

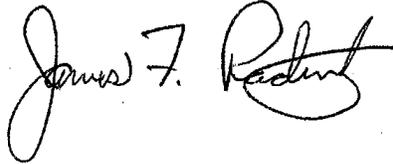
**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

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

**Amendment 19**

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



**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 33 C has been added to address implementing final NAD decisions.

Subparagraph 246 A has been amended to update a reference.

Exhibit 2 has been amended to add the definition of “adversely affect”.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
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**32 Conflict of Interest (7 CFR 762.110(f)) (Continued)****B FSA Employees**

An FSA employee shall not participate, directly or indirectly, in deliberations on, or determination of, any matter affecting the application or servicing of guaranteed (or direct) loan to any relative of the employee, any person residing in the employee's household, anyone with continuing business dealings with the employee, or any entity controlled by the employee.

Any processing or servicing activity conducted according to this subparagraph is subject to 3-PM provisions.

**33 Review and Appeals (7 CFR 762.104)****A Appeal Rights**

7 CFR Part 11 (the National Appeals Division regulation) stipulates that an adverse guaranteed loan approval or loan servicing decision directly affects the applicant/borrower and grants appeal rights to the applicant/borrower. The lender is defined as an "interested party", without appeal rights.

Because an adverse decision of a liquidation plan, interest assistance claim, or loss claim directly affects the lender, the lender will be provided with appeal rights when making an adverse decision in these situations.

**A decision made by the lender adverse to the borrower is not a decision by the Agency, whether or not concurred in by the Agency, and may not be appealed.**

\* \* \*

**B Handling Appeals**

FSA appeals will be handled **in accordance with parts 11 and 780 of this title** (1-APP).

**33 Review and Appeals (Continued)****\*--C Actions When a Denial Is Overturned in NAD Final Determination**

1-APP, subparagraph 135 A requires that FSA implement a final determination not later than 30 calendar days after the effective date of the notice of final determination. An appeal determination is administratively final when the provisions of 1-APP, subparagraph 135 B have been met.

The borrower and lender, as appropriate, will be advised of the next steps to be taken within 5 workdays of the date the appeal decision becomes administratively final, or the date FSA determines that it will not pursue a further review of the hearing officer's decision, whichever comes first. The contact will be by telephone or in person, with a written followup.

1-APP, subparagraph 135 D provides that, according to FSA regulations, changes in the borrower's condition in implementing NAD's final determination may be considered. If there have been significant changes to the borrower's financial or farming situation since the date of the original FSA decision, only the information that has changed needs to be submitted or revised.

**Note:** A significant change is a change that would materially affect the feasibility of, or eligibility for, the proposed loan servicing action.

**The lender or Agency may request updated information from the borrower to implement an appeal decision.**

The lender or FSA may request updated financial or production information as the borrower's circumstances may have changed during the pendency of the appeal which may adversely affect the borrower's farming operation.

**Note:** Adversely affect means that a change unrelated to the issue resolved through the appeal will result in the borrower no longer being eligible for the assistance requested.

The State appeals coordinator will monitor receipt and implementation of final NAD determinations to ensure that they are properly and timely implemented.--\*

**34 Lender List and Classification (7 CFR 762.101(b))**

**A Lender List**

**The Agency maintains a current list of lenders who express a desire to participate in the guaranteed loan program. This list is made available to farmers upon request.**

**B Classification**

**Lenders who participate in the Agency guaranteed loan program will be classified into one of the following categories:**

- **Standard Eligible Lender** (paragraph 46)
- **Certified Lender** (paragraph 50)
- **Preferred Lender** (paragraph 52).

**35-45 (Reserved)**



## 245 Agency Obligation of the Loan (7 CFR 762.130) (Continued)

**C Issuing the Conditional Commitment**

After receiving confirmation from GLS that funds have been obligated for the loan, the authorized agency official may execute the Conditional Commitment. Since the Conditional Commitment will be used by FSA in the event of a loss claim to determine the responsibilities of the lender, the authorized agency official should give careful attention to the Conditional Commitment's completion.

- **Loan Purposes.** The authorized agency official should ensure that the specific purposes for which the loan funds will be used are detailed on the Conditional Commitment. These purposes must be consistent with the purposes shown on Application for Guarantee or Preferred Lender Application and any agreed modifications.
- **Security for the Loan.** The authorized agency official should ensure that additional security items not listed on Application for Guarantee and Preferred Lender Application, but required by FSA, are included on the Conditional Commitment.
- **Electronic Applications.** If the lender submitted Application for Guarantee or Preferred Lender Application electronically and all of the required electronic signatures are not obtained, then Conditional Commitment, item 17 should specify that the original, signed copy of the application be submitted with the loan closing documents.
- **--Lender's Agreement.** The lender will be required to execute FSA's Lender's Agreement if the lender does **not** have one in effect.--\*

In developing the Conditional Commitment, the authorized agency official shall tailor the Conditional Commitment to the specific borrower. Long lists of standard conditions developed for all borrowers should not be used. Each condition placed on the loan must be appropriate to the specific lending situation and produce a higher quality loan.

Issuing the Conditional Commitment with conditions is preferred to rejection of the request.

**Example:** If the security proposed by the lender will result in an inadequately secured loan, rather than deny the guarantee request, the Conditional Commitment may be executed, subject to the lender obtaining a lien on specified additional collateral.

Once the Conditional Commitment has been developed using the guidelines in this paragraph, the authorized agency official shall submit the Conditional Commitment to the lender for execution according to paragraph 246.

**246 Lender's Response to the Conditional Commitment (7 CFR 762.130(c))****A Accepting or Rejecting Conditions**

**The lender must meet all of the conditions specified in the Conditional Commitment to secure final Agency approval of the guarantee. The lender, after reviewing the conditions listed on the Conditional Commitment, will complete, execute, and return the form to the Agency. If the conditions are not acceptable to the lender, the Agency may agree to alternatives or inform the lender and the applicant of their appeal rights.**

When the lender receives the Conditional Commitment, the lender should carefully review all the conditions. If the lender accepts all of the conditions, the lender should complete, sign, and return the Conditional Commitment to the authorized agency official.

If the lender rejects the conditions, the lender may propose new conditions, along with justification for them. The authorized agency official should review the new conditions and the lender's justification to determine whether they are acceptable to FSA. If the conditions cannot be accepted, the authorized agency official should contact the lender to see if an agreement can be reached that is acceptable to both parties. If the new conditions are accepted or an agreement is reached, the conditions must then be reviewed and approved by the loan approval official before their incorporation in the Conditional Commitment.

If, after all reasonable efforts have been made, an agreement cannot be reached, the authorized agency official shall issue a rejection letter and inform the applicant, with a copy to the lender, of the appeal rights according to 1-APP. Only after completion of the appeal may the authorized agency official proceed with deobligation of funding in

\*--paragraph 249.--\*

If a PLP lender rejects an 80 percent guarantee, received as a result of FSA not acting on a request within 14 calendar days, the authorized agency official shall continue to process the request and issue a revised Conditional Commitment. If warranted, the revised Conditional Commitment may contain conditions. The lender will have the option of accepting the 80 percent guarantee without conditions or come to an agreement with FSA on any conditions in the revised Conditional Commitment, and receive the requested level of guarantee.

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b))****Act**

**Act is the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).**

**Additional Security**

**Additional security is property which provides security in excess of the amount of security value equal to the loan amount.**

**\*--Adversely Affect**

Adversely affect means that a change unrelated to the issue resolved through the appeal will result in the borrower no longer being eligible for the assistance requested.--\*

**Adjustment**

**Adjustment is a form of settlement that reduces the financial obligation to the Agency, conditioned upon the completion of payment of a specified amount at a future time. An adjustment is not a final settlement until all payments have been made under the agreement.**

**Administrative Appraisal Review**

**Administrative appraisal review is a review of an appraisal to determine if the appraisal:**

- (1) Meets applicable Agency requirements; and**
- (2) Is accurate outside the requirements of standard 3 of USPAP.**

**Agency**

**Agency is the FSA.**

**Agency Official**

Agency official is any employee with FSA.

**Agricultural Commodity**

**Agricultural commodity is livestock, livestock products, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, tree farming, nursery crops, nuts, aquaculture species, and other plant and animal production, as determined by the Agency.**

**Allonge**

**Allonge is an attachment or an addendum to a promissory note.**

## Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

**Applicant**

**Applicant** is the individual or entity applying for a loan or loan servicing under either the direct or guaranteed loan program.

**Aquaculture**

**Aquaculture** is the husbandry of any aquatic organisms (including fish, mollusks, crustaceans or other invertebrates, amphibians, reptiles, or aquatic plants) raised in a controlled or selected environment of which the applicant has exclusive rights to use.

**Assignment of Guaranteed Portion**

**Assignment of guaranteed portion** is a process by which the lender transfers the right to receive payments or income on a guaranteed loan to another party, usually in return for payment in the amount of the loan's guaranteed principal. The lender retains the unguaranteed portion in its portfolio and receives a fee from the purchaser or assignee to service the loan and receive and remit payments according to a written assignment agreement. This assignment can be reassigned or sold multiple times.

**Assignment of Indemnity**

**Assignment of indemnity** is the transfer of rights to compensation under an insurance contract.

**Assistance**

**Assistance** is financial assistance in the form of a direct or guaranteed loan or interest subsidy or servicing action.

**Assumption**

**Assumption** is the act of agreeing to be legally responsible for another party's indebtedness.

**\*--Authorized Agency Official**

**Authorized agency official** is an employee who has either inherent or delegated authority to complete the described action.--\*