

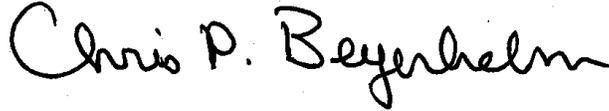
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 29

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 247 A has been amended to clarify CFR wording about signature requirements on promissory notes when embedded entities are involved.

Exhibit 9 has been amended to correct the examples of how to evaluate embedded entities.

Page Control Chart		
TC	Text	Exhibit
	10-13, 10-14	9, pages 1, 2

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- *--as of loan closing, applicant has an outstanding balance on a direct Downpayment loan under 3-FLP, Part 7, Section 2, or a qualified State Beginning Farmer loan; or has a direct Downpayment loan or a qualified State Beginning Farmer loan approved but funding is not available at the time the guaranteed loan is closed.

Notes: Applicants meeting only the definition of beginning or socially disadvantaged farmer will not qualify for the waiver.--*

A qualified State Beginning Farmer Program has MOU between the State and USDA and has been approved by DAFLP and signed by the State.

- a copy of the executed promissory note or loan agreement.

Note: The lender will use its own promissory notes, line of credit agreements, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages), provided:

- the forms meet Agency requirements
- documents comply with State law and regulation
- the principal and interest repayment schedules are stated clearly in the notes and are consistent with the conditional commitment

Note: A lender may use notes with short-term maturities for intermediate and long-term loans provided:

- the lender has indicated the intended term of the loan

Note: This may be done by entering the total number of years in the repayment period block of the application form.

- the subsequent note is a continuation of the original intended repayment plan and not a restructuring of a past due account
- there is a clear link between the Loan Guarantee and all the notes intended to be covered by the Loan Guarantee. The Loan Guarantee references only the debt instrument used at loan closing. The necessary linkage may be established with a master note, a loan agreement, or by referring in the subsequent notes to the original debt instrument referenced on the Loan Guarantee.

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- the note is executed by the individual liable for the loan

Note: For entity applicants, the promissory note will be executed to evidence liability for the entity, any embedded entities, and the *--individual liability of all entity members (including individual owners of embedded entities). Personal guarantees, or other forms,--* will not be used to address the individual liability requirement. **Individual liability can be waived by the Agency for members holding less than 10 percent ownership in the entity if the collectability of the loan will not be impaired.**

- when the loan purpose is to refinance or restructure the lender's own debt, the lender may continue to use the existing debt instrument and attach an allonge that modifies the terms of the original note.

Note: This also applies when a lender has closed an approved guaranteed loan before funds are available.

See Exhibit 11 for additional guidance.

In addition, the lender should take the following actions.

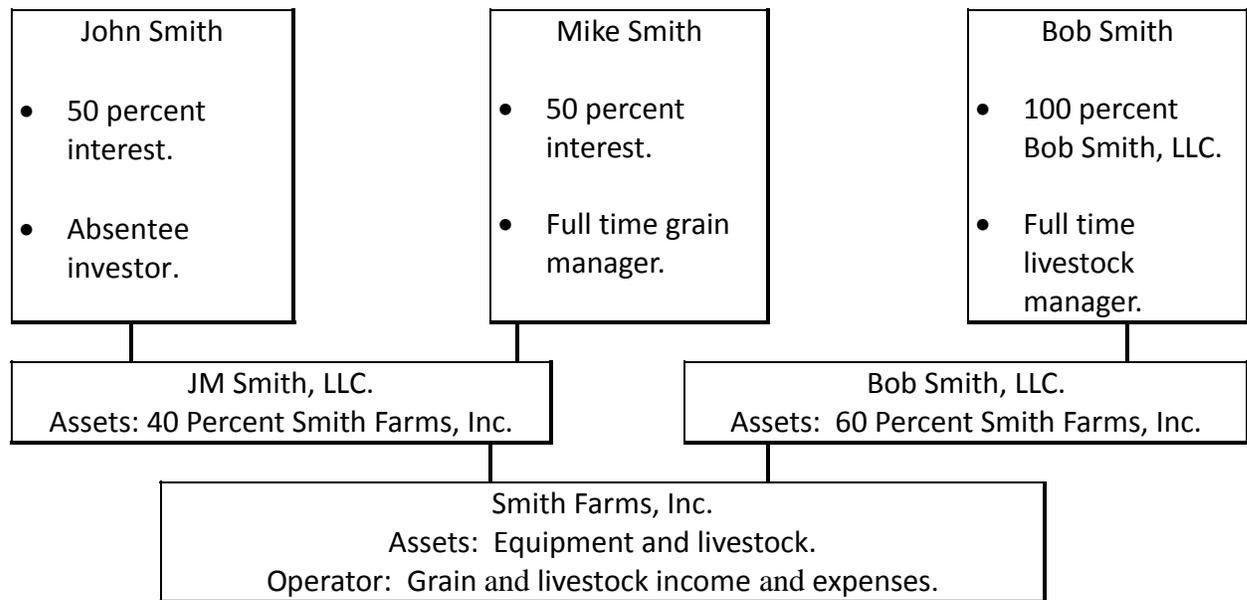
- Inform FSA of the lender's plans to market the loan to the secondary market. These plans must be consistent with Part 15. LOC's may be funded in participation with other lenders, but may not be sold into the secondary market.
- **The lender must notify the Agency of any scheduled inspections during construction and after the guarantee has been issued. The Agency may attend these field inspections. Any inspections or review performed by the Agency, including those with the lender, are for the benefit of the Agency only. Agency inspections do not relieve any other parties of their inspection responsibilities, nor can these parties rely on Agency inspections in any manner.**

***--Embedded Entity Examples**

A Determining Embedded Entities

Subparagraphs B and C have been provided to help in determining whether embedded entities meet 7 CFR 762.120 FLP rules.

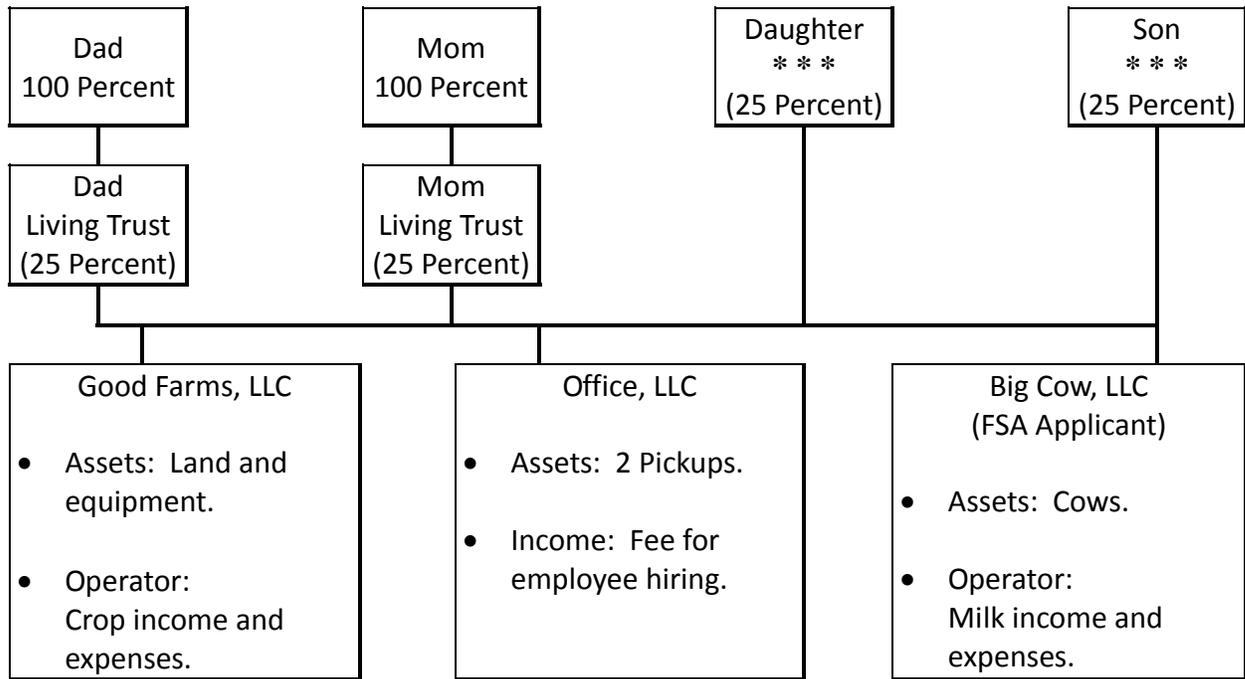
B Embedded Entity Example 1



JM Smith, LLC, fails the 75 percent test because only Mike is actively involved in the operation and he owns only 50 percent of the embedded entity, JM Smith, LLC. If Mike Smith owned 75 percent of JM Smith, LLC, then the application would meet the embedded entity test.--*

Embedded Entity Examples (Continued)

C Embedded Entity Example 2



Both Mom and Dad must be actively involved in managing or operating the family farm. Daughter and Son are not involved in embedded entities, so they are not subject to the 75 percent rule.

Either Good Farms, LLC, or Big Cow, LLC, could be the FSA applicant depending on the purpose of the loan.