LDP/Markt Asst Loan
79	Administrative Offset – DCP in Stay
80	Voluntary Collection
81	DOJ Collection
82	Debt Settlement Collection
83	Other Collection

**Notes:** Collections will be applied to the oldest delinquent Federal debt first.

According to 58-FI, paragraph 164, delinquent debts due to FSA will be collected before an assignment is honored.

\*--Voluntary and Other collections, except IAO, DOJ, Lender Recoveries, and Debt Settlements, for loans subject to offset with a debt offset receivable established, must have FSA-2254 completed manually and FAXed to FSC, FLOO for processing. The collection will be processed as an offset collection.--\*

Refunds of amounts offset will be made within 45 calendar days if FSA determines that an amount should not have been offset or that the debtor has prevailed in an appeal. SED shall approve and submit refund requests to FSC, FLOO.

**J Notifying Lender of FSA Collections**

County Offices shall notify the lender of any collections received through IAO or TOP by November 30 of each year. The annual notification shall include the following:

- amount collected by loan number
- current balance of the Federal debt.

**Note:** County Offices can obtain account information from the GLS loan offset view screen.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)****K Debt Settlement**

Once a final loss claim is paid, FSA will be able to consider settlement offers received directly from the debtor. Compromise and adjustment offers should be compared against other collection options available, such as IAO and TOP. The option that offers the greatest recovery to the Government should be pursued.

FSA shall process a compromise or adjustment offer according to RD Instruction 1956-B, section 1956.66.

The debt settlement will only cover the Federal debt owed by the debtor. FSA shall notify the lender of the approval of a debt settlement.

After all payments under the compromise or adjustment offer have been received, the remaining balance of the debt will be written off. SED shall FAX or mail a copy of RD 1956-1 along with a memorandum requesting that the debt be written off to FSC, FLOO.

**L Bankruptcy Effect**

FSA, subject to advice provided by the Regional OGC, will immediately file a proof of claim upon notification of a bankruptcy filing for any debtor subject to offset. At a minimum, the following shall be filed with the proof of claim as evidence of the debt:

- FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application
- FSA-1980-27 or Loan Guarantee
- copy of promissory note
- documentation of FSA's final loss claim payment to the lender.

Bankruptcy filing will halt any FSA offsetting actions. The debtor shall be removed from referral of IAO and TOP through the GLS maintenance screens.

Debts discharged in bankruptcy will be written off upon receipt of the discharge order. SED shall FAX or mail a copy of the discharge order along with a memorandum requesting that the debt be written off to FSC, FLOO.

**M Write Off of Debt When the Debtor Is Released From Liability by DAFLP**

Debtors released from liability under subparagraph 361 C will have their outstanding debt written off. SED shall FAX or mail a copy of DAFLP approval along with a memorandum requesting that the debt be written off to FSC, FLOO.

**374 Agency Requirements (7 CFR 762.160) (Continued)****B Secondary Market LOC Requirements**

LOC's may not be assigned. However, the lender may obtain funding for LOC's from other sources. The lender retains the note, the collateral securing the note, and all responsibility for loan serving and liquidation. The guarantee is applicable only to the primary lender.

**C Transfer to the Secondary Market**

Lenders generally market guaranteed loans to investors through an intermediary or directly to Farmer Mac.

Lenders are regularly contacted by and normally maintain a list of brokers or dealers interested in the purchase of FSA Guaranteed Loans. In an average transaction, lenders take the following steps to make a typical sale of a guaranteed loan on the secondary market.

- Contact several brokers or Farmer Mac for bids on the loan. The brokers will need to know:
  - loan amount and the size of the guaranteed portion
  - coupon rate (variable or fixed)  
**Note:** If variable, the broker will need to know the interest adjustment period.
  - if it is a new loan, when the loan will be funded
  - maturity date
  - payment schedule.

## 374 Agency Requirements (7 CFR 762.160) (Continued)

## C Transfer to the Secondary Market (Continued)

- Determine loan servicing fee. Obtain a commitment on the loan servicing fee, usually ranging from 0.4 to 2 percent.
- Select a bid. Analyze all the offers, select the most appropriate, and contact the winning broker. **Negotiations concerning premiums, fees, and additional payments for loans are to take place between the holder and the lender. The Agency will participate in such negotiations only as a provider of information.**
- Review documents. The broker or intermediary should send the lender a purchase commitment letter. The lender must notify the FSA office that the loan is being assigned and obtain the documents that the lender will need to execute. To complete the assignment, the lender should sign and return 1 copy of the commitment letter to the broker along with the following:
  - copy of the note
  - copy of the Loan Guarantee
  - FSA-2242.
- Close the transaction.
  - Upon receipt of the forms, the holder or broker prepares FSA-2242 and sends it to the lender in triplicate. For sales to Farmer Mac, FSA-2242 is prepared by the lender.
  - \*--The lender signs all 3 forms, marks 1 of the forms as the original, and returns the 3 forms to FSA for execution.--\*
  - FSA signs the forms and forwards them to the investment broker. The settlement date is established by the broker.
  - The broker returns the original copy to the lender and another copy to FSA.
  - On settlement date, the broker wires the funds to the lender.

**376 Actions After Agency Repurchase (7 CFR 762.144) (Continued)****A Request for Lender Repayment (Continued)**

Once FSA purchases the guarantee from the holder, the authorized agency official shall immediately notify the lender in writing that they must continue to service the loan and pass all payments to FSA according to FSA-1980-27. The authorized agency official will request 1 of the following actions by the lender within 60 calendar days.

- Payment of the entire purchase amount (guaranteed portion plus accrued interest) of the loan held by FSA. Details of the purchase will be provided in the FSA request including:
  - date demand was made on the lender
  - date demand was made on FSA
  - name of the previous holder
  - amount of purchase price paid by FSA
  - daily interest accrual on the purchase amount.
- The authorized agency official shall complete FSA-2251 and forward the payment to FSC, FLOO. The lender must complete FSA-2241 indicating that the guarantee is to be terminated.
- A properly completed FSA-2254 with loan ledgers and supporting documents \* \* \*. FSA-2254 will be coded for final loss review by SED or designee. If the loss amount is less than the amount held by FSA, the loss claim must include a check from the lender for the difference, plus interest up to the date of payment (subparagraph 360 F).
- A liquidation plan, if not already received (subparagraph 358 B). Interest accruing to FSA as holder will continue until payment is received from the lender. If liquidation is projected to take longer than 180 calendar days after FSA purchase, the lender will be requested to submit a final loss claim based on receiving the market value of the collateral. See FSA-2254 for calculation of the final loss claim.

FSA will make similar requests of the lender again after 90 and 120 calendar days. If the lender refuses or fails to comply with the request after 180 calendar days, then SED will follow the procedures in subparagraph B.

**376 Actions After Agency Repurchase (7 CFR 762.144) (Continued)****A Request for Lender Repayment (Continued)**

If a lender fails to comply with the requests, SED shall:

- notify the lender of FSA's intent to collect the purchase amount by administrative offset according to RD Instruction 1951-C

**Notes:** RD 1951-C-1 or a similar format may be used.

An administrative offset will occur against future loss claims the lender may submit.

- refer the case to the Regional OGC for referral to the US Attorney's office to initiate legal action to collect the amount owed FSA for purchase
- determine whether lender status should be revoked according to 7 CFR 762.106(a)(2)(ix), if the lender is a PLP or CLP lender. See Part 4 for further information on revoking lender status.

**B Failure to Reimburse FSA**

If the lender does not reimburse FSA within 180 calendar days, **the lender will be liable for the repurchase amount and any expenses incurred by the Agency to maintain the loan in its portfolio or liquidate the security. While the Agency holds the guaranteed portion of the loan, the lender will transmit to the Agency any payment received from the borrower, including the pro-rata share of liquidation or other proceeds.**

**If the borrower files for reorganization under the provisions of the bankruptcy code or pays the account current while the purchase by the Government is being processed, the Agency may hold the loan as long it determines this action to be in the Agency's interest. If the lender is not proceeding expeditiously to collect the loan or reimbursement is not waived under this paragraph, the Agency will demand payment by the lender and collect the purchase amount through administrative offset of any claims due the lender.**

Upon approval by SED, FSA may continue as holder of the guaranteed portion of the loan until it can be refinanced or the bankruptcy plan is completed, whichever comes first. In such a situation, the authorized agency official shall notify the lender that the lender must send the pro rata share of the borrower's payments directly to FSA.

## Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

## Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2250	FSA Purchase of a Guaranteed Loan Portion		375
FSA-2251	Lender's Guaranteed Loan Payment to USDA		376
FSA-2252	Farm Loan Programs Guaranteed Writedown Worksheet		328, Ex. 12
FSA-2253	Shared Appreciation Agreement for Guaranteed Loans		181, 288, 328, 341, Ex. 12
FSA-2254	Guaranteed Loan Report of Loss		136, 288, 328, 342, Part 14, 376, Ex. 12
FSA-2261	Report on Collection Activities on Liquidated Accounts		266, 362, Ex. 12
FSA-2262	Notice of Liquidation Responsibility		362
FSA-2291	Lender's Processing Checklist		65, 95
FSA-2292	Guaranteed Loan Processing Checklist		65
FSA-2293	Annual File Review Checklist for SEL and CLP Lenders		267
FSA-2294	Debt Writedown Review Checklist		329
FSA-2295	Guaranteed Estimated Loss Review Checklist for SEL and CLP Lenders		342, 359
FSA-2296	Guaranteed Loan Final Loss Review Checklist		360
IRS-1099-C	Cancellation of Debt		362
IRS-8379	Injured Spouse Claim and Allocation		Ex. 17, 18
RD 1951-C-1	Notice of Intent to Collect by Administrative Offset		376
RD 1956-1	Application for Settlement of Indebtedness		363
RD-1980-64	Interest Assistance Agreement		224, 228, 230
UCC1	Financing Statement		364
W-2	Wage and Tax Statement		152

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

## Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

<b>Approved Abbreviation</b>	<b>Term</b>	<b>Reference</b>
AASM	Application Authorization Security Management	73
ACT	Consolidated Farm and Rural Development Act	1, 108
ADPB	average daily principal balance	228, Ex. 10
CAFO	Concentrated Animal Feeding Operation	358, Ex. 15
CLP	Certified Lender Program	Text
CMS	Credit Management System	Text
DCIA	Debt Collection Improvement Act of 1996	363, Ex. 17, 18
ECOA	Equal Credit Opportunity Act	31, 210
EE	economic emergency loan	108, Ex. 2
EFT	Electronic Funds Transfer	228, 360
EL	emergency livestock loan	108
EM	emergency loans	108, 138, 244
EO	economic opportunity loan	108
FmHA	Farmers Home Administration	108, Part 9, Part 11, 360
FLOO	Farm Loan Operations Office, St. Louis, Missouri	Text, Ex. 10
FO	farm ownership loan	Text, Ex. 2
FSC	Financial Services Center	Text, Ex. 10, 21
GLS	Guaranteed Loan System	Text, Ex. 10
IA	interest assistance	18, Parts 9, 11-15, Ex. 10
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7